

Phil 114, February 6, 8, and 10, 2012
Hobbes, *Leviathan*, Ch. 16–19

The Sovereign

In order to avoid the state of war, and to preserve ourselves, Hobbes believes, we need a sovereign with certain attributes. The sovereign must have:

- (i) the right to *command* certain things: or, put another way, we must be obligated to obey his commands to do certain things, and
- (ii) the right to *do* certain things: or, put another way, no duty not to do those things.

To a first approximation, these rights must be:

- (a) Unlimited: The sovereign must have the right to command and do anything.
- (b) Unique: No one but the sovereign can have these rights.
- (c) Unconditional: Nothing can deprive the sovereign of these rights.

The sovereign's right to *command* arises from covenant, although different kinds of covenant in the cases of institution and acquisition. In the case of *institution*, it is unlimited, unique, and unconditional, because the institutors realize that unless they covenant to give the sovereign such a right, they cannot escape the state of war. In the case of *acquisition*, the right to command is unlimited, unique, and unconditional, because that is what the conqueror demands in return for the subject's (present) life.

The sovereign's right to *do* is simply the right of nature. So it is automatically unlimited and unconditional. Its uniqueness is the result of everyone else having covenanted away his or her rights of nature.

I say "to a first approximation" because:

- The sovereign's right to command is not unconditional. Why?
- The sovereign's right to do is unconditional, but its uniqueness is conditional. Why?
- The sovereign's right to command is not unlimited. However, the sovereign's right to do is unlimited. Why?

What explains these rights?

First, Hobbes gives arguments that are based on our interest in self-preservation.

Second, he gives arguments, in Ch. 16, that are based on the idea that each subject is the "author" of everything that the sovereign does.

Who—or what—is the sovereign? In essence, the sovereign is simply

- (i) something that makes decisions,
- (ii) where everyone has agreed to abide by these decisions.

The sovereign is thus an "artificial person." There are three realistic possibilities: monarchy, where the decisions of a single man serve as the commands of the sovereign; aristocracy, where the decisions of some proper subset of the population serve as the commands of the sovereign; and democracy, where the decisions of the whole population serve as the commands of the sovereign.

Although Hobbes thinks that monarchy is the best of the three, he does not treat it as somehow uniquely legitimate. That is, monarchy does not have *so* much more going for it that we ought to overthrow an otherwise stable democratic government to institute a monarchy. We should be content with what we have, so long as it suffices to keep the peace.

Commonwealth by institution

Hobbes distinguishes between two ways that a commonwealth—a group of people ruled by a sovereign—can come into being: by institution and by acquisition.

In the case of institution, every man covenants in such a way as to give this sovereign unlimited, unconditional, and unique rights to command and to do. They do this because they realize that this is the only way out of the state of war. More precisely: Every man covenants with every other man to obey in (almost) all things whomever a majority of them all chooses. It is crucial to see that this is *not* a covenant *with the sovereign*. It is a covenant *with other men*. It is just that the content of the covenant—what we covenant to do—is to obey the sovereign.

The first right of sovereigns by institution:

The first right of sovereigns by institution says that it is unjust for any subject to fail to recognize the sovereign, or to attempt to replace him.

Why is it unjust? If we had made a covenant with the sovereign, then the answer would be simple. It would be unjust because we would be breaking our covenant. But we haven't made a covenant with the sovereign. So why is it unjust to depose him? Hobbes replies that if any other subject doesn't want to depose the sovereign, then we are all breaking our covenants with that subject if we depose the sovereign.

The second right of sovereigns by institution:

The second right of sovereigns by institution is that nothing the sovereign might do can release us from our obligation to obey him in virtue of being a breach of covenant with us. Why? Because we didn't covenant *with the sovereign*. The sovereign *never promised us anything in return for our obedience*.

Why not? Why shouldn't our covenant to obey the sovereign be *conditional*: to obey *only if* the sovereign works for our self-preservation?

Hobbes's answer: That is a recipe for civil strife. Since the whole point of instituting the commonwealth is to avoid strife, it is pointless to institute it with a covenant to obey conditionally.

Question 1: Is a sovereign with a unique, unlimited, unconditional right to command really required in order to avoid civil strife?

This is question of sociology or political science, to at least some extent. If disagree with Hobbes's answer, then where does he go wrong?

Question 2: How is commonwealth by institution possible? How does it get off of the ground?

The difficulty is that

- (i) the covenant to institute the commonwealth is made in the state of nature,
- (ii) covenants become invalid whenever there is any reasonable suspicion that the other party won't do its part, and
- (iii) in the state of nature, there are grounds for such suspicion.

Why shouldn't one reasonably suspect that, if one lays down one's right to all things, someone else will take advantage?

