


OBLIGATIONS

*Essays on Disobedience
War and Citizenship*



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Obligations
Essays on Disobedience,
War, and Citizenship

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Introduction

It has been said of the theory of political obligation that "originality in this sphere is almost always a sign of error."¹ If this is meant as an endorsement of the conventional wisdom, there is an obvious reply: it is not all that clear anymore what the conventional wisdom is. With regard to civil disobedience, conscientious objection, the conduct of prisoners of war, the meaning of democratic citizenship, and many other subjects that fall within the sphere of political obligation, wise men, and others, disagree. In recent years, the arguments have been intense and the disagreements profound. Nevertheless, and though I hope to join these arguments, my own starting point in all the essays that follow is a piece of conventional wisdom (once revolutionary doctrine) to the effect that governments derive "their just powers from the consent of the governed." These are essays in consent theory, or rather applications of that theory to the political situation of my own contemporaries. I have not sought to be original—it is an old theory—but I have taken "the consent of the governed" to be a very serious matter, and I have never assumed its existence

¹ Sidney Hook, *The Paradoxes of Freedom* (Berkeley, 1964), p. 106. Hook refers specifically to obligation in a democratic society and proposes to "vindicate the obvious."

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without looking for evidence that it has actually been given. This has sometimes led me to question conventional beliefs about the justice of this or that government's enactments and the obligations of its citizens.

Consent theory suggests a procedural rather than a substantive ethics. It is not, in the usual sense of the phrase, a theory of value (though it does provide certain evaluative criteria that may properly be applied to the procedures of moral life). It is a way of describing how particular men come to have obligations, not what obligations they presently have. It invites us to search out what this or that individual has agreed to do; it provides no information as to what he "should" do or should have agreed to do—except for the single injunction that he honor his commitments. Individual men and women are bound to the limits of their commitments and no further, "there being no obligation on any man," as Hobbes said, "which ariseth not from some act of his own."² The paradigm form of consent theory is simply, *I have committed myself (consented): I am committed (obligated)*. Committed to what? We can only find out by looking at the history of a particular man's consents, studying him in the setting of his own moral experience, analyzing the character and quality of the groups within which he is set, within which he has set himself. But before trying to do that (in some rough and tentative way), it is necessary to say something about what it means "to consent" or "to give consent"—to a government, but also more generally. I shall not have a great deal to say, for my own views are implicit in the essays and best tested in their applications. Nor do I want to offer a theoretical defense of the proposition that obligations derive only from consent. I am simply going to assume of the many obligations I discuss that they can have no other origin, and the reader must judge for himself whether descriptions and arguments rooted in that assumption are at all helpful. Here I shall only point to some of the problems that arise when we ask: what counts as a

² Thomas Hobbes, *Leviathan*, pt. II, chap. 21. In interpreting statements of this sort, I have been helped a great deal by Alexander Sengs's *Value and Obligation* (New York, 1964).

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commitment? How do we know when individuals have consented?

First of all, our consent is signified by "some act of our own," by what we say or do. There is, to be sure, a kind of consent signified by inaction, by silence or passivity, but we do not call this consent without qualification: it is tacit consent, and it raises, as we shall see, many difficulties. Our language reflects the difference between consent and tacit consent with some precision. A silent man is or may be *taken to consent*; the initiative belongs to and the assumption is made by the others, though the man himself must be aware (in some sense) that the assumption is being made or can be made. A man who speaks consents, or does not consent, directly; the moral initiative is his own. I will have to consider later on just how this qualification, expressed in the use of the passive voice, affects what is being signified, but it will be time enough to do that when we have in front of us, as it were, the silent citizen. For the rest, consenting acts can signify a variety of commitments: our sense of ourselves as members of this or that group, our intention to obey this or that rule or set of rules, our authorization of some persons or group of persons to act on our behalf, our belief in or readiness to stake our lives on "these truths," whatever they are. We can signify any or all of these things by saying "yes," or signing our names, or repeating an oath, or joining an organization, or initiating or participating in a social practice. Often the meaning of what we do is implicit not in the action itself, which can be entirely routine, but in its setting. We accept or adopt the routinized signal rather than invent one of our own. The members of secret groups are sometimes very inventive, but the messages they send, it has to be said, are roughly the same as the ones the rest of us send. Only the emotional effects are heightened.

