

Phil. 1200

Notes #13: Hobbes, The Social Contract Theory

To Discuss Today:

- The problem of political obligation
- The social contract theory, Hobbes' version

Basic idea of the social contract theory:

- A response to the 'problem of political obligation'
 - Why have a state?
 - Why obey it?
- Problems with the 'state of nature'.
- Solution: A 'contract' between citizens & state. Terms:
 - State: provides protection
 - Citizens: pay taxes, obey laws

Hobbes' Theory:

*Biographical note: Thomas Hobbes: 17th-century British philosopher. One of the originators of the social contract theory. Author of *Leviathan*, a long book on political philosophy & the social contract theory.*

On human nature & morality:

- People are selfish
- Selfishness is good, or at least ok
- No natural law. Morality dependent on government
 - "The notions of right and wrong, justice and injustice, have there no place. Where there is no common power, there is no law; where no law, no injustice. Force and fraud are in war the two cardinal virtues."
 - In the state of nature, "every man has a right to every thing, even to one another's body."

The State of Nature: (chapter XIII)

Three causes of conflict:

1. Competition
2. Diffidence
3. Glory

Result:

A war of all against all

"There is no place for industry, because the fruit thereof is uncertain", etc.

"And the life of man, solitary, poor, nasty, brutish, and short."

Empirical evidence:

"The savage people in many places of America ... have no government at all, and live at this day in that brutish manner, as I said before."

"When taking a journey, [a person] arms himself and seeks to go well accompanied; when going to sleep, he locks his doors; when even in his house he locks his chests; and this when he knows there be laws and public officers, armed, to revenge all injuries shall be done him Does he not there as much accuse mankind by his actions as I do by my words?"

Rulers are in a 'state of nature' with respect to each other, and it is a constant state of war. But this is not as bad as the war of individuals against each other.

Of Natural Laws: (chapter XIV)

Laws of self-preservation:

1. a) To seek peace. b) To defend ourselves.
2. To be willing to lay down our right to all things, to achieve peace

Origin of 'injustice':

People can renounce/transfer a right, by word or deed.

Injustice: One renounces/transfers a right, then goes back on it.

But: there must first be a government to enforce contracts.

But some rights are inalienable:

All voluntary acts aim at some benefit to self

No one can be understood to voluntarily give up a right, if there is no benefit to him from doing so.

One cannot give up the right of self-defense against those who aim to kill, injure, or imprison oneself.

Why you should keep agreements: (chapter XV)

You should keep agreements. Objection:

It is sometimes in your interest to break covenants.

It is rational to do whatever is in your interests.

So, it is irrational ("against reason") to keep such covenants.

Response:

It is not in your interests to break covenants: Other people will kick you out of society. Then you will die.

Also, don't rebel against the king:

(a) you cannot know if you will succeed,

(b) if you do, others may try to overthrow you.

The origin of government: (chapter XVII)

The 'sovereign': Everyone gives up all their rights to one person or group.

Advantages:

Prevents them from fighting among themselves.

Defense against foreign governments.

The government should have absolute power. The state is god:

"This is the generation of that great LEVIATHAN, or rather, to speak more reverently, of that mortal god to which we owe, under the immortal God, our peace and defence."

Objection: The government could abuse its power. (chapter XX)

Response:

Couldn't be as bad as the state of nature.

All problems are the subjects' fault:

"There happeneth in no Commonwealth any great inconvenience but what proceeds from the subjects' disobedience and breach of those covenants from which the Commonwealth hath its being."

Can't limit the power of a government, without having some more powerful agency.

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Notes #14: Locke, Jefferson, & the social contract

Three kinds of social contract theory:

1. Explicit social contract
2. Implicit social contract
3. Hypothetical social contract

The theory of the Declaration of Independence

Important principles:

“All men are created equal”

People have natural rights.

Purpose of government: to protect these rights.

Source of authority: “consent of the governed.”

