

## Summary

### *„Haben wir eine Fairnesspflicht zum Rechtsgehorsam?“*

by Frank Dietrich

The influential tradition of contract theory fails to give a convincing explanation of the obligation to obey the law. Thus, the fairness account that has been developed most prominently by H. L. A. Hart and John Rawls appears to be an attractive alternative. According to the fairness principle, participants of a cooperative scheme who benefit from the rule-abidance of other participants are themselves obliged to conform to the rules. Against the fairness theory of political obligation, Robert Nozick has argued that duties of fair play can only be ascribed to individuals who consent to participate in a joint venture. In this article two strategies to respond to this objection are discussed. Firstly, the need to distinguish between “discriminatory goods” and “presumptive goods” and, secondly, the contention that Nozick fails to see the subtle difference between “acceptance” and “consent” are examined. It will be argued that individuals who accept the benefits of a cooperative scheme have duties of fair play, even if they do not explicitly or tacitly consent to make a contribution. However, the fairness principle does not succeed in justifying political obligations, because citizens do not accept the benefits of the state in the relevant sense.