

A Spinozistic alternative for the “justification” of political and moral obligations – a reply to contractualism and political obligations

MIRIAM VAN REIJEN

Academy for Social Studies, Avans Professional Education Institute, Avans Hogeschool, Postbus 90116, NL-4800 RA Breda, The Netherlands
E-mail: Mt.vanreijen@avans.nl

This article is a reply to Ferenc Huoranszki's article on the philosophical problem of political obligations in actual situations. His question is whether and how contractarian theory can be helpful in this justification. In my reply, I argue that all attempts, including the contractarian one, to justify moral obligations are problematic. The origin of the state, be it hypothetical or a historical fact, can never yield an argument for obedience, because one has always to decide to keep the promise in an actual situation. Moreover, if breaking a promise is factually possible, why is it not permitted to do so? Contractarian philosophy cannot give an answer to this question, firstly because it cannot deduce “ought” from “is” in general, and secondly because this kind of special (contractarian) philosophy cannot explain why we should give the benefit to ignorance instead of experience and knowledge.

I make a plea for a Spinozistic alternative to justification. For Hobbes and other contract philosophers, it is the pact that constitutes power, while for Spinoza it is the power (of the multitude) that constitutes the pact. The real motivating ground for this is always an individual judgement or opinion about an estimated good or bad, which for Spinoza is always the same as a personal advantage or disadvantage. It can be in one's estimated self-interest to act in conformity with one's consciousness or conscience or against it, but one cannot act against one's estimated self-interest. Therefore, the only way to “force” people is to combine self-interest and public interest. A good state succeeds in matching the subjective estimated self-interest with the objective common interest. Every institutional way of government is in fact always a democracy, the auto-government of the multitude.

What the European Union therefore needs is a real union of the minds, a real willingness or an active, inner motivation of the subjects. This implies keeping promises not by abdication of self-will (as in Hobbes), but by realization of one's own will (as in Spinoza).

Key words: political and moral obligation, contractarian theory, justification, obedience, veil of ignorance, passion and reason, natural right, motivation, self-interest, government and citizens, power, law, democracy

INTRODUCTION

The article by Huoranszki concerns the philosophical problem of political obligations in actual situations and states. The philosophical problem of (political) obligation is not the same as the practical or factual political problem of obligations. The practical problem for individuals can be the decision to obey or not, and the consequences of this decision. The practical problem for a state or government is how to force and sanction the subjects who

do not (want to) obey, how to make sure that they obey, i. e. how to effectuate the laws. The philosophical problem is the justification of the (obedience or not to the) factual political obligations, i.e. the justification of the moral obligation to obey the factual and political obligations, contracts or laws. Huoranszki's question is: Can contractarian theory be helpful in this justification and how?

JUSTIFICATION OF THE POLITICAL AS A MORAL OBLIGATION

Justification is not easy at all. In the entire literature about ethics, philosophy of law and human rights, the weakest point is justice and justification. Mostly, the definitions and arguments in so-called justifications consist of circular arguments like "justice is to do what is just" or "to give everybody what is just or right". As Huoranszki writes at the end of his paper, "We are obliged to comply <...> because we have an obligation". The three traditional justifications for anything one tries to justify are God, nature (be it reason as human nature, or natural evolution in human beings), and words or acts of concrete human beings such as promises, agreements or contracts. All three attempts to justify are problematic. God justifies only for believers. Factual nature (that what is) cannot justify what ought to be or what we ought to do or not. And which human being can oblige another, some or all other human beings? Nobody can or they all can.

At the end of his paper, Huoranszki writes about "moral relativism or some morally unacceptable particularism". The real problem, however, is not relativism or particularism as such, but the adjective "moral" in this moral relativism or particularism. To use this term as an adjective suggests that there is a moral dimension, and that everybody knows what it is about. This is what, in my opinion, is open for questioning. Huoranszki presupposes in his paper that there exists something like morality, and there exist moral obligations, apart from factual social obligations. He also knows that it is possible not to fulfil them. Probably, for Huoranszki, to break a factual contract is also morally wrong, even when the contract itself is not a moral obligation. However, there is still a third kind of obligations that he refers to in his article, and this one, too, is problematic: natural obligations that mothers have to children, or friends to each other. What is such a "natural obligation" supposed to be? It sounds like a chimera. It is like a law of nature taken not as a natural determined regularity, but as a moral law. However, what is natural cannot be broken, and what we, or even only I, can infringe upon is not universal or natural. Nature binds everyone, not by obligation, but by fact. That is why there is no law that obliges people to die some day, or to fall in love, or to stool from time to time. Only what you can do can be obliged, as Kant says. That is true, but it is true also that only what you can break can be obliged. An interesting question related to justification arises: when you *can* break a promise or whatever, why should you *not*? Nobody has ever answered this question in a really satisfactory way.

