

OATHS AND POLITICAL OBLIGATION IN ANCIENT GREECE

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Abstract: The common understanding of political obligation in the ancient world is that the subject was all but undiscussed. People should simply obey and not ask why. Recently, however, Mogen Herman Hansen has argued that adherence to oaths, which were a common feature of civic life, is the actual reason why people accepted requirements to obey the law. I question what these oaths actually meant for political obligations. Because of people's deep integration into their societies, taking such oaths does not meet contemporary standards for what is required to ground political obligations. Rather than choosing to become citizens, through their oaths, ancient citizens grew into this status, much like membership of their families. Thus their obligations to obey the law conformed more to ones based on membership than to obligations that were self-assumed. The oaths in question were declarative rather than constitutive of these moral requirements.

Keywords: political obligation, oaths, consent, Athens, ephebic oath, Hansen

The common understanding of political obligation in the ancient world is that the subject was all but undiscussed. Questions of political obligation concern moral requirements to obey the laws of one's country. With one prominent exception, such questions were absent from ancient thought. The exception is Plato's *Crito*, in which Socrates, imprisoned and awaiting execution, contemplates the possibility of escaping from prison. In an imaginary dialogue with the personified Laws of Athens, he considers whether he should disobey the decision of the courts and live, or obey and die. To address this question, he presented a battery of arguments, which represent the only in-depth discussion of this subject in ancient literature.² The exceptional nature of this discussion is readily accounted for. It was probably only Socrates' extreme and unusual situation that caused him to confront the question of obedience. The commonly held explanation for the absence of other inquiries is that Athenians and other inhabitants of the ancient world did not recognize the question. They did not raise the issue, because they did not view it as an issue. The default position in ancient societies was simply that people should obey and not ask why.³

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² On Socrates' arguments, see R. Kraut, *Socrates and the State* (Princeton, 1984); A.D. Woozley, *Law and Obedience: The Arguments of Plato's Crito* (Chapel Hill NC, 1979).

³ For discussion and qualifications of this claim, see P. Liddel, *Civic Obligation and Individual Liberty in Ancient Athens* (Oxford, 2007).

Recently, however, an alternative explanation has been advanced. Mogen Herman Hansen, a renowned scholar of Greek political institutions, has addressed the subject of political obligation. Hansen examined civic oaths, which were a common feature of Greek life, and proposed that adherence to these was regarded as the basis for moral requirements to obey the law, in many *poleis*: '[A]part from Sokrates' dialogue with the laws in *Kriton*, political obligation was not an issue in ancient Greek political thought. Civic oaths taken by all citizens solved the problem.'⁴

In this paper, I accept the basic claims of Hansen and other scholars concerning the nature and prevalence of Greek oaths. But I wish to qualify their implications for political obligation. In the literature on political obligation, the closest approximation to oaths is consent. Like obligations based on oaths, obligations of consent possess the essential feature of being self-imposed.⁵ One reason the possibility that ancient political obligation relied on oaths is of interest is because obligations from consent are almost entirely dismissed in the contemporary literature. Accordingly, even if political obligations based on consent are vulnerable to objections, is it possible that ancient oaths were able to avoid these difficulties? I respond negatively to this possibility, for two main reasons. First, I raise difficulties concerning the normative force of ancient oaths. Because of factors we will examine, I believe those oaths do not satisfy necessary conditions for grounding political obligations. Even though the Greeks may well have believed that their obligations stemmed from oaths, this belief would not bear scrutiny. If we distinguish a person's believing he has a particular obligation and his actually having it, we will see that only the former obtained. Moreover, if we examine the moral practices in which the relevant oaths were taken, we can see their distance from circumstances that give rise to self-assumed obligations. Because of their deep integration into their societies, rather than choosing to become citizens, ancient citizens grew into this status, much like membership of their families. The moral practices surrounding their oaths correspond much more to ones through which obligations of membership or association were assumed, rather than obligations based on promises or oaths.

This paper is in three sections. Section I, examines oaths in the ancient world and their relationship to political obligations. Section II discusses political obligations based on consent, in order to become clear on necessary conditions for self-imposed political obligations. The normative force of ancient oaths is examined in Section III. I argue that, appearances aside, they were not

⁴ M.H. Hansen, *Political Obligation in Ancient Greece and in the Modern World* (Copenhagen, 2015), pp. 68–9.

⁵ Throughout this paper, I generally treat oaths, consent and promises somewhat interchangeably, in regard to the fundamental point that all establish moral requirements — obligations — that are self-assumed. Various contexts involve aspects of these concepts that do not overlap. These should be easily recognized and not cause difficulties.

able to establish political obligations while, as just noted, the moral practices in which oaths were taken corresponded more to those that give rise to obligations of membership or association than to self-imposed obligations.

