



Philosophical Anarchism and Civil Disobedience by Chaim Gans

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Philosophical Anarchism and Civil Disobedience. By Chaim Gans. New York: Cambridge University Press, 1992. 174p. \$44.95.

The mainstream position on questions of political obligation is that all citizens have obligations to obey the law but that these are of limited force. To employ terminology introduced by W. D. Ross, theorists generally argue that political obligations are *prima facie*. They bind, other things being equal, but can be overridden by strong countervailing considerations, in which case citizens need not obey and may have recourse to alternatives ranging from civil disobedience to armed resistance. In recent years, the mainstream position has come under attack, as common justifications for political obligations have been scrutinized and found wanting. Increasingly popular is a position Chaim Gans calls "critical anarchism"—that there are no political obligations because the arguments that support them are indefensible.

In *Philosophical Anarchism and Civil Disobedience*, Gans attempts to defend an approximation of the mainstream position from recent criticisms. His central effort is two-sided. Along with critical anarchism, the traditional view has been attacked by "autonomy-based" anarchism, the view that an open-ended requirement to obey the law (whatever this turns out to be) is incompatible with citizens' moral autonomy. Gans criticizes the conceptual basis of this form of anarchism in chapter 1, arguing that its proponents exaggerate the surrender of autonomy political obligation entails. Chapter 2 addresses critical anarchism. Four arguments in favor of political obligations are, in part, salvaged from recent criticisms: fairness, adverse consequences of disobedience, duty to support just institutions, and what Gans calls "communal obligation." These constitute a "complex whole," able to ground obligations, "albeit a somewhat weaker duty than is commonly believed" (p. 43). In chapter 3, this conclusion is bolstered by additional considerations peculiar to just democracies. In the final chapter, Gans turns to circumstances under which political obligations do not hold. His overall position is that they can be overridden for good moral reasons, though they take precedence over amoral reasons, notably self-interest.

There is no doubt that *Philosophical Anarchism and Civil Disobedience* is a worthwhile book. It is thoughtful, forcefully argued, and in parts original. The questions it addresses are of great concern to scholars and citizens alike. Because it defends a familiar view, much of the book's argumentation is also familiar; but it is conducted at a high level and studded with interesting insights. Many particular discussions are elegant, concise, and instructive. Some examples are the analyses of different sorts of authority (pp. 33–41) and reasons why obligations to unjust governments are void *ab initio* (pp. 96–108). Another example is Gans's attempt in chapter 4 to distinguish the points of view of citizens and authorities in regard to the limits of obedience.

The book's main flaw is unfortunate brevity. Many problems, once raised, are rushed through, with loose ends and possible objections skirted or ignored. For instance, in chapter 1, Gans rejects the view that political obligations are *prima facie*, arguing, instead, that they are what he calls "practical musts of limited absoluteness" (pp. 19–21). However, his brief objections to the *prima facie* view could be easily countered. His view

depends on the important distinction between amoral reasons, which political obligations outweigh, and moral reasons, which they do not. But this receives a single paragraph that raises more questions than it answers. More serious, Gans's treatment of the grounds of political obligation is closer to a sketch than a full-blown analysis of the issues. Six possible bases for political obligations are covered in 52 pages. The four that survive are not carefully formulated or defended from possible objections. For instance, little or nothing is said about the nature of the natural duty to support just institutions, why it binds, or how it is able to require such onerous burdens of citizenship as paying taxes and providing military service. The argument from consequences is defended through the interesting claim that it does not bind in regard to all laws. But among problems Gans fails to address here is that the laws it appears not to support include those requiring the central burdens of citizenship just noted. Gans claims that political obligations rest on a complex of overlapping moral principles; but since the individual principles are not carefully formulated, exactly how do they interact?

Important aspects of the chapter are out of date. For instance, Gans's main criticism of gratitude as a basis for political obligation has been countered by A. D. M. Walker's "Political Obligation and the Argument from Gratitude" (*Philosophy and Public Affairs* 17[1988]). All these problems with the grounds of political obligations also undermine Gans's discussion of civil disobedience, since this depends on "the inner logic of the foundations of the duty to obey" (p. 120).

In defending the traditional position on questions of political obligation, Gans helps recapture important philosophical territory. He resolutely tackles a tangle of controversial issues, clearing up some, shedding new light on others. If not everything he says is adequately defended, one can hope that his future work will elaborate his more interesting themes.

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A Culture of Rights: The Bill of Rights in Philosophy, Politics, and Law, 1791 and 1991. Edited by Michael J. Lacey and Knud Haakonssen. New York: Cambridge University Press, 1991. 474p. \$49.95.

The Constitution of Rights: Human Dignity and American Values. Edited by Michael J. Meyer and W. A. Parent. Ithaca: Cornell University Press, 1992. 248p. \$32.50 cloth, \$12.95 paper.

The bicentennial of the Bill of Rights has inspired a number of scholarly reassessments of the nature of rights and their role in the American constitutional order past and present. Among them are the wide-ranging essays of philosophers, political theorists, historians and lawyers collected in these two fine volumes. The historical essays therein (e.g., by Rakove and Hutson in Lacey, ed.) show that rights talk was no less prevalent—nor less contested—at the founding than at present. The philosophical ones, on the other hand, suggest that appeals to rights have been useful in defending particular freedoms despite continuing disagreement as to the proper ways to justify the existence, content or scope of given rights much less a theory of rights in general. Taken together, these books can add much to the