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Taxation, Forced Labor, and Theft: Reply

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EDWARD FESER

In his comment on my recent article on taxation and theft (Feser 2000), James Rolph Edwards correctly notes that the provision of public goods—such as police protection, national defense, and courts of law—is an issue with which any critique of taxation per se must ultimately deal. That the provision of such public goods might be problematic in the absence of taxation, however, does not show that taxation for the purposes of financing those goods does *not* amount to theft, forced labor, or a violation of self-ownership.

Edwards argues that those who pay for the provision of public goods have a legitimate claim against free riders who, because they also receive the benefits of public goods but bear none of the costs, can be regarded as thieves; therefore, those would-be free riders can legitimately be forced, via taxation, to pay for what they otherwise would steal. This argument fails in several respects.

First, and less seriously, even if the argument showed that free riders can legitimately be taxed, it would not thereby show that the initial providers of public goods can be. Suppose all the initial providers changed their minds and decided to stop paying, or even that *no one* (in the state of nature, say) voluntarily agreed to fund the provision of public goods in the first place (perhaps precisely because they feared that free-rider problems would arise). Then Edwards's free-rider argument can give us no grounds for forcing, via taxation, those initial providers to keep paying, much less to

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start paying in the first place because no individuals can claim that *they* are taking illicit advantage of benefits provided by others—after all, until *they* “get the ball rolling,” there *are* no benefits.

More seriously, though (in any society, no doubt, some people are willing to fund public goods voluntarily), the argument fails to show that free riders can legitimately be taxed because it is implausible to regard free riders (or at least all free riders) as thieves. That the free rider gets benefits—indeed cannot help getting benefits—for which he does not pay hardly suffices to make him a thief, nor does the fact that the payer might get more benefits if the free rider contributed. If a resident of my neighborhood opens a Starbucks, thus attracting a younger and “hipper” crowd than would otherwise spend time here and raising property values in the process, am I a thief if I fail to send him a check (or at least become a customer)? More to the present point: If the barking of my neighbor’s guard dog keeps burglars away from my house as well as his, am I a thief for not helping to pay for veterinary services and dog food? If Iraq refrains from invading Jordan for fear of spooking Israel, are the Jordanians thieves for not contributing to the Israeli defense force? “No” seems obviously to be the right answer to each of these questions; and if somehow it isn’t, the burden of proof lies on Edwards to show why it isn’t.

Examples of this sort can be multiplied indefinitely, and they point to another problem with Edwards’s argument, which is that he fails clearly to delineate the boundaries of the “single coherent system” within which public goods must be provided. Any number of schemes of redistributive taxation can be justified in Edwards’s way if we draw the boundaries creatively enough: citizens of Tijuana might be forced to help fund the San Diego Police Department, which presumably catches a number of criminals who routinely elude the authorities south of the border; Canadian citizens might be forced to help fund the U.S. military, given that U.S. antimissile defenses (limited as they are) will automatically shoot down any missile headed for North America, whether aimed specifically at Seattle or at Vancouver; both might also be forced to help pay for the upkeep of the U.S. interstate highway system, which facilitates the importation into Canada of goods from Mexico; and so forth, without end.

A libertarian such as Edwards would be uncomfortable with these implications, but it is difficult to see how he can avoid them in a principled way. Trying to do so by simply taking existing political boundaries to be privileged, as Edwards appears to do, does not sit well with his claim that free riding per se constitutes theft, for a thief is a thief whether he gets his illicit gains on this side of the border or the other. Moreover, it begs the question against Edwards’s anarchocapitalist opponent, who recognizes as legitimate only those boundaries that result from voluntary agreements: the boundary of my residential lot is legitimate because everything within it was voluntarily sold to me by the previous owner; also legitimate is the boundary of a neighborhood in which the residents have voluntarily agreed to join a homeowners’ association, so that anyone residing within the boundary must abide by that association’s rules; if the homeowners’ associations of a number of such neighborhoods together decide vol-