I

Oaths in the Ancient World

In the ancient world, oaths were a common part of civic life, as they are in many societies that take religion seriously. To take an oath was ‘in effect to invoke powers greater than oneself to uphold the truth of a declaration, by putting a curse upon oneself if it is false’.⁶ As analysed by scholars, an oath typically contained the following three elements. (a) The swearer made a declaration, about either the present and future or the past. A declaration about the past would be taken by a witness in a legal proceeding in regard to his testimony. It is with declarations about the present and future that we are primarily concerned. Through these, the swearer made commitments in regard to future behaviour. (b) The swearer invoked superhuman powers as witnesses to the declaration and to guarantee its truth. (c) The swearer called down a curse on himself or herself if the declaration was false or violated. In modern oaths it is less clear whether (c) is a defining element. In these oaths (a) is explicit and (b) frequently included. For instance, in the military oath quoted below, the obligee solemnly swears ‘so help me God’. (c) is perhaps less frequently invoked. But it is not uncommon, as in the locution sealing a promise: ‘cross my heart and hope to die’.

As is frequently the case with ancient Greece, our evidence is strongest with regard to Athens, on which I will largely concentrate.⁷ In Athens, citizens belonged to a series of overlapping organizations or groups. Oaths were central to membership of at least three.⁸ A male child’s first step to citizenship was being accepted into his father’s *phratry* or clan. When the child was presented to the clan, his father swore an oath attesting to his legitimacy and that both of his parents were Athenian citizens. This ceremony was repeated when the child was around sixteen years of age. At around the age of eighteen, the child sought admission to his father’s deme or neighbourhood association. This process required public examination by deme members — *dokimasia*, which means examination or scrutiny. This process was intended to make sure the candidate met the legal requirements of citizenship, that he was eighteen years old, legitimate and free. Reflecting the seriousness of this process, demesmen voted, ‘having sworn an oath’ (*omosantes*), presumably that

⁶ *Oath and State in Ancient Greece*, ed. A. Sommerstein and A. Bayliss (Berlin, 2012), pp. 3–4. Discussion in this paragraph draws on Sommerstein’s Introduction, pp. 3–4.

⁷ For oaths in other states, see Hansen, *Political Obligations*, and A. Bayliss, ‘Oaths and Citizenship’, in *Oath and State in Ancient Greece*, ed. Sommerstein and Bayliss.

⁸ Bayliss, ‘Oaths and Citizenship’, pp. 11–13.

they would judge fairly.⁹ Rejecting a candidate for citizenship could result in his being sold into slavery. For our purposes, it is important to note that oaths during this process were sworn by the demesmen rather than by the candidate himself.

The clearest surviving example of what we may regard as an oath of citizenship was sworn by Athenian youths on entering military service.¹⁰ This ephebic oath¹¹ contains an explicit commitment to obey the law:

The ancestral oath of the ephebes, which the ephebes must swear. I shall not bring shame upon the sacred weapons nor shall I desert the man beside me, wherever I stand in the line. I shall fight in defence of things sacred and profane and I shall not hand the fatherland on lessened, but greater and better both as far as I am able and with all. *And I shall be obedient to whoever exercise power reasonably on any occasion and to the laws currently in force and any reasonably put into force in future.* If anyone destroys these I shall not give them allegiance both as far as is in my own power and in union with all, and I shall honour the ancestral religion. Witnesses: the Gods Aglaurus, Hestia, Enyo, Enyalios, Ares and Athena Areia, Zeus, Thallo, Auxo, Hegemone, Heracles, and the boundaries of my fatherland, wheat, barley, vines, olives, figs.¹²

We will be especially concerned with the sentence I have italicized.¹³

There is some dispute as to when exactly this oath went into effect. The inscription quoted here dates to the middle or late fourth century, although ‘the ancient oath of the ephebes’ was clearly administered much earlier. Scholars have identified what appear to be allusions to it in Thucydides, Sophocles and Aeschylus,¹⁴ and possibly also in Plato’s *Apology*.¹⁵ However, as Hansen argues, had Socrates taken the oath when he was a youth, he would surely have presented it as a reason why he should obey the law in his dialogue with the Laws of Athens.¹⁶ In making the Laws’ case, Socrates invokes

⁹ Aristotle, *Ath. Pol.*, 42.1; see D.M. MacDowell, *The Law in Classical Athens* (Ithaca, 1978), pp. 167–9; Bayliss, ‘Oaths and Citizenship’, pp. 12–13.

