

5 The Distinction between Clubs and Governments

The economic model of government is based on exchange. Individuals find it in their mutual self-interests to create constitutions that define individual rights and the limits of government power, and to grant governments the means to monitor and enforce the structure of rights defined by the constitution. While based on exchange, the model differs from what has sometimes been referred to as the exchange model of government because threats as well as promises could be used to encourage the observation of rights, so the resulting government could be forced upon some individuals.¹ The use of the word force is not unambiguous in this context, however, especially in light of the contractarian model of the state. In what sense might people be said to be in agreement with the constitution under which they are governed? Looked at in another way, clubs might be thought of as institutions that their members voluntarily agree to join, whereas people are forced to abide by the rules of their governments whether or not they agree. What distinguishes a club from a government?

The answer to this question is not completely obvious, as the remainder of this chapter suggests, but it is reasonable to ask what difference it makes. What is the benefit of grouping collective organizations into the categories of clubs and governments? From a strictly positive standpoint, there is little reason to make the distinction. There is an extensive literature explaining why people can be better off producing some goods and services collectively rather than individually, and collective decision-making can be studied independently of whether the decision-making unit is a club or a government. Many of the same principles apply in either case.² From a normative standpoint, however, there is a difference. If clubs are fundamentally voluntary organizations, then one can have little reason for wanting to interfere with the club's activities. People who do not like the club's activities do not have to join. If governments are fundamentally coercive organizations that force people to abide by the government's rules, then everyone in the group has an interest in the government's activities. Normative issues extend to matters of the public interest rather than just to the private interests of the club's members. From a normative

standpoint, then, there is a reason to be concerned with the characteristics that differentiate a club from a government.

The issue of what constitutes the use of coercion will also be considered in this chapter. Governments are coercive organizations, but government activity and coercion are not synonymous. While defining coercion may be of limited interest from a positive standpoint, like the definition of government it is of more interest for normative purposes. For example, a social contract might allow the government to engage in coercive activities - to collect taxes, for example - but might prohibit the coercion of some citizens by others. What would be covered? Would an armed robber be engaging in coercive activity? Would a monopoly seller be engaging in coercive activity? Constitutional rules based on logically consistent concepts will be more enduring because they provide a logical foundation for precedent in extending the constitution to unforeseen circumstances. Within a constitutional framework, a precise understanding of coercion is worthwhile.

Not all government activity is coercive, and not all coercive activity is government. The distinction between clubs and governments will be considered before trying to pin down the definition of coercion.

An Economic Theory of Clubs

James Buchanan's article, "An Economic Theory of Clubs," enjoys a prominent position in the public choice literature, and justly so.³ By looking at the collective provision of public goods in a club setting, the article suggests an analogy between clubs and governments. Buchanan's later work on the contractarian model of government further suggests the parallel between clubs and governments. Few people would be willing to argue that the government is nothing more than a large club, but the exact distinction between these two forms of collective organization is more difficult to identify.

Government activity is often associated with coercion, but coercion can sometimes take place independently of government. Indeed, sometimes the government even protects citizens against coercion, as, for examples, when police apprehend a thief or when courts convict a murderer. What is the distinguishing feature of government that sets it apart from other coercive activities? What differentiates, for example, taxation from theft? Even if one regards taxation as theft, one would hardly say that a thief becomes a government as a result of his thievery.

After considering the differences between clubs and governments, this

nevertheless some conceptual agreement that binds citizens to the terms of government.⁷

In its simplest form the contractarian argument of agreement does not depict the actual formation of governments through coercion.⁸ This concept of agreement is examined more fully in Chapter 7. However, there is an element of truth to it in that in many countries – the United States, for example – citizens are in general agreement with their government even though they may disagree with some specific activities of the government.⁹ Note that this would be true of a club too, however. Members may in general support the club while disagreeing with some specific club activities. There is no need to digress further into a discussion of contractarianism. The point here is that there are similarities between clubs and governments, and that collective organizations seem to fall on a continuum between privately organized groups and governments. Rather than discuss the theoretical differences further, some examples can illustrate the continuum.

Bridge Club

Consider first a bridge club, which is an organization that most people would agree is a club and not a government. The hypothetical bridge club in this example consists of four members and agrees to meet once a week, rotating meeting places among the homes of the club's members. The member at whose house the club meets for the week is responsible for providing refreshments for the entire group.

The game of bridge provides a good example of a collective activity because the game is played by four individuals, so the club will be unable to pursue its stated purpose of providing bridge games for its members if one of the members does not show up for a meeting. Since all members must be present for the club to function, this hypothetical club has a rule that if a member misses two meetings for any reason within a year's time without providing a substitute player, that member will be dismissed from the club and a new member will be found. Further assume that the members have agreed ahead of time that the rules of the club can be changed if three of the four members agree to the change.

While most people do not consider bridge clubs to be governments, note the similarity in this hypothetical example. The bridge club taxes its members by requiring that they pay for refreshments every fourth week. There is also a certain amount of work involved in hosting the group, such as setting up a place to play, preparing refreshments (or at least shopping for them), and cleaning up afterwards. This forced labor is similar in concept to a military draft, even though the military draft is far more demanding of the individual. Furthermore, the club has rules that must

chapter will propose a definition of government. This is more than just a matter of semantics, because a complete understanding of the definition of government requires that careful thought be given to the characteristics that make an institution a government. Such an understanding is essential if a society is to have any hope of controlling the power of government. Regardless of one's views on the appropriate role of government, precisely articulated views on the role of government require a precise understanding of the nature of government. Along the way toward a definition of government, the chapter will carefully consider the characteristics that make government what it is.

