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Distributive Justice and the Political Priority of Citizens: Do noncitizens residing in a given state hold the same rights of distributive justice in that state as its citizens?

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Distributive Justice and the Political Priority of Citizens

Do noncitizens residing in a given state hold the same rights of distributive justice in that state as its citizens?



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Introduction

In 2020, an estimated 3.6% of the world's population resided in a different country from where they were born (United Nations 2021, 2-10). Immigrants are rarely granted citizenship upon or soon after arriving in a foreign state. I shall refer to those residing in a foreign state without citizenship of that state as *resident noncitizens*. In many states, citizens enjoy more benefits of the redistributive measures of the *welfare state* than noncitizens do. I shall use the term *welfare state* to refer to all state provisions aimed at enhancing the population's welfare. These *welfare-enhancing state provisions* are typically funded through the redistribution of resources within the state. The question as to whether and to what extent resident noncitizens should reap the benefits of the welfare state is hotly debated. Some states endorse more generous policies in this respect than others. In many western European welfare states, such as the Netherlands, vulnerable groups of immigrants, i.e., asylum seekers, are housed and fed by the state. As soon as they are granted asylum, these immigrants receive welfare payments and social housing. The state's provision of such welfare-enhancing benefits to resident noncitizens meets increasing resistance. Such provisions are funded by Dutch taxpayers' money. Government budgets are limited. So are available housing and the capacity of the healthcare system. Both are under severe strain in the Netherlands at the moment. Many argue that, given this scarcity of resources, the state should prioritise the welfare of its citizens over that of resident noncitizens. Such prioritisation I shall refer to as the *political priority of citizens*. Whereas the Dutch state is criticised for not sufficiently prioritising the welfare of its citizens over that of noncitizens, states in other parts of the world are criticised for quite the opposite, namely for disregarding the welfare of resident noncitizens. In recent years, the Gulf States have received a lot of criticism in this respect. Here, most menial labour is performed by resident noncitizen workers recruited from developing nations under the so-called *Kafala system*. Despite the vast wealth of these oil-rich states, the latter group doesn't benefit from the generous welfare-enhancing state provisions that citizens of these states enjoy (Amnesty International 2018; Louër 2021; Freer 2022).

These examples show that there is no internationally observed standard for government policies concerning resident noncitizens' access to welfare-enhancing state provisions. Since these provisions are typically funded through the redistribution of resources within a state, the political debate on such policies hinges on the question as to whether, and to what extent, resident noncitizens should enjoy the benefits of such redistribution. In European welfare states, citizens are often conceived as being *entitled to* welfare-enhancing state provisions funded through redistributive measures. Such entitlements or rights (which I shall treat as synonyms) are a matter of *distributive justice*. Although there is no agreement on the scope of distributive justice, it is typically defined as the realm of justice that pertains to 'the distribution of benefits and burdens of economic activity among individuals in a

society' (Lamont & Favor 2017). Distributive justice in the latter sense is the topic of this paper. The right to social security, the right to state-funded healthcare, and the right to free education are examples of *rights of distributive justice*. Since citizens' access to the welfare state is warranted by considerations of distributive justice, I contend that the political debate about whether (and to what extent) resident noncitizens should be included among its beneficiaries should be informed by considerations about their status relative to that of citizens with respect to distributive justice. In other words, it is worth considering the following question: *Do noncitizens residing in a given state hold the same rights of distributive justice in that state as its citizens?* In this paper, I shall attempt to answer this question. Before spelling out my approach to answering this question, I shall briefly elaborate on the concept of distributive justice.

It is worth noting that *distributive justice* is not the only moral principle that may warrant the provision of welfare-enhancing benefits to individuals (regardless of their citizenship status). Returning to the example of asylum seekers, one could argue that the state hosting these individuals should provide food and shelter not as a matter of distributive justice but rather as a matter of *charity*. To gain a better understanding of distributive justice, it is helpful to consider the distinction between charity and distributive justice. Both moral principles can be thought of as generating rights and corresponding duties. What sets these two categories of rights and duties apart is their respective theoretical grounding and, correspondingly, their respective scopes. The duties that belong to the realm of charity, often referred to as *humanitarian duties* or *duties of aid*, obtain between all human beings. For example, all individuals hold the duty to aid fellow humans in need wherever they can, provided that the cost of doing so is not too high. Correspondingly, all individuals have the right to such aid. One way of explaining why we hold duties of aid to all fellow humans is to assert that *absolute deprivation*, i.e., individuals' lack of resources in isolation from other individuals' resources (Blake 2001, 259; Nagel 2005, 118-119), is morally unacceptable. Hunger and dire poverty are examples of absolute deprivation. The scope of rights and duties of aid is subject to philosophical debate. I shall not delve into this issue.

Rights and duties of distributive justice (which, in combination, I shall refer to as the *principles of distributive justice*), on the other hand, are typically perceived as being contingent upon a special relationship between individuals beyond their shared humanity. Duties of distributive justice require individuals who find themselves in the relevant type of relationship, whom we may call its *members*, to mitigate, through redistributive measures, the negative effects of socioeconomic inequalities between fellow members. Accordingly, individuals who find themselves in the relevant type of relationship hold, as a matter of distributive justice, the right to redistributive measures. It is important to note that the principles of distributive justice are not grounded in a *prima facie* duty (perhaps a humanitarian duty) to mitigate the negative effects of socio-economic inequalities on

individuals' lives. For the duty to mitigate the effects of such inequalities is itself a duty of distributive justice. Instead, we hold duties of distributive justice towards those with whom we find ourselves in the relevant type of relationship on the grounds that between members of that relationship, *relative deprivation*, i.e., some members having disproportionately fewer resources than others (Blake 2001, 259; Nagel 2005, 118-119), is morally unacceptable. What principle explains the moral wrongness of such relative deprivation within the relevant type of relationship depends, as we will see, on how we define this special relationship upon which the principles of distributive justice are contingent.

Following Rawls, this relationship is traditionally viewed as one that exists only within the domestic context of a state. This insistence on limiting the scope of distributive justice to the state stems from the close connection between distributive justice and the legal framework of states. It is within a state that individuals are bound by the same laws and institutions. These laws and institutions affect the distribution of the burdens and benefits of economic activity within that state. As stated, the principles of distributive justice apply to this distribution. Furthermore, the state is the structure through which distributive justice can be realised as it can incorporate redistributive measures into its laws and institutions. Accordingly, the entry on distributive justice in the *Stanford Encyclopedia of Philosophy* points out that '[p]rinciples of distributive justice are [...] best thought of as providing moral guidance for the political processes and structures that affect the distribution of benefits and burdens in societies' (Lamont & Favor 2017). State-funded medical care, education, social housing and benefits for the unemployed are all examples of the aforementioned redistributive measures, all of which aim at alleviating (the effects of) relative deprivation that may arise from the distribution of the burdens and benefits of economic activity within a state. I do not make the *a priori* claim that the principles of distributive justice should be restricted to the domestic context of the state. Indeed, as will be discussed in this paper, the latter claim is subject to criticism. Instead, I am drawing attention to the traditional insistence that the principles of distributive justice apply, at least primarily, to the domestic context of a state because this insistence has, as we shall see, informed much of the academic debate on distributive justice. Even those who argue that the principles of distributive justice apply beyond the borders of states take as their starting point theories according to which these principles apply domestically and try to argue that the consistent application of these theories calls for a wider scope (Nagel 2005, 115; Miller 2010, 31-32).

Proponents of the political priority of citizens would argue that noncitizens residing in a given state do not hold the same rights of distributive justice in that state as its citizens. There are two approaches to defending this view. First, one could argue that noncitizens residing in a given state do hold rights of distributive justice in that state but not to the same degree as its citizens. Since the principles of distributive justice are contingent upon a special relationship, this approach requires one to articulate at least two (or possibly more) of such special relationships, one that exists

exclusively between fellow citizens and one that exists between everyone residing in a state (both citizens and noncitizens), the former regenerating more (or more demanding) rights of distributive justice than the latter. Alternatively, a proponent of the political priority of citizens could argue (a) that there exists only one special relationship upon which the principles of distributive justice are contingent and (b) that this special relationship exists exclusively between fellow citizens. At any rate, on either approach, there is at least *a* special relationship upon which principles of distributive justice are contingent that exists exclusively between fellow citizens. Why are resident noncitizens excluded from membership in this relationship? The insistence that the principles of distributive justice apply (primarily) to the domestic context of the state doesn't self-evidently warrant the political priority of citizens. Noncitizens residing in a given state are part of that state's domestic context much in the same way as its citizens. They too are engaged in most of the projects and systems that exist within that state and they too are subject to most (if not all) of its laws. Accordingly, resident noncitizens are affected by the distribution of the burdens and benefits of economic activity within the state in a similar way as its citizens. Hence, on what grounds should the former hold a different status with respect to distributive justice than the latter?

Again, this paper aims to answer this question about the relative status of resident noncitizens and citizens with respect to redistributive justice, which I articulated as follows: *Do noncitizens residing in a given state hold the same rights of distributive justice in that state as its citizens?* This question should, in turn, be informed by the more profound philosophical question as to what generates rights and the corresponding duties of distributive justice in the first place. In other words, what is the *theoretical grounding of distributive justice*? As explained, the principles of distributive justice are contingent upon a special relationship. I have not yet specified this relationship. In line with the traditional insistence that considerations of distributive justice apply (at least primarily) to the domestic context of the state, how one conceptualises the aforementioned special relationship depends on how one conceptualises the state. In this paper, I discuss two (types of) theories of distributive justice, *cooperation theory* and *coercion theory* (terms I borrowed from Abizadeh 2007, 320), which rely on different conceptualisations of the state. Accordingly, both theories give different accounts of the special relationship upon which the rights and duties of distributive justice are contingent. Moreover, both theories refer to different moral principles to explain why this special relationship generates the principles of distributive justice. Of both (types of) theories, I shall consider the ramifications for the relative status of resident noncitizens and citizens with respect to distributive justice. It is important to note, however, that any theory of distributive justice only allows for a satisfactory answer to my research question if its account of the theoretical grounding of distributive justice is plausible. Hence, before I formulate a final answer to the question as to whether noncitizens residing in a given state hold the same rights of distributive justice in that state as its

citizens, I shall attempt to formulate a plausible account of the theoretical grounding of distributive justice.

In Chapter 1, I construct a theory of distributive justice that is based on Rawls' *A Theory of Justice* (1999 [1971]). I shall refer to this theory as the *cooperation theory of distributive justice*. Cooperation theory takes as its starting point the conceptualisation of the state as a *scheme of social cooperation*. *Shared participation* in such a scheme is identified as the special relationship upon which the rights and duties of distributive justice are contingent. *Fairness* is the principle that explains why this relationship generates these rights and duties. I shall argue that the cooperation theory of distributive justice is unconvincing because it fails to account for the moral status of those individuals who are, at least in most welfare states, among the primary beneficiaries of the welfare-enhancing redistributive measures that are typically perceived as realising distributive justice.

In Chapter 2, I discuss the *coercion theory of distributive justice*, which takes as its starting point a conceptualisation of the state as a *coercive apparatus*. *Shared subjection to the relevant type of state coercion* is, according to coercion theory, the special relationship upon which the rights and duties of distributive justice are contingent. The *pro tanto wrongfulness of coercion* is the principle that explains why this relationship generates the rights and duties of distributive justice. According to this principle, coercion is morally impermissible *unless* there is an adequate justification for it. According to coercion theorists, the principles of distributive justice function as such a justification. Blake (2001) and Nagel (2005) are the most influential proponents of such a view. I shall argue that their respective theories are incomplete and that to arrive at a plausible account of the theoretical grounding of distributive justice, these two theories should be incorporated into what I shall call my *composite coercion theory of distributive justice*. The latter theory draws from Blake the idea that for coercion to be adequately justified, it should muster the hypothetical consent of all who are subject to that coercion in the relevant sense. It draws from Nagel the idea that the rights and duties of distributive justice function as a justification for specifically the coercion to which the state subjects its members by making them nonvoluntarily responsible for its coercive practices. Since only citizens are nonvoluntarily made responsible for the state's coercive practices, the principles of distributive justice obtain only between fellow citizens. As such, my composite theory of distributive justice warrants the political priority of citizens.

In the final chapter, Chapter 3, I shall defend a *continuous approach* to my composite coercion theory of distributive justice, arguing that the principles of distributive justice that obtain exclusively between fellow citizens are not the only set of distributive requirements that obtain between individuals. Less demanding distributive requirements obtain between individuals who find themselves in other relationships than shared citizenship. Although some distributive requirements may obtain between noncitizens residing in a given state and that state's citizens, I shall argue that

noncitizens residing in a given state are not owed *the same* distributive requirements in that state as its citizens because the former, unlike the latter, have (at least in most cases) tacitly consented to that state's coercion through the act of immigrating. However, I shall concede that resident noncitizens who had no other viable option than to migrate to one specific state do hold the same rights of distributive justice in that state as its citizens.