¹⁰ Evidence as to when the oath was taken is conflicting, suggesting that it may instead have been taken after leaving service, or possibly twice, upon entering and leaving (Bayliss, ‘Oaths and Citizenship’, p. 15).

¹¹ An ephebe was a young man, eighteen to twenty years of age, undergoing military training.

¹² Text and translation from *Greek Historical Inscriptions, 404–323 BC*, ed. P.J. Rhodes and R. Osborne (Oxford, 2007), pp. 440–2.

¹³ *ρheuêkoêsô tôn aei krainontôn emphronôs kai tôn thesmôn tôn idrumenôn kai hous an to loipon idrusôntai emphronôs.*

¹⁴ P. Siewart, ‘The Ephebic Oath in Fifth-Century Athens’, *Journal of Hellenic Studies*, 97 (1977), pp. 102–11.

¹⁵ M. Finkelberg, ‘Plato, *Apology* 28d6–29a1 and the Ephebic Oath’, *Scripta Classica Israelica*, 27 (2008), pp. 9–15.

¹⁶ Hansen, *Political Obligation*, pp. 24–5.

an agreement he had made to obey them, ‘not in words but in deeds’ (*ergô allou logô*).¹⁷ In this context, it would be surprising if Socrates did not discuss an explicit promise to do so ‘in words’. Hansen’s conclusion is that the oath was not administered at the time when Socrates would have taken it. Although scholars disagree about when it went into effect, it clearly was taken by ephebes by some time in the fourth century, although it is not certain that the oath maintained the same form throughout the period of its existence.¹⁸

That this oath commits the swearer to obey the law there can be no doubt, in view of the italicized words. In addition, in contrast to the American military oath quoted below, which is binding only during one’s period of service, it seems that the ephebic oath held into the swearer’s future life. Evidence from Demosthenes and Lycurgus indicates that failure to abide by this oath far into someone’s future life was to be held against him.¹⁹ Accordingly, in his speech against Leocrates, Lycurgus summarizes the oath as ‘an oath which you take, sworn by all citizens when as ephebes they are enrolled on the register of the deme, not to disgrace your sacred arms, not to desert your post in the ranks, but to defend your country and to hand it on better than you found it’.²⁰ He then proceeds to accuse Leocrates of perjury. Having sworn the oath, Leocrates later behaved in violation of it.²¹ This oath is necessary to the maintenance of the commonwealth: ‘The power which keeps our democracy together is the oath. For there are three things of which the state is built up: the archon, the juryman and the private citizen. Each of these gives this oath as a pledge, and rightly so.’²² We should also note that this oath entails much more than a commitment to obey the laws. Its main thrust is military, which befits the circumstances of its administration. But in addition to requirements of citizenship, it also contains a commitment to honour the ancestral religion. In the ancient Greek *polis*, military, civil and religious aspects of life were far more inter-mixed than in contemporary states.

II

Political Obligations from Consent

Having discussed the ephebic and other Greek oaths, we turn to political obligations based on consent. While these may not contain all the features of

¹⁷ Plato, *Cri.* 52d.

¹⁸ For the authenticity of the text as actually ancestral, see *Inscriptions*, ed. Rhodes and Osborne, pp. 440–8. For circumstances of its inscription, see D. Kellogg, ‘*Ouk Elattô Paradôsô tên Patria*, The Ephebic Oath and the Oath of Plataia in Fourth-Century Athens’, *Museum*, 8 (2008), pp. 355–76.

¹⁹ See Bayliss, ‘Oaths and Citizenship’, pp. 16, 21–2.

²⁰ Lycurgus *Leocr.* 76, trans. J.O. Burt, in *Minor Attic Orators*, ed. J.O. Burt (2 vols., Cambridge MA, 1962): the oath itself is quoted in Sec. 77.

²¹ *Leocr.* 76.

²² *Leocr.* 79.

oaths, for purposes of this paper I consider them as equivalent, in the fundamental respect of generating political obligations that are self-imposed. It is necessary to discuss obligations from consent in order to become clear on the standards these obligations must satisfy.