The chapter begins by exploring the continuum from clubs to governments. There is a natural tendency to want to say that either an institution is a government or it is not, yet according to common notions about what constitutes a government there is a continuum that runs from clubs to governments. Following the discussion on the continuum from clubs to governments, a definition of government will be discussed. The chapter concludes that the power to tax is the characteristic that defines government.

Clubs and Governments

This section examines the idea that there is a continuum between clubs and governments. This notion is controversial for several reasons. First is the natural tendency to want to be able to identify an institution as either a government or not a government. Another reason for controversy is that by drawing a parallel between clubs and governments there might be the tendency to justify the existence of government by arguing that it is really nothing more than a type of club. This justification is objectionable if clubs are fundamentally voluntary organizations while governments are coercive. But even here, the concept of coercion needs to be defined. Some examples later in the chapter will allow the reader to demarcate the line between clubs and governments, but the notion about voluntary agreement with the government's activities should be examined further.

The notion that citizens are in voluntary agreement with the actions of their government finds its intellectual roots in the social contract theory of the state. The social contract theory can trace its roots at least back to Locke and Rousseau,⁴ but is a continually developing theory with recent contributions by contemporary scholars such as James Buchanan⁵ and John Rawls.⁶ Social contractarians argue that while there is not an actual contract between citizens and their governments, there is

be obeyed and has established penalties for disobeying. A member could be expelled from the club, for example, for missing too many meetings. Thus, if the individual wishes to remain in the club, the club can force the individual to obey its rules. The club has also established a voting rule so that a majority can institute new rules that might impose costs on a minority.

The purpose of this example is not to argue that the bridge club is a government. It is a club, of course, and the example's purpose is to look at the bridge club and decide why it is a club rather than a government. It can force its members to contribute income and direct labor to the organization, it can change the rules without the consent of all of the members, it can place penalties on the members, and so forth. However, it is also true that the individual can quit the bridge club at any time that the club appears to be imposing more costs on the individual than it generates benefits. Rather than look for more in this example, consider another example of a club.

Swimming Club

The hypothetical swimming club in this example will be similar to the bridge club, so needs little discussion. Members voluntarily join and pay dues, which are then used to provide a swimming pool and associated facilities to the members. Officers of the swimming club are elected from the membership to oversee the club. Like the bridge club, members can quit any time they want. Clearly, the swimming club is not a government either.

Neighborhood Association Pool

The neighborhood association pool in this example is not hypothetical, but is drawn from an actual case in a subdivision near Washington, D.C. The subdivision was once a farm and was bought by a developer who divided the farm into individual lots and built houses on the lots. In the center of the subdivision the developer built a neighborhood pool and tennis courts. When the developer sold the houses, they were sold with a covenant attached that gave the homeowner part ownership in the pool, courts, and some surrounding land. In addition, the homeowner is responsible for paying a share of the maintenance expenses. The exact dues are determined by a majority vote of the homeowners in the subdivision. Furthermore, the homeowners elect individuals in the subdivision to serve as officers to oversee the operation, maintenance, and financing of the facilities. In this example, members pay dues that look suspiciously like taxation, and are subject to the decisions of a majority of the members.

The neighborhood association also has the power to expand its powers.

For example, some of the homeowners wanted to build additional tennis courts on the collectively owned land next to the pool, and a vote was taken to determine whether they would be built. While the vote failed, it might have been passed, in which case the majority would have been able to impose the extra costs for the new courts on the minority, some of whom might not even play tennis. This organization seems to be closer to the boundary between club and government. It has many of the characteristics of the swimming club in the previous example, in that the members pay dues and elect officers, and that a majority of the members can vote to impose costs on the group that may make a minority worse off. However, a homeowner cannot simply quit this neighborhood association because a restrictive covenant, agreed to by the homeowner at the time of purchase of the home, requires that the homeowner be a member of the organization as long as the homeowner owns the home. Is this association a government?

Even though the administering group does not call itself a government, it appears to be similar in many respects. Rather than consider the boundary between clubs and governments right now, consider another example.

Municipal Pool

Many municipalities have municipal pools paid for by the taxpayers in the municipality. Elected officials oversee the municipal pool, so that the municipal pool is financed and governed much as the neighborhood pool in the previous example. What is the difference between the municipal government in this example and the neighborhood association in the previous example?

Surely the answer cannot be related to coercion. Both the neighborhood pool organization and the municipal government have the ability to force its residents to contribute to its coffers. In both cases the individual cannot escape the organization without moving away, but in both cases it is possible to move away. Many towns are small enough relative to the general area where they are located that there are other alternatives ranging from living in another town to living outside the city limits of any town. Therefore, in many cases anyway, one can live in the area and choose to live in one of several municipalities or can choose to live outside the boundaries of any municipality. In such cases, nobody is forced, by circumstance or otherwise, to be subject to a city government. One can move only a few miles to be outside the city boundary.

Is a municipality government? Most people would agree that it is, but why? What makes it different from the neighborhood association discussed above? In both cases individuals are forced to be members if they live in the area, but can leave the area and quit the organization. One

suggestion might be that municipalities have their own police forces while the swimming clubs do not. However, the city of Loachapoka, Alabama, which is admittedly a small town, is one example of an organization that collects taxes and has a mayor and town council, but has no police force. Is Loachapoka run by a government? Most people would say it is, but why? What is the difference between this organization, the swimming club, and the bridge club? The question will be considered after a few more examples.

State and Federal Governments

State and federal governments are quite obviously governments. One characteristic of this series of examples is that in each instance there is a bit more coercion than in the example before. The bridge club and swimming club are certainly clubs, even though they have the ability to coerce their members who want to remain in the organization. The neighborhood association has greater powers of coercion since a member must move in order to escape the organization. Simply stating "I quit!" would not be sufficient. The same is true of the municipality, although the individual still can move out of the municipality's jurisdiction. Yet the coercive powers of the municipality will generally be greater than that of the neighborhood pool organization.

