

Phil 2, October 24, 2007

Obligations require consent

Hobbes argues that one acquires *obligations only* by voluntary consent. By “obligation,” Hobbes seems to mean a duty *to obey another*.

Translated, this means: It is not necessary for your self-preservation to obey someone else, unless you have agreed to obey him. Why?

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? The ultimate answer is our interest in self-preservation. Why did we covenant to obey this sovereign? In order to stay alive: such a sovereign, and only such a sovereign, lets us escape the state of war. Recall the second law of nature. And why should we keep these covenants? In order to stay alive. Recall the third law of nature and the reply to the fool.

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. 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.

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.

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

This may be an empirical question, for sociology and political science, not philosophy.

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?