The locus classicus for political obligations based on consent is John Locke's *Second Treatise of Government*. This account clearly illustrates difficulties in making sure that obligations are freely assumed. Locke of course holds that people are naturally free, existing originally in a state of nature, which is a situation without government, and so without moral requirements to obey. Because people are free, nothing can remove them from this condition but their own consent.²³ Although they are subject to the law of nature, there is no mechanism to enforce this in the state of nature, and so people must do this themselves. People's propensity towards self interest results in conflict, and so they agree to surrender certain rights and enter political society, in order to remedy this situation. This is accomplished as people join together and agree 'to be concluded by the majority'.²⁴ Because of people's natural freedom, only their own consent can subject them to political authority. Agreement of one's forebears does not bind. Each person himself must consent.²⁵ However, although 'express consent' establishes clear political bonds, Locke recognizes that few people consent in this way, so he turns to what he calls 'tacit consent', other actions that people perform that are capable of binding them:

And to this I say that every Man, that hath any Possession, or Enjoyment of any part of the Dominions of any Government, doth thereby give his tacit Consent, and is as far forth obliged to Obedience to the Laws of that Government, during such Enjoyment, as any one under it; whether this his Possession be of Land, to him and his Heirs for ever, or a Lodging only for a Week; or whether it be barely traveling freely on the Highway; and in Effect, it reaches as far as the very being of any one within the Territories of that Government.²⁶

In modern societies, it is likely that the only people who may be viewed as consenting expressly are naturalized citizens, who voluntarily move from one country to another, and in so doing voluntarily incur requirement to obey the laws of the latter. In contrast, the actions Locke includes under tacit consent would bind virtually all inhabitants of the relevant territory. For all intents and purposes, then, Locke's theory of political obligation is a theory of tacit consent. However, examination of the nature of tacit consent reveals that, like

²³ 'Men all being naturally free, equal, and independent, no-one can be deprived of this freedom etc. and subjected to the political power of someone else, without his own consent.' J. Locke, *Second Treatise of Civil Government*, Sec. 95.

²⁴ *Ibid.*, Sec. 96.

²⁵ *Ibid.*, Secs. 116–18.

²⁶ *Ibid.*, Sec. 119.

express consent, it has difficulties accounting for the obligations of more than a relatively small number of inhabitants.

The main problem is clearly explained by A. John Simmons. Although tacit consent differs from express consent in the way it is communicated, it is still consent and so must preserve the essential characteristics of any action of consent. Simmons argues that what is distinctive of tacit consent is that it is communicated through inaction rather than by action.²⁷ For example, imagine that I tell my class that I am going to change an assignment unless anyone objects, and I give them adequate opportunity to speak up. If no one raises an objection, then I may take it that they have agreed, although no one has explicitly said so. In order for this absence of action to create obligations, it must satisfy certain requirements, which are equivalent to those any act of consent must satisfy. Basically, an effective act of consent must be performed by a person who is aware of what she is consenting to, is consenting voluntarily, and is competent to consent. As generally understood, falling short in regard to one or more of these factors will obviate an act of consent. Hence they may be described as ‘defeating conditions’.²⁸ For tacit consent, the awareness requirements are especially significant. One must not only not be forced to consent, but must also be aware that tacit consent is called for and how one goes about giving it or not giving it. In addition, as Simmons says, the means of expressing lack of consent should not be unduly difficult to perform.²⁹ Thus if I tell my students that, rather than expressing themselves verbally, the means through which they should object is by doing standing backflips, their failure to perform this action would ordinarily not be viewed as constituting consent. One must be aware of the period of time — if there is one — during which one may or may not consent. One must also be aware of what one would be committing oneself to, and the fact that this commitment would not exist unless one consented. In regard to obligations to obey the law, then, one must recognize that if one did not consent tacitly, one would not have moral requirements to obey.

The defeating conditions cause severe difficulties for acts that have been claimed to constitute tacit consent. Consider staying in one’s country, which is widely viewed as the most plausible basis — as in Locke’s theory. Most people are probably aware that if they remain in a given country, they will be required to obey its laws, while this requirement will no longer obtain if they leave. Along similar lines, most people probably recognize that they undertake similar requirements when they voluntarily enter another country. For instance, a tourist travelling to France is probably aware that, while in France, she must obey the laws of that country. But do these considerations support

²⁷ A.J. Simmons, *Moral Principles and Political Obligations* (Princeton, 1979), pp. 80–2.

²⁸ H. Beran, *The Consent Theory of Political Obligation* (London, 1987), pp. 5–9.