It is less feasible to move away from a state or federal government, and even if one moves from one state, one must move into another state. Thus, while it is possible to escape municipal governments altogether, it is not possible to escape the jurisdiction of government at some level. Because the citizen has little alternative, the coercive power of a national government is clearly greater than the coercive power of a municipal government from which one can more easily move. The point here is that there is a continuum between a club and a government. A bridge club is a club and the U.S. Government is a government, but there are many ways in which the government of Loachapoka, Alabama is more similar to the bridge club than to the U.S. Government. Is there some clear dividing line? Before considering the question, one more case will be presented.

Restrictive Covenants

A restrictive covenant is a legal restriction that is attached to a piece of property and then remains with the property. The neighborhood association example above illustrates an extreme case, but this section will consider more common instances. For example, when an area is divided into lots for residential homes, a restriction may be attached to the lot that only a single family home may be built on the lot, that the home must be at least

1500 square feet, and that the house must be built at least 40 feet back from any road. Covenants can also stipulate that no signs can be erected on the property, that no commercial activities can take place on the property, and even that no boats or boat trailers are allowed to be parked on the property.

Covenants such as this are legally binding, and Houston, Texas provides an interesting case of a city that has no zoning laws.¹⁰ Land use may still be restricted in a manner with effects similar to zoning, by attaching restrictive covenants to the property that states that it may not be used for multifamily housing, commercial establishments, and so forth. Note the difference between this type of covenant and a covenant which requires contributions to the neighborhood pool. This type of covenant disallows certain activities on the land whereas the neighborhood pool requires a contribution to a collectively consumed good. This distinction will be considered significant later in the chapter.

Summary

There is a continuum between clubs and governments, with some organizations having more of the characteristics of government than others. A municipal government, for example, forces its citizens to contribute to its upkeep, but a club also forces its members to contribute dues. One can move out of the municipality and not be subject to any municipal government, just as one can quit a club. The bridge club and the federal government are at opposite ends of the club-government continuum, but the point of these examples has been to show that indeed there is a continuum between clubs and governments.

Consider the examples given above. The bridge club is similar to the swimming club, which is similar to the neighborhood pool association, which is similar to the municipal government, which is similar to the state government, which is similar to the federal government. Where is the dividing line between club and government, and why?

The continuum between clubs and governments does not mean that governments are clubs, however. Despite the continuum there is an important distinction between clubs and governments. Considering the examples just presented, the reader might want to pause at this point to consider just what that distinction is. How could one define government in such a way that it would include those institutions one believes are governments but exclude those that are not? The purpose of this discussion is to illustrate the complexities involved in identifying the characteristics that make something a government. The next section will identify some issues that need to be considered in developing a definition of government.

What is a Government?

Many readers will already have an idea of what constitutes a good definition of government, so a good beginning for this section would be to look at some existing definitions of government. Robert Dahl correctly notes that the term can be used to describe the decision-making apparatus of voluntary organizations, and uses the word "state" in the same way this chapter uses government. Dahl says, "The distinctive characteristic of the state is supreme authority. Authority is the right to command and the right to be obeyed."¹¹ Following this definition, Dahl goes on to justify coercive activity on the part of the state, thus reinforcing the idea that the right to use coercion is the hallmark of government.¹² Elsewhere, Dahl defines *the* government as "any government that successfully upholds a claim to the exclusive regulation of the legitimate use of physical force in enforcing its rules within a given territorial area."¹³ This definition is adapted from Max Weber's definition as having a "monopoly of the legitimate use of physical force in enforcing its order within a given territorial area."¹⁴

Ayn Rand defines government in the following way. "A government is an institution that holds the exclusive power to *enforce* certain rules of social conduct in a given geographical area." (original emphasis)¹⁵ Rand's definition, like Dahl's, clearly is based on Weber's. Weber's definition and its derivatives focus on the government's monopoly over the use of force, and also specify that the monopoly extends only over a given geographical area.¹⁶

Carl Joachim Friedrich, after discussing various forms of governmental organization, says, "Government may therefore in its most general sense be defined as an institutionalized pattern of stabilized power, or rule."¹⁷ The surrounding discussion makes it clear that Friedrich uses the term government as it is used in this chapter, and as Dahl uses state,¹⁸ but Friedrich's definition does not do a good job of distinguishing clubs from governments in the continuum described earlier. Like Weber's definition and its derivatives, the concept of coercion comes through as a defining characteristic of government.

All of these definitions leave open the possibility that some institutions not normally considered governments would fit the definition, while some characteristics normally associated with government seem to be in conflict with the definition. Thus, as definitions, they are not very useful in actually identifying the defining characteristics of government. Some examples will be useful in pointing out some shortcomings in these definitions.

Some restaurants require that their male patrons wear jackets while dining in the restaurant. This is a rule of conduct, following Weber's

definition and its derivatives, and an institutionalized pattern of stabilized power, or rule, as in Friedrich's definition. It is enforced by the restaurant because any male not wearing a jacket will not be served, so no other enforcement agency is needed.¹⁹ The restaurant has the exclusive power to enforce its dress code, and the rule applies in a given geographical area — namely, the restaurant. The restaurant with the dress code seems to fit Weber's, Dahl's, and Rand's definitions of government perfectly, and also fits within Friedrich's definition, yet few would argue that the restaurant actually is a government.

Numerous similar examples could be developed. Teachers in a school impose rules on their students (for example, no cheating) and impose penalties in the form of lower grades or expulsion to enforce the rules within the geographical bounds of the school. The bridge club member requires that other members not smoke in his house, and enforces the rule by refusing to play otherwise. The point is that many institutions are able to enforce certain rules of conduct within certain geographical bounds, and not all of them are governments.

