

## God's Covenant and the Role of the State

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One of the central themes in this series is the responsibility those who enter into a Covenant with God have to establish a just social order. In this section I would like to explore the role of the state in establishing justice. This necessarily involves a discussion on the nature of politics. The question to be explored here is the nature of sovereignty that people exercise over others. In particular, by what justification does one person, or a group of people, presume to rule over others? Another question is to what end is such rule exercised?

The answer given by ancient pagan thinkers was simple: “For that some should rule and others be ruled is a thing not only necessary, but expedient; from the hour of their birth, some are marked out for subjection, others for rule...” – Aristotle, Politics. Keep in mind that Aristotle is considered by many to be the most enlightened of pagan thinkers, yet he thought that some men were simply born to rule and others were born to be ruled. This was a common view in the ancient world where the ruler was considered to be a god incarnate. One simply does not question the right of a divine ruler to rule over those who are obviously inferior and born to be ruled. Sometimes that rule was exercised in a benevolent fashion, but the notion that such authority should be other than absolute was rare. The notion that some were born to rule and others to be ruled was the justification used for the practice of slavery, which was one of the most widespread and longest held practices of humankind.

What happens to this notion if the ruler is not held to be divine, but merely a created being? That is the revolutionary concept introduced by the Judeo-Christian Biblical tradition with its insistence that human beings are created in the image of God. “So God created man in his own image, in the image of God he created him; male and female he created them.” – Genesis 1:27. This places ultimate sovereignty with a transcendent creator God and lays to rest any pretension of a person, or group of people to rule over others. In short, if we were all created “in the image” of a transcendent being who created as an act of free will, then we are all born to be free and no one is either born to rule or be ruled. Our founders considered this difference to be the dividing line between freedom and tyranny and sought to emulate the example of the early Israelites. Our Founders were not alone in seeing “the first illustrations” of the principles of liberty in the chosen people. In his famous essay “The History of Freedom in Antiquity”, British historian Lord Acton wrote:

*The most certain test by which we judge whether a country is really free is the amount of security enjoyed by minorities. Liberty, by this definition, is the essential condition and guardian of Religion; and it is in the history of the chosen People, accordingly, that the first illustrations of my subject are obtained.*

The illustration he was referring to was the system of government that the Israelites set up in the wilderness as they fled Egypt and later in Canaan as they entered the Promised Land. The contrast between the principles of government that the Israelites lived under in Egypt and those they lived under in Canaan are so striking that the Exodus from Egypt and the entering into Canaan has long been seen as a prototype story of liberation that has inspired freedom seekers of all stripes. Not only did this model inspire the early American settlers in their leaving behind Europe, which they compared to Egypt, and entered into their own promised land of America, but it also inspired the abolitionist movement and the Underground Railroad. In fact, Harriet Tubman, who was a key figure in the Underground Railroad, earned the nickname “Mother Moses” because she led the slaves to freedom.

While there is some disagreement among historians over how badly the subjects of the Pharaoh were treated, and it is noted that the Israelites were among many groups of people who freely sought refuge in Egypt, they did depend on the Pharaoh's benevolence. There was no principle that limited the Pharaoh's authority and granted his subjects rights. Pharaoh's authority was buttressed by a pagan religious system that saw him as some kind of god. In his book *For Good and Evil: The Impact of Taxes on the Course of Civilization*, historian and philosopher Charles Adams argues that the Egyptian empire collapsed when this religious belief failed. Here is what he had to say about that belief system:

*Initially the pharaoh was god incarnate on the earth. The flooding of the Nile and the bounteous harvests were attributed to his divine powers. Even in the tribute territories, the rains that came were seen as the result of the pharaoh's putting part of the Nile up in their sky. Religion was the most important sustaining force behind the pharaoh's glory and power.*

Such a belief system amounted to idolatry to the Israelites, who worshiped a transcendent creator God, who created humans in his image. These two belief systems were absolutely incompatible both in their conception of divine authority and human freedom. It should come as no surprise then that they set up a political system under a completely different set of principles when they entered Canaan. According to

Lord Acton's "The History of Freedom in Antiquity", here is nature of the government they set up:

*The government of the Israelites was a Federation, held together by no political authority, but by the unity of race and faith, and founded, not on physical force, but on a voluntary covenant. The principle of self-government was carried out not only in each tribe, but in every group of at least 120 families; and there was neither privilege of rank, nor inequality before the law. Monarchy was so alien to the primitive spirit of the community that it was resisted by Samuel in that momentous protestation and warning which all the kingdoms of Asia and many of the kingdoms of Europe have unceasingly confirmed.*