The ‘right of revolution’

Further reading: Jefferson’s original version:

<http://www.wsu.edu:8080/~dee/AMERICA/DECLAR.HTM>

Locke:

Biographical note: 17th-century English philosopher and physician. Famous books: *Essay Concerning Human Understanding* and the *Two Treatises of Government*.

On the State of Nature:

- Locke accepts “**Natural Law**”. Individuals have rights in the state of nature.
 - This natural law is “plain and intelligible to all rational creatures.”
 - Rights to: (a) life, (b) liberty, and (c) estates.
 - The term “*property*” refers to those things one has a right to.
 - Right of punishing those who violate the above rights.
- Locke’s (relatively) benevolent view of human nature:
 - Most people recognize the natural law
 - Most people attempt to follow it most of the time.
- *But*, problems with state of nature:
 - People are biased.
 - Some are ignorant (failure to study moral philosophy).
 - Some people are “vicious” and “degenerate”.
 - This leads to some not following the moral law in particular cases, and a few who regularly violate it (criminals).
 - Our property is thus not secure.
- We need three things:
 1. Explicitly written laws. (Counters ignorance & uncertainty.)
 2. Impartial judges to apply laws to particular cases. (Counters bias.)
 3. Power enforce the decisions. (Counters the vicious & degenerate people.)

Solution:

The social contract.

Individuals agree to delegate the right of punishment to the state.
Also give up some of their liberties (as necessary for the state to perform its functions).
State sets up legislators & impartial judges.

Important: Purpose of government:

To secure everyone's 'property'.
Government may not do anything else.

Leads to: The right of revolution:

If government violates the social contract, citizens may overthrow it.

The authority of government:

Social contract requires *unanimous* consent.

Once established, laws only require *majority* consent.

Locke says most actual government arose in this way.

Objection:

Most actual people never consented, and were never asked. They were born into a government.

Reply:

• Two kinds of consent:

Explicit

Implicit ("tacit")

1. Initial Social Contract established by explicit consent.

2. Later, consent is tacit.

- Initial contract gives state authority over the *land*.
- State retains this authority over generations.
- Any "enjoyment" of the land within the borders of the state constitutes tacit consent. Must abide by the laws for that country.

• Individuals who have given only tacit consent may leave at any time. Also, they are not "members" of the commonwealth (citizens). Individuals who have given explicit consent are permanent members.

Objections to Social Contract Theory:

1. Explicit Social Contract theory:

- This event never happened.
- If it did, it would not be binding on future generations.

2. Implicit Social Contract theory:

- Some conditions for an implicit agreement:
 - a. Some identifiable action that might express agreement
 - b. Absence of explicit *disagreement*
 - c. Reasonable way of opting out
- None of these conditions holds for the alleged social contract.
 - a. What might count as expressing agreement?
 - Merely remaining in the country?
 - Voting?
 - Using roads, other services?
 - b. Some people explicitly disagree. They are still subject to laws and taxes.

- c. No reasonable way of opting out.
 - Governments control nearly every inch of the earth's surface.
 - No conceivable sequence of actions results in not being subject to laws and taxes.
 - Reasonable way of opting out cannot require enormous costs unilaterally imposed.

3. *Hypothetical Social Contract theory:*

- Merely hypothetical agreements are not morally binding.
- No evidence that the agreement would ever really happen.

4. *Against all social contract theories:*

Alleged social contract is not genuine, since the state takes on no obligations:

- a. The state explicitly disavows any obligations to you.

It is a “fundamental principle of American law that a government and its agents are under no general duty to provide public services, such as police protection, to any individual citizen.” [*Warren v. District of Columbia Metropolitan Police Department*, 444 A.2d 1 (D.C. App. 1981). See also *Hartzler v. City of San Jose* (1975) 46 Cal.App. 3d 6.]
- b. The state assumes no liability for negligent failure to protect citizens.
- c. Citizens will not be released from the social contract if gov't fails to protect them, or under any other circumstances.

Hence, the alleged political obligation is purely one-sided, not a true contract.