Another problem with Weber's definition is that a government may not have the exclusive or monopoly right to enforce a rule, because other governments might exist that have the right as well. For example, the federal government has rules for automobile exhaust emissions, but many state governments also have rules regarding auto emissions. Therefore, both the state and federal governments have the power to enforce rules regarding auto exhaust emissions, so neither one has the exclusive right. This is not merely a linguistic twist, but a problem with any definition of government which argues that government has a monopoly over the use of force. There cannot be two institutions with monopolies over the same thing, nor can two institutions hold the exclusive power to do something, so Weber's definition and other definitions of government that try to define government as a monopolist in the use of force imply that only one government can exist in a given area at a given time.

In fact, with a federal system of government, an individual can simultaneously be subject to city, county, state, and federal governments. Since only one monopolist could exist, a government cannot be defined as a monopolist as long as it is possible that one could be subject to multiple governments. Dahl's idea of government as the supreme authority seems to rule out multiple governments in one area also. One might argue that different governments enforce different rules, but the example of the auto emissions was designed to show that two governments can enforce the same rule. Since there seems to be no reason why all state rules could not also be federal rules, this is another problem with Weber's definition.

Again, this is not a semantic quibble. Since more than one government can govern an area at the same time, the essence of government is not that it has the monopoly power to do anything, or that it is the supreme authority in some way. One might try to twist Dahl's and Rand's use of the word exclusive to fit the concept of government, or twist Dahl's use of the word supreme, but why try when governments really do not have exclusive powers, but seem eminently able to share powers with other governments? Put plainly, monopoly is not a defining characteristic of government, since many governments can exist in a given area at a given time. Governments can exert monopoly power in particular markets, however.

Yet another problem with Weber's definition and its derivatives is that it seems to limit the government's use of force to a certain geographic area. In fact, there seems to be no geographic limit to the area in which governments will try to enforce certain rules of social conduct. For example, the United States government seems to have a predisposition toward democratic political institutions, and has used military force to try to enforce democratic rules of social conduct in Japan, Korea and Grenada (successfully), and Vietnam and Lebanon (unsuccessfully). Also high on the political agenda of past U.S. leaders has been the issue of human rights in the former Soviet Union. The U.S. government is powerful, but not particularly aggressive by world standards. Yet it would seem that the use of force to further rules of social conduct is limited only by the coercive power of the government, not by any geographical boundaries.

Again, this is not a matter of semantics. Governments have more power to enforce social rules within their own boundaries than outside them, but they can and do enforce social rules without geographic distinction. Consider, for example, the former Soviet Union's power to enforce rules of conduct in Eastern Europe prior to 1989. Since governments can enforce rules of social conduct wherever they have the power to do so, without regard to geographic area, this aspect of Rand's definition again does not seem to capture the essence of government.

The intention here is not to pick on the above-cited definitions of government specifically, but rather to take some representative definitions as a starting point for analysis. This discussion has identified three significant problems that are not overcome by any of the above definitions: (1) institutions other than governments have the exclusive power to enforce certain rules of social conduct in a given geographical area, (2) multiple governments can and do have the power to enforce the same rules of conduct in a given area, so a government does not necessarily have the exclusive power to do anything, and (3) governments enforce rules of

conduct without regard to geographic area, if they have the power and inclination to do so.

The concept of government that appears clear at first becomes more elusive when one examines the continuum between clubs and governments, and when one realizes that many institutions enforce rules, yet with multiple governments even the governments themselves do not have exclusive powers of enforcement. Some, such as the city government of Loachapoka, Alabama, do not even have police departments to enforce their rules. The chapter up to this point has raised questions and identified some issues with regard to the nature of government. The remainder of the chapter will consider some answers.

A Definition of Government

The previous section was, perhaps, overly critical of the definitions of government that it analyzed, because they do encompass two of the major identifying characteristics of government. First, government has the power to enforce certain rules, as all of the definitions recognize, and second, governments are identified as existing over a given geographical area, as is clear in Weber's definition. Murray Rothbard has also considered the defining characteristics of government, and a quotation from Rothbard's *The Ethics of Liberty* lends some insight into Rothbard's ideas. Rothbard argues:

For there is one crucially important power inherent in the nature of the State apparatus. All other persons and groups in society (except for acknowledged and sporadic criminals such as thieves and bank robbers) obtain their income voluntarily: either by selling goods and services to the consuming public, or by voluntary gift (e.g., membership in a club or association, bequest, or inheritance). Only the state obtains its revenue by coercion, by threatening dire penalties should the income not be forthcoming. That coercion is known as "taxation," although in less regularized epochs it was often known as "tribute."²⁰ (emphasis original)

Rothbard goes on to supply a definition of government himself.

The State may therefore be defined as that organization which possesses either or both (in actual fact, almost always both) of the following characteristics: (a) it acquires its revenue by physical coercion (taxation);

taxes are levied on this basis. But income taxes, sales taxes, import duties, and the like are also levied on individuals who engage in transactions within an area even if they are not physically present. However, the geographic area that is relevant to the definition of government is the area over which the government has the power to tax and not the area over which the government uses force. As noted earlier, governments exercise force on a regular basis outside of the jurisdictions that they tax.

The definition proposed above admits of the possibility that a government will use force outside of its geographic bounds. It also admits of the possibility that others (such as criminals, school teachers, restaurants with dress codes, and the like) will use coercion within the bounds of a governmental jurisdiction. Further, it allows the possibility that more than one government could exist at the same place at the same time, as long as they have the ability to force those in a defined geographical area to contribute to them. In short, this definition clearly distinguishes between governments and others that use force, it does not assert that the government has a monopoly over anything (although governments often do), so in general clears up the ambiguities that exist with some other definitions.

