

Dan Moller's Governing Least

Michael Huemer's *The Problem of Political Authority* is definitely my favorite work of libertarian political philosophy. Dan Moller's new *Governing Least*, however, is definitely now my second-favorite work of libertarian political philosophy. The two books have much in common: Both use common-sense ethics to argue for libertarian politics. Both are calm, logical, and ever-mindful of potential criticisms. Both strive to persuade reasonable people who don't already agree with them. Both are packed with broader insights. And despite these parallels, both are deeply original.

So what's most original about Moller's position? Instead of focusing on the rights of the victims of coercion, Moller emphasizes the effrontery of the advocates of coercion:

[I]n my account libertarianism emerges from everyday moral beliefs we have about when we are permitted to shift our burdens onto others. In fact, my account intentionally downplays the role of rights, and is motivated by doubts about what we may demand of others, rather than outrage about what others demand of us.

The effrontery is most blatant when you speak in the first person:

Imagine calling a town hall meeting and delivering the following speech:

My dear assembled citizens: I know most of us are strangers, but of late I have fallen on hard times through no fault of my own, by sheer bad luck. My savings are low, and I don't have friends or family to help. Now as you know, I've previously asked for help from you as private citizens, as a matter of charity. But unfortunately that hasn't been sufficient. Thus, I'm here now to insist that you (yes you, Emma, and you, John) owe me assistance as a matter of justice. It is a deep violation if you don't work additional hours, take fewer vacations if need be, live in a smaller house, or send your kids to a worse school, in order to help me. Failing to do so is no less an injustice than failing to pay your debts.

Moreover, calling this an injustice means that it's not enough that you comply with your obligations by working on my behalf. No, I insist that you help me to force your fellow citizens to assist me. It doesn't matter if these others say to you that they need the money for their own purposes, that they prefer worthier causes, or if they're just hard-hearted and don't care. To the extent you care about justice, you must help me to force these others to assist me whether they wish to or not, since that is what is owed me in light of my recent bad luck.

Could you bring yourself to make this speech?

The fundamental objection to Moller's position, he thinks, is to claim that governments have "emergent moral powers." But Moller firmly denies this. Governments are just groups of people, so they are morally obliged to follow the same moral principles as everyone else. While this may seem like libertarian question-begging, there's nothing uniquely libertarian about it:

It is notable that many who wish to block rights-based objections to state action are nevertheless eager to enter their own moral objections to what the state does. Many of those unsympathetic to attacks on taxation rooted in individual rights also portray the absence of welfare provisions or various immigration policies as "unconscionable." There is nothing inconsistent about this; the one set of moral claims may be right and the other confused. But the objection then cannot be based on the emergent moral powers of the state. We cannot both reject appeals to individuals rights on the general grounds that morality has nothing to tell us about what may emerge from government institutions, and then do just that, substituting our own preferred brand of interpersonal morality. Once we notice this, support for emergence should shrink drastically, since it will only come from those who think there are no policies of the state that can be rejected on fundamental moral grounds. The non- emergence assumption per se has no

particular ideological leanings.

But doesn't common-sense morality admit that rights to person and property are not absolute? Of course; exceptions abound. Moller sternly emphasizes, however, that these exceptions come with supplemental moral burdens attached. In his "Emergency" hypothetical, for example, you steal \$1000 under duress. What then?

I propose the following non-exhaustive list of residual obligations for cases like Emergency:

Restitution: although I didn't do wrong, I must repay the \$1,000 if possible, perhaps in reasonable installments.

Compensation: to the extent you are otherwise harmed by my actions, I should attempt to compensate you. For instance, if I smashed your windows getting in or forced you to incur some loss because you had to come home at short notice, I must compensate you at some reasonable rate.

Sympathy: it is incumbent on me to convey, if not an apology for my (permissible) actions, at least sympathy for the harm I have caused you. ("I'm very sorry I had to do that" would be the natural if slightly misleading phrase.) I cannot offer a Gallic shrug at your distress and announce, "I did nothing wrong— it's your problem" as you survey the wreckage of your home. To do so would exhibit a serious character flaw.