Even if I would believe for a moment in these four premises:

- that God exists (1),
- that He is that kind of God that wants something of human beings and so also of me (2),
- that it is for human beings in general, or at least in principle, possible to know what He wants of us or me (3), and
- that it is possible for this person in particular who is telling me now what God wants or forbids us or me in a particular case (4).

Instead of God, it is also possible to read 'nature', if one believes it is possible to derive ethical norms (ought) from what it is (premise 2). However, the question for me, while assuming to believe for a while all these four premises, is: why should I comply, if it is possible for me to infringe? (Ussel 1977) The philosophical problem arises with the double meaning of words like "natural", "human" and "rational". This reflects the classical philosophical problem of how to deduce "ought" from "is". Words like these have a factual meaning: "every human being is human", but in addition to this meaning they are implicitly given a normative meaning, and only in this second case someone can judge a factual human being's behaviour as "inhuman" and believe this is a justification to punish it.

CAN CONTRACTARIAN THEORY BE HELPFUL IN THIS JUSTIFICATION AND HOW?

Huoranszki does point at the problem that contractarian theories can find general principles and duties, for instance, "you should not steal", but they cannot give a justification for an actual concrete situation in an actual state or for an actual concrete authority. So: are you obliged, and why, to obey a rule you judge unjust or against the general principles? What if the authority is stealing? Huoranszki is also aware of a distinction among concrete people. For the people who see the rationality or the self-interest in the purpose of a rule, law or contract, there is no (feeling of) (moral) obligation, and there is no need for a contract or law. The (feeling of) obligation and the usefulness of a sanction exist only for the others.

Thus, the problem for Huoranszki is first the actual obedience of some people, and secondly that those who do not agree with, for instance, a law in their actual state. In my opinion, this problem exists separately from the origin of the state, whether it is by contract or not, and separately from the justification of general rules. The origin of the state, whether hypothetical or as a historical fact, can never give an argument for the obedience here and now in an actual situation. The contract itself does not provide the foundation of anything, because one always has to decide to keep the promise in an actual situation. If breaking the promise is factually possible, why is it not permitted to do so?

Even if there was the veil of ignorance at the origin, as Rawls presupposes as an ideal-theoretical construction, and even if you still can "think as if you are ignorant" now, the same question arises: why should you act or choose as if you were ignorant in the actual situation where there is no longer this veil of ignorance? (Rawls 1971). It is still the same question for justification: why should you act in this or that way? Why obey when you do not agree, and you do not have a "good" – that is a self-interested reason – to obey? What is the foundation of the argument against self-interest?

Maybe it is not possible to answer this question, because the question is posed wrongly – though not morally wrong. The question about political obligation and obedience has to start from reality, from how people are, and not from how they should be, or from how you would like them to be. It is not possible to erect a political practice on an ideal (of) human being: you have to deal with real human beings. This is the starting point of the political theory of Machiavelli and Spinoza, even more than that of Hobbes. If you do not take man as (s)he is, you can never solve the political problem (Spinoza 2000: 33). Maybe reason or calculation or passion, maybe to know something or not to know it, maybe to believe something or not to believe it – all this can lead man to enter into a contract, but none of these different motivations can ever justify the obligation to keep the contract. And the same way it can be reason, calculation or passion, to know something or not to know it, to believe something or not to believe it, that can lead people to obey a law or not, but none of these different motivations can ever justify the obligation to obey a law.