The notion that only God has divine sovereign authority was also articulated by St. Augustine in his famous work "City of God". In the section entitled: "Of the Liberty Proper to Man's Nature, and the Servitude Introduced by Sin,—A Servitude in Which the Man Whose Will is Wicked is the Slave of His Own Lust, Though He is Free So Far as Regards Other Men.", Augustine had this to say about man ruling over other men:

*This is prescribed by the order of nature: it is thus that God has created man. For "let them," He says, "have dominion over the fish of the sea, and over the fowl of the air, and over every creeping thing which creepeth on the earth. He did not intend that His rational creature, who was made in His image, should have dominion over anything but the irrational creation,—not man over man, but man over the beasts. And hence the righteous men in primitive times were made shepherds of cattle rather than kings of men, God intending thus to teach us what the relative position of the creatures is, and what the desert of sin; for it is with justice, we believe, that the condition of slavery is the result of sin. And this is why we do not find the word "slave" in any part of Scripture until righteous Noah branded the sin of his son with this name. It is a name, therefore, introduced by sin and not by nature. The origin of the Latin word for slave is supposed to be found in the circumstance that those who by the law of war were liable to be killed were sometimes preserved by their victors, and were hence called servants. And these circumstances could never have arisen save through sin.*

It is clear that St. Augustine did not consider it God's intention that a person or group of people should rule over others. This raises the practical question of how one even is justified in governing others, even if that governing is limited. Here is where the notion of governing by consent comes in. Man does not exercise dominion, or stewardship over creation in his own right, but as a blessing from God. Likewise, people are justified in governing others only by the consent of those they govern. For the practical purpose of ordering society some give their consent in the form of a covenant to let others to govern them. The government must be by consent and be exercised in a manner consistent with the principles of the covenant.

It should come as no surprise then that the Puritans believed government power could only legitimately be exercised with the "consent of the governed." 140 years before the Declaration was written, Puritan John Winthrop wrote in "A Defense of an Order of Court Made in the Year 1637:

*It is clearly agreed, by all, that the case of safety and welfare was the original cause or occasion of common weales and of many families subjecting themselves to rulers and laws,.. From the premises will arise these conclusions: No common weale can be founded but by free consent.*

The Puritans got this notion from the Biblical Israelites who were led out of bondage in Egypt into the promised land of Canaan. The early Puritans saw a parallel in their being led out of religious persecution in Europe into the promised land of America. They saw the ancient Jewish federation during the time of the Judges (before Israel asked God for a King) as the purest example of a free republic that the world has seen. The first written constitution of modern democracy was "The Fundamental Orders of Connecticut," according to historian G.P. Gooch. This document was drawn up in response to a 1638 sermon by Puritan Minister Thomas Hooker before the general assembly in Hartford. Hooker's view was centered on the verse in Deuteronomy 1:13 "Take ye wise men, and understanding, and known among your tribes, and I will make them rulers over you." Hooker interpreted the words "take ye" to imply some form of democratic choice in who was to rule over them. In other words, the choice of rulers belongs to the people by God's own allowance. The foundation of the ruler's authority is therefore in the free consent of the people. Puritan pastors combined this verse, coupled with the strong denunciation of monarchy found in I Samuel, to mean that God required a democratic Republic.

By the time of the revolution, this view had become prevalent among the colonists. So much so that the best selling pamphlet by Thomas Paine entitled "Common Sense," which has been credited with generating widespread support for the revolution, echoed it. He used the verses in I Samuel and the words of Gideon in Judges to denounce not only the British crown, but also the institution of monarchy itself.

The notion that the power of government is only just when it is rooted in the consent of the governed raises another question. The modern state is rooted in the justified use of force and its laws are backed up

by a police force. One may argue that consent is given through elections but there is still a question over whether the apparatus that a modern state uses to enforce its laws is being operated on the basis of consent. Again, the early Israelites set up a government that was “held together by no political authority, but by the unity of race and faith, and founded, not on physical force”. There is an inconsistency here. The government of the ancient Israelites under the Judges did not have a police force to enforce their rule. They ruled solely on the fact that the people recognized them as speaking on behalf of God. They had no power to enforce any dictates that the people did not recognize as the will of God.

Martin Van Creveld, who is a professor of History at Hebrew University in Jerusalem, in his book “The Rise and Decline of the State”, noted this fact. He listed the ancient Israelites under the rule of the Judges in a section entitled “Tribes Without Rulers”. Here is what he had to say about such tribes:

*What all these had in common was the fact that among them, “government” both began and ended with the extended family, lineage, or clan. Thus there were no superiors except for men, elders, and parents, and no inferiors except for women, youngsters, and offspring including in-laws*

...