Responsibility: my obligations are not just backward looking, but forward looking. If I can reasonably foresee that some action of mine will put me in the position of facing an emergency that will then render it permissible to harm you, I must take responsibility to avoid such actions if possible. I should not think that I have less reason to take responsibility because I can avoid harms by transferring them to you instead. And failing to take responsibility weakens my claim to

impose costs on others when the time comes.

A related principle is worth mentioning as well:

Need: my warrant for harming you depends on how bad my situation is. I cannot harm you if I am doing fine already merely in order to improve my position still further. I may be permitted to take your \$1,000 to avert a physical threat, but not in order to make a lucrative investment in order to get even richer.

The political implications are expansive, starting with:

A welfare state justified in virtue of overriding reasons to promote the good of the beneficiaries incurs these residual obligations. Flouting them amounts to unfair burden-shifting. What would it look like actually to satisfy them? For starters, if I were the beneficiary of some emergency medical procedure that a third party compelled others to contribute to— say a state agency— I would be obligated to repay those charged for my benefit, possibly with some compensatory surcharge. If unable to pay, I would be required to pay in installments, with the agency keeping track of my income and tax records to ensure that my repayment were in line with my means...

Moreover, in repaying, my attitude toward my fellow citizens ought to be one of gratitude for coming to my assistance, as opposed to viewing these services as entitlements due to me as a matter of citizenship. This may seem curious: by hypothesis, the services I received made it past the threshold, meaning that the wealth transfers involved were permissible, and since I am repaying, they won't

even be net transfers in the long run, barring misfortune. Depending on how badly I needed aid, aiding may even have been obligatory on a third party. Why should I express gratitude for others fulfilling their

duties? Consider the Gallic shrug— that supreme expression of indifference at someone else's misfortunes, while disclaiming all responsibility for rectifying them, frequently encountered in Parisian cafés. Why shouldn't I shrug my Gallic shrug at the rich complaining about their tax bill, and point out I merely got what I was entitled to, as would they in a similar situation?

This complaint would be apt if appropriate moral responses were a function solely of whether our acts are required or permissible. But there are all kinds of inappropriate moral responses even when what we have done is permissible or when what the other has done was required. If we are to meet for lunch and an urgent business affair obtrudes itself, I may be permitted to skip our lunch, but I shouldn't treat putting you out lightly. What makes a Gallic shrug a vice here is that beneath the outer layer of permissibility there remains an inner structure whereby you have been harmed for my sake, which ought to be a source of concern, leading to some appropriate expression of regret if I am a decent person. And the same is true in the case of welfare services. This is easy to ignore because of the opaque veils of state bureaucracy. But behind the faceless agency lie people who are harmed for the sake of benefiting me.

Governing Least manages to be at once readable and dense. And though you can't tell from the passages I just quoted, Moller also repeatedly appeals to and grapples with cutting-edge social science. What, for example, should philosophers think about Greg Clark's work on the long-run heritability of social status? Moller's take will surprise many of you.

Last question: Why do I still prefer Huemer to Moller? Intellectually, because Huemer's appeal to individual rights is just more clear-cut than Moller's objection to "burden-shifting." Furthermore, Huemer focuses on the broader case for libertarianism, while Moller self-consciously focuses on opposition to the welfare state.* And while Moller's book is beautifully written and well-organized, Huemer's is stellar on both counts.

Thus, if you're only going to read one book of libertarian political philosophy, I still say you should read *The Problem of Political Authority*. If you're willing to read *two* such books, however, read *Governing Least*. I loved it.

* Moller: "I also ignore the many noneconomic causes that libertarians have sometimes taken up, like free speech, gay marriage, and drug legalization. This is the *fun* part of libertarianism and requires little heroism to defend. Many disagree with such policies, but few think their sponsors cruel or ungenerous, while resistance to the welfare state and programs intended to foster economic equality evoke precisely that response."