Contractarian philosophy starts from human beings as they should be, under the veil of ignorance or not, and also from how they have to behave or decide, even in a changed situation when they are no longer ignorant! Even when someone has promised something, not knowing (you can obviously never foresee everything) forthcoming changes, developments in the situation, in oneself or in other persons, why is (s)he obliged to act in conformity with the promise made in the earlier situation of ignorance? The same story applies to every little or important promise you make in daily life, like, for instance, a promise of marriage. Contractarian philosophy cannot solve this problem, first because it cannot in general deduce "ought" from "is", and secondly because this kind of special (contractarian) philosophy cannot answer the following specific question: why give preference to ignorance over experience and knowledge? Is it true that ignorance of particular circumstances necessarily appeals to the allegedly universal reason?

THE ORIGIN AND FOUNDATION OF POLITICAL OBLIGATION IN HOBBS AND SPINOZA

Hobbes is one of those philosophers who have a very explicit theory of a state originated by contract. Spinoza does not have such a theory. Both write about natural right, but Spinoza radically redefines the meaning of this term (Spinoza 1991: 101f). Natural right in Spinoza is nothing morally or ethically normative, but it is the active *potentia* or essence of everything that exists, not only of man (Spinoza 200: 37f). It is the working effective force, manifestation and realisation of the natural laws that determine all things. All that can happen, or all that man can do, must be as it happens to be, and is done by man necessarily. Following Spinoza, there is no relation between "you can" and (therefore) "you ought" as in Kant, because "can" does not mean "you can or you cannot", but really (in reality) "can" equals "must". And "you are not allowed" means nothing else than that it is simply impossible to do so. "The right of nature <...> only prohibits such things as no one desires, and no one can attain..." (Spinoza 1991: 238).

This natural right does not have its origin in reason nor is it "rational" in a normative sense. It is *really* natural, that is to say, it is not typically human, because it is the same right for everything in nature. The bigger fish has the natural right to eat the smaller ones (Spinoza 1991: 237). The origin of this right is the nature (essence) of everything as it is the expression of this nature. Every action or reaction of a human being is the expression of its relative *potentia*, so it is in its right doing so. Relative *potentia*, not absolute, because everything is always in some relationship with the *potentia* of other (including human) things. The relative *potentia* explains all our behaviour, in the "state of nature" as in society. The natural laws determine everything in both states, so for Spinoza the difference is not that great as for Hobbes.

Conflicting situations between men are necessary in the same way as conflicting situations are necessary between man and water or fire, or the rocks, or animals. However, according to Spinoza and in distinction to Hobbes, there is also a natural inclination (strive) in men to cooperate with and to love other men. So, factual agreements as well as the hypothetical original pact have a Hobbesian origin not only in fear, calculation or a desire to dominate, but also in the desire (*conatus*) to love, feel good and live together in harmony. Man is by nature both social and conflictive, and this constitutes the dynamic of the active (good) feelings and the passive (bad) passions. The positive motivation for both the hypothetical pact and for actual agreements is to unite their forces (*potentiae*) for a better life. This motivation for cooperation and union is the real origin of (the power of) the state.

For Hobbes, it is the pact that constitutes power; for Spinoza, it is the power (of the multitude) that constitutes the pact. Therefore, the pact always depends on the power of the multi-

tude. For Hobbes, the subjects have a moral obligation to obey, because they have consented, decided to obey. The pact thus founds the moral obligation. For Spinoza, this is a fiction, an illusion, an imagination. In reality, in personal relations as well as in society as a whole, people always can and do break their promises. "Therefore, being by natural right the judge of his own case, if he judges rightly or wrongly (for to err is human) that the loss resulting from the pledge he has given outweighs the advantage, his own belief will lead him to conclude that the pledge should be broken, and it is by natural right that he will break his pledge" (Spinoza 2000: 42, 43). Believing that they should not never could or can change this fact. For Spinoza, to obey or not does not depend on the promise or the pact, but on the subjective evaluation and judgement of the benefits (they hope) and damages (they fear) that breaking or keeping a promise will render. Spinoza himself describes (t)his difference with Hobbes as follows: If one sees (supposes) a disadvantage of a promise one has made earlier, one does not have the possibility – and thus not the right – to keep it, and one has the natural right – that is to say the power – to break it.