*In the absence of any institutionalized authority except that which operated within the extended family, the societies in question were egalitarian and democratic. Every adult male was considered, and considered himself, the equal of all others; nobody had the right to issue orders to, exercise justice over or demand payment from anybody else.*

If that was not enough of a barrier to the exercise of a police force with the ability to coerce compliance with the rule of a sovereign, the Israelites were looking forward to a time where they would enter a “New Covenant”. In Jeremiah 31:33 God says the following to his people: “This is the covenant I will make with the house of Israel after that time,” declares the LORD. “I will put my law in their minds and write it on their hearts. I will be their God, and they will be my people.”

This is exactly what Christians believed Christ was establishing, which made them even more suspicious of the exercise of authority. Jesus himself reinforced this notion in John 7:53-8:11 when he was presented with a woman who was caught in adultery. In verse 8:5 he was reminded that: “Now Moses in the law commanded us, that such should be stoned: but what sayest thou?” He was being challenged as he had a reputation of being loose in enforcing the Law of Moses. He often strengthened the internal moral requirement, but relaxed the enforcement. After suggesting in verse 8:7 that “He that is without sin among you, let him first cast a stone at her”, her accusers vanished. In verse 8:10 he then asked her: “Woman, where are those thine accusers? hath no man condemned thee?”. His response to her answer in verse 8:11 is consistent with one who intends to establish a New Covenant where God will write his “law in their minds and write it on their hearts”: “She said, No man, Lord. And Jesus said unto her, Neither do I condemn thee: go, and sin no more.” He was appealing to her conscience where the law was to be written in her heart, rather than resorting to external punishment.

Problems with this “no external authority” approach were encountered as Christianity began to spread and face persecution. Much of that persecution came from their fellow Jews. Under these circumstances, appealing to the law of God written in people’s hearts did not seem to be much protection. It was under such conditions that St. Paul proclaimed in Romans 13:4 (in reference to the Roman State): “For he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain: for he is the minister of God, A REVENGER TO EXECUTE WRATH UPON HIM THAT DOETH EVIL.” Paul was a Roman citizen and used that citizenship to demand justice when about to be scourged by fellow Jews, as the account in Acts 22:22-29 illustrates:

*“Is it lawful for you to scourge a man that is a Roman, and uncondemned?”*

...

*“Then the chief captain came, and said unto him, Tell me, art thou a Roman?”*

*“He said, Yea.”*

*“And the chief captain answered, With a great sum obtained I this freedom.”*

*“And Paul said, But I was free born.”*

Paul equated his Roman citizenship with freedom because the Romans recognized a notion of justice that was compatible with the Biblical notion of justice. This notion came from the Classical Greek philosophy, which Paul was very familiar with as well. Paul synthesized notions from the Greek and Roman traditions that were compatible with Biblical truth and rejected notions that were not. The most important notion

was the idea that there was a fixed standard of Justice. This notion came from Socrates through his students Plato, Aristotle and the neo-Platonic tradition of philosophy. Much of what Plato wrote was antithetical to the Biblical tradition, but his core notion of an absolute standard of justice was entirely compatible. The expression of this notion came in Plato's Republic when Socrates was arguing with the Sophist Thrasymachus over the nature of justice. The sophists were a group of traveling intellectuals who came to the conclusion that morality was relative and that no absolute moral standard existed. They applied this notion to the question of justice and in the Republic Thrasymachus argued that "Justice is the advantage of the stronger". Socrates responded by insisting that justice is "a virtue of the soul, and virtue of the soul means health of the soul" and establishing justice meant, "rendering to each what is due". In other words, humans have a specific nature, which mandates that they not only act justly towards others, but also are due just treatment. Both the ancient Greeks and the early Israelites had a notion of universal justice that applied to all people. The problem was that neither set up universal institutions, which applied this notion to all people regardless of ethnic, national or religious backgrounds. The Roman State took this notion of universal justice and simply institutionalized it. Paul was a Jew and not from Rome, but he could be born a Roman citizen and receive the protection that such citizenship offered. It was the Roman idea of a state that protected the innocent with the force of law based on a concept of universal justice that Paul looked to in expressing his political theory. The religious equivalent of establishing a covenant with all people regardless of background gave rise to the Catholic Church. The word Catholic means universal.