untarily to enter into a mutual-protection agreement (and the preexisting association rules, which the residents accepted in the first place, allow for such an agreement), the boundary surrounding all the neighborhoods within which the agreement has force is legitimate; if the resulting quasi-state entity voluntarily enters into a larger-scale protection agreement with another such quasi-state entity (and the preexisting rules of the lower-level associations, which the individuals within them agreed to, allow for such an agreement), the boundary surrounding the two of them is legitimate; and so on, potentially up to the point at which we reach the level of entities that parallel the nation-states of the real world. Any boundary not arising out of iterations of such voluntary agreements, however, is not legitimate, and therefore cannot be assumed to circumscribe a domain within which the inhabitants can justifiably be taxed by the purported rulers. If, as Edwards presumably would grant, the inhabitants of Canada cannot in fact justifiably be taxed by the U.S. government despite benefiting from the U.S. military and highway systems, how much less, the anarchocapitalist would argue, can any citizen of any domain justifiably be taxed by those claiming authority in some larger, encompassing domain that claims sovereignty over the first, smaller one if that citizen has not consented to the rule of those authorities?

This (here oversimplified) anarchocapitalist conception of legitimate boundaries is important also for the light it sheds on Edwards's suggestion that free emigration provides a solution to the problem of how to respect the rights of those who choose to opt out of the state and its services. Emigration would certainly be the right solution in the case of someone who came to dislike the homeowners' association (or the larger quasi-state entity into which it had been absorbed) to which he voluntarily had made himself subject on buying his property. On the other hand, if a mafioso enters your neighborhood and demands that you pay for his protection services "or else," it would be unconvincing—indeed, obnoxious in the extreme—for him to respond to your protests by saying, "Hey, if you don't like it, you can always move to another neighborhood!" Your freedom to move would, in this case, be entirely irrelevant because the mafioso, unlike the homeowners' association, has no right to make such demands on you; you never gave him such a right (as you did the homeowners' association). So Edwards's suggestion, for all he has shown, has force only in those situations in which the state is more like the homeowners' association than like the mafioso.

All discussion of a system of quasi-state entities ultimately composed of homeowners' associations, voluntary protection agencies, and the like is, of course, highly speculative if not fanciful, and it is by no means certain that such a system could work or that this system is likely to become a reality anytime soon even if it could work. No serious anarchocapitalist would argue otherwise. Still, serious anarchocapitalist theorists, unlike typical left anarchists, have accepted the heavy responsibility their adoption of such a radical view places on them and have developed detailed models of exactly how an anarchocapitalist society could work (Barnett 1998; Benson 1990 and 1998; Friedman 1989; Rothbard 1978). So if a radical critique of taxation per se does in fact

entail that public goods can legitimately be provided only apart from government, it is hardly *obvious* that they could not be so provided.

Even *if* anarchocapitalism ultimately turns out to be unworkable, although a critique of taxation of the sort I have given (arguably) requires such a system, that unworkability would *not* show that taxation per se (or the state, for that matter) is morally legitimate after all. It might be that taxation, like war, is both seriously morally problematic and to some extent unavoidable. A necessary evil remains an evil, and it might turn out that all taxation violates self-ownership and property rights and that some minimal taxation is (as Edwards argues) nevertheless required to forestall even greater violations of self-ownership and property rights. That result would be unsatisfying, but it would still leave minarchist libertarianism more or less intact. War, despite such attendant injustices as the deaths of noncombatants and the destruction of their property, is sometimes justified, but *only* if no other way exists to prevent even greater injustices. Similarly, even if taxation, though an injustice, were sometimes justified, it would be justified *only* when required to prevent even greater injustices—only, that is, to fund a minimal state.

In any event, whether an austere but morally tidy anarchocapitalism or a morally unsatisfactory but (arguably) more realistic minarchism is the best libertarian option is, however important, a *pragmatic* issue, one beyond the scope of my argument. On the moral question, my argument (as stated in Feser 2000) withstands Edwards's objections. The conclusion remains, taxation is theft and a form of slavery.

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