I shall finally make some brief remarks on the scope of my research. I aim to establish whether noncitizens residing in a given state hold the same rights of distributive justice in that state as its citizens. I shall not dwell on the content and scope of rights and duties of distributive justice. Neither is this a paper on the topic of immigration. Hence, I shall not consider on what grounds and subject to what conditions individuals should be allowed to migrate to other states. Moreover, I shall not consider the ramifications of federations and supranational organisations, such as the EU, for any of the discussed theories. Finally, it is worth mentioning that besides cooperation theory and coercion theory, the literature on distributive justice occasionally mentions a third theory (or family of theories) of distributive justice, which Abizadeh (2007, 320) calls *pervasive impact theory*. Nevertheless, most of the scholarship on this topic focuses on the former two theories. For the sake of brevity, I too shall limit my research to the cooperation and coercion theories.

Chapter 1

Cooperation Theory: Social Cooperation and Distributive Justice as Fairness

Some political thinkers have conceptualised the state as a *scheme of social cooperation*. On Hart's (1955) and Rawls' (1964) accounts of political obligation, the relationship between *participants* in such a scheme is regulated by the *principle of fairness* (or *fair play*). Although Rawls came to reject his earlier account of political obligation as being grounded in the principle of fairness (Rawls 1999, 96-98), the notion of fairness does play a central role in his later writings, most notably *A Theory of Justice* (1999 [1971]). In the latter work, Rawls upholds the conceptualisation of society, which is synonymous with the state on his account,¹ as a scheme of social cooperation and defends a conception of justice that obtains between fellow participants of this scheme and is grounded in considerations of fairness. Accordingly, he refers to this conception of justice as *justice as fairness*. In this chapter, I shall formulate a theory of distributive justice, which I shall refer to as the *cooperation theory of distributive justice*, that draws heavily on Rawls' *A Theory of Justice*. In line with Rawls' conceptualisation of the state as a scheme of social cooperation, this theory takes *shared participation* in such a scheme as the special relationship upon which the rights and duties of distributive justice are contingent. Fairness is the principle that explains why this relationship generates the principles of distributive justice. Cooperation theory, if satisfactory, poses a serious challenge to the political priority of citizens. Since in the globalised world of today, ties of social cooperation exist between citizens of all states, some (not Rawls) have argued that cooperation theory warrants a *cosmopolitan conception of distributive justice*, according to which rights and duties of distributive justice exist between all human beings regardless of citizenship and residence. I shall argue that the cooperation theory of distributive justice should be rejected because it doesn't comprise a plausible account of the theoretical grounding of distributive justice.

Although my account of the cooperation theory of distributive justice draws heavily on Rawls' *A Theory of Justice*, it is important to note that the scope of the latter work is much wider than that of this paper. The focus of this paper is limited to the realm of justice that pertains to the distribution of benefits and burdens of *economic activity*. The principles of justice articulated by Rawls, in contrast, are concerned with the fair distribution of 'all social values' in a given society, not just 'income and wealth' but also 'liberty and opportunity, [...] and the social bases of self-respect' (Rawls 1999, 54). As such, his *principles of justice* are meant to regulate society as a whole. Rawls' *A Theory of Justice* does

¹ When Rawls speaks of society, he refers to the structures and institutions that make up the state.

incorporate an account of the just distribution of specifically the benefits and burdens of economic activity but, according to Rawls, such a just distribution requires society as a whole to be regulated by his principles of justice (Ibid., 243). My account of the cooperation theory of distributive justice can be viewed as a reading of Rawls that tries to isolate an account of the theoretical grounding of distributive justice from his account of justice in the aforementioned wider sense. Additionally, my account combines Rawls' account of justice as fairness (1999 [1971]) with his earlier account of political obligation (1964) to explain why the principles of distributive justice have binding force.

Rawls' justice as fairness and distributive justice

As the name *justice as fairness* suggests, Rawls' conception of justice is grounded in the notion of fairness. That is not to say that justice and fairness are one and the same but rather that the 'principles of justice are agreed to in an initial situation that is fair' (Rawls 1999, 11). Rawls' *original position*, a hypothetical assembly in which participants decide on principles of justice, conceptualises this 'initial situation that is fair'. To ensure 'that the fundamental agreements reached in it are fair' (Ibid., 15), the participants in the original position are located behind the *veil of ignorance*, which means that they 'do not know how the various alternatives will affect their own particular case and they are obliged to evaluate principles solely on the basis of general considerations' (Ibid., 118). The principles of justice are to determine the *basic structure* of the society in which the participants will live, by which Rawls refers to 'the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation' (Ibid., 6). Recall that Rawls conceptualises society (or the state) as a scheme of social cooperation. Since the principles of justice are meant to determine its basic structure in a way that is 'fair', these principles can be conceptualised as the 'fair terms of social cooperation' (Rawls 1999, 19, 402; cf. 23, 112, 337), at least of the kind that exists within a single society or state.

Rawls concludes that the participants in the original position would agree on *two principles of justice*. This conclusion is based on assumptions about human psychology, most famously the assumption that those charged with selecting the principles that are meant to govern their society whilst being uncertain about their life prospects in this society would opt for 'the alternative the worst outcome of which is superior to the worst outcomes of the others' (Rawls 1999, 133). This *maximin rule* has given rise to much academic debate.² A full discussion of (a) how Rawls arrives at his conclusion about what principles the participants in the original position would agree on and (b) the validity of this conclusion is beyond the scope of this essay. At a later point in this chapter, I shall argue that any theory of distributive justice that relies on a conceptualisation of the state as a scheme of social cooperation fails at the level of its more fundamental premises. For now, I shall

² See Chandran and Pettit 1990, 37-43.

assume, for the sake of argument, that Rawls was right in arguing that the participants in the original position would decide on his two principles of justice. For our purposes, it suffices to focus on Rawls' *second principle of justice*, which he articulates as follows:

'Social and economic inequalities are to be arranged so that they are both:

(a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and

(b) attached to offices and positions open to all under conditions of fair equality of opportunity.' (Rawls, 1999, 266)

Rawls points out that this 'second principle applies, in the first approximation, to the distribution of income and wealth and to the design of organizations that make use of differences in authority and responsibility' (Ibid., 53). Supposedly, the 'distribution of income and wealth' is regulated by the first condition (a), the famous *difference principle*, whereas the 'design of organizations' is regulated by the second condition (b). In *Justice as Fairness: A Restatement* (2001, 61), Rawls characterises the *difference principle* 'as a principle of distributive justice in the narrow sense', by which he seems to refer to the common conception of distributive justice as being restricted to the distribution of the benefits and burdens of *economic activity* (the focus of this paper).

I contend that the whole of Rawls' second principle of justice, when incorporated into the basic structure of a state, requires redistributive measures for the sake of funding welfare-enhancing state provisions. Since the latter provisions are commonly perceived as realising distributive justice, Rawls' second principle of justice seems to provide a blue-print for the realisation of distributive justice in the state. The second condition (b) of this principle (equal opportunity to attain those offices that bring with them social and economic advantages) can be satisfied by state provisions that aim at making education and healthcare accessible to all. After all, an individual's level of education and health have a profound impact on what offices and positions are open to them. Such provisions are to be financed through redistributive measures. To satisfy the first condition (a) of Rawls' second principle of justice, social and economic inequalities should be of the greatest benefit to the least-advantaged members of society. Insofar as social and economic inequalities allow for a more productive economy and, consequently, secure the generation of more wealth that can be redistributed by the state (through taxation), the least-advantaged individuals benefit the most from such inequalities insofar as they are the main beneficiaries of state provisions funded through redistribution. Since in welfare states a considerable portion of tax revenue is spent on welfare-

enhancing state provisions, of which the least advantaged benefit the most,³ such states are most likely to satisfy the first condition (a) of Rawls' second principle of justice.⁴

Distributive justice and political obligation

Since Rawls' second principle of justice requires, as explained in the previous paragraph, the redistribution of resources among fellow participants in the relevant scheme of social cooperation (in Rawls' case, a society or state), one can think of this principle as generating among the fellow participants rights that entitle them to benefit from such redistribution as well as duties that oblige them to contribute to it. Since such rights and duties are derivative of (Rawls' notion of) justice and pertain to the distribution of benefits and burdens of economic activity, they constitute rights and duties of distributive justice. Rights and duties are generally conceived as *binding*. In the context of the state, rights and duties are additionally *enforceable*, i.e., the state can employ coercive practices to ensure that rights are respected and duties are fulfilled. Hence, if the rights and duties of distributive justice are indeed derivative of Rawls' second principle of justice, Rawls has to explain why individuals are *bound* or *obliged* to comply with this principle (to such an extent that failure to comply justifies coercive measures). As mentioned, Rawls conceptualises his principles of justice as the fair terms of social cooperation. However, from the mere fact that a given set of terms is fair, it doesn't follow that these terms are binding, especially not to such an extent that forcing individuals to comply is justifiable. For example, the rules of a game may be fair but this doesn't mean that it's morally justifiable to force these rules upon anyone. The intuition behind this analogy is that the rules of a game are only binding to its participants. This intuition calls for further explanation. What is needed is an explanation as to why participation in a scheme of social cooperation generates the *obligation* to comply with its (fair) terms.

In the context of the state, such an explanation is to be provided by a *theory of political obligation*, i.e., a theory that explains why those who relate to the state in the relevant way are obliged to comply with its laws and institutions. In *A Theory of Justice*, Rawls offers an account of political obligation that hinges on the 'natural duty' to 'support and to further just institutions', which he specifies as follows:

'This duty has two parts: first, we are to comply with and to do our share in just institutions when they exist and apply to us; and second, we are to assist in the

³ E.g. in 2021, social security and the care sector alone made up more than half of government spending in the Netherlands (Ministerie van Financiën 2021).

⁴ Note, however, that Rawls believes that his principles amount to a defence of what he calls a *property-owning democracy*, which he distinguishes from what he calls a *welfare state* (Rawls 1999, xiv-xv).

establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves.’ (Rawls 1999, 293-294)

As we can see in the quotation above, this natural duty comprises a set of two duties, which I shall refer to as respectively the *first* and the *second natural political duty* (following Klosko 1994, 254). The first natural political duty is the duty of political obligation as articulated in the last paragraph.

On Rawls’ account, natural duties obtain between all persons ‘irrespective of their institutional relationships’ and ‘do not presuppose an act of consent, express or tacit, or indeed any voluntary act, in order to apply’ (Rawls 1999, 99; cf. 294). Like the principles of justice, these duties are grounded in the hypothetical consent of the participants in the original position. Klosko (1994) points out that there is something odd about Rawls grouping the first natural political duty among natural duties. Other instances of such natural duties include the duty of aid (Rawls 1999, 98) and the second natural political duty quoted above. Of the latter two natural duties, compliance is, according to Rawls, only required if the cost of complying is not too high (Ibid; see quotation above). As such, they constitute what Klosko calls ‘weak’ duties. The first natural political duty, on the other hand, surely is a ‘strong’ duty, i.e., it obtains regardless of the costs of compliance. Compliance with and doing one’s share in the state’s institutions (e.g., by paying taxes or performing military service) often involves great costs. These duties obtain despite these costs. Hence, those in the original position need very good reasons to consent to such a strong political duty (Klosko 1994, 255-260). As Klosko points out, ‘[b]ecause supporting a given government could be costly and so requires strong justificatory considerations, the only governments an individual should support are those that supply him with essential benefits’ (Ibid., 260). For only in the latter case the benefits outweigh the costs. If so, the first political duty is only owed towards individuals with whom we find ourselves in the relevant institutional relationship. As such, it doesn’t qualify as a ‘natural duty’ on Rawls’ terms.