Turning to the Roman State in order to secure justice illustrates an important theme. The question was earlier raised as to the end to which sovereignty is exercised. In numerous pagan traditions the exercise of sovereignty was simply to carry out the will of the sovereign. As mentioned, the sovereign was often considered divine and his/her will was unquestioned and absolute. The exercise of sovereignty in the Judeo-Christian Biblical tradition is of a different nature. The purpose of the exercise of sovereignty was the establishment of justice as required by the covenant established between God and man. One striking example of this difference was the conversation on Mount Sinai between Moses and God in Exodus 32:11-14. First in Exodus 32:9-10 God states that: 'I have seen these people and they are a stiff-necked people...leave me alone so that my anger may burn against them and that I may destroy them. Then I will make you into a great nation.' Moses response was instructive:

*O Lord, why should your anger burn against your people, whom you brought out of Egypt with great power and a mighty hand? Why should the Egyptians say, 'It was with evil intent that he brought them out, to kill them in the mountains and to wipe them off the face of the earth'? Turn from your fierce anger; relent and do not bring disaster on your people. Remember your servants Abraham, Isaac and Israel, to whom you swore by your own self: 'I will make your descendants as numerous as the stars in the sky and I will give your descendants all this land I promised them, and it will be their inheritance forever'.*

Given that gods in the ancient pagan tradition rarely allowed such disagreement with their expressed will, what comes next is shocking: "Then the Lord changed His mind and did not bring on his people the disaster he had threatened." Some texts actually state that: "the LORD repented of the evil which he thought to do unto his people." The point here is that God is more interested in the establishment of justice than merely carrying out his decrees. This raises the question of whether there is a difference between the two and whether God actually intended to destroy his people in the first place. Personally, I think that he was testing Moses to see if Moses fully understood that the establishment of justice is really at the heart of God's will. Other examples of this can be seen in Abraham arguing with God over the fate of the cities of Sodom and Gomorrah and God's answer to Jonah when he expressed displeasure that the city of Nineveh was saved after he was sent to prophesy its destruction. Jonah was more concerned that prophesy be fulfilled and God straightened out his priorities in Jonah 4:10 by stating that: "Nineveh has more than 120,000 people living in spiritual darkness, not to mention all the animals. Shouldn't I feel sorry for such a great city?" In other words, God is more interested in the establishment of justice and mercy than the fulfillment of prophecies.

Some Christians saw the notion that the state has the right to "wield the sword" as a temporary expediency. They were well aware that the New Covenant, which Christ had come to establish, mandated that nations "will beat their swords into plowshares and their spears into pruning hooks. Nation will not take up sword against nation, nor will they train for war anymore." – Isaiah 2:4. In a future where nations are to "beat their swords into plowshares", the rationale for wielding the sword is not enduring. As Christianity grew and persecution started to come more from the Roman State itself, some Christians started to question the role of the state as an instrument of justice. This was pointed out in an Acton Institute essay entitled "Christianity and Liberty" by George H. Smith:

*Some radical apologists developed a "conquest theory" of the state in an effort to delegitimize the Roman Empire. Tertullian argued that: "all secular power and dignities are not merely alien from, but hostile to, God." Secular governments "owe their existences to the sword." All institutions of the Roman government, even its charities, are based on brute force. This is contrary to the way of Christians, among whom "everything is voluntary."*

*Similarly, Minucius Felix believed that the Romans had acquired power by “capturing, raping, and enslaving their victims.” John Chrysostom contrasted the use of force with the Christian community, where “the wrongdoer must be corrected not by force, but by persuasion.”*

This view was suppressed as Christianity ended up becoming the official religion of the Roman Empire and was used to buttress the power of the Emperor. Fortunately for the cause of freedom, this situation did not last as the capital of the empire was moved east and the west was overrun by primitive tribes from the north. These tribes possessed the rudimentary traditions of self-government described earlier in the quote from Professor Van Creveld in the section of his book on “Tribes Without Rulers”. What they lacked was a theory of freedom upon which to build the institutions of free governments. Christian thinkers provided this to them. British Historian Lord Acton described the results in his famous essay “The History of Freedom in Christianity”:

