

The United States is Obligated to Take All Refugees of a Kind

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Table of Contents

Introduction	3
The Stateless Agents	3
The Natural Laws, Obligations, and the State	4
Refugees Are Stateless Persons	5
The United States Obligation Towards Refugees	6
Critique	8
Bibliography	10

Introduction

Syria has been undergoing six years of civil turmoil which has led to a diaspora of Syrian refugees, and last year the United States under President Obama took steps to bring in an unprecedented 12,587 persons¹. On January 27th, 2017, President Donald Trump signed Executive Order 13769, "Protecting the Nation From Foreign Terrorist Entry Into the United States," fully suspending non-citizen entry from seven countries, including refugees from Syria for 120 days². In the wake of this sudden about-face in United States policy and how it affects refugee groups, we are impelled to discern what the responsibility of the United States is towards any refugees of conflict.

On an Anti-Realist position concerning Nation States, statements concerning the responsibilities of the United States are not strictly and literally true, but only true (if at all) by reference to the responsibilities other entities. For instance, a statement regarding the responsibility of the United States to ensure the rights of the citizens might be true only in virtue of being a statement about the obligation of members holding positions who have it within their capability to ensure rights.

On a Realist account of Nation States on the other hand, statements concerning the responsibilities of the United States are strictly and literally true dependent upon facts about Nation States, the kinds of things Nation States are, and the kind of Nation State that the United States is.

In this essay, I will argue that a Hobbesian Realist position concerning Nation States and their generative grounds in the Social Contract obligates the United States to accept any and all refugees of conflict who are willing to recognize the sovereign power of the United States by submitting to citizenship requirements determined by the United States.

The Stateless Agents

I am grounding much of my argument on the analysis of sovereign powers and authority from Thomas Hobbes's, "Leviathan: or The Matter, Forme and Power of a Common Wealth Ecclesiasticall and Civil." Hobbes's account of the generation of sovereign powers begins with the condition of nature and the facts concerning the nature of the

¹ "Syrian Refugees in the United States." Migrationpolicy.org. Migration Policy Institute, 02 Mar. 2017. Web. 14 Mar. 2017.

² Trump, Donald J. "Executive Order Protecting The Nation From Foreign Terrorist Entry Into The United States." The White House. The United States Government, 06 Mar. 2017. Web. 14 Mar. 2017.

relations of stateless agents. The condition of nature, for Hobbes, encompasses many intricate details about statelessness. Although many of his subsequent arguments reference the condition of nature for their rational justification, my arguments (as far as they are sourced in Hobbes's social contract theory) will be made assuming a less powerful and exhaustive claims regarding the stateless condition.

Regardless of what the stateless condition is like further than this, the assumption of primary importance is that in a stateless condition an individual has no obligation to recognize any societally dependent obligation towards anyone else. Consider this my first premise. Societally dependent obligations are grounded in an agent's standing in a particular relation to a sovereign authority and other agents involved in a social compact. For those of us in a societal compact, stateless agents represent a threat to our compact in virtue of lacking any obligation to recognize civil authorities and obligations. Although their threat does not necessarily take the form of a violent warring condition, simply the lack of obligation for stateless agents represents a complicating state of affairs for those inside of social compacts. The lack of obligation here is what grounds the potential for threatening the social compact.

In any transaction between two agents where societal obligations play a role in fixing norms or values of actions or factors, it is possible for a person outside of such obligations to complicate the transaction for persons with such obligations by extracting benefits of the transaction without paying the costs. In short, agents without societal obligations represent a free-rider problem for agents with such obligations.

The Natural Laws, Obligations, and the State

The second premise of my argument is that the governing principle of relations between political entities is Hobbes' first law of nature and its derivative law:

“the first and fundamental law... seek peace and follow it... [and derived from the first] this second law: that a man be willing, when others are so too, as far forth as for peace and defence of himself he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men as he would allow other men against himself.”

I hope it may be taken as a given that political entities should be seeking peace, but I think there is a strong argument for this peace grounds the possibility for the existence of political entities as political entities.

To ensure the peace arrived at between the persons who come together, an absolute sovereign power is realized by the persons in the form of a sovereign authority, which is a governing body that the sovereign power is granted to. The citizens give up the entirety of their political powers into the single sovereign power, and the sovereign power becomes embodied in the sovereign authority. The reason the sovereign power is absolute is because otherwise the peace could not be guaranteed, as the citizens would have legitimate authoritative power to undermine the compact for peace for which the sovereign power is created to safeguard.

The Nation State then is the sovereign power, its embodiment, and that which is subject to the authority of the sovereign power. In this case, the United States is the sovereign power, the government, and the people and lands over which it has authority.

The laws of nature which explain the need for the creation of the Nation State do not only constrain person entities, however. They also serve as the grounds for the obligations of Nation States, insofar as the Nation State is created to fulfill a duty. Nation States' obligations are grounded, as Hobbes recognizes as well:

“...in the end for which he [the person or group that wields the sovereign power] was trusted with the sovereign power, namely the procuration of the safety of the people, to which he is obliged by the law of nature...But by safety here is not meant a bare preservation, but also all other contentments of life, which every man by lawful industry, without danger or hurt to the Commonwealth, shall acquire to himself.”

This leads to my third premise, that the sovereign power is given its power under contractual obligations towards ensuring the meeting of the directive of the law of nature in safety of life and livelihood for the constituents, for which if it does not or cannot fulfill this obligation is it then dissolved, if not in body then in authority, and the citizens returned all rights given and subsequently returned to a stateless existence.