²⁹ Simmons, *Moral Principles*, p. 81.

the view that staying in one's country and not emigrating to another constitutes consent to obey its laws? In order for this conclusion to hold, failure to leave must not fall foul of the defeating conditions. Clearly, continued residence does not create obligations if one is prevented from leaving, but as David Hume argues, even in the absence of closed borders, other factors stand in the way of leaving:

Can we seriously say that a poor peasant or artizan has a free choice to leave his country, when he knows no foreign language or manners, and lives from day to day, by the small wages which he acquires? We may as well assert, that a man, by remaining in a vessel, freely consents to the dominion of the master, though he was carried on board while asleep, and must leap into the ocean, and perish, the moment he leaves her.³⁰

According to Hume, then, one does not really have a choice about staying in one's country, and so failure to leave should not be viewed as voluntary, and so binding. Simmons argues that even if one has the financial and other means necessary to emigrate, much of what is precious in life cannot be taken with one: family, friends, a particular culture, so failure to abandon these should similarly not be viewed as voluntary.³¹

In view of problems with continued residence, theorists have proposed other actions that might constitute tacit consent. For instance, consider voting.³² There may be a certain intuitive plausibility to the view that someone voting in an election is thereby committing himself to accept the outcome. However, further reflection shows that it is unlikely that, when people vote, they believe that doing so binds them to obey the law, while if they did not vote, they would have no such requirements.

There are occasions on which people appear to commit themselves to the government through oaths. For instance, consider the Pledge of Allegiance, which is recited countless times by schoolchildren and other citizens in the United States. However, aside from questions concerning the competence of schoolchildren to undertake political obligations, once again, how many people taking the oath actually believe that, if they take it they agree to obey the laws, a moral requirement they would not have if they did not take it? An additional form of commitment by oath, highly relevant in this context, occurs when one joins the military. The would-be soldier takes the following oath:

I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers

³⁰ D. Hume, 'Of the Original Contract', in *Essays: Moral, Political and Literary*, ed. E. Miller (Indianapolis, rev. edn., 1985), p. 475.

³¹ Simmons, *Moral Principles*, p. 99.

³² J. Plamenatz, *Consent, Freedom, and Political Obligation* (Oxford, 2nd edn., 1968), pp. 168–71; P. Singer, *Democracy and Disobedience* (Oxford, 1974).

appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God.³³

Although this oath might appear to generate moral requirements to obey the law — depending on how one interprets ‘support and defend the Constitution’ and ‘obey the orders of the President’ and one’s officer — such an oath ordinarily binds only as long as one is serving. Accordingly, even if we grant that this oath does commit one to obey the law, when one leaves the armed forces this commitment expires. Moreover, because of the requirement that obligations based on consent be voluntarily assumed, this oath will generate moral requirements only for people who enlist voluntarily. If someone is drafted and so forced into the military, her taking this oath would not generate an obligation to obey the law, regardless of how the oath is interpreted.

III

Ancient Oaths and Political Obligation

Having briefly surveyed conditions for self-assumed political obligations, we return to ancient Greece. We must examine whether ancient oaths meet these conditions.

While the clearest commitment to obey the law that we possess is the ephebic oath, similar oaths were widespread in the Greek world. According to Xenophon:

[E]verywhere (*pantachou*) in Greece there is a law that the citizens shall promise under oath to agree, and everywhere they take this oath. The object of this, in my opinion, is not that the citizens may vote for the same choirs, not that they may praise the same flute-players, not that they may select the same poets, not that they may like the same things, *but that they may obey the laws*.³⁴

Hansen views this as the most important general description of such oaths.³⁵ It is not certain they were sworn in all *poleis*, although they were clearly common.³⁶ For our purposes, it is not necessary to know exactly how common they were. For the sake of argument, I will assume that such oaths were widespread and that, in the relevant *poleis*, they were sworn by all or virtually all male citizens. We will also assume that these oaths continued to be binding into the swearer’s later life, and that they were believed to convey consider-

³³ <https://www.army.mil/values/oath.html> (May 2019).

³⁴ Xenophon, *Memorabilia*, IV.4.15–16, in Xenophon, *Memorabilia. Oeconomicus. Symposium. Apology*, ed. and trans. E.C. Marchant (Cambridge MA, 1923). Once again, I have italicized the most relevant portion of the quotation: *all’ hina tois nomois peithôntai*.

³⁵ Hansen, *Political Obligation*, p. 24.

³⁶ For examples, see *ibid.*, pp. 33–53; Bayliss, ‘Oaths and Citizenship’.

able binding force.³⁷ Granting these assumptions, I will examine the significance of such oaths for political obligations, and will do so from two angles: in regard to their ability actually to establish obligations, and then in regard to the moral practices surrounding them.