It is not realistic to expect anything else from a human being. A promise or a pact in itself is never a motivation to keep it. The real motivating ground for this is always the individual judgement or opinion about an estimated good or bad, which for Spinoza is always the same as a personal advantage or disadvantage. So, the fact of obeying is not founded in a general objective rule, but in a subjective opinion. In other words: it is not founded in a moral meaning or end, nor in an imperative (*causa finalis*), but in an effective cause (*causa efficiens*). So, not reason, but the (political) passions of fear and hope as affective / effective forces are the foundations of political power. Surely, individual reasoning can and will (just like individual experience and education) have a lot of causal influence in its process, and so the judgement can be more or less adequate.

Hobbes has a political philosophy that tries to give a rational foundation for the legitimacy of political power and obedience, and deduces from this theoretical philosophy ethical norms and obligations. Spinoza has a philosophy (more *geometrico*) of the practice of politics, i. e. philosophy reveals the real nature of human beings and of the passions, and which effects they produce, the same as the phenomenon of religion and imagination. This is what philosophy can do: to give the real, not the theoretical or normative foundations for political practice. The politicians can make use of this knowledge and organize a convenient practice for this kind of human beings. The so-called "legitimation" of the sovereign power equals its acts through its real power in the way it makes use of the passions and influences the judgements of the subjects.

For Hobbes, political or moral obligations to obey are nearly absolute, and that is why the power of the sovereign is nearly absolute. For Spinoza, the obedience is in fact always restrained by human nature, because it is not possible for human beings to think, judge, feel, speak and act otherwise than they necessarily do. The power of the state is always relative. Human beings can never act like automatons. Oppression will create fear, this will create hate and indignation, and this will create rebellion, so it turns out contra-productive for the tyrant. The real end of the state for Spinoza is not fear, but liberation from fear.

A SPINOZISTIC ALTERNATIVE FOR "JUSTIFICATION" OF POLITICAL AND MORAL OBLIGATIONS

As we have seen, Spinoza writes that in reality it is impossible for a human being, by real nature like everything else, to be forced (in stead of morally obliged) to act and decide otherwise than in accordance with what he sees as his own interest. Nobody can keep a promise from the very moment on when (s)he sees it is a disadvantage. Therefore, a realistic and therefore

effective political theory and practice have to deal with this human reality. This empirical fact is the basis of the origin and of the stability of a state or society. A state has to deal with the “prisoners’ dilemma”, i. e. with good or bad faith, with wise man and foolish people, but in all cases with estimated self-interest motivational choices. (Pietarinen 1998). It can be in one’s estimated self-interest to act in conformity with one’s consciousness or conscience, or against it, but one cannot act against one’s estimated self-interest. Therefore, the only way to “force” people is to combine self-interest and public interest. The only good is what someone judges to be good (= useful), and the only bad what someone judges to be bad (useless or harmful). Only if a person, or a government, does not deny or condemn this reality but understands it, it is possible to make use of it in their acting and politics and to solve effectively the problem of “obligation”. People will only obey when they judge that it is in their self-interest to do so. This self-interest is not necessarily a materialistic self-interest. It can very well be a pleasure to see other people happy, or the good feeling one has when “sacrificing” oneself, or the belief someone will go to heaven, or the experience to live pleasantly with other people. If one realizes that this is the case, maybe the idea of self-interest is easier to accept.

However, here again there are two ways of motivational choice: the inner motivation to see directly the (not moral, but real) good for oneself, or the external motivated choice by fear of an estimated greater disadvantage or evil for oneself. Although these two ways may lead in fact (in their effect) to the same result, because the lesser evil is the same as the greater good, in practice the second way has some disadvantages. When the decision is not really intrinsically motivated, one can have the idea: “if there were not this sanction, I would have done...”, and this idea is the real origin (cause) of a bad feeling. The cause is never the fact (which is only the occasion) that somebody has done this or that. Ideas like “I would prefer to do this, I would have done that” are frustrating. More importantly for a philosopher: they are not true! This is why Spinoza calls a man free and happy when he is doing what he wants to do guided by his inner motivation, and he calls him a slave (and unhappy) when he does something because of an external motivation, even when the act he prefers to do in the given situation is the same (Curley 1985: 543f).

