*Chunk 2*

Commonplace claim: Complaint against the state, met only by legitimating condition or limits to legitimacy. But what’s the complaint?

Deontological complaint: State use of *force* in imposing deterrents violates the Force Constraint.

Last time, performed the Subtraction Test, imagining the Omittite state, which didn’t use force. Still, a complaint.

This time, perform the Spare-Justification Test. Can we answer the candidate complaint *without* legitimating condition or limit to legitimacy?

A “spare justification” that fails: *Natural Duty Argument*:

1. A natural *Duty to Improve*: to help meet others’ improvement claims = promote public interest.
2. State is *ideally directive*: No other directives better promote the public interest.
3. So, Duty to Improve = duty to comply with directives.
4. *Duty Permission*: The Force Constraint is lifted, for purposes of deterrence, when the target violates a duty.
5. So*, State Imposition*: The Force Constraint is lifted, for purposes of deterrence, when the target violates a state directive.

But (3) isn’t true. *Directive/Duty Gap*: Violating ideal directives does not always violate Duty to Improve, e.g., because the state has to enforce a blanket prohibition.

NDA not only fails but backfires, if we accept *Duty Requirement*: Force Constraint lifted only if target violates a duty.

Another spare justification:

1. Assume *Natural Imposition*: The Force Constraint is lifted, for purposes of deterrence, when the target has violated *the Force Constraint itself*.
2. Best explained by *Avoidance Principle*: The Force Constraint is lifted when and only when adequate opportunity to avoid the use of force.— Too costly to others to require Flintstone’s *present consent, after* he has violated Force Constraint, in order to impose a deterrent. So, weaker opportunity to avoid, namely not to violate the Force Constraint in the first place, is adequate.
3. Which implies: *State Imposition*: The Force Constraint is lifted, for purposes of deterrence, when the target has violated *a state directive*.—There is *no relevant moral difference* between imposing deterrents for the violation of natural rights and imposing deterrents for the violation of state directives.

“No, what explains Natural Imposition is Duty Permission! Flintstone had a *duty* not to violate Force Constraint!”

* First, if Flintstone *had a duty* to refrain from force, but *complied* with it, wrong to scapegoat, even if an effective deterrent.
* Second, when someone has *no* *duty*, but *consents*, Force Constraint lifted.
* Third, case of Block: no duty to step aside, but given fair warning that if he doesn’t, our aid mission is comin’ through.
* Finally, two theories of error for Duty Permission/Requirement:
	+ *Condemnation Principle*: *unfitting to condemn the target for wronging others* when she hasn’t.
	+ *Wrongful Benefits Principle*: that the fact that Violet had a duty to X may itself contribute to making it the case that her opportunity to avoid force by X-ing was adequate. Violet cannot cite having to forgo the benefits of violating a duty to X—“ill-gotten gains”—as a reason why her opportunity to avoid force by X-ing was inadequate.

Is there a difference between Natural and State Imposition?

*Strong Libertarian Principle*: Absent consent, force may be used on *S* only to protect others from *S*’s force.

* Rules out State Imposition, since deterrents often serve goods *other than* protection from *Violet’s* force.
* But *also* rules out Natural Imposition, since deterrents on Flinstone often to protect people from *the force of others*, e.g. Dieter.

*Weak Libertarian Principle*: Absent consent, force may be used on *S* only to protect others from *anyone’s* force.

* Licenses the minimal state, but no more.
* Weak LP has no plausible or stable rationale.
* Strong LP rests on (even if it takes to extremes) a plausible distinction: between what *S does to* others, regarding which “morality makes relatively strong claims” on *S*, and what *merely happens* to others, regarding which morality makes weaker claims on *S*.
* SLP doesn’t say, “Not *bad* when some ill befalls someone *without S*’s doing, only bad when *from S*’s doing.” That’s cray-cray.
* No, SLP just says: “Not S’s doing, so not S’s mess.”
* But Weak LP freely allows that what “merely happens to” others—namely, Dieter’s use of force on Vic—can make “strong” claims on Flintstone. If can use force on Flintstone to protect from violence of others, then why not to protect ourselves from ravages of wild animals? The ravages of microbes?

Back to the drawing board. Maybe complaint against the state is complaint is complaint against state’s *threatening* to impose deterrents, as opposed to *imposing* them.

Two differences between a complaint against the state’s imposition of deterrents and a complaint against the state’s threats.

* No opportunity to avoid the *threat* itself.
* Clear what counts as invading another’s body. But what is it to “invade their choice”? We *change* people’s choices all the time. (When a political philosopher speaks of “interference in choice,” don’t assume that you or they know what they mean!)

Again, Subtraction Test: Myth of Our Trusting Future. Tomorrow the backstop of jails and gallows is removed. But state continues issuing directives. And, since people continue following them (as salient coordination points, or from reflexive obedience), state continues to shape our natural and social environment as it currently does.

Would the complaint against the state disappear? Would requirement of public justification no longer apply?

Now, Spare-Justification Test. Ask: When and why does Hablo wrong Audito by *conditioning* a response to choice—making it the case that Hablo will Stick if Audito does not Obey and that Hablo will Carrot if Audito does Obey? Or by *announcing* a response—communicating conditioning?

*Inheritance:* Hablo’s conditioning or announcing a response to Audito’s choice wrongs him when and because Sticking when Audito does not Obey would wrong him (e.g., taking McGee’s life when he doesn’t cough up the money).

* Counterexamples: (i) *Akratic Warning* (ii) *Wrongful Retaliation*
* What explains Inheritance?

*Risk*: If Hablo would wrong Audito by Sticking, then Hablo, for that reason, wrongs Audito by making it sufficiently likely that Hablo Sticks, which Hablo may do by *conditioning* to Stick.

