

HOBBS' HYPOTHETICAL CONTRACTARIANISM

I. Hobbes' Assumptions:

- A. *Methodological Individualism*: Hobbes is attempting to understand social phenomena in terms of the characteristics of individual human beings. He believes that we can understand the individual person apart from her social relations and use this to understand social phenomena. Though Hobbes was working for a metaphysical reduction, what is of more interest to us here is his epistemological assumption that grounds his methodological. It is this that lays the foundation for the following three assumptions about "human nature".
- B. *Psychological Egoism*:
1. *Definition*: The most common form of psychological egoism is this: Whenever a person acts voluntarily, she always does what she *believes* will be best for herself. It is a theory of human *motivation*, not a normative theory or a theory of the results of human actions. There are other weaker forms of psychological egoism.
 2. *Hobbes Endorsement of P.E.*: ". . . [o]f the voluntary acts of every man, the object is some *good to himself*" (Ch. 14).
- C. *Rough Factual Equality*: Hobbes statement of this assumption is clear and explicit. (See the opening of Chapter 13.) This is not to be confused with moral equality, though there is that too (in a degenerate form) in Hobbes' state of nature.
- D. *Insatiable Desire*: Hobbes holds that "life cannot be without fear or desire". This does not entail that humans have infinite or unbounded desires, only that they are never satisfied.
- E. *Limited Resources*: (Implied in the third paragraph of Chapter 13.)
- F. *Purely Conventional Morality*: (See, for example, the third paragraph of Chapter 15.)

II. Hobbes' State of Nature:

- A. *Hypothetical rather than actual*: Hobbes makes it clear that his argument does not depend on the assertion that the state of nature is an historical reality (Ch. 13, Par. 11). It is a hypothetical situation. He is inviting us to do a thought experiment. The characteristics of the S of N are inferred from the assumptions about human nature and the conditions of human life listed above.
- B. *Characteristics of the S of N*: It is a state of war of all against all where each person has unlimited rights. This war may not be always be characterized by overt fighting (even warring parties may take breaks) but because there is nothing to restrain parties from fighting if they think it in their advantage, there is a significant probability of overt violence. Each has an unlimited right to everything because there are no moral restrictions on what one can do. Thus, 'right' is to be interpreted here as a liberty right (i.e., each person is at liberty to do anything

whatsoever—no action violates an obligation) rather than as a claim right (i.e., a right that imposes obligations on others).

C. *Sources of Conflict (Ch. 13):*

1. *Competition*: fighting for gain.
2. *Diffidence*: fighting for security
3. *Glory*: fighting for a word, a trifle

D. *Consequences of Conflict for Humans*: Hobbes thinks that the conditions of the S of N are less than wonderful. (See Ch. 13, Par. 9 for his description of it.)

E. *Game-theoretic analysis of Hobbes' S of N*: There are two respects in which it appears that the prisoners' dilemma is relevant to Hobbes' conception of the S of N.

1. *Little P-Ds in the S of N*: P-D situations may arise in the S of N. Absent some way to enforce cooperation, players are doomed to suboptimal outcomes. For example, we might not be able to engage in a mutually advantageous trade of goods if such a trade required mutual trust (e.g., if each of us had to deliver in ignorance of whether the other had done so).
2. *The P-D analysis of the S of N*: The S of N itself represents a suboptimal outcome. We would each be better off if we all accepted some limitations on our rights (in Hobbes' sense). But no matter what others do, each of us would be better off retaining our right to all things than limiting it. Thus, the three conditions of a P-D are met [(i) each player has a dominant action; (ii) the players' actions are causally independent; and, (iii) the product of the dominant action is suboptimal]. If so, then it appears that we cannot get out of the problem by promising to restrict our exercise of our rights.

III. *The Way Out*: The Institution of a Sovereign

A. *From Prisoners' Dilemma to Assured Optimality*: Hobbes' strategy is to change the situation from a P-D situation to one in which the dominant strategy is cooperation in producing an optimal outcome. It is the institution of a sovereign that allows this.