Commonwealth by acquisition:

In the state of nature, the vanquished can covenant with a conqueror to obey her in return for his life. The conqueror does his part simply by sparing the subject. The subject is then bound to obey everything the conqueror commands. He has been promised nothing further in return for his obedience—not even his life in the future!

This explains how a sovereign by acquisition has the same rights to command and to do as a sovereign by institution. The sovereign's right to command is unconditional—even though he has covenanted with the subject—because he has already done his part by sparing the subject's life for the time being. It is unlimited, because the sovereign asks for everything and the subject is in no position to bargain.

Question 3: Are coerced covenants valid?

Why should we be obligated to keep a promise extorted from us in this way?

A possibility: There are benefits in the state of nature to being regarded as someone who keeps even coerced covenants.

Question 4: Is it rational to covenant to obey the sovereign's commands? Why should individuals expect their chances of survival to be better with a sovereign than in the state of nature?

Hobbes claims that people who care about their self-preservation ought to institute a sovereign in order to escape the state of war. But are their chances of survival better with a sovereign? Hobbes's reply seems to be that the sovereign's interests are the same as our interests. This is most true, Hobbes thinks, where the sovereign is a king.

Now in monarchy the private interest [of the monarch] is the same with the public. The riches, power, and honour of a monarch arise only from the riches, strength and reputation of his subjects. For no king can be rich, nor glorious, nor secure, whose subjects are either poor, or contemptible, or too weak (through want or dissention) to maintain a war against their enemies (XIX, 4).

Two problems: First, even if the interests of the sovereign and the interests of the *people as a whole* are identical, the interests of the people as a whole and the interests of *any individual*

person may not be identical. It is possible that enslaving or suppressing some people might make for a stronger, more prosperous, more stable nation overall.

Second, even if the interests of the sovereign and the interests of each individual coincide, why suppose that the sovereign will act in his own interest? Part of the problem, recall, is that people are sometimes driven by glory to do what is not in their interests. And sovereignty is glory on steroids.

Limits on the right to command: the “true liberties” of subjects:

As we noted before, the sovereign’s right to command is not really unlimited, after all. There are limits on a subject’s obligation to obey the sovereign. These are a subject’s “true liberties.” A subject has no obligation to obey a sovereign’s command that he not X if X-ing is necessary for this survival. This includes such things as killing oneself, not resisting attackers, abstaining from the necessities of life, confessing a crime, going to war.

Why do subjects retain these liberties? Because they did not covenant them away.

Note that this does *not* mean that the sovereign does not have the right to take our life. We are not under any obligation to obey the sovereign if he commands us to take our lives, but neither is the sovereign under any duty not to take our lives.

Conditions on the right to command:

The sovereign’s right to command is not only limited, but also conditional. A subject has no obligation to obey *any* command of a sovereign when that sovereign is no longer has the power to keep the peace. “[T]he right men have by nature to protect themselves, when none else can protect them, can by no covenant be relinquished” (XXI, 21).

These limits and conditions on the obligation to obey may not seem like much.

But, *given Hobbes’s own assumptions*, these liberties seem enough to threaten the stability of the commonwealth, indeed to prevent any escape from the state of war. For Hobbes himself warns us of the dangers of conditional obligations to obey. The problem is that each subject must decide whether or not the conditions are met, and subjects are bound to disagree.

Hobbes seems stuck with a dilemma:

- *Either*: Conditional obligations, and the potential for disagreement that they create, don’t lead to war, in which case it is not clear why the rights of the sovereign should be unconditional.
- *Or*: Conditional obligations do lead to war, in which case instituting a sovereign is of no use, since the liberties of subjects mean that their obligations are conditional.

Review Questions:

1. Why might it be beneficial in the state of nature to have a reputation for keeping covenants that you were coerced into making?
2. The sovereign’s right to command is not unconditional. Why?

3. The sovereign's right to do is unconditional, but its uniqueness is conditional. Why?
4. The sovereign's right to command is not unlimited. However, the sovereign's right to do is unlimited. Why?
5. What is Locke's criticism of Hobbes (or a Hobbesian view) when he writes:

As if when Men quitting the State of Nature entered into Society, they agreed that all of them but one, should be under the restraint of Laws, that that he should still retain all the Liberty of the State of Nature, increased with Power, and made licentious by Impunity. This is to think that Men are so foolish that they take care to avoid what Mischiefs may be done them by *Pole-Cats* or *Foxes*, but are content, nay think it Safety, to be devoured by *Lions* (§93).

6. What is Bramhall's criticism of Hobbes when he writes:

Either it must be left to sovereign determination, whether the subjects security be appropriately provided for, And then in vain is any mans sentence expected against himself, or to the discretion of the subject, (as the words themselves do seem to import,) and then there need no other bellows to kindle the fire of civill war, and put a whole commonwealth into a combustion, but this seditious article.