* Akratic Warning doesn’t apply.
* Wrongful Retaliation not a counterexample.

*Fear*: Hablo wrongs Audito by causing, without sufficient reason, Audito to fear something, which Hablo may do by *announcing* to Stick.

* AW and WR exceptions, where there is good reason.

If Risk and Fear were the whole story, then the state’s threats would not wrong.

* But Risk and Fear not the whole story. If McGer and McGee know full well that McGee *will* Obey and that McGer *won’t* shoot, then no risk or fear.

*Choice*: Hablo’s conditioning or announcing a response to Audito’s choice wrongs Audito when and because it leaves Audito’s choice situation worse than Audito has a claim on Hablo to provide.

* Special case of a tautology.
* “interfere in Audito’s choice” = make Audito’s choice situation worse than Audito is owed.

Various features of conditioning and announcing make choice situations better or worse:

* *Cost*: Sticking added to not Obeying.
	+ Depends on how costly it is to Obey.
	+ And, if a duty to Obey, then not costly.
* *Influence*: Makes Audito more likely to Obey.
* *Capacity*: Worsens Audito’s ability to evaluate and select among options: e.g., informing A., paralyzing A. with a flood of options.
* *Value of compliance*: change value or normative character of Obeying. Among other changes:
	+ Crowds out “right” motives.
	+ Narrows range of acceptable alternatives, when value depends on *selection* from an adequate range of acceptable alternatives (e.g., Raz 1986 on autonomy).
	+ Deliberate influence by other wills deprives activity of *independence* (e.g., Raz, Dworkin).
* *Compliance of others*.

No general rule telling us how to strike the balance between Audito’s claim to a better choice situation and the burdens that Hablo (and others) must bear to provide it.

* That Hablo owes it to Audito *not to Stick* when Audito does not Obey may be a *strong indicator* Hablo owes Audito a *better choice situation*. Why Inheritance seems plausible.
* But Akratic Warning and Wrongful Retaliation explain how these can come apart.

If we add Choice to Risk and Fear, state threats still not wrong, since ideal state threats make choice situation as good as the state can make it.

“A *distinctive* complaint against *coercion, strictly speaking*. The state *coerces*.”

Coercion =?

“steering” (= *aims* to get A. to Obey)

+ that “compels” (= gives A. “no other choice”)

* Why a *distinctive* complaint? Doesn’t Choice already take relevant effects on choice situation into account?
* Any positive evidence *of* distinctive complaint against compelling steering? Holding fixed effects on the choice situation already accounted for by Choice, a non-compelling steering becomes impermissible by becoming compelling? What’s the case?
* State’s threats are not, or don’t need to be compelling steerings: e.g., lessen the penalty.

“Yes, some state threats don’t themselves coerce, but they are still *backed by* coercion.”

Backed by coercion =? *If* A. resists imposition of deterrent, *then* state will actually coerce.

* Why care, so long as one isn’t *in fact* coerced? Not in general true that if I *would have had* a complaint against suffering something *had* I suffered it, I *do* havea complaint about that counterfactual’s being true.
* State’s threats not always “backed by” coercion in this sense. State might follow through on non-compelling threat to withhold a good, in a way A. can’t resist.

So, we *almost* have a spare justification: that state threats don’t wrong, even without legitimating conditions or limits to legitimacy. But “exploitative offers” not covered by Choice, Fear, and Risk.

* *Car Wash*: Suppose Boss may fire Employee, and Boss may keep E. on. Still, B. wrongs E. by saying, “Unless you wash my car, you’re fired.”
* But doesn’t this give E. a *better* choice situation? Now E. can keep the job, if E. wants.

This is just a loose end that we won’t be able to tie up yet, until we discuss corruption.

“The complaint against the state is not force, or threat, but instead *political obligation*.” Recall Directive/Duty Gap.

* Not a complaint against political obligations already there, but instead an interest in not being bound by political obligations that defeats the argument for them (Jay’s distinction especially important here).

Spare-Justification Test: If there are natural duties, why not political obligations?

* Because political obligations *more demanding*?—Not obvious, e.g., refraining from private enforcement.
* Because political obligations *imposed by another will*?—An illusion: natural duties “imposed by will” in the same sense.
* Because there’s nothing *positively* to be said *for* political obligations?
	+ Maybe so.
	+ Would explain how consent a legitimating condition. Fidelity to promises *only candidate for a positive value* that political obligations serve.

Subtraction Test: Imagine no political obligations. Still, state issues and enforces its directives. Wouldn’t this, if anything, *intensify* the complaint? The Duty Requirement worry.

“The complaint against the state is that it *falsely claims* that we have political obligations.”

* Is this a serious complaint?
* Subtraction Test: Imagine that the state freely concedes that we have no obligation to obey. Again, seems, if anything, to intensify the complaint.

“Complaint against the state is against the state’s use of our *external property*, e.g., in taxation.”

* Contrast: state’s *use of our bodies* = force.
* Contrast: state’s *use of our labor*, by threats to steer us to make contributions to the public interest.

Subtraction Test: Complaint against Omittite Empire would remain, even if Emperor self-financed the Empire.

Spare-Justification Test:

* If “external property” is just what results from a system that promotes the public interest, then no complaint against taxation that is part of that system. So, complaint would have to assume *natural property rights*. So, at very least, it can’t be, e.g., Nagel’s complaint against the state, since he denies natural property.
* Also adequate opportunity to avoid, e.g., carbon tax.
* But what if taxation invades natural property, without adequate opportunity to avoid? OK, but a pretty weird position: No complaint against the state’s use of *our labor*: its directing us, under threat, to act in certain ways. Only a complaint against the state’s use of the *material fruits* of our forced labor. By contrast, Nozick argues that taxation is wrong *because* it is “on a par with forced labor.”