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Notes #15: Obligation to Obey the Law (D'Amato)

Historical Background:

- Socrates was sentenced to death in 399 b.c. for allegedly corrupting the youth of Athens with his philosophy.
- Socrates argued that he had an obligation not to escape, and to submit to the death sentence, although the accusation and the verdict had been wrong.
- Why might Socrates have had such an obligation?

Three theories of the alleged obligation to obey the law:

A. Prior Agreement to Obey the Law (the social contract theory)

- Basic idea: an implied contract between Socrates and the state: Socrates 'agrees' to obey the valid laws and verdicts of the state. In return the state protects him & nurtures him. Some problems/questions:

1. *The existence of the agreement*

- S. says he implicitly accepted by remaining in the city voluntarily.
- (Recall earlier objections to implicit social contract theory.)

2. *The nature of Socrates' obligations:*

- The state provided services to S.: education, military protection.
- S. then has an obligation to repay this. Three interpretations of the 'repayment' obligation:
 - i) To obey all orders of the state.
 - ii) To assist in providing similar services to the next generation, or to other people.
 - iii) S repaid the state by literally paying (money) for its services.

3. *Scope of S's obligations:*

- Are all laws included? Including future, unforeseeable laws?
- Are unjust laws included?
- Or was the law just, but this was not a correct application of it? (But then why should he not escape?)

B. Obligation through Estoppel

- In law, a person is 'estopped' (barred) from making a defense that depends on claims inconsistent with his own previous affirmations. Perhaps, similarly, the citizen has done something that is somehow 'inconsistent' with his later disavowing the authority of the laws.
- Perhaps by merely remaining in the country. Problems with this?
 - He who leaves the country is forced to join another country. No way to escape all government.
 - The state prohibits individuals from 'opting out.'
 - The state has no legitimate ownership claim on the land; hence, no right to expel people.
- Perhaps escaping would have caused disrespect for the law.
 - It would have caused disrespect for that particular, unjust law. But that is good.
 - How would it have caused or expressed disrespect for all the other laws?
 - Instead, S's refusal to escape encouraged respect for injustice and disrespect for people

thinking for themselves.

C. Passive receiver of conferred benefits

- The rest of the society confers benefits on you, regardless of whether you ask for them. Does this give you an obligation to follow their rules?
- Unclear why it would.
 - They do it without asking you.
 - What if you don't want the 'benefits'?
 - What if you believe there are better things to spend the money on?

My Comments:

The above organization is confusing. There seem to be 3 main arguments for the obligation to obey the law (D'Amato does not seem to endorse any of them):

- 1. You agreed to obey the laws by staying in the country.*
- 2. The state provides you benefits; you should "repay" them, by obeying their laws (regardless of whether you agreed to do so in advance).*
- 3. Violating the law has bad consequences; it causes other people to violate laws in general.*

We see problems with each of these arguments above.

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Notes #16: The Perils of Obedience (Milgram)

“The sad truth is that most evil is done by people who never make up their minds to be either good or evil.” --Hannah Arendt

Details about the Milgram experiment:

(Read the account in the course packet.)

- Setup:
 - Shock generator labeled from 15 volts (“Slight Shock”) to 450 volts (“Danger: Severe Shock”).
 - The subject (‘teacher’) is given a 45-volt shock at the beginning, so that he knows what it feels like.
 - Subject has to administer shock when the ‘learner’ gives a wrong answer. Each wrong answer gets a higher shock. (15-volt intervals)
- Learner’s behavior:
 - Learner complains loudly at 120 volts.
 - At 150 volts, demands to be released.
 - At 285 volts, learner continues to scream in pain.
 - At 300 volts, learner refuses to answer. Experimenter instructs teacher to treat no answer as a wrong answer.
 - After that, the learner stops making noise altogether.
 - At each stage, if the subject hesitates, the experimenter orders him to continue.
- Predictions:
 - Psychologists predicted most people would not go above 150, only 4% would go up to 300, and only .1% would go up to 450.
- Actual results:
 - 60% of subjects went all the way.
 - Even higher percentages in experiments in other cities. Munich: 85%.

