

Political obligation: meaning and the problem

Why obey? · Limits · Consent · Force

Explanatory Lecture Slides

Political Science — State and Political Obligations · Minor-I-3 · Semester III

POLITICAL SCIENCE — STATE AND POLITICAL OBLIGATIONS

Topics covered in this unit

01

Define political obligation

02

Distinguish it from legal obligation

03

State the problem of the anarchist and the tyrant

04

Place consent, force and reason

05

Connect to satyagraha later

06

Indian hook: Preamble + Art. 51A

How this unit is organised

01

Meaning

02

Legal v political

03

Why the problem
exists

04

Consent

05

Force

06

Duty in the
Preamble

Meaning of political obligation

The moral (and not only the frightened) duty to obey the laws of one's State.

- Not the same as a habit, and not the same as a gun at the back.
- A 16-mark: define, distinguish legal duty (sanction) from political obligation (reason to obey).
- Without this idea, Kesavananda is only a case-name.

Meaning of political obligation

LEGAL OBLIGATION

- Sanction.
- Valid pedigree.
- Austin.

POLITICAL OBLIGATION

- Why that pedigree deserves obedience.

Why the problem is real

If all power were just, we would not ask. If all power were a gang, we would not obey.

- Anarchist: the State is a disguised gang. Tyrant: obey because I said so.
- The liberal sits in the middle: a State can be legitimate, and then it can also forfeit legitimacy.
- Indian Emergency is the teaching illustration — not a rant.

Why the problem is real

ANARCHIST CHALLENGE

- All States are domination.

LIBERAL REPLY

- Some States are authorised; some acts are not.

Consent theories — first look

Locke: tacit and express consent. Voting, residence, taking benefits.

- Hume's attack: residence is not consent if leaving is costly.
- India: We the People is a founding consent; every election is a renewal; every Art. 19 protest is a refusal of a particular law, not of the State.

Consent theories — first look

EXPRESS

- Oath.
- Naturalisation.
- The Preamble's 'We'.

TACIT

- Residence.
- Voting.
- Taking public goods — Hume doubts this.

Force, habit, legitimacy (Weber)

People obey from fear, habit, or belief in legitimacy (traditional, charismatic, legal-rational).

- A modern constitution wants legal-rational legitimacy.
- Charisma without law is a demagogue. Tradition without rights is a caste order.
- Weber is the 6-mark of this unit.

Force, habit, legitimacy (Weber)

THREE LEGITIMACIES

- Traditional.
- Charismatic.
- Legal-rational.

INDIA WANTS

- Legal-rational + a bit of founding charisma (1947/1950).

Duty in the Indian text

Art. 51A fundamental duties; the oaths in the Third Schedule; the duty to pay tax (Art. 265 is a limit as well).

- Duties do not make Part III a bargain (Minerva Mills).
- A citizen may challenge a law and still be obliged to the Constitution.

Duty in the Indian text

51A

- A list of civic obligations, not a hanging code.

PART III

- Rights are not withdrawn because a duty was poorly performed.

Preview of the paper

Theories (Hobbes to Gandhi) → law and disobedience → punishment → rights and duties.

- Carry this map into every later unit.

Preview of the paper

THEORIES

- Contract.
- Idealism.
- Utilitarian.
- Gandhian.

PROBLEMS

- Unjust law.
- Punishment.
- Dissent.

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Cases a KSLU answer should name

CASE

Minerva Mills

(1980) 3 SCC 625

Rights and duties/DPSPs in harmony —
obligation is not a blank cheque to the State.

CASE

Kesavananda Bharati

(1973) 4 SCC 225

The Constitution is the object of obligation, not
any one Parliament.

CASE

ADM Jabalpur

(1976) 2 SCC 521

When obligation is demanded without rights —
the warning.

Provisions & materials to quote

Preamble

We the People — founding consent.

Art. 51A

Fundamental duties.

Art. 13

Unjust (unconstitutional) law is void — a legal limit on obligation.

Third Schedule

Oaths.

Art. 265

No tax except by law — even the fisc needs pedigree.

10 / 16-mark frames from this unit

Q1

Define political obligation. How does it differ from legal obligation?

Q2

Is residence a ground of political obligation? Discuss Hume's criticism of consent.

Q3

Explain Weber's types of legitimacy with Indian illustrations.

Q4

Do fundamental duties create a duty to obey every statute?

Unit recap

- 1 Obligation = a reason to obey, not only a sanction.
- 2 Consent is the liberal start; Hume is the liberal doubt.
- 3 Weber: legal-rational is the constitutional hope.
- 4 We the People + Art. 13: obey the Constitution, not every Act blindly.
- 5 Emergency is the negative teaching aid.