Rawls himself defended the idea that political obligation is contingent upon the receipt of benefits from the state in an influential paper from 1964 titled ‘Legal Obligation and the Duty of Fair Play’. Here, he argues, similar to Hart (1955), that political obligation is grounded in the *principle of fairness* or *fair play*. On Hart’s and Rawls’ accounts, my receipt of benefits deriving from a scheme of social cooperation obliges me to do my ‘fair share’ in that scheme by complying with its rules or terms (Hart 1955, 185; Rawls 1964, 9-10; Simmons 1979, 101-106). If we, following Rawls and Hart, conceptualise the state as a scheme of social cooperation, then its institutions and laws can be viewed as its ‘rules’ or ‘terms’. Accordingly, when we apply the principle of fairness to the state, my acceptance of the state’s benefits gives rise to the obligation to do my ‘fair share’ by complying with and supporting its institutions. In *A Theory of Justice*, Rawls rejects his earlier theory of political obligation. Here, he argues that for a person to be ‘required to do his part as defined by the rules of an institution’, two

conditions have to be met: 'first, the institution is just (or fair) [...] and second, one has voluntarily accepted the benefits of the arrangement or taken advantage of the opportunities it offers to further one's interests' (Rawls 1999, 96). Hence, some 'binding action' that amounts to 'acceptance' is required.⁵ In the case of the average individual who relates to the state in the relevant way (on Rawls' account, the 'average citizen') 'it is not clear what is the requisite binding action or who has performed it' (Ibid., 97-98). However, I agree with Klosko that the participants in the original position 'have good reasons to reject the claim that "acceptance" or "nonacceptance" of essential state services creates morally relevant differences between individuals and so justifies differences in their burdens' (Klosko 1994, 266). After all, since most individuals can be presumed to benefit from essential state services, it would be tempting not to 'accept' these benefits but continue benefitting from them without incurring any obligation, the so-called *free-rider problem* (Rawls 1999, 236-239; Klosko 1994, 258) In *A Theory of Justice*, Rawls defines fairness as that which would (hypothetically) muster the consent of the participants in the original position. Hence, I agree with Klosko that to arrive at a plausible account of why fairness in Rawlsian terms demands that participants in the relevant scheme of social cooperation are obliged to comply with its terms, one has to weave Rawls' earlier account of political obligation into his later account of justice as fairness. On such a composite account, those who benefit from the state incur the obligation to abide by its laws (if these are just) because this obligation is itself a term that the participants in the original position would agree on.

The cooperation theory of distributive justice

Summarising the discussion in this chapter so far, I shall now give a complete account of the cooperation theory of distributive justice. Justice is conceptualised in terms of fairness applied to a scheme of social cooperation. Fairness demands that the terms of social cooperation are such that all participants in such a scheme would (hypothetically) agree to these terms under 'fair' conditions (i.e., analogous to Rawls' original position). One of the terms the participants would agree to is Rawls' second principle of justice, which requires the redistribution of the benefits and burdens of economic activity within their scheme of social cooperation in a way that benefits the least-advantaged participants the most. As part of the terms of their association, all participants are (a) entitled to such redistribution and (b) obligated to contribute to it. This entitlement and obligation can be conceptualised as *rights and duties of distributive justice*. All participants are obliged to honour these 'terms' of their social cooperation. After all, based on Rawls' principle of fairness, as it features in his earlier theory of political obligation (1964), the participants' receipt of the benefits generated by this scheme generates the obligation to do their 'fair share' by complying with its terms. This obligation

⁵ The question as to what 'accepting the benefits' of the state concretely amounts to has given rise to scholarly debate. See Simmons 1979, 117-136.

itself constitutes a 'fair term' since, given the cost of compliance and the free rider problem, the participants would (hypothetically) agree to it under 'fair' conditions. Hence, shared participation in a scheme of social cooperation is the type of relationship upon which the rights and duties of distributive justice are contingent. Fairness is the principle that explains why this relationship generates such rights and duties and why these are binding.

Recall that in line with Rawls' conceptualisation of the state as a scheme of social cooperation his principles of justice, including the second principle, can be conceptualised as the *fair terms of social cooperation*, at least of the kind that exists on the scale of a society or state. I contend that the second principle of justice also applies to schemes of social cooperation on a smaller scale, which I hope to demonstrate through the example of a hiking trip.⁶ Moreover, by thus applying the cooperation theory of distributive justice to a scheme that is more familiar to the average individual and less abstract than the state, I hope to show that the theory is in line with our gut-feeling notion of 'fairness'. The participants of a hiking trip, who are strangers to one another,⁷ engage in social cooperation by carrying a share of the communal equipment. After a few days of hiking, one of the participants, Hank, sustains a back injury. He is no longer capable of carrying his share. As such, he no longer contributes to the scheme of social cooperation. One could argue that Hank might contribute in other ways, e.g., by telling entertaining stories. However, it is unclear why the other participants would accept such entertainment as a contribution to their scheme of social cooperation of the sort that suffices to generate among them the incentive to carry Hank's share of the equipment. We will return to his problem later on in this chapter. Let's, for now, assume that Hank has nothing to offer that the other participants would accept as a 'contribution' in the relevant sense. My reading of Rawls explains why Hank is, as a matter of distributive justice, entitled to continue benefiting from the communal equipment nonetheless. Fairness (in Rawlsian terms) requires that the terms of the hiking trip are such that they would have been agreed on beforehand by the participants in a hypothetical choice situation defined by uncertainty about their individual prospects (including the likelihood of sustaining an injury). If Rawls' assumptions about human psychology are correct (which I assumed for the sake of argument), then the participants would have agreed on the obligation to aid any participant no longer capable of carrying his share, which can be fulfilled by redistributing the benefits and burdens of communally carrying the equipment. Since the other participants benefit from this scheme of social cooperation, the principle of fairness (as it features in Rawls' (1964) earlier theory of political obligation) obliges them to honour these terms. Hank is, therefore, entitled to the aid of the other participants of the hiking trip.

⁶ The example is inspired by Cohen's (2009) 'camping trip'.

⁷ Thus, additional obligations that might arise from friendship and family ties are left out of the picture.

I contend that this account is convincing because it appeals to a notion of fairness, understood as generating a requirement of solidarity, that is in line with what we may call ‘common-sense morality’ or ‘gut feeling’. In English, this notion of fairness is captured by the statement: ‘we’re in this together’. In the Dutch language, there exists a common maxim that captures this sentiment even better, ‘*samen uit, samen thuis*’, which can be loosely translated as ‘whenever you leave together, you should come home together’. The underlying idea is that when individuals engage in some form of social cooperation for some aim, it is only ‘fair’ that all of them remain part of this scheme of social cooperation, thus reaping its benefits as well as being obliged to comply with its terms, until that aim is achieved. The cooperation theory of distributive justice can be viewed as a philosophical justification for this sentiment. In the example of the hiking trip, the aim of social cooperation is clearly defined and final: the participants collectively aim at completing the hike, after which their scheme of social cooperation disbands. The ‘aim’ of the state conceptualised as a scheme of social cooperation is more difficult to identify. Maintaining peaceful cohabitation and/or advancing collective prosperity and/or welfare are plausible candidates. At any rate, the aim of the state cannot be finalised. The state (in the sense of a ‘political entity’) doesn’t disband as soon as it has reached a certain state (in the sense of a ‘disposition’). Accordingly, its members engage in social cooperation as long as the state exists. Therefore, rights and duties of distributive justice obtain between them as long as the state exists.

The Rawlsian cosmopolitan challenge to the political priority of citizens

As the example of the hiking trip is meant to demonstrate, the cooperation theory of distributive justice can plausibly be applied to a scheme of social cooperation of a smaller scale than the state. This raises the question as to whether it can also be applied to larger schemes of social cooperation. According to Rawls himself, his two principles of justice apply exclusively to the basic structure of a society or state (Rawls 1999, 6-7, 401). In the interconnected world of today, however, schemes of social cooperation surely extend beyond state borders. As such, one could view all people on the planet as fellow participants in one immense scheme of social cooperation. Moreover, the principle of fairness is surely universal in scope: what is fair in Europe is also fair in Africa. Hence, if the rights and duties of distributive justice are indeed grounded in considerations of fairness applied to a scheme of social cooperation, one could argue that these principles should be ‘extrapolated’ to the rest of the world (Miller 2016, 31). This has been argued by those whom Freeman (2006, 31) labels ‘Rawlsian cosmopolitans’, such as Beitz (1979) and Pogge (1994), who accept most of Rawls’ account of justice as fairness but object to ‘limiting the reach of the difference principle to the basic structure of society, thereby making membership within a particular society a condition for assessing claims of distributive justice’ (Freeman 2006, 31). As Miller (2016, 35) points out, the arguments of such

Rawlsian cosmopolitans pose ‘a strong challenge to those who affirm demanding political duties to disadvantaged compatriots but resist their global extrapolation on account of economic interdependence.’ I shall call this challenge the *Rawlsian cosmopolitan challenge* to the *political priority of citizens*. If this challenge is warranted, then not only would there be no morally relevant distinction with respect to distributive justice between citizens of a given state and noncitizens residing in that state; there would be no moral distinction in this respect between any human beings at all, regardless of where they reside.

Those who want to resist the cosmopolitan challenge can adopt four approaches, which I group under two categories (1 and 2). The approaches belonging to the first category (1) aim at challenging the cosmopolitan *extrapolation* of the rights and duties of distributive justice whilst upholding the idea that these are grounded in considerations of fairness applied to a scheme of social cooperation. To this end, one could argue either (1a) that considerations of fairness do not apply to humanity as a whole, or (1b) that not all people on the planet should be viewed as participants (in the relevant sense) in a single scheme of social cooperation. A version of the latter approach is adopted by Rawls himself in *The Law of Peoples* (1999), where he argues that the principles of justice that apply globally to the relations between ‘peoples’ differ from the principles of justice that apply domestically to the relations between individuals within a given society (on Rawls’ account, fellow citizens). Notably, a global principle of distributive justice analogous to the difference principle is absent from Rawls’ catalogue of the *principles of global justice* (Rawls 1999, 37; see Freeman 2006). A combination of the latter two approaches (1a and 1b) is conceivable as well. I shall refrain from delving into the question as to whether the Rawlsian cosmopolitan extrapolation is justified since I believe that the Rawlsian cosmopolitan challenge can be resisted on a more fundamental level.

Resisting the Rawlsian cosmopolitan challenge on a more fundamental level is the aim of the approaches belonging to the second category (2), which challenge the very claim that distributive justice is grounded in considerations of fairness applied to a scheme of social cooperation. To this end, one can again take two approaches. The first approach (2a) would be to argue that considerations of fairness applied to a scheme of social cooperation do not give rise to any distributive requirements obtaining between fellow participants in such schemes. I pass up this approach since I believe that they do. However, I characterise the latter distributive requirements as belonging not to the sphere of distributive justice but to the sphere of what we may call *cooperation rights*. In Chapter 3, I shall discuss this set of rights in further detail. An alternative approach (2b), which is the one I shall adopt, is to argue against the claim that shared participation in a scheme of social cooperation is the relationship upon which rights and duties of distributive justice are contingent. This approach has a negative and a positive dimension. The negative dimension, which will be covered in the next paragraphs of this chapter, consists in explaining why rights and duties of

distributive justice are not contingent upon shared participation in a scheme of social cooperation. The positive dimension consists in articulating an alternative type of relationship upon which the principles of distributive justice are contingent. In the next two chapters, I shall spell out and defend such an alternative theory.

The cooperation theory of distributive justice rejected

To explain why a theory according to which rights and duties of distributive justice are contingent on shared participation in a scheme of social cooperation is unconvincing, let us return to the example of the hiking trip. Imagine that during their hiking trip, the participants stumble upon a lone hiker, named Tom, who has broken his leg and is unable to continue by himself. Tom is not a participant in the hiking trip: he has never contributed to this scheme of social cooperation and has never incurred the obligation to comply with its terms by receiving its benefits. Therefore, according to the cooperation theory, he is not entitled, as a matter of distributive justice, to the same kind of help as Hank, who *is* a participant in the aforementioned sense. If the participants in the hiking trip decide to help Tom, this would be a matter of charity. Tom could request to join the hiking trip and, as such, become a participant. However, it is unlikely that the other hikers would accept Tom as a participant. After all, in his current state, he has nothing valuable to contribute to their social cooperation (again, I assume that the other participants are not interested in Tom's stories). The principle of fairness applied to a scheme of social cooperation doesn't require that everyone is allowed to join that scheme. When I and my friends sign up for a relay race, the principle of fairness doesn't require that we allow my wheelchair-bound neighbour to join. Neither does the principle require that a baker looking to hire an assistant to knead dough accepts the job application of someone without hands. I acknowledge that such disabilities, insofar as they are the result of arbitrary endowments or accidents, are 'unfair'. However, the principle of fairness applied to a scheme of social cooperation doesn't require participants in that scheme to mitigate the effects of *all* unfair endowments in the world by accepting everyone as fellow participants! Instead, it requires that someone *who has already contributed* to the scheme is not (fully) excluded from its benefits as soon as they are no longer able to contribute. This is why Hank holds entitlements from which Tom is excluded.