Explanations:

- Did subjects have underlying sadistic tendencies?
No; subjects who were given a choice of shock levels averaged 60 volts.
- Subjects obeyed authority, irrespective of morality.
 - Most were opposed to what they were doing.
 - Subjects sought to ‘do their job properly’.
 - Obedience involves a shift in the conception of responsibility: subject views his responsibility as fulfilling the role assigned by the authority. The authority is responsible for the rest.

Variants affecting levels of obedience:

- Higher obedience when experimenter is physically present.
- Conflicting authority paralyzes action.
- Disobedience by others encourages disobedience.
- 37/40 subjects were willing to perform a subsidiary task (administering the word-pair lists) while someone else pushed the buttons.

Comparisons with the Nazis

- Most Nazis were *ordinary people*. (Hannah Arendt's thesis of "the banality of evil.")
- Most were only a small part in a chain. Denied their own responsibility.
 - Eichmann was sickened by the concentration camps, but all he had to do was sit at a desk and do paperwork (sending out the orders).
 - The soldiers in the camps likewise denied responsibility, because they were only following orders.
- Governments have greater authority than a scientist, and can threaten people with prison, etc. Hence, governments receive even greater obedience.

Lessons:

- Most people have a tendency to obey authority, even when it is obviously and seriously wrong. You would probably have obeyed too.
- People also tend to deny responsibility for their actions, when they are obeying someone else's orders.
- These tendencies are independent of any sort of moral justification. Moral justifications offered would be rationalizations.
- Authority is thus a potential source of great evil.

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Notes #17: A Positive Theory of Rights (Friedman)

Introduction

Q: Why do people recognize 'rights'?

- Moral concept of 'rights': "A has a right to do B" \approx "It would be wrong (or prima facie wrong) to prevent A from doing B."
- Legal concept of 'rights': "A has a right to do B" \approx "There's no law against A doing B."
- These don't explain all rights-respecting behavior:
 - Both fail to explain Britain's 'right' to control Hong Kong or 'ownership' of the Falkland Islands.
 - For the moral concept: some aspects of accepted property rights seem arbitrary.
 - For the legal concept: there is some circularity, since the behavior of government people is partly explained by the rights that they have. (Better argument: legal rights depend upon the laws themselves having been made 'legitimately', i.e., by people who had the right to make those laws; and how is that to be understood?)
- Alternative: a *positive* account of rights: A theory of why people would engage in rights-recognizing behavior, independent of moral beliefs or laws. "Rights ... are a consequence of strategic behavior and may exist with no moral or legal support." (p. 2)

I. Schelling points, self-enforcing contracts, and the paradox of order

Q: What is the difference between civil society and the 'Hobbesian state of nature'?

- [Note: the 'Hobbesian state of nature' is a state of social chaos; no rule of law.]
- Not because of the physical objects present. (Courtrooms, law books, etc.)
- Not because of the people present. (Police officers, politicians, etc.) For what makes those people act in the socially orderly way?
- Because people in a civil society face a different strategic situation than people in a state of nature. (They have different incentive structures.)

A. Schelling points

- A type of problem: When there is an advantage in coordinating, but people can't communicate, how can they coordinate?
- A Schelling point is a solution that people will tend to converge on in the absence of communication, because it seems natural or 'special' to them.
 - Ex.: You and a friend have to try to pick the same number from the following sequence:

2, 5, 9, 25, 69, 73, 82, 96, 100, 126, 150

Which number do you pick?

- The game of bilateral monopoly:
 - Two people are in a room with \$100. They may keep the money if they can both agree on how to divide it between them. If they can't agree, then neither gets anything.
 - In terms of pure game theory, *any* division (other than 0-100) benefits both parties, so both parties should be willing to accept it. Should you insist on 99-1 in your favor?
 - Note how this is similar to the above game. What division should you propose/accept?
- Schelling points also provide alternatives to continued bargaining.