We may assume that in order to have been able to establish obligations, ancient oaths must have avoided defeating conditions. While different defeating conditions are noted above, I will set aside competence. The main problems with ancient oaths concern awareness and the degree to which they should be viewed as acceptably voluntary. In the cases that concern us the two conditions are closely related. As we will see, the voluntariness condition required a certain level of awareness, although we should bear in mind that the latter functions as an independent defeating condition in its own right.³⁸

The first and most obvious requirement is that the oath cannot be coerced. Many questions concerning voluntariness and coercion involve complex matters that cannot be discussed in this paper.³⁹ But the cases that concern us are straightforward. Most scholars writing on consent theory believe that this standard is not satisfied by a practice that forces someone either to swear an oath of allegiance or leave the state.⁴⁰ As seen above, Simmons argues that such a choice is unacceptably coercive, even if the subject is not beset by the difficulties discussed by Hume. Being forced to leave one's home, family and familiar environs is so severe a penalty that consent given under these circumstances does not create a binding obligation. In addition, as Simmons also argues, absence of coercion in these respects is not enough. The subject must also be able to perform whatever actions are necessary to signify unwillingness to consent. It is in this regard that a voluntary obligation requires a certain level of awareness. In order for an act of consent to be considered voluntary, the swearer or promiser must be aware of actions he could take in order not to consent and that, if he did not consent, he would not have the obligation in question. For ease of reference, I will refer to this as the 'ability condition'. This has two parts: *Ability condition*: In order for an act of consent to be voluntary, the obligee must (a) be aware of how he or she may *not* consent, and that without consent, the relevant obligations will not hold, and (b) be able to perform the acts that constitute non-consent. Once again, my students' silence should not be interpreted as tacit consent if they are unaware of how

³⁷ See Sommerstein, 'The Binding Power of Oaths', in *Oaths and Swearing in Ancient Greece*, ed. A. Sommerstein and I. Torrance (Berlin, 2014).

³⁸ While I focus on these particular defeating conditions, I do not to rule out others, which may also apply.

³⁹ See A. Wertheimer, *Coercion* (Princeton, 1987).

⁴⁰ An exception is Beran, *Consent Theory*. We should note, as Hansen points out, consequences of forced emigration were less severe in the Greek world than in modern times (Hansen, *Political Obligation*, pp. 27–8).

they can refuse to consent or unable to perform whatever acts are necessary to signify this, e.g. standing backflips.

The requirement that the oath not be coerced is almost certainly not satisfied by the ephebic oath. To begin with, as noted above, it is likely that a swearer of this oath was forced to undertake military service. Since he had no choice in the matter, his position was closer to that of an American draftee than to an enlistee.⁴¹ This situation is similar with other oaths citizens take in connection with compelled duties. Whatever they think of the matter — on which, more below — such oaths do not create obligations.

Claims of non-voluntariness are confirmed by the ability condition. The force of this requirement is clearly seen in oaths that undoubtedly do establish obligations. Imagine that Abel promises to buy Beth's car. Under ordinary circumstances, we may assume that this act is not coerced. He is not forced to buy it. The ability condition is also satisfied. Unless he agrees to buy the car, there is no obligation, and we may assume that he clearly understands this and knows how not to consent. I view it as obvious that parties to transactions along these lines satisfy these conditions. Consider other commercial transactions, e.g. if Beth promises to pay Carl X dollars if he paints her house. Once again, she would clearly recognize that, without their agreement, there is no obligation and know how not to consent. In regard to political obligations based on consent, it is clear that Lockean individuals in the state of nature are in similar positions — and it is central to Locke's intentions that this be the case.

So we must ask whether Athenian youths who swore the ephebic oath satisfied the ability condition. Once again, I believe they generally did not. Problems encountered here bear on the overall situation of the individual in ancient Greece. As we have seen, throughout early life an Athenian progressed through a series of stages on his way to full citizenship. The first two, concerning membership in his *phratry* and deme, depended on ceremonies, in which the youth was completely or largely passive. This was clearly the case with admission to his father's *phratry*. The process of enrolling as a citizen, *dokimasia*, required some participation from the candidate, as necessary to make sure he satisfied the necessary conditions for citizenship. But this ceremony did not include commitments on his part to obey the law. The only oaths sworn during this ceremony were by the demesmen, not by the candidate himself (see above). Viewed against the backdrop of these other stages, the ephebic oath should be understood as an additional rite of passage for the youth, rather than a transaction freely entered into by an independent individual. An indication of the distance between the conditions of the Athenian youth and a modern liberal citizen is their respective attitudes towards enforced military service. As Peter Liddel observes, in contemporary liberal political theory, the draft is viewed as 'a drastic interference' with individual liberty,

⁴¹ Liddell, *Civic Obligation*, pp. 290–3.