One could argue that our society is full of individuals whose status is analogous to that of Tom, i.e., individuals who have never (for whatever reason) contributed to society in a way that other society members would accept as a valuable 'contribution'. Think of *care-dependents* such as young children or individuals who are born disabled or have been ill for their entire (adult) life, to whom I shall refer as *apparent non-contributors*. In response, one could defend the (arguably utopian) idea that every individual contributes to society in some way: even those who are in a vegetable-like condition can be said to 'contribute' by being the object of their loved ones' care. However, I contend that it is hard to

view these individuals as *participants in a scheme of social cooperation*. Surely cooperation implies that participants contribute to the communal effort in a way that is considered a *sufficiently valuable contribution* by the other participants. To explain what counts as a sufficiently valuable contribution, I shall again turn to Rawls (1999, 6), who takes ‘reciprocity’ or ‘mutuality’ as one of the three ‘essential features’ of social cooperation. On his account (Ibid., 76-77), reciprocity requires that those who are better endowed use their endowments for the benefit of those who are less well-endowed. However, by stating that ‘[r]eciprocity is a moral idea situated between impartiality, which is altruistic, on the one side and mutual advantage on the other’ (Ibid., 77), Rawls appears to acknowledge that reciprocity requires that the better-endowed benefit those who are less well-endowed only insofar as cooperation with the latter leaves the former better off than they would have been without cooperation. This suggests that *mutual benefit* is an inherent feature of social cooperation, as Rawls himself suggests on several occasions (Ibid., 19, 76). In line with Rawls’ assertions about reciprocity, I contend that for an individual to be considered a *participant* in a scheme of social cooperation, their contribution to this scheme has to be *sufficiently valuable* in the sense that the other participants are made better off by that individual’s membership in the scheme than they would have been if that individual was refused membership. I believe that the examples of the relay race and the bakery underwrite the idea that mutual benefit is an inherent feature of social cooperation. If me and my friends were to allow my disabled neighbour to join our team, we wouldn’t view him as a ‘participant’ in our scheme of social cooperation but more as a ‘burden’ to it (assuming that we aim to win the race). We would be more likely to win the race, thus achieving the aim of our social cooperation, if we didn’t allow my disabled neighbour to join our team. Likewise, companies that hire severely disabled individuals often receive an allowance from the state exactly to make up for the fact that these individuals don’t contribute to the company’s scheme of social cooperation in a way that is considered sufficiently valuable with respect to the company’s aims and may additionally even stand in the way of efficient social cooperation.

To argue that those incapable of making a sufficiently valuable contribution to society (in the discussed sense) don’t hold rights of distributive justice would be to deny the fundamental principles of the welfare state. For the latter individuals are typically the main beneficiaries of its redistributive measures. Hence, for a theory that makes rights and duties of distributive justice contingent on a scheme of social cooperation to be plausible, it would have to explain why those who do not appear to make a sufficiently valuable contribution to society (i.e., apparent non-contributors such as care-dependents) should nonetheless be viewed as participants in society conceptualised as a scheme of social cooperation. In other words, such a theory would have to explain in what sense the rest of society is made better off (with respect to its aims, whatever these may be) by the membership of apparent non-contributors (such as care-dependents) than it would be if the latter group were denied

membership of society. Unfortunately, Rawls has surprisingly little to say about apparent non-contributors. In a 1980 article commenting on *A Theory of Justice*, he explains that his theory applies to the *well-ordered society*, which is an *idealisation* of society, in which ‘all citizens are fully cooperating members of society over the course of a complete life’ (Rawls 1980, 545–546). In response to the latter assertion, Nussbaum points out:

‘In so conceiving of persons, Rawls explicitly omits from the situation of basic political choice the more extreme forms of need and dependency that human beings may experience. His very concept of social cooperation is based on the idea of reciprocity between rough equals, and has no explicit place for relations of extreme dependency.’
(Nussbaum 2003, 52)

Nussbaum’s point is a well-known criticism of *A Theory of Justice*. Although Rawls, in the aforementioned 1980 article, acknowledges that the care for individuals in a state of dependency is a ‘pressing practical question’, he insists that ‘the fundamental problem of social justice arises between those who are full and active and morally conscientious participants in society’ (Rawls 1980, 546). He then suggests (Ibid.) that ‘a theory that covers the fundamental case’ might be later extended to other cases, supposedly referring to the ‘difficult complications’ that the existence of care-dependents poses for his theory. However, Rawls never attempts to explain how his theory can be ‘extended’ to the case of care-dependents or any other apparent non-contributors.

I don’t claim that any attempt to articulate such an explanation is bound to be fruitless. However, I agree with Nussbaum (2003, 53) that ‘[a]ny theory of justice needs to think about the problem [of apparent non-contributors] from the beginning, in the design of the most basic level of institutions.’ Especially in a theory of *distributive* justice, the moral status of apparent non-contributors shouldn’t feature as a mere afterthought. Given the intuition that whether an individual holds rights of distributive justice shouldn’t be conditional upon their contribution to society, the conceptualisation of society as a scheme of social cooperation isn’t naturally fitted for a theory of distributive justice. Accordingly, alternative theories of distributive justice may prove more convincing.

Chapter 2

Coercion Theory: Distributive Justice as a Justification for State Coercion

In the previous chapter, I discussed a theory of distributive justice that takes as its starting point a conceptualisation of the state as a *scheme of social cooperation*. I argued that this *cooperation theory of distributive justice* doesn't comprise a plausible account of the theoretical grounding of the principles of distributive justice since it fails to account for the status of those who appear to not participate in any scheme of social cooperation in a sufficiently valuable way. In this chapter, I consider a theory of distributive justice that takes an alternative conceptualisation of the state as its starting point and, as such, evades this problem. According to this *coercion theory of distributive justice*, the state should be conceptualised as a *coercive apparatus*. A special set of rights and duties (i.e., beyond humanitarian ones) is owed to those who are subject to state coercion in the relevant sense. Hence, on this account, the rights and duties of distributive justice are contingent on the relationship of shared subjection to state coercion in the relevant sense. The principle that, according to these theories, explains why this relationship generates the rights and duties of distributive justice is the *pro tanto wrongfulness of coercion* (after Sangiovanni 2012): coercion is a moral wrong that is permissible if and only if there is an adequate justification for it. According to coercion theorists, the principles of distributive justice function as such justification. One can be subject to state coercion in different ways. The two most influential coercion theorists, Blake (2001) and Nagel (2005), provide two distinct answers to the question as to in what sense an individual has to be subject to state coercion to be a member of the special relationship upon which the principles of distributive justice are contingent. I shall argue that Nagel's and Blake's respective theories are, in themselves, incomplete and should be read in tandem to arrive at a plausible theory, which I shall refer to as my *composite coercion theory of distributive justice*.

The state imposes a set of laws on all individuals located on its sovereign territory. The latter have never consented to these laws. Yet most individuals choose to abide by the law (at least in functioning states). The state only resorts to direct and active coercion, through the use of physical force or explicit threats, in case the law is broken. Nevertheless, those located on a state's territory are permanently subject to its coercion in the sense of being *liable* to it. In response to the constant threat of state-sanctioned physical force, individuals adapt their behaviour and life plans to the state's institutions and laws. As such, their will is nonvoluntarily subjected or 'bent' into compliance by the state (Sangiovanni 2012, 85). Any action performed by one actor that affects the options open to another actor can be characterised as 'will-bending'. By buying the last Snickers bar from a vending machine, I 'bend the will' of the next person who intends to buy a Snickers bar from the same

machine as I make it impossible for them to pursue their (original) plan. However, when coercion theorists speak of ‘coercion’, they refer to will-bending that relies on (the threat of) sanctions, which may ultimately be enforced through physical force. Of course, private individuals may engage in coercive practices in this sense, e.g., when a crook robs me at gunpoint. However, since the state holds a monopoly on legal forms of force, only the state is legally allowed to be coercive in the aforementioned sense. Private individuals may legally engage in coercive practices only when sanctioned by the state, either in the name of the state (e.g., police officers) or with retroactive approval by the state (e.g., when someone uses physical force for the sake of self-defense). Coercion without the sanctioning of the state is typically deemed unjustified. Coercion by the state, on the other hand, is often deemed justified (at least if this state qualifies as a ‘just’ state). This raises the question as to what justifies state coercion. This is not the place to discuss all the available theories on the justification of state authority. It suffices to say that according to coercion theory, the principles of distributive justice arise in the face of the need to justify the coercive practices of the state to those who are subject to its coercion in the relevant sense. Hence, the special relationship upon which, according to coercion theory, the rights and duties of distributive justice are contingent can be articulated as *shared subjection to state coercion*.

The principle that explains why this relationship gives rise to the rights and duties of distributive justice is the *pro tanto wrongfulness of coercion* (after Sangiovanni 2012). On a fundamental level, the *pro tanto wrongfulness of coercion* can be viewed as a ramification of liberalism’s concern with the individual’s liberty and/or autonomy. These two values are closely related since autonomy can be understood as the liberty to conceive of and execute one’s life plans. In line with the aforementioned concern, liberals traditionally argue that an individual is entitled to as much liberty and/or autonomy as is compatible with the same amount of liberty and/or autonomy of others. I won’t engage in the academic debate as to how liberty and/or autonomy should be conceptualised nor in the (related) debate as to what ‘types’ of liberty and/or autonomy should be promoted by the state. It suffices to note that coercion is an external obstructing condition, grounded in the threat of physical force, that prevents the agent from achieving (some of) their purposes.⁸ As such, coercion violates the agent’s liberty and/or autonomy. Following coercion theorists, I take for granted that coercion is *pro tanto* wrong for this reason. This doesn’t mean that coercion is morally impermissible in every case. To say that coercion is *pro tanto wrong* is to say that it is morally impermissible unless there is an adequate moral justification for it. Blake (2001, 272-275), provides the helpful example of incarceration. Incarceration is an extreme form of coercion as it subjects the wills of the incarcerated to such an extent that few options are left open to them. Most would agree that for this reason, incarceration is

⁸ I rely on McCallum’s (1967) theory that all types of liberty are variations of a single concept comprising a triadic relation between (a) an agent, (b) an obstructing condition and (c) their purpose(s).

morally impermissible unless there are good reasons for it (e.g., there is satisfactory evidence for the guilt of a suspect and the nature of his crime is such that punishment in the form of incarceration is fitting). I contend that the claim that coercion is pro tanto wrong is rather uncontroversial, especially in the context of state authority. Few would hold that the state should be allowed to bend individuals' wills through the threat of physical force in the absence of an adequate justification for such coercive practices. Equally, few would hold that the state shouldn't be allowed to engage in any form of coercion whatsoever. One could argue that on the most fundamental level, the field of political philosophy springs from the desire to justify state coercion. According to coercion theories of distributive justice, the rights and duties of distributive justice function as such a justification.

Blake's coercion theory of distributive justice

According to Blake (2001, 258) and Nagel (2005, 121), the principles of distributive justice apply exclusively to the domestic context of the state. The former argues that 'the political and legal institutions we share at the national level create a need for distinct forms of justification' (Blake 2001, 258). On his account, this 'justification' takes the form of a special concern for economic egalitarianism. This concern can be encoded in the laws and institutions of the state in the form of the rights and corresponding duties of distributive justice. Accordingly, the principles of distributive justice, being distinct from humanitarian principles, are 'applicable only within the national context of the state' (Ibid., 258). Blake underscores that this special concern is not a form of justified partiality but rather the implication of an impartial, 'liberal' commitment to autonomy under the special circumstances that apply only in the context of the state (Ibid., 258-261, 267).

The latter commitment is the starting point of Blake's theory of distributive justice. He believes that it is reflected in the following principle: 'all human beings have the moral entitlement to exist as autonomous agents, and therefore have entitlements to those circumstances and conditions under which this is possible' (Blake 2001, 267). He identifies autonomy as a state in which agents are 'part authors of their own lives' in the sense of being 'able to develop and pursue self-chosen goals and relationships' (Ibid., 267). Since such self-authorship might be hampered by 'absolute deprivation' (see the Introduction), Blake contends that 'a consistent liberal' committed to the autonomous agency of all, 'must be as concerned with poverty abroad as that at home' (Ibid., 271). However, the same commitment warrants a special concern for 'relative deprivation' only in the domestic context of the state. This is because the state subjects individuals to coercion. Coercion is a graver violation of autonomy than other factors that might limit the number of options available to the agent, such as poverty. For 'coercion is an intentional action, designed to replace the chosen option with the choice of another' and, as such, violates 'the autonomy of the individual by replacing that individual's chosen plans and pursuits with those of another' (Ibid., 272). The state's legal system can be

conceptualised as ‘a web of coercion’ (Ibid., 283). All laws, both public and private, involve (at least insofar as they are enforced) ‘implicit threats of coercive state action’. As such, ‘all the forms of legal rules we use are ultimately backed up with coercive measures that implicate the liberal principle of autonomy’ (Ibid., 277-278). In other words, those who live under the authority of a state are subject to its coercion in the sense of being permanently *liable* to it. For this reason, ‘coercive practices and institutions [must] be either justified or eliminated’ (Ibid., 265).