B. Up from Hobbes

- Imagine 2 people in a state of nature.
 - Both want to avoid conflict. (Similar to above ‘bilateral monopoly’ game.)
 - Best way is to agree on a system of rights, esp. property rights.
- The Schelling point:
 - May use some natural boundary to divide the land. Neither party pays tribute to the other.
 - Any previous agreement is thereafter itself a Schelling point.
- The establishment of the agreement does not alter our physical situation or physical power. But it alters the strategic situation. Neither party violates the agreement, because that would return them to the ‘Hobbesian jungle.’ If one party violates the agreement, the other party fights, because allowing the violation “implies unlimited demands.” If A allows B to steal from him, A loses not only that property, but also the advantage of *having agreed-upon property rights*.
- Important: The contract enforces itself, *without either moral beliefs or legal sanctions*.

II. Two routes from Hobbes to here

- Main idea:
 - There is a process of evolution of norms, whereby more efficient rules win out.
 - It produces *locally efficient* but not necessarily *globally efficient* norms. I.e., a norm will not be adopted if its benefits depend upon almost everyone adopting it. It will be adopted if it benefits small groups who adopt it.

III. Law, justice, and efficiency

- The 3-way coincidence: the following tend to be about the same:
 1. The (intuitively) morally correct rules
 2. The economically efficient rules
 3. The rules that are actually in effect
- Why this coincidence?
- (II) above explains why 2 & 3 tend to coincide.
- Good question: why does (1) correspond with (2) and (3)? What, if anything, does this show about the nature of morality? Think about this.

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Notes #18: Anarchism

To Discuss Today:

- What are “government” and “anarchy”?
- Police, courts, & laws without government?
- Government & the public goods problem

‘Government’ & ‘Anarchy’

Important concepts: (Friedman’s def’s)

Coercion: Violation of what people generally regard as the rights of individuals with respect to other individuals

Legitimized: Generally accepted as legitimate in a given society.

Government: An agency of legitimized coercion. Examples:

Action	What it’s called if you do it	What it’s called if the state does it
Seizing someone’s property without their permission	Robbery / extortion	Taxation
Forcing people to work for you	Kidnaping / slavery	Conscription, jury duty, national service
Killing lots of people	Mass murder	War

Anarcho-capitalism: Society with no government, but with private property; provides ‘governmental’ services by alternative institutions

Police, Courts, & Laws under Anarchy

How would these presently governmental institutions be replaced?

‘Police’:

Private security guard companies protect people from criminals. There are multiple competing companies in the same area.

Courts:

Private arbitration firms are used to resolve disputes. There are multiple competing arbitration companies.

Private contracts specify arbitration agreements.

Protection agencies sign arbitration agreements with each other.

Law:

Laws are made by judges/arbitrators. *Note:* compare the British common law.

Advantages of anarchy

Non-coercive:

Governmental system: you are forced to accept a government, and have little control over what

kind of government you have.

Anarcho-capitalism: You choose whether to hire a protection agency, and which one.

Less risk of abuse of power:

Governmental system: Government has a monopoly → There is no one to stop the government from abusing its powers.

Anarcho-capitalism: Competition among many protection agencies → Customers can leave an abusive agency.

More efficient:

Governmental system: Police have no incentive to reduce crime. If crime rates go up, they get more money & more police are hired.

Anarcho-capitalism: Protection agencies have an incentive to reduce crime. If they don't, they can be fired.

Empirical observation: The free market is more efficient at producing food, shoes, computers, automobiles, etc., than the government is.

The right side of the public goods trap:

Governmental system: Informed voting is a public good. Laws & protection are public goods.

Anarcho-capitalism: Good laws & protection are private goods.

The Problem of Monopolies

“Natural monopoly”:

Occurs when the optimum size for a firm is so large that there is room for only one such firm on the market.

This situation is very rare.

Even natural monopolies are restrained by “potential competition.”

All products compete with all other products.

