

PHL 308  
ELEMENTARY  
ETHICS

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*Lecture Thirty-one*



# THREE LAST TASKS

- Explain the origin of the state
- Recast the anarchist's starting point
- Show how secular natural law allows for an adequate normative justification of the state



# THE ORIGIN OF THE STATE

- Not from a contract
- Not from a divine command (secular natural law)
- History, anthropology, and other empirical disciplines
- Cultural construction



# THE GOVERNING CONVENTION

- H.L.A. Hart
  - Primary rules
  - Secondary rules
  - Rule of recognition
- The U. S. Constitution
- Hampton's analogy
- Recognition as a kind of consent
- Contemporary importance of this



# THE ANARCHIST'S RESPONSE

- Can concede a number of things
- State of nature would be highly undesirable
- We would desire to escape a prisoner's dilemma
- Government partially solves the state of nature and the prisoner's dilemma
- The governing convention is a plausible empirical account
- None of this constitutes a *normative* justification



# INSIST ON A NEW STARTING POINT

- Descartes
  - Knowledge as certain and indubitable
  - Unreliability of the senses
  - Dream hypothesis
  - Evil genius hypothesis
  - Knowledge is (almost) impossible
- We must reconsider what knowledge is



# THE ANARCHIST'S ASSUMPTION

- Freedom is the natural state
- Government is therefore artificial, and requires justification
- Secular natural law
  - Absolute freedom is not the natural state
  - Constrained maximization is the natural state
  - Burden of proof is on the anarchist



# NORMATIVE JUSTIFICATION OF THE STATE

- Only applies to some states
- States as unions of constrained maximizers
- These states are just states
- Cooperation is a normative good
- States are necessary for cooperation
- States are, therefore, normatively justified