A critic might ask why Blake considers the former option at all: if coercion is such a grave violation of autonomy, isn’t the state itself, which is inherently coercive, morally unacceptable for a liberal concerned with autonomy? Rather than trying to justify a morally reprehensible practice, why not simply accept that state authority is morally unjustifiable, a position sometimes referred to as *philosophical political anarchism* (Fiala 2021)? There are two ways of responding to this criticism. First, Blake’s theory is an ‘institutionalist’ one: he takes for granted ‘the fact of state power and the division of territorial jurisdiction found in the world today’ and considers ‘what the institutions we currently have would have to do to be justified’ (Blake 2001, 262). However, such a response begs the question: why should states exist? A more convincing response to the aforementioned criticism would be to defend the existence of the state’s coercive system on the grounds of a concern for autonomy itself. After all, without the coercive measures of the state, society would be governed by the law of the strongest, resulting in the violation of the autonomy of anyone too weak to defend themselves. This is likely what Blake has in mind when he points out that ‘[w]ithout some sort of state coercion, the very ability to autonomously pursue our projects and plans seems impossible’ (Ibid., 280). Hence, since state coercion is required for the sake of autonomy, it cannot be eliminated for the sake of that same principle. Since it cannot be eliminated, state coercion stands in need of justification (Abizadeh 2007, 346).

Accordingly, rather than rejecting state coercion altogether, Blake speaks of a ‘prima facie conflict with the liberal principle of autonomy’ (Blake 2001, 282). As discussed, the underlying idea is that coercion is pro tanto wrong because it stands in conflict with individuals’ autonomy (or liberty). Accordingly, it is only permissible if and only if there is an adequate justification for it. Blake articulates the conditions such a justification has to meet to be adequate as follows: since the liberal principle of autonomy is concerned equally with the autonomy of all individuals, ‘a coercive scheme enmeshing a wide set of individuals must be justified to each and every one of those so coerced’ (Ibid., 282). Blake believes that a moral justification for the state’s coercive practices that meets this condition can be found in the ‘hypothetical consent to all those who live lives the dimensions of which are defined within that system’, which demands that all those who are subject to state coercion are given reasons for their coercion that they could not reasonably reject (Ibid.). Hence, according to Blake, state coercion is justified if and only if it serves the reasonable interests of each

and every individual subjected to it. The *tyranny of the majority* is unacceptable for a liberal committed to an impartial concern with autonomy.

According to Blake, the principles of distributive justice function as a justification for the coercion entailed specifically by the set of laws that ‘define, collectively, what sorts of entitlements will exist in our society’ (Blake 2001, 281). Blake is clearly referring to *material* entitlements as he characterises the aforementioned set as incorporating the laws that fall under ‘private law’, e.g., the laws of contract, property and tort, and laws of taxation (Ibid.). Such laws are only justifiable to those who are materially the worst off if they incorporate considerations of relative deprivation and material equality (Ibid., 281-285). I take this to be the most fundamental claim of Blake’s theory of distributive justice. Encoded in the state’s laws and institutions, the aforementioned considerations take the form of rights and the corresponding duties of distributive justice. Blake points out that Rawls arrives at a similar conclusion when the latter argues that in the original position, which can be understood as ‘a way of modelling those conditions under which we might develop principles of justice to which we could not reasonably withhold our consent’, participants would opt for the *difference principle* as part of the *basic structure* of society since ‘no alternative principle could have made them any better off’ (Ibid., 283). However, Blake’s argument doesn’t depend on the acceptance of Rawls’ arguments for the difference principle. He contends that for a coercive system to hypothetically muster the consent of all who are subjected to it, it merely has to incorporate a ‘principle constraining acceptable forms of relative deprivation’, for which the difference principle is a likely candidate (Ibid., 284).

At this point, it should be noted that Blake’s theory of distributive justice evades the problem on the basis of which I rejected the cooperation theory of distributive justice in the previous chapter. To be a member of the special relationship upon which the principles of distributive justice are contingent, one has to be, according to Blake, subject to state coercion in the sense of being liable to it. As such, this membership doesn’t require any active engagement on the part of the agent (Blake 2001, 288-289). Those who do not or cannot contribute to any scheme of social cooperation in a sufficiently valuable way are as much liable to the state’s coercion as individuals who can and do. Hence, on Blake’s account, the former enjoy the same moral status with respect to distributive justice as the latter.

Blake characterises *shared liability to state coercion* as a relationship that exists between fellow citizens. Since the principles of distributive justice are contingent on this relationship, only citizens of a state can claim rights of distributive justice against that state (Blake 2001, 260, 264-265, 296), a view that amounts to the political priority of citizens. I contend, however, that Blake’s theory of distributive justice doesn’t warrant this priority. After all, not only citizens but all individuals located on a state’s territory, a category that includes not only resident noncitizens but also short-term

visitors, are liable to coercion by that state. As such, the autonomy of all of the latter individuals is violated by that state, a violation that, on Blake's account, stands in need of justification. Recall that according to Blake, the principles of distributive justice function as a justification for liability not to any form of state coercion but specifically the state coercion entailed by the set of laws that define the distribution of material entitlements in a state. One who wishes to defend the political priority of citizens on the basis of Blake's theory might claim that only citizens are (sufficiently) affected by this set of laws. If so, then justification for the coercion entailed by these laws, in the form of the principles of distributive justice, is only owed to citizens. The former claim, however, would be hard to defend. It may be true that short-term visitors to a state are likely to remain unaffected by contract law, law of torts and taxation laws that apply in that state. Resident noncitizens, however, are very likely to be affected by these laws, much in the same way as citizens are. Moreover, even if the claim that only citizens are (sufficiently) affected by the aforementioned set of laws could be successfully defended, this wouldn't suffice for a defence of the political priority of citizens on the basis of Blake's theory. Blake doesn't argue that the principles of distributive justice function as a justification for the *pervasive impact* that the aforementioned set of laws may have on individuals' lives. Instead, Blake argues that such principles function as a justification for being subject to the coercion entailed by these laws in the sense of being *liable* to it. Whether an individual's life is affected by a set of laws (and to what extent) is irrelevant to the extent to which they are liable to the coercion entailed by these laws. When located on a state's territory, short-term visitors are as much liable to the coercion that is entailed by any set of laws as citizens of that state are: if a tourist were to sign a contract, commit a tortious act or earn an income, then contract law, law of torts or taxation laws would apply to them as well. Hence, although Blake himself attempts to defend the political priority of citizens on the basis of his coercion theory, the consistent application of this theory amounts to the view that anyone located on the territory of a given state holds the same rights of distributive justice in that state as its citizens.

However, I contend that Blake's coercion theory, at least in its current form, should be rejected as it doesn't comprise a plausible account of the theoretical grounding of distributive justice. A fundamental objection to his theory arises from the question as to who, on Blake's account, owes duties of distributive justice to those liable to state coercion in the discussed sense. In setting out the premises of his argument, Blake states that he is concerned with the question as to 'what states as we know them owe to their own citizens and to others' (Blake 2001, 262; cf. 287). This suggests that the relationship upon which the principles of distributive justice are contingent is one between the state acting as the coercive agent and its citizens as subjects to this coercion. On this reading, it is the state that owes duties of distributive justice to those who are liable to its coercion in the discussed sense (citizens on Blake's account). Elsewhere in his article, however, Blake suggests that the duties of

distributive are a matter of what 'we' as citizens owe towards our fellow citizens as opposed to foreigners (Ibid., 264, 296). This suggests that the principles of distributive justice arise as citizens have to justify state coercion to *one another*. Yet, Blake consistently presents the state, not its citizens, as the relevant coercive agent. For his account to be plausible, he would have to explain in what sense citizens are not only liable to the state's coercion but also carry responsibility for it. After all, it is hard to see why I owe special duties towards someone else merely because we are both liable to the same coercive system.

To illustrate the latter point, it is helpful to return to the example of incarceration. Since incarceration is a pervasive form of coercion and therefore pro tanto wrong, an adequate justification is required for it to be permissible. Since it is the state that incarcerates individuals, the state should provide such a justification. It would be absurd to contend that inmates are required to justify their incarceration to each other! Likewise, since it is the state, not individual citizens, that engages in coercion by enforcing sets of laws, it is the state that, according to Blake's theory, owes justification to those who are subject to the coercion entailed by such sets of laws. For an account of distributive justice to be plausible, it has to explain why one citizen has the duty to contribute, e.g. by paying his taxes, to the fulfilment of a right of distributive justice that another citizen may claim against the state. Blake, however, doesn't offer such an explanation. Presumably, he takes for granted that the state is a representation of its citizens. However, from this, it doesn't self-evidently follow that citizens carry *responsibility* for the state's practices so that they owe a justification for state coercion to each other. I have never consented to the state being my representative, so why should I be held accountable for its practices? Blake doesn't answer this question. For this reason, his theory of distributive justice is incomplete.

Nagel's coercion theory of distributive justice

Nagel (2005) offers an alternative coercion theory of distributive justice. Unlike Blake's, Nagel's theory succeeds in explaining why it is citizens who owe *each other* duties of distributive justice. Similar to Blake, Nagel argues that the principles of distributive justice function as a justification for state coercion. However, Nagel provides a different answer to the question as to in what sense one has to be subject to state coercion to be a member of the special relationship upon which the principles of distributive justice are contingent. On Nagel's (2005, 128-129) account, 'members' of a 'political society', which I shall refer to as the state, are not only 'subject to its norms, i.e., expected to accept their authority even when the collective decision diverges from [their] personal preferences' but also 'putative joint authors of the coercively imposed system.' As such, state members are made responsible for the state's acts in two ways. First, as joint putative authors, the state's authority is exercised in their name (in a democracy, they may even directly influence the state's acts). Secondly,

as state members are subject to the state's laws, the state holds them 'responsible for obeying its laws and conforming to its norms' (Ibid., 129). This 'dual role each member plays both as one of the society's subjects and as one in whose name its authority is exercised' entails 'a special involvement of agency or the will that is inseparable from membership in a political society' (Ibid., 128). This 'required active engagement of the will of each member' (Ibid., 129) is nonvoluntary: members of the state are not given a choice as to whether they want to be made responsible for its acts in the aforementioned sense. According to Nagel, these 'unique demands on the will of members [...] bring with them exceptional obligations, the positive obligations of justice' (Ibid., 130).

Nagel appears to view these exceptional obligations as a form of 'justification' for the aforementioned nonvoluntary implication of the wills of individual state members. Insofar as the latter are made responsible for the state's acts through the 'required active engagement' of their individual wills, they are responsible for 'the institutions through which advantages and disadvantages are created and distributed' and '[i]nsofar as those institutions admit arbitrary inequalities,' state members are also responsible for these arbitrary inequalities (Nagel 2005, 129). In the words of Sangiovanni (2012, 89), the state makes its members 'complicit in the imposition of a specific pattern of burdens and benefits.' It is important to stress that responsibility for the state's coercive acts 'has been simply handed' to its members. As such, they have never consented to carrying such responsibility. Therefore, state members 'have standing to ask' why they should 'accept' such arbitrary inequalities (Nagel 2005, 129). According to Nagel, such a 'request for justification' (Ibid.) results in the special presumption against arbitrary inequalities within the domestic context of the state, which gives rise to the aforementioned 'exceptional obligations' of distributive justice.

Hence, Nagel appeals to the idea that state coercion should be justifiable to all who are nonvoluntarily made to carry responsibility for that coercion. The state making its members nonvoluntarily responsible for its coercive acts can itself be conceptualised as a form of coercion. Nagel seems to hint at this when he asserts that the state claiming the active cooperation of its members 'cannot be legitimately done without justification— otherwise it is pure coercion' (Nagel 2005, 129). Hence, whereas for Blake, being subject to state coercion takes the form of being liable to it, according to Nagel's theory, a state member is not only subject to state coercion in the sense of being liable to it but additionally in the sense of being nonvoluntarily made responsible for it through the 'required active engagement' of their will. According to Nagel, it is exactly the latter type of coercion that calls for a justification in the form of the principles of distributive justice. Hence, to be a member of the relationship upon which the principles of distributive justice are contingent, one has to be subject to state coercion in the sense of being nonvoluntarily made responsible for it.

