

Contractual and natural obligation

Contractual obligation

“Right is laid aside, either by simply renouncing it; or by transferring it to another. By *simply* RENOUNCING; when he cares not to whom the benefit thereof redoundeth. By TRANSFERRING; when he intendeth the benefit thereof to some certain person, or persons. And when a man hath in either manner abandoned, or granted away his right; then is he said to be OBLIGED, or BOUND, not to hinder those, to whom such right is granted, or abandoned, from the benefit of it: and that he *ought*, and it is his DUTY, not to make void that voluntary act of his own: and that such hindrance is INJUSTICE, and INJURY, as being *sine jure* [without right, mjg]; the right being before renounced, or transferred.” (*Leviathan* 14.7)

“... in the act of our submission, consisteth both our obligation, and our liberty; which must therefore be inferred by arguments taken from thence; there being no obligation on any man, which ariseth not from some act of his own ...” (*Leviathan*, 21.10)

2 Natural obligation in *De Cive*

“Now if God have the right of sovereignty from his power, it is manifest that the *obligation* of yielding him obedience lies on men by reason of their weakness. For that *obligation* which rises from contract, of which we have spoken in chap. 2. can have no place here, where the right of ruling (no covenant passing between) rises only from nature. But there are two species of *natural obligation*. One, when liberty is taken away by corporal impediments, according to which we say that heaven and earth, and all creatures, do obey the common laws of their creation. The other when it is taken away by hope or fear, according to which the weaker, despairing of his own power to resist, cannot but yield to the stronger. From this last kind of obligation, that is to say, from fear or conscience of our own weakness (in respect of the divine power) it comes to pass that we are obliged to obey God in his natural

kingdom; reason dictating to all, acknowledging the divine power and providence, *that there is no kicking against the pricks.*" (*De Cive* 15.7)

3 Natural obligation in *Leviathan*?

"The right of nature, whereby God reigneth over men, and punisheth those that break his laws, is to be derived, not from his creating them, as if he required obedience, as of gratitude for his benefits; but from his *irresistible power*. I have formerly shown, how the sovereign right ariseth from pact: to show how the same right may arise from nature, requires no more, but to show in what case it is never taken away. Seeing all men by nature had right to all things, they had right every one to reign over all the rest. But because this right could not be obtained by force, it concerned the safety of every one, laying by that right, to set up men (with sovereign authority) by common consent, to rule and defend them: whereas if there had been any man of power irresistible; there had been no reason, why he should not by that power have ruled, and defended both himself, and them, according to his own discretion. To those therefore whose power is irresistible, the dominion of all men adhereth naturally by their excellence of power; and consequently it is from that power, that the kingdom over men, and the right of afflicting men at his pleasure, belongeth naturally to God Almighty; not as Creator, and gracious; but as omnipotent. And though punishment be due for sin only, because by that word is understood affliction for sin; yet the right of afflicting, is not always derived from men's sin, but from God's power." (*Leviathan* 31.5)

4 Servants and slaves

"Dominion acquired by conquest, or victory in war ... is the dominion of the master over his servant. And this dominion is then acquired ... when the vanquished ... covenanteth ... that so long as his life, and the liberty of his body is allowed him, the victor shall have the use thereof, at his pleasure. And after such covenant made, the vanquished is a **SERVANT**, and not before: for by the word servant ... is not meant a captive, which is kept in prison, or bonds, till the owner of him that took him, or bought him of one that did, shall consider what to do with him: (for such

men, (commonly called slaves,) have no obligation at all; but may break their bonds, or the prison; and kill, or carry away captive their master, justly:) but one, that being taken, hath corporal liberty allowed him; and upon promise not to run away, nor to do violence to his master, is trusted by him. ... And then only is his life in security, and his service due, when the victor hath trusted him with his corporal liberty. For slaves that work in prisons, or fetters, do it not of duty, but to avoid the cruelty of their task-masters." (*Leviathan* 20.10-12)