Now consider the continuum from club to government listed earlier in the chapter. While there is a continuum there is also a clear dividing line. The bridge club and the swimming club are not governments because while they may be able to tax their members, they cannot force contributions from people within a given geographical area. The neighborhood association, the municipality, and the federal government are governments because in each case they can force people in a given geographical area to contribute to them.

The neighborhood association in the earlier example is not normally considered to be a government, but falls on the government side of the dividing line, so warrants additional consideration. The underlying principle is that while the organization may have been formed voluntarily, everyone in a certain geographical area is required to contribute to the support of the pool, so the contributions are no different from any other type of tax, and the organization is in fact a government. While such an organization is not usually called a government, this definition would assert that when financing of the neighborhood swimming pool was made compulsory for everyone in the neighborhood, a new government was formed. If someone bought an existing house in the neighborhood, for example, that person would have to pay tribute to the neighborhood association just as surely as city taxes.

One might object that the rules of the neighborhood can only be enforced

and (b) it achieves a compulsory monopoly of force and of ultimate decision-making power over a given territorial area.²¹

Rothbard's concept of taxation as a crucial characteristic of government adds something to the concepts included in the earlier definitions because it specifies the activity in which the government forces people to participate. Perhaps, following Rothbard, a government could be viewed as an institution which forces people to contribute toward its support, or that has a monopoly over decision-making in a given area. There are some problems with this definition, though. In his first quotation above, Rothbard specifically exempts criminals from the realm of government, but on what basis? How, exactly, does one distinguish a band of criminals from a government?

One possible definition of government is: Government is an organization that has the ability to finance its activities by compulsory contributions from all individuals in a given geographic area. In this definition, the use of force within a given geographic area is crucial, but the application of force that defines government is the forcing of individuals within the area to contribute toward the financing of the government's activities. Consider this definition within the context of the issues developed earlier in the chapter.

Robin Hood took from the rich to give to the poor, which is also the ambition of most contemporary governments, but Robin Hood was the leader of a band of merry men, not the leader of the government. Why not? Following the definition set out above, if Robin Hood was able to extract compulsory contributions from all individuals within a given geographic area, Robin Hood would have been the leader of a government. Because Robin Hood did not have the power to extract payment from everyone in the area, he was a robber of those from whom he could take, rather than a government over all individuals in the area.

Note that the definition does not require that the government actually extract payment from everyone, but only that it have the power to do so. Some individuals might be exempt from taxation. Also note that there is no requirement that the contributions be in the form of money. Governments often require other types of contributions, as would be the case with a military draft where compulsory contributions are made in the form of forced labor.

Following this definition, the use of force that identifies government is the ability to force individuals within an area to contribute to the support of the government's operation. What defines an individual's presence in an area? Residence is obviously one factor, and property taxes and income

by the courts (and police) of some other government, but recall the city government of Loachapoka, Alabama, that has no police force of its own. The city is able to collect taxes even though violators would have to be pursued by an outside enforcement agency, since the city itself does not have one. If Loachapoka has a government without a police force, then so can the neighborhood association. Both are able to rely on the enforcement arms of other governments.

The neighborhood association in the above example was established by restrictive covenants attached to the property in question. What about restrictive covenants such as those requiring only single family homes, no boat trailers on the property, and so forth? These are different in character because they do not require contributions from the residents. Because there is no revenue generating ability implied in these restrictive covenants, they are of a different character than a covenant that says that a majority of the residents of an area can agree to tax everyone in the area.

This definition could be defended at greater length, but the discussion probably has been sufficient to make the point.²² The proposal of this chapter is that government be defined as an organization that has the ability to finance its activities by compulsory contributions from all individuals in a given geographic area.²³ The exchange model of government developed in previous chapters identified the exchange of protection for tribute as a fundamental activity of government. This definition of government distinguishes government from others who sell protection.

The Reason for Defining Government

After defining government it is worth commenting on why one should be interested in the definition. First, precise definitions are desirable at any time so that people understand the same thing when they use a term. Second, from a contractarian perspective, the definition sheds some light on what type of activity is unique to government, and why clubs and governments are different types of organizations. Also, if one ever wants to draw conclusions about government in general, rather than democracies, dictatorships, and so forth, there must be a general definition that determines when an institution is considered to be a government.

The normative analysis that appears later in the book depends upon a definition of government because in recommending desirable institutions, one might argue that individuals in their private arrangements should be allowed to organize their collective activities as they choose, while the government should be designed to minimize government intrusion on

the lives of its citizens. As voluntary organizations, clubs should not be constrained in the rules they adopt, but the rules of governments should respect and protect the rights of their citizens. If this is the case, then being able to distinguish a club from a government is crucial because, in this normative framework, clubs can make any rules they want, whereas governments need to be constrained.

The key identifying feature of government in the definition of this chapter is that government can force people to contribute to it unless they move from the government's jurisdiction. Others may be able to refine (or replace) this definition, but it seems to capture the essential features of government more accurately than other definitions. Coercion is used outside of government, but government coercion is difficult to escape because of its geographical base.

Coercion

Governments engage in coercive activities, and taxation is one example. Individuals acting independently of government can also engage in coercive activities, of which armed robbery is one example. What is it about these activities that makes them coercive? The protection of individual liberty is often considered a desirable goal of government. This section considers the definition of coercion with the goal of determining when one individual infringes on the liberty of another by coercive activity.