We can now formulate the key distinction between Blake's and Nagel's respective coercion theories of distributive justice. On Blake's account, the principles of distributive justice justify the type

of state coercion that is entailed by liability to a set of laws that define the distribution of material entitlements in a state. On Nagel's account, the principles of distributive justice justify the type of state coercion that is entailed by being nonvoluntarily made to carry responsibility for the state's coercive practices. This difference in scope explains why Nagel's theory, unlike Blake's, warrants the political priority of citizens. Since the state's authority is exercised only in the name of its citizens, only citizens are subject to the coercion that is entailed by being nonvoluntarily made to carry responsibility for the state's coercive practices. Thus, according to Nagel, only citizens are owed justification for the latter type of coercion. This justification takes the form of the principles of distributive justice. Furthermore, unlike Blake's theory, Nagel's theory explains why one citizen has the duty to contribute to the fulfilment of a right of distributive justice that another citizen may claim against the state. Since, on the latter's account, citizens carry responsibility for the state's acts, citizens owe *each other* duties of distributive justice. When the state requires the active engagement of the will of each citizen, which is a form of coercion, it does so in the name of its citizens. As such, responsibility for the state's coercion of its citizens is carried by these citizens themselves. In the words of Nagel (2005, 130): 'the members make unique demands on one another through the institutions of the state.' Consequently, citizens are not only in a position to claim rights of distributive justice against the state (as a justification for being subject to the coercion entailed by being nonvoluntarily made to carry responsibility for the state's coercive practices) but also have the duty to contribute to the fulfilment of such claims made by their fellow citizens against the state (since they carry (shared) responsibility for the latter type of coercion).

My composite coercion theory of distributive justice

I contend that Nagel's theory is lacking in two important respects. First, it doesn't include an explanation as to why coercion stands in need of justification. Nagel merely asserts that the state claiming the cooperation of its members through the active engagement of their will 'cannot be legitimately done without justification—otherwise it is pure coercion' (Nagel 2005, 129). Secondly, Nagel fails to explain why justification for the kind of coercion to which state members are subjected by being nonvoluntarily made responsible for the state's coercive practices should take the specific form of rights and duties of distributive justice. Such an explanation in turn hinges on the question as to what conditions a justification for (state) coercion must meet to be adequate. I contend that a plausible coercion theory should respond to these questions. Blake does provide an explanation as to why coercion calls for a justification: as a violation of autonomy, coercion is *pro tanto* wrong and, as such, morally impermissible unless there is an adequate justification for it. Additionally, Blake explains what conditions such a justification should meet to be adequate: for coercion to be adequately justified, it should muster the *hypothetical consent* of each and every individual subjected

to it. In other words, each individual who is subject to the relevant type of coercion should have reasons to consent to it that they could not reasonably reject. I contend that these two elements of Blake's theory have to be incorporated into Nagel's to arrive at a plausible coercion theory,⁹ which I shall refer to as my *composite coercion theory of distributive justice*. However, even if we incorporate the discussed elements of Blake's coercion theory into Nagel's, one important question remains: why should a justification for state coercion take the specific form of rights and duties of distributive justice? This 'leap' from (a) the need to justify state coercion to (b) the principles of distributive justice has been the focus of critics of coercion theory, such as Hupfer (2019) and Sangiovanni (2012).

As discussed, coercion theorists argue that the principles of distributive justice function as a justification for the relevant type of state coercion. Since these principles warrant the redistribution of the benefits (and burdens) of economic activity within a state, coercion theorists effectively aim to provide an argument in favour of such a distribution. According to Hupfer (2019), however, coercion theorists fail to provide an argument for the redistribution of the benefits of economic activity, which she refers to as *robust benefits*.¹⁰ Instead, she argues, coercion theorists provide an argument for the fair distribution of *mutual benefits*, by which she refers to 'those benefits gained from living in a stable society where people are appropriately burdened to ensure order' (Hupfer 2019, 207-208). Such mutual benefits include order, stability and physical security. She argues that the burdens we are placed under by state coercion are 'justified by the mutual benefits we received in existing within a properly coercive system' (Ibid., 209). Blake (2001, 280) seems to hint at this himself when he points out that '[w]ithout some sort of state coercion, the very ability to autonomously pursue our projects and plans seems impossible.' Thus, state coercion appears to be justified by the fact that it ensures the *mutual benefits* that are necessary for autonomy. Why, then, is the state required, as coercion theorists claim, to additionally incorporate rights and duties warranting the redistribution of robust benefits into its laws and institutions in order to justify its coercive practices? As Hupfer (2019, 211) points out, 'a separate argument would need to be formulated which bridges the gap between facing burdens under a coercive system and receiving particular robust benefits over and above mutual benefits.'

One could try to defend coercion theory against Hupfer's objection by insisting that the principles of distributive justice function not as a justification for *state coercion tout court*, but, as Blake argues, as a justification for the coercion entailed by specifically the set of laws that define the distribution of

⁹ It should be noted that although Nagel never posits a requirement of hypothetical consent, such a requirement might be implied by the fact that he presents his theory as an interpretation of Rawls (according to whom state institutions are just insofar as they can muster the hypothetical consent of the participants in the original position). Cf. Sangiovanni 2012, 104.

¹⁰ Hupfer (2019, 207) defines robust benefits as 'the (typically economic) benefits created by those participating in an organized system.'

material entitlements in a state (Blake 2001, 281). Such material entitlements comprise (or at least include) what Hupfer calls robust benefits. The coercion entailed by the set of laws that secure mutual benefits, such as order, stability and physical security, is justified by those very mutual benefits. The set of laws that define the distribution of robust benefits, however, entails a form of state coercion distinct from the coercion entailed by the set of laws that secure mutual benefits. As such, the former form of coercion calls for a justification distinct from the justification for the latter form. The principles of distributive justice, which warrant the redistribution of robust benefits, function as the justification for *specifically and exclusively* the state coercion entailed by the set of laws that define the distribution of these robust benefits.

Two problems arise from the latter approach. First, one cannot easily separate laws defining the distribution of robust benefits (or material entitlements) from laws securing mutual benefits. According to Blake, the former set includes laws of contract, property and taxation. However, these laws do not only define the distribution of *robust benefits* in a society but are simultaneously necessary to secure the *mutual benefits* of order, stability and physical security. Without property law and contract law, individuals' property wouldn't be guarded against theft and breaches of agreements. This lack of legal assurances against such violations of one's property is bound to give rise to conflicts that pose a threat to individuals' physical security as well as the order and stability of the state. Moreover, without taxation law, the state wouldn't have the means to enforce laws.¹¹ Without law enforcement, the mutual benefits of order, stability and physical security would be wanting. Secondly, it remains unclear why a justification for the coercion entailed by any set of laws should take the specific form of the principles of distributive justice. From the fact that a set of laws defines (or has an impact on) the distribution of robust benefits it doesn't follow that justification for the coercion entailed by these laws should take the form of principles that warrant the redistribution of such robust benefits. In response to Blake's coercion theory, Sangiovanni (2012, 99) points out that 'there is no reason given why the fact that those forced are owed a "special justification" narrows or helps to specify the interests that can be considered in offering that justification, or why it otherwise specifies the terms in which that justification must be given.' He raises the same objection against Nagel's coercion theory (Ibid., 105).

Recall that my composite coercion theory of distributive justice incorporates Blake's account of the conditions that a justification for coercion has to meet to be adequate: coercion is adequately justified if and only if each and every individual subject to this coercion is given reasons to consent to it that they could not reasonably reject (in a hypothetical choice situation). I contend that on the basis of this condition of hypothetical consent, one can explain why an adequate justification for state

¹¹ Unless, as in some premodern societies, fraternities of private volunteers would take on law enforcement.

coercion should include the principles of distributive justice. It is important to note that I reject the discussed separation between two sets of laws, one securing mutual benefits and the other defining the distribution of robust benefits. Additionally, I reject Hupfer's claim that state coercion is justified because it secures mutual benefits. As I shall demonstrate through a thought experiment, the guarantee of mutual benefits is not sufficient to muster the hypothetical consent of each and every individual subject to state coercion. Those who are materially the worst off might have good reasons to withhold their consent to the state's coercion in case it secures mutual benefits for everyone but doesn't enforce the redistribution of robust benefits.

To illustrate this point, imagine a *State of Nature* which includes a caste of individuals whom I shall refer to as the *Wretched*. Due to some stigma, the *Wretched* are excluded from all 'honest' ways of acquiring the means of survival. Consequently, they have to resort to stealing. Everyone in the *State of Nature* is given the option to consent to the coercion of a *Night-Watchman State*, i.e., a state that is bound to secure the mutual benefits of order, stability and physical security but doesn't redistribute any robust benefits. Most individuals in the *State of Nature* have no good reason to withhold their consent to this *Night-Watchman State* since the aforementioned mutual benefits outweigh the compromise of their autonomy. The *Wretched*, on the contrary, do have good reasons to withhold their consent to the *Night-Watchman State*. Due to the stigma that rests on them, the order, stability and physical security secured by the *Night-Watchman State* don't increase their chances of acquiring the means of survival through 'honest' means. Even in a *Night-Watchman State*, the *Wretched* have to steal to survive. In a *State of Nature*, the only obstacle to their practice of stealing is the watchfulness of their victims. The law enforcement of the *Night-Watchman State*, however, creates an additional obstacle, making it (nearly) impossible for the *Wretched* to acquire the means of survival. Surely the ability to acquire the means of survival takes priority over order, stability and physical security. Accordingly, the *Wretched* are better off in the *State of Nature* than in the *Night-Watchman State*. Thus, they have good reasons to withhold their consent to the coercion of the latter state.

Now imagine that the *Wretched* were offered the option to consent to a *Welfare State*, which does not only secure the aforementioned mutual benefits but also incorporates the principles of distributive justice into its laws and institutions so that it is bound to redistribute robust benefits among state members. This redistribution of robust benefits liberates the *Wretched* from the material deprivation that compels them to steal in the *State of Nature*. Therefore, the law enforcement of the *Welfare State* is no reason for them to withhold their consent to the state's coercion. What this thought experiment shows, is that the guarantee of mutual benefits might not suffice to justify state coercion in a way that is adequate according to the conditions articulated by Blake. If the state is bound to redistribute robust benefits, on the other hand, even the worst-off

cannot reasonably reject its coercion. As such, state coercion musters the hypothetical consent of all who are subject to it. A set of distributive requirements, when incorporated into the state's laws and institutions, is what binds the state to such redistribution of robust benefits. The principles of distributive justice comprise such a set of distributive requirements. Hence, Blake's account of the conditions that a justification for state coercion has to meet to be adequate explains why such a justification should take the form of or at least include the principles of distributive justice.

Summarising the discussion of this chapter, I shall now provide a complete account of my composite coercion theory of distributive justice, which incorporates elements of both Blake's and Nagel's respective coercion theories. I conceptualise the state as a coercive apparatus. On the basis of liberalism's impartial concern with autonomy, discussed by Blake, coercion is *pro tanto* wrong. Therefore, it is morally permissible if and only if there is an adequate justification for it. Following Blake, I argued that for such a justification to be adequate (i.e., in line with the liberal's impartial concern with autonomy), it should muster the hypothetical consent of each and every individual coerced in the relevant sense. Through a thought experiment, I argued that to meet this condition, a justification for state coercion should include special distributive requirements that warrant the redistribution of robust benefits. I referred to these special distributive requirements as the principles of distributive justice. I argued that a plausible theory of distributive justice should explain why one citizen has the duty to contribute to the fulfilment of a right of distributive justice that another citizen may claim against the state. Such duties do not obtain between individuals who are merely subject to the same coercive system. Such duties do obtain between individuals who are both subject to and responsible for the same coercive system. Accordingly, I defended Nagel's view that the type of coercion that calls for a justification in the specific form of the principles of distributive justice is the coercion to which the state subjects its members by making them nonvoluntarily carry responsibility for its coercive practices. Since only citizens are nonvoluntarily made responsible for the state's coercion, only citizens are owed this specific form of justification. Since this justification is not owed to noncitizens, we can conclude that noncitizens residing in a given state *do not* hold the same rights of distributive justice as citizens of that state. Whether this conclusion is indeed warranted by my composite theory, will be the topic of discussion in the next and final chapter of this paper.