*Looking back over the space of 1,000 years, which we call the Middle Ages to get an estimate of the work they had done, if not towards perfection in their institutions, at least towards attaining the knowledge of political truth, this is what we find:—Representative government, which was unknown to the ancients, was almost universal. The methods of election were crude; but the principle that no tax was lawful that was not granted by the class that paid it; that is, that taxation was inseparable from representation, was recognized, not as the privilege of certain countries, but as the right of all. Not a prince in the world, said Philip de Commines, can levy a penny without the consent of the people. Slavery was almost everywhere extinct; and absolute power was deemed more intolerable and more criminal than slavery. The right of insurrection was not only admitted but defined, as a duty sanctified by religion. Even the principles of the Habeas Corpus Act, and the method of the Income Tax, were already known. The issue of ancient politics was an absolute state planted on slavery. The political produce of the middle ages was a system of states in which authority was restricted by the representation of powerful classes, by privileged associations, and by the acknowledgment of duties superior to those which are imposed by man.*

Unfortunately, this situation did not last, as Lord Acton noted in the same essay:

*How did the sixteenth century husband the treasure which the Middle Ages had stored up? The most visible sign of the times was the decline of the religious influence that had reigned so long. Sixty years passed after the invention of printing, and 30,000 books had issued from European presses, before anybody undertook to print the Greek Testament. In the days when every state made the unity of faith its first care, it came to be thought that the rights of men, and the duties of neighbours and of rulers towards them varied according to their religion; and society did not acknowledge the same obligations to a Turk or a Jew, a pagan or a heretic, or a devil worshipper, as to an orthodox Christian. As the ascendancy of religion grew weaker, this privilege of treating its enemies on exceptional principles was claimed by the state for its own benefit; and the idea that the ends of government justify the means employed, was worked into system by Machiavelli.*

*In short, the decrease in the influence of religion resulted in the rise of absolutism. It was in such an environment that the Puritan movement rose with the intention to establish a “City on a Hill” to be a beacon of liberty to the nations. Many early Americans took the warnings by God in I Samuel about the abuse of power on the part of monarchs to apply to centralized political power in general. For this reason, they sought to keep the role of the government strictly limited. This skepticism in regards to the role of government was expressed in the following quote attributed to George Washington in “Liberty and Government” by W. M., in *The Christian Science Journal*, Vol. XX, No. 8 (November 1902): “Government is not reason, it is not eloquence, it is force; like fire, a troublesome servant and a fearful master. Never for a moment should it be left to irresponsible action.”*

Many Christians not only contrasted the force inherent in government with reason and eloquence, but more importantly with love. The Christian ideal of community was based on the notion of love and thus was not compatible with an expanded role of government. This was especially so with the Quakers, who resurrected older Christian arguments that any institution rooted in the use of force could have no legitimacy. This was the basis by which the colony Pennsylvania in general and Philadelphia in particular, were set up. That is how the “City of Brotherly Love” got its name. Russian writer Leo Tolstoy in his classic “The Kingdom of God Is Within You” specifically cited the Quaker example. Like the Quakers, Tolstoy did not believe that the state was a legitimate institution.

In an Internet essay entitled “A Holy Experiment in Laissez-Faire”, Benjamin Hart explains how this notion was actually put into practice:

*As a result of Penn’s live-and-let-live approach to colonial rule, the tax burden in Pennsylvania was extremely light. It included a minimal duty on liquor, an export duty on furs, and a small*

*sales tax. Moreover, on the few occasions when Penn proposed a tax increase, he was inevitably voted down by the Quaker-dominated council. When Penn returned to England in 1684 to promote his colony, he turned over full responsibility of government to the council. In keeping with the Quaker approach, a meeting of the council was not called from October 1684 to the end of March 1685. There were no meetings between November of 1686 and March 1687, and virtually none again for another year and a half. Pennsylvania during this four-year period had virtually no government at all.*

*The minimal taxes that existed were rarely collected. When William Dyer arrived from England in 1685 to collect the King's customs, he was ignored for the most part, and was shocked to find that no one paid any attention to the Royal Navigation Acts.*

While most Americans came to the conclusion expressed in the preamble to our Constitution that some government was needed to “form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity”, the example of the Quakers did have an impact according to Hart:

*Pennsylvania foreshadowed the ideals of the American Revolution. It was the first large state to permit citizens of various nationalities and religious faiths to enjoy equal protection under the laws. The success of Penn's colony greatly interested the classical liberal philosophers of the 18th and 19th centuries – Mill, Hume, Adam Smith, Madison, Hamilton, and Jefferson. It had proved under real life conditions that society could go a long way towards total laissez-faire before conditions began to decay into anarchy. Philadelphia with virtually no government came very close to achieving its ideal as the “City of Brotherly Love.” It was a vision of America to be, and would provide a fitting location for the signing of the U.S. Constitution in the fall of 1787.*

Given the rate at which the role of the state is expanding today, it would be wise to revisit some of these old arguments and engage in a discussion over just what that role should be