which ‘cannot be justified by anything less than a threat to national security’.⁴² In contrast, for Athenians: ‘Taking the ephebic oath and ephebic service constituted a duty not usually regarded by the orators as worthy of mention . . .’.⁴³ To put the matter plainly, the individual in ancient Greece was less of an ‘individual’ than is a member of a modern society. This is a familiar point. As classically expressed in Book I of Aristotle’s *Politics*, to the Greeks, the person was viewed as a ‘political animal’ because he was a part of society, which was conceptually prior to him, and on which he depended to achieve the moral and intellectual development central to the good life.⁴⁴ Similar points regarding the individual’s overall connection to the *polis* are seen in the contrast between ancient and modern conceptions of liberty, as classically articulated by Benjamin Constant,⁴⁵ and the closely related emphasis on direct participation as central to democratic citizenship. Accordingly, it is unlikely that an Athenian youth would have been able to conceive of himself as sufficiently independent from his *polis* to allow his oath to create genuine obligations.⁴⁶

I do not deny Athenians’ ability to engage in contracts and otherwise impose obligations on themselves. Athens was a commercial society, replete with commercial transactions. Athenian law recognized binding agreements, provided that what was agreed to was not unjust.⁴⁷ We may assume that participants in these dealings were fully aware of what they were doing. Many transactions were supported by oaths. For instance, in the *Laws*, Plato comments on oaths in commercial dealings in a way that suggests they were routine.⁴⁸

However, an oath to obey the laws was different. Unlike the case with commercial transactions, it is unlikely that an Athenian believed that he did not have obligations to obey the laws until he took the oath, and that, if he did not take it, he would not have them. This is not to deny that Athenians believed that oaths were binding, that they did establish obligations. Ancient literature demonstrates their belief that oaths were serious business and not to be flouted.⁴⁹ But in regard to an oath to obey the law, this apparently stemmed much more from calling upon divine powers to enforce commitments, than from the fact that such an oath created obligations to obey the law.

⁴² *Ibid.*, p. 293; the quotations are from J. Rawls, *A Theory of Justice* (Cambridge MA, rev. edn., 1999), pp. 333–4.

⁴³ Liddell, *Civic Obligation*, p. 293.

⁴⁴ Aristotle, *Politics*, I. 3.

⁴⁵ B. Constant, ‘The Liberty of the Ancients Compared with that of the Moderns’, in *Constant: Political Writings*, ed. and trans. B. Fontana (Cambridge, 1988). For discussion and qualifications of the distinction, see Liddell, *Civic Obligation*, ‘Introduction’.

⁴⁶ On the Athenian’s wide ranging and extensive obligations to his society and *polis*, see Liddell, *Civic Obligation*, ch. 5.

⁴⁷ MacDowell, *Law in Classical Athens*, p. 140.

⁴⁸ Plato, *Laws*, 916e–17b.

⁴⁹ Sommerstein, ‘Binding Power of Oaths’.

Accordingly, I believe the awareness condition was generally not satisfied for promises or oaths to obey the law. Not only is this lack of awareness itself a defeating condition but it also prevented promises to obey the law from being acceptably voluntary. In order to understand political obligations in the ancient world, we should distinguish between a person's having an obligation and knowing or believing that he has it. Strictly speaking, the fact that Abel believes he has a given obligation does not mean that he actually has it. Similarly, his own understanding of his obligations might not conform to the moral facts. From our perspective, we should view the ordinary Greek citizen in these terms, i.e. believing that their obligations to obey the law were oath-based, although this was not actually the case.

If this analysis is correct, then we should recognize its implications for political obligations in ancient Greece. In regard to the Greek's views of their obligations and why they did not discuss the subject, Hansen may well be correct about the prevalence of oaths. However, although the Greeks believed their obligations to obey the law were oath-based, a better explanation of the moral practices involved is what contemporary scholars would identify as a theory of membership or association.

This paper is not the occasion to provide a full or in-depth discussion of associative or membership theories of political obligations.⁵⁰ Before proceeding, we should note that these theories are beset by severe problems. I do not believe they are able to establish political obligations, and so, that this was also the case in ancient Greece.⁵¹ However, membership theories provide a more accurate account of how putative obligations were assumed than a theory based on oaths.

For our purposes, central to membership theories is that obligations are not self-imposed. Rather, one grows into them through a natural and gradual process. There are other examples of moral commitments that one does not choose. These include so-called natural duties of justice, which all people owe to all other people, simply on the basis of common humanity. Familiar examples presented by John Rawls include duties to not harm or injure others and to come to the aid of people in need.⁵² In contrast to these duties, membership

⁵⁰ The most important discussion is J. Horton, *Political Obligation* (London, 2nd edn., 2010), chs. 6–7.