Coercive activity can be looked at from two different perspectives: that of the individual being coerced, and that of the individual doing the coercing. Coercion is difficult to define when considered from the standpoint of the coerced individual. Consider some examples. Is the bridge club member who will be ejected from the club if he does not provide refreshments every fourth week being coerced? Does a blackmailer use coercion? How about the child who says "share your ice cream with me or I won't be your friend?" What about the employer who says that secretaries must make coffee to keep their jobs? Is the monopoly supplier coercing customers since there is no other alternative for the good?

Activities appear more coercive to the individual being coerced if there are fewer alternatives. What choice does the parched traveller lost in the desert have but to buy water at the asking price from the only person who is selling it? What choice does the secretary who wants the job have but to make coffee? If alternative jobs are available, then the secretary is in a better bargaining position and seems to be less coerced.

Constitutions and Mobility

The reason why governments can coerce people is that it is costly for people to escape the power of the government. In the Tiebout model of local governments, governments compete with each other for residents by offering potential citizens desirable bundles of local goods and services.²⁵ For the Tiebout model to work perfectly, people must be able to move costlessly from one local government to another. In such a setting, governments that do not offer their citizens the goods, services, and associated tax prices that they want will find themselves without citizens in the same way that businesses that do not satisfy their customers will find themselves without customers.

With less than perfect mobility, or with locational preferences that extend beyond just the government's activities, the Tiebout model does not work perfectly and residents can end up with governments that do not satisfy them.²⁶ Note that the Tiebout model may accurately describe locational decisions when people are relocating for other reasons. A person who is moving can have a substantial choice of local options. But once located, moving is costly, and some guarantee of the government's future activities is desirable in the absence of costless mobility.

Constitutions serve this purpose. Constitutional rules are substitutes for mobility, because in a world of costless mobility, governments that want to retain their citizens cannot alter the activities of government in a way that creates a more unfavorable environment than offered by competing governments. But without perfect mobility, constitutional rules constrain the government to try to prevent it from making changes unfavorable to its citizens. It is in this way that constitutional rules substitute for mobility.

Constitutional rules become more important, therefore, the less mobility is present. Constitutional rules for local governments are less important than for national governments because it is easier to move away from an oppressive local government than from an oppressive national government. The continuum discussed earlier makes a difference, but the distinction between clubs and governments also makes a difference. One can quit a country club, but not a local government, without physically moving. Thus, there is a distinction in principle between the constitutional rules of clubs and the constitutional rules of governments.

Conclusion

This chapter has covered much territory, but all within the general subject matter of the role of government in a society. The chapter began by

People may have limited alternatives for many reasons, some of which could be the result of their own previous actions. The parched traveller lost in the desert is likely to be in that situation as a result of previous risky choices which have now left the individual with limited alternatives. If the owner of the water in the desert had no part in creating the predicament of the lost traveller, then perhaps it is unreasonable to argue that the monopoly supplier of water is able to coerce the traveller because the traveller has no alternative but to buy the water at the price its owner asks. Similarly, if only one employer will offer the secretary a job, it seems unreasonable to argue that the employment is coercive.

Coercion is better understood as an action taken by the individual doing the coercing rather than from the standpoint of the coerced individual. Coercion can be defined as the stated willingness to harm someone if that person does not do what the coercing individual wants. Thus, the owner of water in the desert does not coerce the parched traveller by charging a monopoly price for the water. The traveller can agree to an exchange or not, but the owner of the water will not interfere with the traveller if the traveller decides not to make the exchange. While it may be true that the traveller would be better off if an exchange were made, and would be better off if the water were sold at a lower price, this is true for any market exchange. If the exchange is not made, the traveller is no worse off than if the owner of the water did not exist.²⁴

Contrast this situation with taxation - a coercive activity. Government states its willingness to use resources to impose costs on delinquent taxpayers. Unlike the traveller trying to buy water, if a citizen decides not to pay taxes the government demands, the government asserts that it is willing to harm the citizen. This threat of harm if the taxpayer does not do as the government asks is what makes taxation coercive.

Following this definition of coercion, market exchanges are never coercive. Individuals can either trade at agreed-upon terms, or not trade if no agreement can be reached. Bribery is not coercive because an individual can always choose not to take the bribe and be no worse off. Blackmail is coercive because the blackmailer demands payment, or else will do something to harm the person being blackmailed.

The distinction between clubs and governments, discussed above, coincides with the distinction between dues and taxes as suggested by this discussion on coercion. In the swimming club, the bridge club, and so forth, individuals can choose to end their memberships and no longer pay dues. With taxes, an individual cannot choose not to pay in exchange for not receiving the services in question. Thus, governments use coercive means to finance their activities, while clubs do not.

examining the continuum between clubs and governments. There is a difference between clubs and governments, and arguments that obscure the difference are potentially dangerous because they promote the illusion that in some sense a government is a voluntary organization. Governments are fundamentally coercive organizations.

Private organizations have the ability to enforce certain rules of conduct, but not in the same coercive manner as governments. Restaurants can enforce dress codes, colleges can enforce rules of social conduct (which can be severe at some religious institutions), and country clubs can impose social rules on individuals extending even to who one's friends are. How constraining these organizations are depends upon an individual's alternatives. The continuum from clubs to governments might be viewed in this light as a continuum from less constraining to more constraining collective arrangements. But just as some private groups can be very constraining, some governments exert relatively little in the way of constraints. Small city governments where it is very feasible to live outside the city limits are examples of governments that have relatively little power to constrain their citizens.

The lack of constraints results from the fact that it may be easy to escape the government's coercive activity. If coercion is defined as the stated willingness to harm an individual who does not comply with the demands of the coercing party, then if it is easy to move away from a government's jurisdiction, the government will be able to exert relatively little in the way of constraints on its citizens. Following this view of coercion, market activity is never coercive, but government taxation in general is coercive.