First, I will consider one final objection that could be raised against my composite coercion theory of distributive justice. In the previous chapter, I rejected cooperation theory on the grounds that it doesn't comprise a plausible account of the theoretical grounding of the principles of distributive justice. According to the latter theory, membership in the relationship upon which these principles are contingent is conditional upon the agent's participation in society conceived as a scheme of social cooperation. I argued that, as a consequence of this requirement of participation, cooperation theory fails to account for the moral status with respect to distributive justice of those who (appear to) make

no valuable contribution to society. This is problematic because the latter are, at least in most welfare states, among the main beneficiaries of the welfare-enhancing redistributive measures that are typically perceived as realising distributive justice. A similar objection can be raised against my composite coercion theory, targeting Nagel's claim that to be a member of the special relationship upon which the principles of distributive justice are contingent requires one to be subject to state coercion in the sense of being nonvoluntarily made to carry responsibility for it. On Nagel's account, this responsibility stems from the 'active engagement' of the will of each state member that is 'required' for their performance of the dual role of being both subject to and joint putative author of the state's coercive system. This 'requirement' of active engagement paves the way for a problem that recalls the objection I raised against cooperation theory: if the active engagement of the agent's will is a condition for their membership in the special relationship upon which the principles of distributive justice are contingent, then it appears that those who cannot actively engage their will in a meaningful way are excluded from distributive justice. Some individuals cannot actively engage their will in the way that is required to perform the aforementioned dual role. Those who are severely mentally disabled or even braindead do not actively engage their will in abiding by and supporting the state's laws and institutions. Does this mean that these individuals, whom I shall refer to as *non-engagers*, should be excluded from the special relationship upon which the principles of distributive justice are contingent? If so, this would be problematic since these non-engagers are care-dependent and, as such, among the main beneficiaries of the welfare-enhancing redistributive measures that are typically perceived as realising distributive justice.

This objection may appear powerful at first glance. It rests, however, on an equivocation of two types of 'requirements'. The first 'requirement' is the *condition* that one is 'required' to meet to be a member of the special relationship upon which the principles of distributive justice are contingent. I shall refer to this requirement as *Nagel's condition for membership*. The second 'requirement' is the *expectation* of the state towards its members: the state 'requires' the active engagement of its members in the sense that it *expects* its members to actively engage their wills in performing the dual role of subject to and joint putative author of the state's coercive system. Whether an agent meets the latter '*requirement qua expectation*' doesn't affect the extent to which they meet the *former 'requirement qua condition*'. Nagel's condition for membership is not meant to explain what individuals have to *do* to become members of this special relationship. Instead, it is meant to explain why all citizens *are* members of this special relationship, *regardless of what they do*. All citizens meet Nagel's condition for membership simply by being *expected* to actively engage their wills in the aforementioned sense (thus being nonvoluntarily made to carry responsibility for the state's coercion). It is the coercion entailed in the *expectation* that makes all citizens members of the special relationship upon which the principles of distributive justice are contingent. Insofar as *non-engagers*

are citizens of the state, they too are expected to actively engage their wills in the aforementioned sense, even though they might not be able or willing to do this. Someone who is brain-dead is legally as much expected to actively engage their will in the aforementioned sense as a healthy, engaged citizen. The same is true for those citizens who are capable of performing the dual role of subject and joint putative author through the active engagement of their wills but refuse to do so.¹² As such, they too are subject to state coercion in the sense of being nonvoluntarily made to carry responsibility for it. Hence, they too are owed a justification in the form of the principles of distributive justice.

¹² This category includes outlaws and those who distance themselves from the state and its institutions for the sake of self-sufficiency.

Chapter 3

The Continuous Approach to Coercion Theory

Combining elements from Blake's and Nagel's respective coercion theories, I have proposed a *composite coercion theory of distributive justice*. Following Nagel, I argued that the special relationship upon which the principles of distributive justice are contingent is shared subjection to the coercion entailed by being nonvoluntarily made to carry responsibility for the state's coercive practices through the required active engagement of one's will. Since only citizens are made responsible for the state's coercion in this sense, a special set of distributive requirements obtains exclusively between fellow citizens. I referred to this special set of distributive requirements as the principles of distributive justice. From my composite coercion theory, however, it doesn't follow that the principles of distributive justice are the only set of distributive requirements that obtain between any (groups of) individuals. In this chapter, I shall consider whether different sets of distributive requirements obtain between individuals who do not relate to each other as fellow citizens. I shall endorse a *continuous approach* to my composite coercion theory of distributive justice, according to which the existence of a spectrum of degrees of institutional coercion calls for a corresponding spectrum of degrees of distributive requirements. Finally, I shall defend the political priority of citizens, arguing that noncitizens residing in a given state are not owed the same distributive entitlements in that state as its citizens because the former, unlike the latter, have tacitly consented to the state's coercion through the act of immigrating.

The coercion theorist cosmopolitical challenge to the political priority of citizens

State coercion is a form of what we may call *institutional coercion*. Many forms of institutional coercion transgress state borders. Coercive practices may be decided on by international organisations or as part of international agreements. Accordingly, some have argued there exists an institutional structure of coercion on a global level. Coercion theory holds that coercion is pro tanto wrong and therefore stands in need of a justification. According to my composite coercion theory, justification for the specific type of institutional coercion that is entailed by the state making its citizens nonvoluntarily carry responsibility for its coercive practices takes the form of the principles of distributive justice. Since states do not only engage in coercive practices against their own citizens but may subject citizens of other states, wherever they reside, to their coercion as well, one could argue that the consistent application of coercion theory requires that these principles should be extrapolated globally. The latter view I shall call the *coercion theorist cosmopolitical challenge to the political priority of citizens*.

Blake and Nagel insist that only states directly engage in coercive practices against individuals. When international organisations decide on coercive practices, they rely on the force of individual states for their enforcement (Blake 2001, 280; Nagel 2005, 139-140). However, insofar as individual states use (the threat of) force to enforce sanctions against foreign states, one could argue that the former states do directly engage in coercive practices against individuals in the latter states. For example, many Western nations have agreed on trade sanctions against Russia. For the enforcement of these sanctions, these states rely on (the threat of) physical force to prevent imports from and exports to Russia. As such, the sanctions thwart the purposes of Russian exporters, Russian industries that produce goods to sell abroad and Russian industries that rely on the import of materials. Accordingly, such trade sanctions match my definition of coercion as an external obstructing condition, grounded in the threat of physical force, that prevents agents from achieving (some of) their purposes (see Chapter 2). Since any (group of) state(s) might at any moment decide on such coercive measures against (individuals in) other states, one could argue that all individuals in the world are at all times *liable* to a global structure of coercion. Since the justification for coercion on a domestic level takes the form of the principles of distributive justice, one could argue that consistency requires that coercion on a global level calls for a similar justification. To evade a cosmopolitan extrapolation of the principles of distributive justice, coercion theorists may argue that coercive practices against citizens of other states are either unjustifiable or justified in other ways (Blake 2001, 280). The trade sanctions against Russia, for example, are meant to pressure Russia to withdraw its troops from Ukraine. Hence, these sanctions are justified by considerations of international peace and human rights.

However, states also engage in coercive practices against citizens of foreign states that cannot easily be justified in a similar way. One could argue that by enforcing migration laws, states do not only make those who manage to set foot on their territory liable to their coercion but everyone else in the world too. For example, being aware of the strict migration laws of European states, a Senegalese youth might decide not to attempt to migrate to Europe. As such, his will is bent by foreign states without him ever setting foot on their territory. Since the movement of all potential migrants is severely restricted by immigration and border control laws, some have argued these laws comprise a global structure of coercion (Abizadeh 2007, 348-349; Owen 2019). Accordingly, a coercion theorist may argue that the principles of distributive justice should be extrapolated globally. To resist this *cosmopolitan extrapolation*, one may insist that to become liable to the coercion of a given state, a (potential) immigrant has to set foot on that state's territory first. To this, however, a cosmopolitan might ask why this is relevant. Recall that for coercion theorists, to be subject to coercion doesn't require one to be physically constrained in an active and direct sense. I defined coercion as an external obstructing condition, grounded in the threat of physical force, that prevents

the agent from achieving (some of) their purposes. Hence, the mere *threat of physical force* is sufficient to speak of coercion. For this reason, someone who is never physically constrained by state-sanctioned force (e.g., because he abides by the law) is subject to the state's coercion nonetheless. The migration laws of many states certainly qualify as an obstructing condition, grounded in the threat of physical force, that prevents potential immigrants, such as the Senegalese youth, from achieving (some of) their purposes.¹³ As such, they comprise an institutional form of coercion.

My composite coercion theory of distributive justice allows for an adequate response to the coercion theorist cosmopolitan challenge. Even though any individual on the planet is, at least to some extent, liable to coercive practices that are enacted by foreign states, only citizens of a given state are subject to that state's *coercion in the relevant 'Nagelian' sense* of being nonvoluntarily made responsible for its coercive practices. The state requires the active engagement of the wills of *only its citizens* through the performance of their dual role as subjects and joint putative authors. In the words of Nagel (2005, 140), distributive justice 'requires a collectively imposed social framework, enacted in the name of all those governed by it, and aspiring to command their acceptance of its authority even when they disagree with the substance of its decisions'. Such a framework doesn't exist on a global scale. Russian citizens and the Senegalese youth may be subject to coercion enacted by (a collective of) foreign states; they are not nonvoluntarily made responsible for this coercion in the way citizens of the latter states are. Nagel points out:

'Immigration policies are simply enforced against the nationals of other states; the laws are not imposed in their name, nor are they asked to accept and uphold those laws. Since no acceptance is demanded of them, no justification is required that explains why they should accept such discriminatory policies, or why their interests have been given equal consideration.' (Nagel 2005, 129-13)

A similar point can be made about the trade sanctions against Russia.

The perversity objection (I) and exploitation

One may object to the claim that being nonvoluntarily made responsible for the state's coercion in the Nagelian sense of being required to actively engage one's will in performing the dual role of both subject to and joint putative author of the state's coercive system should be a condition for holding rights of distributive justice in that state. Abizadeh (2007) argues that this condition has the perverse implication that 'a state can exempt itself from the demands of [distributive] justice simply by ensuring that the coercion to which it subjects persons is *pure* coercion without any pretense of

¹³ See Owen 2019 for a discussion of (the moral implications of) the consequences of a "regime of global migration governance".

accountability, i.e., by denying to those whom it coerces any standing as putative authors of the system of coercion' (Abizadeh 2007, 352). I shall call this *Abizadeh's perversity objection*. In response to Abizadeh, it should first be noted that the principles of distributive justice are not the only moral principles that a state should respect. Each individual, regardless of their citizenship status, holds humanitarian rights (Nagel 2005, 130), which protect them against severe forms of material deprivation and violations of liberty and autonomy. However, humanitarian rights do leave space for forms of exploitation from which individuals are safeguarded by the rights of distributive justice.¹⁴ The principles of distributive justice require that the effects of material inequality between members of the relevant relationship (on my account, fellow citizens) are mitigated through the redistribution of the burdens and benefits of economic activity among these members.¹⁵ As such, the principles of distributive justice ensure that all members benefit from the material prosperity that exists among them. On my composite coercion theory of distributive justice, noncitizens are excluded from this membership as they are not made responsible for the state's coercion in the discussed Nagelian sense. As such, they are not guaranteed to benefit from the material prosperity that exists within the state. This is especially problematic in the case of noncitizens who contribute to this prosperity, most notably noncitizen workers. The lack of guarantee that these noncitizen workers are to benefit from the material prosperity to which they contribute allows for exploitation, as the example of the migrant workers in the Gulf States (see the Introduction) demonstrates. Drawing on Abizadeh, one could argue that there is something perverse about denying noncitizen workers a guarantee against such exploitation by denying them standing as joint putative authors of the state's coercive system.

I contend that individuals are protected from such exploitation by a set of distributive requirements that (a) exist alongside, (b) belong to a different category and (c) are less demanding than rights and duties of distributive justice but more demanding than humanitarian rights and duties. In the first chapter of this paper, I rejected the cooperation theory of distributive justice, which holds that the principles of distributive justice are grounded in the principle of fairness applied to a scheme of social cooperation. However, I did concede that when individuals participate in a scheme of social cooperation, the principle of fairness demands that those who carry or have carried some of its burdens should also adequately reap its benefits. Accordingly, I contend that the principle of fairness calls for a set of distributive requirements ensuring that those who contribute to material prosperity generated by a scheme of social cooperation adequately benefit from this prosperity, thus protecting individuals against exploitation in the discussed sense. Since these distributive requirements (and the corresponding entitlements) are contingent on participation in a scheme of

¹⁴ I thank Gijs van Donselaar for suggesting this to me.

¹⁵ Note that, according to coercion theory, participation in this economic activity is not a condition for membership!

social cooperation, they can be classified as *cooperation rights*. They obtain, for example, between individuals who cooperate in a commercial enterprise. Whether the latter individuals are fellow citizens or not is irrelevant for the cooperation rights that obtain between them.