⁵¹ The most important critique is Simmons, 'Associative Political Obligations', *Ethics*, 106 (1996), pp. 247–73; Horton responds in *Political Obligation*, chs. 6 and 7. While I cannot discuss this subject here, I believe that a membership theory can be made more defensible (although, strictly speaking, it will no longer be a membership theory) if it is supported by additional moral principles, such as fair play or gratitude. On the former see G. Klosko, *The Principle of Fairness and Political Obligation* (Savage MD, 1992); for the latter, A.D.M. Walker, 'Political Obligation and the Argument from Gratitude', *Philosophy and Public Affairs*, 17 (1988), pp. 191–211, although there are difficulties with these theories as well.

⁵² Rawls, *Theory of Justice*, Secs. 19 and 51.

obligations are rooted in social practices and owed to only particular people — those who share membership in the relevant group. A parallel commonly cited is moral requirements owed to one's family members, which are ordinarily assumed by being born into a family, rather than joining one. In the words of John Horton:

It is this ordinary idea of obligations, arising from social practices rather than voluntary choices or from our common humanity, which the conception of associative duties or obligations seeks to capture. They are the obligations of family, collegiality, and political community. Such obligations are not owed to everyone: they are special obligations owed to other members of a particular group or association to which we belong. But unlike special obligations that are created through voluntary choices or decisions, such as those that arise from promises or a decision to join a club, associative obligations cannot be explained in terms of individual voluntary acts or decisions. It is this combination of not being owed to everyone and not arising from a voluntary choice that makes associative obligations different and distinctive . . .⁵³

I believe the obligations incurred by Athenians essentially met this description. These were obligations into which people were born, rather than voluntarily incurred. This is especially clear in view of the series of stages through which citizenship evolved. Thus I disagree with Richard Kraut's characterization of *dokimasia*. According to Kraut, 'becoming a full-fledged Athenian citizen was very much like joining a club'.⁵⁴ What we generally mean by a 'club' is a voluntary association, which one has the option of either joining or not joining. Consider, for example, your school's French club or the Rolling Stones fan club. Athenian citizenship does not conform to this model. Rather than an association that one can choose to join, it is a status one inherits from one's parents and into which one grows through a series of steps over which one has no control. When it is finally time for an Athenian youth to take the ephebic oath and commit himself to obey the laws, he is so well integrated into society that he cannot conceive of refusing to do so. Because he is unable to establish the psychological distance necessary for this to represent a genuine choice, it should not be regarded as one. Rather than the point at which he makes a free decision whether or not to assume his status as an Athenian citizen with the obligations this entails, the youth almost certainly views the oath as an additional step on the way to that status. Like being a brother or son, this is a status that he does not choose but grows into. Although oaths were sworn and taken seriously, they should be understood as aspects of membership in

⁵³ Horton, *Political Obligation*, p. 148.

⁵⁴ Kraut, *Socrates and the State*, p. 155. Kraut focuses on *dokimasia* rather than the ephebic oath, because, like Hansen, he believes that Socrates did not take the latter (p. 152 n.1).

citizens' *poleis*, rather than independent sources of obligation in their own right.

On this understanding, the ephebic and similar oaths should be viewed as *declarative* rather than *constitutive* of the obligations on which they bear.⁵⁵ A constitutive oath actually establishes the obligation in question. Consider for example the steps one takes to join a French club. Similarly, agreement to buy a particular car actually creates that obligation. In contrast, as the designation indicates, declarative oaths are essentially symbolic. They call attention to the relevant obligations or perhaps are parts of ceremonies surrounding them. Thus the oath of office sworn by an American President at his inauguration does not make him President. That status should be attributed to his election, or specific rules of succession if he inherits the position from his predecessor. The oath should be viewed as simply part of the ceremony — analogous to shattering the glass at the end of a Jewish wedding. The function of the ephebic oath is similarly declarative. It has an important ceremonial function, but while it was believed to be the source of lifelong obligations, these obligations actually had other sources.

Conclusion

Because liberal political theory finds self-assumed political obligations attractive, Hansen's account of political obligations not only breaks from long established views, but does so in a way that is probably appealing to the sensibilities of modern liberal citizens. But, as we have seen, because of the nature of the ancient *polis*, including the oaths that played an important part in citizens' lives, the kind of consent to obey the law that these afforded is far removed from that envisioned by liberal political theorists. Rather than choosing to become citizens through their oaths, ancient citizens grew into this status, much like membership of their families. Thus their obligations conformed more to ones based on membership than to obligations that were self-assumed. Because this was the case, their oaths to obey the law were declarative rather than constitutive of these moral requirements.

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⁵⁵ For the distinction in early medieval political theory, see B. Tierney, *The Crisis of Church and State: 1050–1300* (Toronto, 1988 [1964]), ch. 1.

⁵⁶ I wish to thank Ross Mittiga and Harrison Frye for valuable comments on earlier versions of this paper.