It may at first seem that there is a contradiction in having a continuum between clubs and governments and yet still identify a clear dividing line numbers as a continuum from negative infinity to infinity. Even though this set makes a continuous number line, zero is a clear dividing line between the positive and negative numbers. The reader might still question the validity of a continuum from clubs to governments or the assertion that there is a clear dividing line between them, but the example of the number line shows that there is no logical contradiction in identifying a continuum between clubs and governments with a clear dividing line to identify when an institution is a government.

In an attempt to draw a line between governments and non-governments, this chapter has proposed the following definition: Government is an organization that has the ability to finance its activities by compulsory contributions from all individuals in a given geographical area. This definition draws the line on the continuum from clubs to governments

at about the place where it is typically thought to belong, and identifies the power to tax as the hallmark of government. It also identifies taxation as a coercive activity, which distinguishes taxation from dues.

In a purely positive framework, there is little reason to be concerned about the definitions of government and coercion. The last few chapters of this book turn to normative issues, however, and there it is important to distinguish governments from clubs, and to identify coercive activity. The promotion of individual freedom is a widely held value, and an implication is that social rules should be designed so as to limit coercion and control the activities of government, while allowing voluntary action and allowing individuals to design their own rules within a club setting. As such, there are some rules that clubs should be allowed to have, but governments should not.

Normative applications will be developed later, after extending the exchange model of government in the next several chapters. The next chapter builds upon concepts discussed in this one. While governments cannot be defined as monopolists, they can profit by exerting monopoly power when they are able. Chapter 6 examines the way in which governments try to extract monopoly prices by restricting competition.

Stationary State." *American Economic Review* 79, No. 5 (December 1989), pp. 1031-1044, develops a dynamic model that depicts a constant evolution rather than a steady state. The comparative statics framework might capture an instant in this dynamic model, but does not have dynamic elements built in.

Freidrich A. Hayek, "The Use of Knowledge in Society," *American Economic Review* 35, No. 4 (September 1945), pp. 519-530

Thus, the result of human action, but not of human design will not always produce the most efficient institutions.

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Chapter 5

1. The fiscal exchange model of government is described by James M. Buchanan, "Taxation in Fiscal Exchange," *Journal of Public Economics* 6 (July-August 1976), pp. 17-29.
2. In my textbook, *Public Sector Economics* (Belmont, California: Wadsworth, 1988), chapter 5 discusses collective decision-making in a framework that applies to clubs as well as governments. This is a standard way of approaching collective decision-making in public choice theory.
3. James M. Buchanan, "An Economic Theory of Clubs," *Economica* (February 1965), pp. 1-14.
4. Sir Ernest Barker, *Social Contract* (New York & London: Oxford University Press, 1960), traces the origins of the social contract theory to Plato.
5. James M. Buchanan, *The Limits of Liberty: Between Anarchy and Leviathan* (Chicago: University of Chicago Press, 1975).
6. John Rawls, *A Theory of Justice* (Cambridge: Belknap Press, 1971).
7. On this point, it is interesting to note that Barker, *Social Contract*, p. xxii, reports that "the House of Lords, as a part of the Convention of Parliament, had agreed by 55 votes to 46 that there was an original contract between the King and the People."
8. Some criticisms are presented by Scott Gordon, "The New Contractarians," *Journal of Political Economy* 84, No. 3 (June 1976), pp. 573-591, and Leland B. Yeager, "Rights, Contract, and Utility in Policy Espousal," *Cato Journal* 5, No. 1 (Summer 1985), pp. 259-294. Gordon's review article included Rawls and Buchanan as well as Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), although Gordon finds Nozick's brand of contractarianism to be significantly different at its foundations than that of Rawls and Buchanan. Yeager's critique of contractarianism cites Buchanan's *Limits of Liberty* and Randall G. Holcombe's *Public Finance and the Political Process* (Carbondale: Southern Illinois University Press, 1983) for examples of contractarian arguments.

9. See, for example, Murray N. Rothbard, *Conceived in Liberty*, vol. 3, p. 350, where he argues about the American revolution that "the revolution was genuinely and enthusiastically supported by the great majority of the American population. It was a true people's war. . . . American rebels certainly could not have concluded the first successful war of national liberation in history. . . . unless they had commanded the support of the American people." One would hardly say that this constitutes a social contract, but it does suggest general support for the establishment of the U.S. government at the time of the nation's founding, and by a writer who is normally very critical of government.
10. See Bernard H. Siegan, "Non-Zoning in Houston," *Journal of Law & Economics* 13, No. 1 (April 1979), pp. 71-147.
11. Robert A. Dahl, *Democracy and Its Critics* (New Haven: Yale University Press, 1989), p. 42. Note that this definition is given as Dahl explains the arguments of another writer, but Dahl accepts the definition and goes on to explain why it may be desirable for the state to act coercively. On page 107, Dahl defines government by saying that "The decisionmakers who make binding decisions constitute the government of the association" (original emphasis). Dahl thus defines government as a group of people, but explicitly notes that this definition could apply to the governing institutions of a voluntary organization as well as a state.
12. Note that Dahl is not as interested in delineating state activity from other collective activity, but rather in promoting democracy. But while noting that voluntary organizations have governing structures, Dahl concentrates on democracy within the state. See also his *Democracy, Liberty, and Equality* (Oxford: Oxford University Press, 1986) and *A Preface to Economic Democracy* (Berkeley: University of California Press, 1985) for similar views on government.
13. Dahl, *Modern Political Analysis*, 3rd ed. (Englewood Cliffs, NJ: Prentice-Hall, 1976), p. 10.
14. Max Weber, *The Theory of Social and Economic Organization*, translated by A.M. Henderson and Talcott Parsons (Oxford: Oxford University Press, 1947), p. 154.
15. This definition is the opening sentence of Rand's essay, "The Nature of Government," in *The Virtue of Selfishness* (New York: New American Library, 1961). It seems considerably more enlightening than the dictionary definition (from *Webster's New World Dictionary*, College Edition, 1968), the exercise of authority over an organization, institution, state, district, etc.; direction; control; rule; management. Following this definition, it would make sense to talk about the government of a bridge club, but without implying that the bridge club is a government.
16. Weber's definition seems to be commonly accepted among individuals studying government. Yet another adopter of his definition is Richard