Artificial monopoly: the strategy of ‘predatory pricing’:

Problems:

Larger firm loses more total money.

Larger firm may be less efficient.

The monopolist must sell to everyone, at a loss; small firm need not sell anything at a loss.

Also forced to increase production, losing even more money.

Cartels:

Have all the problems of monopolies.

Additional problem: ‘chiseling’

Compare: why don't all the farmers refuse to feed anyone unless everyone agrees to give them everything?

State Monopoly:

Almost all actual monopolies are government-enforced. Government agencies get taken over by the industry & used to the industry's advantage. Why:

They are the ones who know most about the industry.

They have the most incentive to try to influence the agency. Influencing policy is costly, time-consuming.

Examples:

The Civil Aeronautics Board

The American Medical Association

Could this problem be solved in a better government?

The pattern is not an accident. It is built into the logic of the system.

Further Questions:

(1) *Wouldn't the security agencies fight with each other?*

They would take disputes to the arbitration firms, because this is economically rational.

Contrast: what happens when governments decide to fight each other?

(2) *Why would agencies obey an arbitrator's decision?*

Companies abide by arbitrators' decisions; otherwise their reputations would be ruined.

Violating decision defeats the point of going to arbitration.

(3) *How could you know the arbitrator was fair?*

There is competition among arbitration agencies → you can choose a reputable firm.

Contrast: What do you do when the government's courts are unfair, irrational, inefficient, etc.?

(4) *What if one security agency decides to defend murderers, thieves, etc.?*

Their clients would constantly be costing them money. (Compare: The "Arsonist Fire Insurance Agency.")

They fight a constant war against the rest of society.

They must pay higher wages to their employees.

The "Thief Protection Agency": They must charge their clients more money than the stolen goods are worth.

Contrast: What happens if you get criminals in the government?

(5) *Why would security agencies protect the poor?*

Why would this be different from any other good or service? Why do food companies feed the poor?

They're already paying for protection (from the state). Private protection would be cheaper and more effective.

Contrast: Why would the government have an incentive to protect the poor? How well are they in fact protecting the poor?

(6) *Wouldn't other countries attack the anarchists? Possible answers:*

Ideally, the whole world should be anarchist.

Almost all wars are due to (i) disagreements between governments, (ii) racial and/or religious hatred, and/or (iii) perceived historical injustices. (Compare: Why don't other countries attack Switzerland?)

It is harder to take over a territory with no government, than one with a government. Attacking countries normally use the governmental structure already in place to control the populace.

The security agencies & the general population would be armed. (Compare: U.S. experience in Vietnam.)

Phil. 1200 Review, Unit 3

Know what these people talked about:

Thomas Hobbes

- his view of human nature
- what the state of nature is like
- his view of morality
- the source of obligation to obey the state
- what is 'injustice'

John Locke

- his view of human nature
- & natural law
- what rights we have
- purpose of government
- source of gov't authority & how we consent to the social contract
- his view of democracy

Anthony D'Amato

- 3 theories he discusses of why one is obligated to obey the law

Stanley Milgram

- what his experiment was
- its results
- why people obeyed

David Friedman

- why people recognize 'rights' (why it's in one's self-interest)
- his preferred social system: how police, courts, & laws would be provided

Know what these things are:

The 'State of Nature'

The Social Contract
& its terms

Kinds of contract

- Explicit
- Implicit
- Hypothetical

Natural law

Estoppel

Schelling points

Government (Friedman's def.)

Coercion (Friedman's def.)

Public goods

Monopoly, & the 3 kinds:

- Natural
- Artificial
- State

Be familiar with other arguments:

Objections to social contract theory

- why merely living in a country doesn't indicate agreement
- the 3 requirements for implicit contracts
- how state assumes no real obligations

Anarcho-capitalism:

- why security agencies don't fight each other
- Friedman's public goods argument (& how good gov't is a public good)
- why anarcho-capitalism might be better at reducing crime
- why gov't regulation serves special interest groups