By our acts of consent, we communicate to others that we are persons of a certain sort, who hold certain opinions, and will conduct ourselves in a certain manner. We entitle them to expect things of us, to rely on us, to plan their lives with us in mind as friends, colleagues, allies, or whatever. We give

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them rights against us and their rights henceforth define our obligations. Consents, then, are commitments to other people, or they are commitments to principles or parties or political institutions that arouse expectations in other people. For this reason, obligations are often compared to debts: they are other people's resources. And all social organizations are funded, as it were, through the commitments their members make to one another. Consents, then, can always be described both as acts of my own and as conveyances to others. I am bound to perform those future acts to which I have committed myself by my past acts; and I am bound to perform those future acts that other men and women (legitimately) expect me to perform. It is always in principle possible to find out what a man's obligations are by asking his friends, but his friends must refer themselves to his own action or inaction in their presence.

Governmental powers derived from consent are "just" not because they are used in benevolent ways or used to insure fairness in the distribution of benefits—though this last is an important sense of the word "justice"—but because we are bound to uphold their exercise. They are a legitimate social resource. In the context of consent theory, we do not say that the government is just, therefore the citizens are obligated, but rather that the citizens have committed themselves, therefore the government is just. This clearly implies a further principle of evaluation: a just government must be one to which or within which consent is possible. But this is a necessary, not a sufficient condition of political justice. Governmental powers are exercised by right only if we have actually granted that right. It should be noted, however, that we do not grant such rights only to those persons who hold office and exercise power. Our fellow citizens may also expect our obedience, and when we authorize certain men to demand obedience or to specify its character, we do not necessarily give them any more than their share of the general expectation. I think, then, that the English philosopher J. P. Plamenatz is wrong when he argues that the consent of the governed can only signify the authorization of some particular persons

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(governors) to act in certain ways.³ It can mean many other things: above all, it can communicate our sense of ourselves as citizens, participants in an on-going political system, committed to uphold that system and abide by its rules. When we elect representatives, we certainly consent to their authority (and we do so whether we have supported the winner or not), but that is not all we do; we commit ourselves to our representatives in very limited ways indeed compared to the commitments we simultaneously make to our fellow voters. Plamenatz wants to identify representative government with government by consent, but this identification only holds if the representative system has itself been consented to—that is, if the citizens are pledged to one another to uphold it. This is a pledge they commonly make by participating in elections. It can, however, be made in other ways.

It would be a great mistake to define consent or consenting acts too narrowly. Our moral biographies are constituted in large part by trains of consents—consents of many different sorts, to many different people. Consent itself is sometimes signified not by a single act but by a series of acts, and the determining sign is always preceded, I think, by something less than determining: a succession of words, motions, involvements that might well be analyzed as tentatives of or experiments in consent. In fact, we commit ourselves very often by degrees, and then the expectations that others form as to our conduct are or ought to be similarly graded. We say of certain people, for example, that we can count on them thus far and no further, and no doubt they have given us reason for saying so. I suspect there are citizens who have given us (and the authorities) reason for saying the same thing about them.

Consent is given over time: I will insist on this point often in my essays. Here I want only to stress the extent to which we must take it into account when making judgments about the necessary freedom of consenting acts. It is a commonplace

³ J. P. Plamenatz, *Consent, Freedom and Political Obligation* (Oxford, 1968), chap. 1. In his "Postscript to the Second Edition," Plamenatz grants that his original definition of consent was too narrow (p. 170).

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of consent theory that obligations can only derive from voluntary commitments. The acts that signify my consent must be “my own,” freely chosen, freely carried through, not imposed on me by anyone else or coerced or compelled in their course. Not that action unfree in some sense may not bind me in some sense: this too is a matter of degree. But the same qualifications that attach to my freedom attach to my obligation. There may be exceptions even to this general rule, since men whose action is radically circumscribed—oppressed peoples and prisoners of war are considered below—may still have obligations, at least to one another. But these are the limiting cases of consent theory. Ordinarily, men either acquire obligations freely, or they do not have perfect or complete obligations. It is not enough, however, that particularly striking acts of consent be free; the whole of our moral lives must be free, so that we can freely prepare to consent, argue about consenting, intimate our consents to other men and women (and also so that we can reconsider our consents and intimate our withdrawals). Civil liberty of the most extensive sort is, therefore, the necessary condition of political obligation and just government. Liberty must be as extensive as the possible range of consenting action—over time and throughout political space—if citizens can even conceivably be bound to a strict obedience.