- D. Auster and Morris Silver, *The State as a Firm: Economic Forces in Political Development* (Boston: Martinus Nijhoff, 1979), p. 21.
17. Carl Joachim Friedrich, *Man and His Government: An Empirical Theory of Politics* (New York: McGraw-Hill, 1963), p. 182.
18. Friedrich, *Man and His Government*, p. 550 also defines state to include the government and a sense of nationalism among the individuals ruled by the government.
19. One might argue that a gunman could enter the restaurant and demand dinner without conforming to the dress code, but those working at the restaurant could still refuse to serve the gunman. Even if the gunman was successful, governments are frequently attacked in the real world, but such encroachments do not make them lose their status of being governments, unless they are completely overthrown.
20. Murray N. Rothbard, *The Ethics of Liberty* (Atlantic Highlands, N.J.: Humanities Press, 1982), pp. 162-163.
21. *The Ethics of Liberty*, p. 171.
22. Extensions of the argument at this point might take two directions. First, ambiguous cases might be considered. For example, is an electric utility a government because it can use the right of eminent domain to confiscate private property? I would argue that it is not, but that the utility is exercising a right granted by a government, but from the definition above there is a fine distinction that could be argued both ways. Second, cases where governments or non-governments appear not to fit the definition could be considered. The involuntary neighborhood association is an example of an organization classified as a government under this definition but is not normally considered a government. Conversely, the governments of people who do not have fixed territorial claims are unambiguously excluded under this definition. The chapter's argument must be that they are not governments in the true sense of the word, but are voluntary associations. Such groups would include the PLO, nomadic tribes, bands of gypsies, and motorcycle gangs.
23. Note that while they do not define government in this way, Geoffrey Brennan and James M. Buchanan, *The Power to Tax: Analytical Foundations of a Fiscal Constitution* (Cambridge: Cambridge University Press, 1980), are concerned with ways in which to constitutionally constrain the government from abusing its powers of taxation.
24. This notion of coercion is consistent with that described by Dahl, *Democracy and Its Critics*. See page 44, for example.
25. Charles M. Tiebout, "A Pure Theory of Local Expenditures," *Journal of Political Economy* 64 (October 1956), pp. 416-424.
26. For a discussion, see James M. Buchanan and Charles J. Goetz, "Efficiency Limits of Fiscal Mobility: An Assessment of the Tiebout Model," *Journal of Public Economics* 1 (1972), pp. 25-43.

Chapter 6

1. The theory of contestable markets extends the competitive model beyond cases where actual alternatives exist to cases where barriers to entry are low making potential competition easy. See William J. Baumol, "Contestable Markets: An Uprising in the Theory of Industry Structure," *American Economic Review* 72, No. 1 (March 1982), pp. 1-15, and William J. Baumol, John C. Panzar, and Robert D. Willig, *Contestable Markets and the Theory of Industry Structure* (New York: Harcourt Brace Jovanovich, 1982).
2. Models by Douglass C. North, *Structure and Change in Economic History* (New York: W.W. Norton & Company, 1981) and Margaret Levi, *Of Rule and Revenue* (Berkeley: University of California Press, 1988) depict government as a profit maximizer along the same lines as the neoclassical firm. See also Richard D. Auster and Morris Silver, *The State as a Firm: Economic Forces in Political Development* (Boston: Martinus Nijhoff, 1979), chapter 5, for an analysis of the monopoly powers of government.
3. See Charles M. Tiebout, "A Pure Theory of Local Expenditures," *Journal of Political Economy* 64 (October 1956), pp. 416-424.
4. Thus, for example, the Pareto optimal redistribution suggested by Harold M. Hochman and James D. Rodgers, "Pareto Optimal Redistribution," *American Economic Review* 59 (September 1969), pp. 542-557, would be coercive because people are forced to contribute, even if to overcome a free rider problem that everyone recognizes.
5. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974).
6. Harold Demsetz, "Why Regulate Utilities?" *Journal of Law & Economics* 11 (1968), pp. 5-65.
7. Gordon Tullock, "Entry Barriers in Politics," *American Economic Review* 55, No. 2 (March 1965), pp. 458-466, discusses entry barriers in democracies. See also W. Mark Crain, Randall Holcombe, and Robert Tollison, "Monopoly Aspects of Political Parties," *Atlantic Economic Journal* 7, No. 2 (July 1979), pp. 54-58 for a discussion.
8. Anthony Downs, *An Economic Theory of Democracy* (New York: Harper & Row, 1957).
9. See Duncan Black, *The Theory of Committees and Elections* (Cambridge: Cambridge University Press, 1958), for a discussion of the committee model and Howard R. Bowen, "The Interpretation of Voting in the Allocation of Economic Resources," *Quarterly Journal of Economics* 58 (November 1943), pp. 27-48, for a development of the model in a referendum setting.
10. See Randall G. Holcombe, "The Median Voter Model in Public Choice Theory," *Public Choice* 61, No. 2 (1989), pp. 115-25, for a discussion of the model and its use in public choice.
11. William H. Riker, in *The Theory of Political Coalitions* (New Haven: Yale University Press, 1962), challenges the view that politicians