B. *The Laws of Nature*: These are, I think, best understood not as moral requirements but as derivative dictates of reason. They are derived from a general form of normative egoism.

1. *The First Law of Nature*: Seek peace, if unattainable, use every advantage of war.
2. *The Second Law of Nature*: Be willing when others are too to lay down your right to all things and to be contented with as much liberty against others as you would allow them against you. (Hobbes' version of the Golden Rule.)
3. *The Third Law of Nature*: Keep your covenants.

- C. *The Covenant*: The covenant (sacred promise) we make with one another is establishing the sovereign is “as if every man should say to every man, *I authorize and give up my right of governing myself, to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorize all his actions in like manner*” (Ch. 17).
1. It is a covenant of each subject with each other subject. The covenant involves the simultaneous transfer of rights to a person or a body of persons as a free gift. It is not a covenant between the subjects and the sovereign. The people cannot contract with the sovereign for two reasons:
 - a) There is no superior power to enforce such a “contract”. Thus, such a “contract” is mere breath, without power to constrain, contain, etc.
 - b) The people are not yet one and cannot therefore be a party to a contract.
 2. It *authorizes* the institution of the sovereign and all of her actions. ‘Authorizes’ is intended in a strong sense. To authorize someone to act in some manner is to become the *author* of the action—to make that action *yours*.
- D. *The Paradox of Sovereignty*: If we accept everything Hobbes says, there appears to be a paradox that renders the institution of sovereignty impossible. Clearly we cannot have a valid covenant without a sovereign. But, since powers are not transferred without a valid covenant, we cannot have a sovereign without a valid covenant. It is a logical “chicken and egg” problem.

IV. The Consequences of the Covenant:

- A. *The Rights of Sovereigns by Institution*: This label used by Hobbes is misleading. These are really limitations on the rights of subjects. The rights of the sovereign do not change when we move from the state of nature to civil society. The sovereign has an unlimited right to everything. What Hobbes lists as the “rights of sovereigns by institution” are indivisible. Though some may be delegated, the basic powers must be held by a single person or determinate body of persons. This is the mark of sovereignty—failing this, there is no state. The first five of the twelve rights of sovereigns by institution are:
1. Subjects cannot change the form of government or the sovereign
 2. Sovereign power cannot be forfeited; there can be no breach of covenant by the sovereign.
 3. No person can without injustice protest against the institution of the sovereign declared by the major part (the majority).
 - a) To voluntarily enter into the covenant with others is to tacitly covenant to accept the majority will.
 - b) To refuse to accept the majority’s choice for sovereign is to remain in the state of nature. (Actually, it might be worse.)

4. The sovereign's actions cannot be justly accused by the subjects.
 - a) The sovereign cannot harm the subjects.
 - (1) Since each subject is the author of the actions of the sovereign, what it appears the sovereign does to a subject is actually something done by the subject to herself.
 - (2) A person cannot harm herself.
 5. Whatever the sovereign does is unpunishable by the subjects.
- B. *The Liberties of Subjects:* The retention of rights by the subjects is based on the crucial argument in Chapter 14 purporting to show that not all rights are alienable. The following is the complete list of rights of subjects. It is, as you might expect, a much shorter list than the full list of the rights of sovereigns and the individual entries on the list are not quite so impressive. Citizens retain:
1. The liberty to resist forceful assault and threats to life.
 2. The liberty to resist wounds, chains and imprisonment.
 3. The liberty not to hurt or kill themselves.
 4. The liberty not to go to war.
 5. The liberty not to accuse themselves without assurance of pardon.
- C. *The Rights of Sovereigns by Acquisition:* These are just the same as the rights of sovereigns by institution. Here is why: In a government by institution, each subject has a covenant with each other giving power to the sovereign. These powers and rights are the sovereign's to do with as she wishes. If, perhaps to save her life, this sovereign gives up her rights and powers to another, that is her right.