Because in daily life, a lot of or most people are necessarily externally motivated, the authority has to invent those laws, benefits and sanctions that make everybody choose to do the same desirable thing, i. e. to perform the same act be they motivated by a direct internal self-interest (insight) or by an externally induced or indirectly forced self-interest. A good state succeeds in matching a subjective estimated self-interest with the objective common interest.

Huoranszki seems to have this in mind when he writes that contractualist justification fails with regard to a particular government, but may succeed when we feel that we have an obligation to our fellow citizens. The grounding of political obligations is perhaps only possible in the imposed, justified obligations to our fellow-citizens. These fellow-citizens form a category of people with whom we have a “natural” concern, distinguished from the mother-child obligation and friendship as mentioned above.

Here, I think, some problems arise. Who are these fellow-citizens? What is the criterion to distinguish fellow-citizens from other people? Is it not just the self-interest (not only materialistic, but also, or even more so, interest in good feelings) that we have in relation to these fellow-citizens and not in relation to others, instead of a moral obligation? Why should an obligation towards the authority fail and an obligation towards (unknown?) fellow-citizens succeed? The reason lies not in the distance or in the difference between a bigger and a smaller group, but in the ideological, material or other interests that we have, for some reason, in

those fellow-citizens. Spinoza believes it is possible for human beings to experience the same feeling for all people when we know that we have fundamentally the same interest, and when we know that what is common is more important than our differences.

Following Spinoza, all human beings are always determined both in their will and in their choices. To direct the will or, better, a concrete choice of people in general and (for the state) of the citizens in particular, you have to understand them, but not to moralize, preach, judge, mock, or detest. Obligations, laws, duties, prescriptions, rules, etc. do not work on their own. Right equals power, the strongest always wins: 'Man *does* by natural right' instead of 'man *has* the natural right'. If you have rights, according to Hobbes and Locke, they originate power. According to Spinoza, by contrast, the right *is* nothing else but power. If a person or an authority has power, they do not need right(s), nor justification, nor morality or ethics. Surely, they have to take into account self-interest, the passions, causal relations and power relations. The real law of nature lets each human being do what (s)he judges good and also lets him or her break a promise if s(he) thinks it is more interesting not to keep it. No obligations and moral rules can stand up against this law. On the other hand, if somebody thinks that something is good because it is reasonable, then there is nothing that can stand up against this reason, either.

SO, IN THE EUROPEAN UNION, WHAT IS "THE OTHER THING" THAT HAS TO ACCOMPANY THE PROMISE OR PACT?

Hobbes (and all other philosophers of contract and natural right) tries to constitute power by subjection. For Spinoza, by contrast, the power of the multitude of subjects constitutes the sovereign power. The latter, in fact, is only the embodiment of their power (*potentia multitudinis*). It is an illusion when the sovereign thinks that he derives his power from a source (God, contract, himself, an identity) other than the decision and will of the multitude. The source can never be hypothetical or dwell in the past. It can only be actual, factual, here and now. Every institutional way of government is in fact always a democracy, a form of auto-government of the multitude. Reason cannot found political or moral obligations, because if man were really rational there would be no need for obligation or force. Political philosophy mostly does not deal with the facts: it tends to be theoretical and normative, and therefore of no use for political practice. Philosophy, however, can understand the nature (essence) of human beings and therefore advise, not in terms of setting moral ends, but of explaining efficient causes.

What the European Union needs is a real union of the minds, the real willingness or active inner motivation of the subjects. It can be stable because it is coming from inside (*conatus*, human essence), instead of being passive and externally motivated. Motivated not by earlier promise, but by actual and factual own will, the same as when a person wants a lover to stay not because he once promised, but because he still wants her to stay. Promises can and will be easily broken when a greater advantage, interest or supposed greater love appears, but real internal motivation will not change that easily. This is keeping promises not by abdication of one's own will (as in Hobbes), but by realising one's own will (as in Spinoza). That means true autonomy, instead of heteronomy.