The continuous approach to the coercion theory of distributive justice

Having conceded that my composite coercion theory allows for distributive requirements that are not grounded in the pro tanto wrongfulness of coercion, it is additionally worth considering whether, on the basis of the latter principle, different types of coercion call for different types of distributive requirements. As discussed in the previous paragraphs, institutional coercion takes many forms and operates on many levels. Coercion theory holds that coercion, as it constitutes a pro tanto wrong, is justifiable if and only if there is an adequate justification for it. Proponents of the *continuous approach to the coercion theory of distributive justice* argue that the existence of a spectrum of degrees of institutional coercion calls for a corresponding spectrum of degrees of distributive requirements functioning as justification for these forms of coercion (Cohen & Sabel 2006, 162). Although Nagel (2005, 140-141) considers such an approach, he ultimately rejects it because he doubts that forms of institutional coercion that transcend the state ‘rise to the level of collective action needed to trigger demands for justice, even in diluted form’ (Ibid., 141). As such, Nagel endorses what Cohen and Sabel call *Strong Statism*, which holds that ‘[t]he existence of a state is necessary and sufficient to trigger any norms beyond humanitarianism’s moral minimum’ (Cohen & Sabel 2006, 150). My composite theory of distributive justice agrees with Nagel that the specific type of institutional coercion to which only citizens are subjected calls for a justification in the form of the principles of distributive justice. From this, however, it doesn’t follow that this is the only type of institutional coercion that calls for a justification in the form of distributive requirements. I contend that the consistent application of my composite coercion theory of distributive justice warrants a continuous approach: coercive structures that operate on a global level call for a justification in the form of distributive requirements, as does state coercion to which noncitizen residents are subject.

Nevertheless, this continuous approach doesn’t amount to a rejection of the political priority of citizens with respect to distributive justice. In fact, it warrants the political priority of citizens. After all, according to the continuous approach to coercion theory, different sets of distributive requirements apply between different groups of individuals depending on the extent to which these groups are jointly subject to institutional coercion. Citizens of a given state and resident noncitizens residing in that state may be equally subject to most if not all of its coercive laws. However, only citizens are subject to the coercion that is entailed by being nonvoluntarily made responsible for these laws. Therefore, according to the continuous approach, the distributive requirements that obtain exclusively between fellow citizens are more demanding than the distributive requirements

that obtain between citizens and resident noncitizens. Since the coercive structures that may operate on a global level are much less pervasive than those that operate within a state, the latter distributive requirements are likewise less demanding than those that obtain between individuals on a global level. One may choose to refer to all distributive requirements as principles of distributive justice. Alternatively, one may restrict the latter term to distributive principles that obtain exclusively between fellow citizens. How one chooses to use such terminology, however, doesn't affect my conclusion that *noncitizens residing in a given state do not hold the same rights of distributive justice in that state as its citizens*.

The perversity objection (II) and the tacit consent of noncitizens

The continuous approach to my composite coercion theory of distributive justice explains why it is morally impermissible to subject resident noncitizens to what Abizadeh calls *pure coercion*, i.e., coercion lacking justification. However, this approach remains exposed to a *weaker version of Abizadeh's perversity objection*. According to the continuous approach to my composite coercion theory, citizens and resident noncitizens hold a different moral status with respect to distributive justice because the latter, unlike the former, are excluded from the special relationship of shared subjection to the specific type of state coercion that is entailed by being nonvoluntarily made responsible for the state's coercive practices. As discussed, this responsibility is grounded in two features of citizenship. First, (a) as joint putative authors, the state's authority is exercised in the name of its citizens. Secondly, (b) as subjects, citizens are held responsible for obeying the state's laws. Resident noncitizens are as much expected to (b) obey the state's laws as its citizens are. Hence, it seems that it is only the former feature (a) that distinguishes citizens from resident noncitizens. Drawing on Abizadeh, one could argue that there is something *perverse* about granting resident noncitizens less demanding distributive entitlements than citizens simply because the state denies the former any standing as putative authors of its coercive practices. Hence, a defendant of the continuous approach to the coercion theory of distributive justice has to explain on what grounds it is permissible to exclude resident noncitizens from the aforementioned special relationship upon which a more demanding set of distributive principles, which I referred to as the principles of distributive justice, is contingent.

To meet the objection articulated in the previous paragraph on its own terms, I shall assume that either (a) there is no convincing justification for denying resident noncitizens any standing as putative authors of the state's coercion or (b) that for the question of responsibility, it is simply irrelevant in whose name the state exercises its authority. Accordingly, I shall concede that responsibility for a state's coercive practices is incurred by all those who *uphold its coercive system* simply by obeying its laws and supporting its institutions. In this sense, both citizens and resident noncitizens of a given

state are equally responsible for that state's coercive practices. As such, I do away with the Nagelian condition that for an individual to incur responsibility for the state's coercion, the state has to exercise this coercion in their name. Nevertheless, even when we do away with this condition, there remains a morally relevant distinction between citizens and resident noncitizens with respect to state coercion. According to my composite coercion theory of distributive justice, citizens do not owe each other special rights and duties because they carry responsibility for the state's coercion but rather because they are *nonvoluntarily* made to carry this responsibility. This constitutes a specific type of coercion that calls for its own justification, which takes the form of the relatively more demanding distributive requirements of distributive justice.

Noncitizens are not subject to the aforementioned type of coercion. Assuming that all noncitizens residing in a given state have at some point chosen to migrate to that state, their immigration can be viewed as an act of tacit consent to being subject to this state's coercion. As such, they have *chosen* to carry responsibility for this coercion in the discussed sense of upholding the state's coercive system by obeying its laws and supporting its institutions. They were not coerced to carry such responsibility. They could have stayed in their country of origin or, in case this was not a viable option, have gone elsewhere. Citizens, on the other hand, have never chosen to carry responsibility for the coercion of their state. Hence, even though resident noncitizens may carry as much responsibility for the state's coercion as citizens in the sense that they equally uphold its coercive system, only citizens are *nonvoluntarily* made responsible for this coercion. I like to interpret Nagel's claim that the state practices its coercion in the name of its citizens as an expression of this fact: laws are 'made in the name of citizens' in the sense that citizens have never had the option to consent to these laws (even tacitly) and, accordingly, are effectively *coerced into carrying responsibility for the coercion* entailed by these laws. Only citizens are subject to coercion in the latter sense. That is why, according to my composite coercion theory of distributive justice, they are owed a special type of justification that is not owed to noncitizens.

A critic might object to the idea that the presumed tacit consent of (immigrant) resident noncitizens distinguishes them from citizens in a relevant sense by arguing that citizens too tacitly consent to carrying responsibility for the state's coercion, namely by not choosing to emigrate. However, emigrating to escape this responsibility is not a viable option for most citizens since they typically don't have citizenship anywhere else and have built a life for themselves in their home country. Given the costs of emigration, the choice as to whether to stay at home or to emigrate is not a *sufficiently free choice*. Obviously, for some groups of resident noncitizens, leaving their country of origin is hardly a free choice either. They may be compelled by insecurity or dire poverty. This group of immigrants is typically referred to as *refugees*. However, these refugees often choose to migrate to a *specific state*. As such, they tacitly consent to *that state's* coercion.

Nonetheless, one can think of cases in which refugees have no other option than to enter a specific state, for example, because they are compelled to leave their home state and don't have the means to go anywhere else than one specific state or because they are physically forced onto the territory of one specific state. In this latter case, refugees are *coerced* into carrying responsibility for the coercive practices of the state to which they are forced to migrate in the sense of upholding its laws and situations. Based on the premises outlined in the previous paragraphs, they are accordingly entitled to the same rights of distributive justice in that state as its citizens. Granting those immigrants who are forced to enter a specific state the same rights of distributive justice as citizens of that state constitutes a *cosmopolitan concession* to my composite coercion theory.

The question as to what share of the world's refugees belongs to the latter group is open to debate. The answer to this question depends on how one defines a *sufficiently viable option*. Since this is not a paper on the topic of immigration or the rights of refugees, I won't dwell on such questions. However, it is worth pointing out that most immigrants applying for asylum in wealthy Western-European welfare states have passed through many states that are not afflicted by conflict or dire poverty. The case of such migrants is markedly different from that of refugees who cross the border to the nearest state. The latter group often doesn't have any other realistic option than to cross the nearest border. Only a select group of the world's refugees have the means to make it to Western Europe. It is exactly the latter who have the option to choose where to migrate to. Someone who wishes to argue on the basis of my composite coercion theory that Syrian or Eritrean refugees residing in the Netherlands have the same rights and duties of distributive justice as Dutch citizens would have to explain in what sense someone who crossed a wide array of states to get from Eritrea or Syria to specifically the Netherlands had no other option than to enter the Netherlands. Hence, I contend that the cosmopolitan concession is compatible with a defence of the political priority of citizens in Western-European welfare states on the basis of my composite coercion theory. However, the concession is incompatible with a defence of the political priority of citizens in states that shelter many refugees from neighbouring states who were forced to cross the border, such as Burmese Rohingyas in Bangladesh or Sudanese refugees in Chad and South-Sudan. The status with respect to distributive justice of the latter group of refugees relative to that of citizens of the states to which they have fled merits its own academic discussion.

Finally, it is important to note that one could argue that the discussed distinction between a state's citizens and (immigrant) resident noncitizens, which is grounded on the tacit consent of the latter, fades over the course of noncitizens' residence in that state. Recent immigrants may have tacitly consented, through the act of immigrating, to uphold the coercive laws and institutions that applied in that state at the moment of their arrival. However, laws and institutions change over time. As such, the nature of the state coercion for which (immigrant) resident noncitizens carry

responsibility by upholding the state's laws and institutions changes over time. Does this mean that their initial consent becomes superannuated at the moment when immigrating elsewhere is no longer a sufficiently viable option? One response to this question would be to argue that immigrants move to another state knowing very well that the coercive laws and institutions of that country are likely to change over time. Therefore, their consent never becomes superannuated. Alternatively, one could argue that immigrants' consent does become superannuated when moving elsewhere, including returning to their state of origin, is no longer a viable option. At this point, laws are 'made in their name' too in the sense that they no longer have the option to cease their tacit consent to these laws and are effectively *coerced into carrying responsibility for the state's coercion*. I contend that this is the point at which they should be granted citizenship.

Conclusion

This paper aimed to answer the following question: *Do noncitizens residing in a given state hold the same rights of distributive justice in that state as its citizens?* To answer this question, I considered what generates the rights and corresponding duties of distributive justice in the first place. Combining elements from Blake's and Nagel's respective theories, I defended my own *composite coercion theory of distributive justice* as a theory of the *theoretical grounding of distributive justice*, which takes as its starting point the *conceptualisation of the state as a coercive apparatus*. On the basis of liberalism's impartial concern with autonomy, discussed by Blake, coercion is pro tanto wrong. Therefore, it is morally permissible if and only if there is an adequate justification for it. Following Blake, I argued that for a justification for coercion to be adequate (i.e., in line with the aforementioned impartial concern with autonomy), it should muster the hypothetical consent of each and every individual coerced in the relevant sense. Through a thought experiment, I argued that to meet this condition, a justification for state coercion should take the form of special distributive requirements that warrant the redistribution of robust benefits. I referred to these special distributive requirements as the principles of distributive justice. I argued that a plausible theory of distributive justice should explain why one citizen has the duty to contribute to the fulfilment of a right of distributive justice that another citizen may claim against the state. Such duties do not obtain between individuals who are merely subject to the same coercive system. Such duties do obtain between individuals who are both subject to and carry (shared) responsibility for the same coercive system. Accordingly, I defended Nagel's view that the specific type of coercion that calls for a justification in the form of the principles of distributive justice is the coercion to which the state subjects its citizens by making them nonvoluntarily carry responsibility for its coercive practices. Since only citizens are *nonvoluntarily* made responsible for the state's coercion, only citizens are owed this justification. However, the principles of distributive justice are not the only set of distributive requirements that obtain between (groups of) individuals. Although I rejected the principle of fairness applied to a scheme of social cooperation as the theoretical grounding of distributive justice, I argued that this principle does generate distributive requirements obtaining between fellow participants of such a scheme. In addition, I defended a *continuous approach* to my composite coercion theory, according to which the existence of a spectrum of degrees of institutional coercion calls for a corresponding spectrum of degrees of distributive requirements. One may choose to refer to all distributive requirements, including those that obtain between individuals who do not find themselves in the relationship of fellow citizenship, as principles of distributive justice. Doing so doesn't affect my conclusion that noncitizens residing in a given state *do not* hold the same rights of distributive justice in that state as its citizens. I conceded, however, that in one exceptional case, they

do, namely when they had no other viable option than to migrate to that specific state. I referred to this concession as the *cosmopolitan concession* to my composite coercion theory. Apart from this concession, the political priority of citizens is warranted by my theory.

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