When Rousseau and Hegel say that slaves have no obligations, they mean in part that slaves cannot bind themselves for the future because they are presently in bondage.⁴ They are not free agents capable of doing what they commit themselves to do. Yet slaves, as Rousseau admits, sometimes come to “love their servitude,” and they are perfectly capable of loyalty to their masters even at moments when it is not or cannot be coerced. They are not morally bound to their masters, however, partly because they are in bondage and partly because they *have been* in bondage. Their loyalty has not grown up in what might be called moral time and space. The preparations of their consent to servitude, its beginnings, its

⁴ See Jean Jacques Rousseau, *The Social Contract*, bk. I, chap. 4; and G. W. F. Hegel, *The Philosophy of Right*, par. 261.

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tentatives and experiments: none of these were free. The history of their (present) loyalty is a history of coercion, even if the loyalty itself is freely given. Now this argument too applies in degrees. Most moral biographies are stories of restraint and coercion as well as of voluntary action. Perfect and complete obligations are rare and perhaps especially rare in political life. I have confined myself in these essays almost entirely to men who have time and space enough, who *can* enter into all the complexities of a moral relation. Mostly, I have considered the problems of citizens of free states, democracies in some degree, whose spheres of moral action are formally, and in large part actually, protected. Even here, however, we must always ask whether they are protected—to take the easiest example—on election day and in the voting booth or all the time and everywhere.

Two practical if not logical consequences follow from the necessary freedom of consenting acts and play a large part in determining the subject matter of these essays: the obligations of individual men and women are unlikely to be either singular or stable. We regularly commit ourselves in more than one direction. We convey to different sets of men and women different senses of our own intentions and beliefs; these senses are not necessarily contradictory, nor are they necessarily devoid of contradiction. We also shift the weight and force of our commitments over time. Friends grow apart, brethren leave the fold, parties and sects divide. These departures and divisions sometimes involve breaches of faith and sometimes do not. That will depend on how they are prepared, on what is said and done in the preceding days, months, even years. Theorists of the liberal state have sometimes argued that citizens are always free to leave, but they rarely argue this without adding or implying some qualification. To specify the qualification, to get it right, seems to me one of the most difficult problems in political theory. I shall return to this problem over and over again, though not always in the setting of the state. Indeed, we experience it most often elsewhere. It is not always the government whose powers are “just” and whose “justice” we sometimes want to repudiate.

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The state is not the only or necessarily the most important arena of our moral (or even of our political) life. Churches, movements, sects, and parties can have similar rights and powers similarly derived—as “just” as the state’s, though rarely as effective. Here too we sometimes want to withdraw our consent because of conflicting (overriding) obligations elsewhere or perhaps only in defense of ourselves as persons capable of saying yes and no for reasons of our own.

One last point: my decision to write *essays* is connected, at least in my own mind, with the argument of the book. For to say of obligation in general (what I will later say of citizenship in particular), that it comes in kinds and degrees, is to suggest the enormous difficulty of saying anything more. It is only at considerable personal cost and “with a little help from our friends” that we can sort out our own indebtedness. We hardly have sufficient knowledge to do so for other people. So these are literally essays, attempts, nothing more, sketches of the obligations or some of the obligations of factory workers, Negro Americans, conscientious objectors to military service, soldiers, revolutionaries, alienated citizens of the modern state. They are all radically incomplete, and I have chosen the essay form because it seems to permit and proclaim that incompleteness. I hope it has also helped me avoid the presumption that is so common a feature of moral arguments, both when the protagonists claim to be original and when they do not.

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Part One: Disobedience

1 The Obligation to Disobey

According to liberal political theory, as formulated by John Locke, any individual citizen, oppressed by the rulers of the state, has a right to disobey their commands, break their laws, even rebel and seek to replace the rulers and change the laws. In fact, however, this is not a right often claimed or acted upon by individuals. Throughout history, when men have disobeyed or rebelled, they have done so, by and large, as members or representatives of groups, and they have claimed, not merely that they are free to disobey, but that they are obligated to do so. Locke says nothing about such obligations, and, despite the fact that Thomas Jefferson claimed on behalf of the American colonists that “it is their right, it is their duty, to throw off [despotism],” the idea that men can be obligated to disobey has not played much part in liberal political theory.

“Here I stand; I can do no other”—Martin Luther’s bold defiance—is hardly an assertion of freedom or a claim to rights. It is the acknowledgment of a new but undeniable obligation. Nor is this obligation often asserted, as it was by Luther, in the first-person singular. In a recent article on civil disobedience, Hugo Bedau has denied the validity of such an assertion, unless it is supplemented by arguments which reach