One can never dissolve the "obligation" to obey from the advantage that someone thinks it will bring with it. The government has to appeal to the subjects, here and now, whether to their passions or to their reason, to convince them, to show them the possible advantages of obeying. The responsibility for the continuity of the state, for stability, peace, welfare and happiness lies in the hands of political institutions and not in the hands of the citizens. If there

is high criminality in a state, it is because the sovereign power fails to have sufficient power, and because there is in fact more power in the hands of the media, the mafia or (a part of) the citizens. Thus, following Spinoza, a rebellion is always a sign or an effect of a failure of the sovereign, not of the citizens.

Following Spinoza, the aim of the state, and maybe, in our days, also of the European Union, is to create a union or agreement of minds, where “all are guided, as it were, by one mind” (Spinoza 2000: 44). Real peace for Spinoza is not the absence of war as for Hobbes. Peace is only a necessary condition for spiritual wellbeing, and this is only possible if the state has laws that are in conformity with the precepts of reason. The most adequate state (democracy) will appeal, for most people, to their passions (hope and fear) and also, for wise men, to their reason, and the true (not the exclusive passionate) love for all accompanying reason. But – and this is a very important argument against the reproach of elitism – in the meantime the government must – in accordance with its aim – do everything it can (by media, by education, by referenda) to try to make more people wise. That means to transfer as much as possible subjects from the external to the internal motivational force.

CONCLUSION

The sovereign should better realise that the motive for obedience stays always in the subjects, so that, if it is never the fact of the pact that obliges, there has to be something more. The sovereign must have the power to influence the judgements and opinions and thereby the passions of the subjects, and thereby their real and affective / effective motivation to obey. He has to have power not only over their bodies but also over their minds. Power only over bodies is, as Hobbes says, always precarious, because even the physically weakest man can find a way to kill a stronger one. The sovereign, therefore, needs to have power over the minds, too, to make sure that they just do not want to kill him. However, this is never really sure, either. Even with power over the minds and only consequently over the bodies, the sovereign's power (like the power of all subjects, whether parents, teachers or priests over others) is always fragile and illusionary, because in fact it depends not on him, but on the possibly changing minds of the subjects, i.e. on their willingness to obey.

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MIRIAM VAN REIJEN

Spinozos alternatyva politinių ir moralinių įsipareigojimų „pateisinimui“. Atsakymas sutarties ir politinių įsipareigojimų teorijai

Santrauka

Šis straipsnis – tai atsakymas Ferencui Huoranszki'ui, pateikusiam straipsnį apie šiuolaikinių politinių įsipareigojimų filosofines problemas. Jo klausimas: ar ir kaip sutarties teorija gali padėti pateisinti jas. Pasak autoriaus, bet koks bandymas pateisinti moralinius įsipareigojimus yra problemiškas. Valstybės kilmė, kaip hipotezė ar kaip istorinis faktas, niekada negalinti būti argumentas paklusnumui, nes esą reikia kaskart nuspręsti, ar laikytis pažado. Be to, jei iš tikrųjų galima laužyti pažadą, kodėl to neleidžiama daryti? Sutarties teoretikai negali pateikti atsakymo į šį klausimą. Pirma, esą apskritai negalima išvesti „turi“ iš „yra“, antra, ši specialioji (sutarties) teorija negalinti paaiškinti, kodėl ignoruojama patirtis ir žinios.

Autorius pateikia Spinozos alternatyvą pateisinimo teorijai. Hobbes'ui ir kitiems sutarties filosofams tai – paktas, teikiantis galią, Spinozai tai – galia (daugumos), teikianti paktą. Tikrai motivuojantis tam pamatas esąs individualus sprendimas ar nuomonė vertinant gėrį ar blogį. Taigi esąs vienintelis būdas „priversti“ žmones: kombinuoti savanaudiškumą ir viešą interesą. Gera valstybė siekianti suderinti subjektyvų savanaudiškumą su objektyviais bendrais interesais.

Europos Sąjungai esą reikia protų sąjungos, geranoriškumo arba subjektų aktyvios vidinės motyvacijos. Tai suponuoja pažadų laikymąsi ne atsisakant savo norų (Hobbesas), bet įgyvendinant savo norus (Spinoza).

Raktažodžiai: politiniai ir moraliniai įsipareigojimai, sutarties teorija, pateisinimas, paklusnumas, ignoravimas, aistra ir protas, natūrali teisė, motyvacija, savanaudiškumas