Refugees Are Stateless Persons

My fourth premise is the claim that refugees are stateless persons. This follows from a definition of refugees as we encounter them in the world and how the definition interacts with my third premise.

The refugees of the Syrian Civil War are my example case for illustrating why we should consider refugees stateless persons by my second premise.

Refugees of the Syrian Civil War are fleeing violent conflict that has arisen in their homeland. The citizenry of the Syrian region are under threat to life any livelihood. If the Syrian Nation States are real entities, with the real obligation to seek and ensure the safety of the citizenry, then the Syrian refugees are those for whom the Nation States were unable to fulfill this obligation and therefore no longer are the authoritative sovereign powers for.

Refugees, in general, are those in flight from their homeland due to threat to life and livelihood which either surpasses the protective powers of the originator Nation State, or is a result of the Nation State's actions directly. Because of the Nation State failing in its obligation to ensure the protection of the livelihood of those members who become refugees, the compact between those members and sovereign authority is dissolved, and they become stateless. Therefore, it is reasonable to conclude that being a refugee is contingent upon being stateless and that refugees are necessarily stateless.

The United States Obligation Towards Refugees

In the previous two sections I laid out the premises which ground my argument supporting my claim that the United States has an obligation to take in any and all refugees willing to recognize and respect the sovereign power and authority of the United States by submitting to our social compact.

My argument is as follows, numbers represent concrete premises/conclusions, and letters represent elaborations on premises:

1. Stateless agents have no obligations grounded in societal compacts.
 - a. Stateless agents therefore are complicators to entities involved in societal compacts.
2. Political entities are obligated to seek peace, and to follow it.
 - a. For political entities to seek peace, and follow it, they are obligated to (assuming others are similarly inclined to do so) enter into compacts for the purpose of assuring the peace and security of the entities.
 - b. To ensure their compact, an absolute sovereign power must be set up by the compact's constituents giving up their rights, for the purpose of maintaining the peace, security, and safety of the compact's constituents.
 - c. The sovereign power is given embodiment in a sovereign authority.

3. The sovereign authority's existence and obligations are grounded in fulfilling the purpose for which it was set up, which is maintaining the peace and security of the constituents of the compact.
 - a. If the sovereign authority cannot, or will not, maintain the safety of the people for which it was given the sovereign power, then its authority is dissolved and all rights are given back to the (now stateless) constituents.
 - b. Nation States are the sovereign power, its embodiment in a sovereign authority, and the constituents of the compact for which the sovereign power was laid up.
 - c. Nation States are distinctly real political entities because they are capable of being obligated to do things which the members cannot be obligated to do.
4. Refugees are stateless persons.
 - a. Refugees are those fleeing threat to life and livelihood from where they were originally citizens.
 - b. Because refugees safety cannot or is not ensured by their originator Nation State, the sovereign authority over them is dissolved, their rights are returned, and they are subsequently stateless.
5. Therefore,
 - a. because refugees are stateless persons, and
 - b. because stateless persons represent a complicator for the security of persons in the social compact, and
 - c. because the Nation State is obligated to seek peace and follow it due to being a political entity, and
 - d. because the Nation State is obligated to ensure the safety of its citizenry,
 - e. then, should any refugee be willing to submit to the social compact, and
 - f. should any refugee be willing to recognize and respect the sovereign authority,
 - g. the obligation towards peace, the safety of the citizenry, and the security of the social compact demands that the refugee be taken into the citizenry and out of the stateless condition.
6. Therefore, the United States (as a particular Nation State) is obligated to take in any refugees willing to recognize and respect the sovereign authority of the United States and enter into our societal compact.

The United States is obligated to take in all refugees of the particular kind (meeting the criterion) that I have outlined above.

Critique

There are two critiques I would like to examine as possible critiques of my argument.

The first critique I examine is the denial of 3c, that Nation States are distinctly real political entities. It may be argued that statements about Nation States are not strictly and literally true, and that any number of reductions may be made which render talk of the obligations of Nation States meaningless. To this I argue first that we should consider Nation States as real because they have powers in virtue of being a Nation State which the constituent agents that comprise it do not have in virtue of their being the kinds of entities that they are. However, I also argue that, even should it be the case then that the statements about Nation States could be reduced to statements about constituents, that the relations taking place at these lower levels still have the necessary obligatory framework provided my above argument to obligate them towards the same conclusion I have reached.

The second critique against my position is that taking in refugees might violate the Nation State's obligation to the ensuring the peace and safety of the citizenry. In this way then, the argument is that my conclusion does not necessarily follow from my premises. For instance, the justificatory grounds of Executive Order 13769 may be that it was for the purpose of ensuring the safety of citizens that all non-citizen entry be banned (including that of refugees). It may be argued that, since we could not determine who was or was not a terrorist in those groups coming from countries known to be contain terrorist groups, all travel had to be banned. These cases then, it might be argued, show a counter-example to my argument.

In response to this criticism I would like to point out that such critique is grounded in a kind of distinctly epistemic problem which does not bear on my argument. I have not argued that the United States is obligated to take in terrorists, nor those who do not recognize nor respect the sovereign authority nor our distinct social compact. Towards those individuals, the United States may be obligated to ensure the safety of the citizenry in other ways. Neither is the United States obligated to take in those who only 'seem' to meet the criterion I outlined. The obligations take place independently of these epistemic concerns regarding determination of agents dispositions. In this critique, it was not that taking in refugees who met the criterion outlined in my conclusion generate the safety and security concerns that could inform a counter-example, but that taking in those who did not meet my criterion generate a concern for safety and security. The

United States non-obligation to these individuals does not bear on the obligation the United States has to others.

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