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Hobbesian Resistance

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Hobbes appears to argue both that the sovereign of a commonwealth has complete authority over the commonwealth’s subjects and that each and every subject has a right to resist the sovereign in order to save his or her own life. Numerous commentators have sought to show not so much how Hobbes can have it both ways— they generally agree that he can’t—but, rather, what he must have meant. In my view, however, few interpreters take seriously enough Hobbes’s own fundamental dictum that “truth consisteth in the right ordering of names” and that reason is nothing other than “reckoning, that is adding and subtracting, of the consequences of general names. . . .” I propose to show that citizens have both an absolute obligation to obey the sovereign in every respect and without any exception whatsoever and, at the same time, certain inalienable rights of self-defense; further, that Hobbes can argue this without any contradiction whatsoever; and finally, that the right to self-defense is, in Hobbes’s thought, very broad indeed, and forms the basis for a full-scale theory of legitimate revolution, or at least its functional equivalent.

Every reader of Leviathan must come quickly to the realization that at the heart of Hobbes’s political philosophy is an apparent contradiction so central and substantial as to raise serious doubts about the cogency of Hobbesian political thought in general.

On the one hand, Hobbes argues that the sovereign of a commonwealth has complete authority over the commonwealth’s citizens. This authority is “absolute” and “unlimited” (Hobbes [1651] 1968, 257, 275). It is “as great, as possibly men can be imagined to make it” ([1651] 1968, 260). Indeed, nothing the sovereign entity does to a subject “on what pretence soever, can properly be called Injustice, or Injury” ([1651] 1968, 265), and one result of this is that there can be no real distinction between a tyrannical and a legitimate state ([1651] 1968, 239–40, 255–57).

On the other hand, Hobbes seems equally unambiguous in saying that each and every subject has a right to resist the sovereign—to disobey—in order to save his or her own life: “. . . if the Sovereign command a man (though justly condemned,) to kill, wound, or mayme himselfe; or not to resist those that assault him; or to abstain from the use of food, ayre, medicine, or any other thing without which he cannot live; yet hath that man the Liberty to disobey” ([1651] 1968, 268–69). Such a right of disobedience certainly seems to constitute a substantial limitation on the sovereign’s alleged “unlimited” authority. Of course, Hobbes also says that the sovereign has a perfect right to try to overcome any and all resistance; the citizen’s limited right to disobey doesn’t undermine the sovereign’s right to enforce obedience ([1651] 1968, 269). But Hobbes had claimed that sovereigns are instituted, in the first instance, by a contractual agreement among the citizens in which each party accedes to the following strong stipulation: “I Authorize and give up [to the sovereign] my Right of Governing my selfe” ([1651] 1968, 227). And if one were to have any doubts about what this means, Hobbes quickly erases them. In the social contract, citizens “conferre all their power and strength upon one Man, or upon one Assembly of men . . .,”2 and this conferral appears to involve no qualifications or conditions.

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1This article is about Leviathan. Some of what it says may apply to the Elements of Law and, to a much greater extent, De Cive; but I make no specific claims in that regard. For a treatment of the development of Hobbe’s thought on these subjects over time, see Tuck (1979), 120–32. On the question of a “rhetorical” Leviathan, as opposed to an anti-rhetorical Elements, see Johnston (1986) and Skinner (1996).

2As Lloyd correctly notes, there is an exception. Citizens have no obligation to obey commands of the sovereign that are repugnant to their duty to God. But as Lloyd (1992, 76–77) also notes, this exception is dealt with in the second half of Leviathan, where Hobbes seeks to show how the terms of the social contract are, in fact, entirely consistent with what true religion requires.


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limitations. It seems, then, both that citizens are to transfer all their rights and that they are to retain the right to self-protection; that the sovereign is owed absolute obedience and that the sovereign may be disobeyed in certain cases; that no action of the sovereign can be construed as an injury to the subjects and that subjects must protect themselves against the sovereign's injurious deeds.

Numerous commentators have sought to show not so much how Hobbes can have it both ways—they admit that he can't—but, rather, what Hobbes must have meant. For some, his insistence that the citizen has a certain right to disobey and his "refusal to close off completely all possible paths to resistance" (Burgess, 1994, 74) shows that his doctrine is not really as absolutist as some have thought. This seems to be Goldsmith's position, for example (1966, 183–84). On the other hand, Schmitt (1996, 46) argues that "(r)esistance as a 'right' is in Hobbes's absolute state . . . factually and legally nonsensical and absurd," while Lloyd (1992, 298) agrees that Hobbes "admits of no grounds on which one could legitimately disobey one's effective government." Baugold (1988, 33–35) suggests that Hobbes does propose a right to resist, but that such a right is entirely "inconsequential," hence doesn't seriously compromise his absolutism. Warrender, of course, argues (1957, 194) that "Hobbes evades the question of whether the discharge of the subject from obedience [in the case of self-defense] is absolute or not," implying that the argument of the text is far from satisfactory; and this latter claim is echoed and emphasized by Hampton (1986). Indeed, it seems to me that Hampton (1986, 206–07) outlines the problem with unusual clarity. She shows how a so-called "fallback position"—people retain certain rights to resist a sovereign whose authority is, as a result, "almost" but not quite absolute (1986, 220)—can indeed be found in Leviathan (1986, 239–47) but also how that position seems utterly to contradict the plainly absolutist claims that one finds elsewhere in the very same text. For Hampton, "a systematic approach to Hobbes's argument reveals a sophisticated attempt at a geometric deduction of absolute sovereignty that ultimately fails. Hobbes's premises do not lead to his conclusions. . . ." (1986, 247).

In my view, none of these interpretations, plausible and well-established though they may be, take seriously enough Hobbes's own fundamental dictum ([1651] 1968, 105) that "truth consisteth in the right ordering of names" and that reason is nothing other than "Reckoning (that is, Adding and Subtracting) of the Consequences of generall names. . . ." ([1651] 1968, 111). Specifically, they fail to examine closely enough Hobbes's account of that particular idea to which we give the name "state," and from which his theory of obligation is derived. With such an account firmly in hand, I believe it can be shown that citizens have both an absolute obligation to obey the sovereign in every respect and without any exception whatsoever and, at the same time, certain inalienable rights of self-defense; further, that Hobbes can argue this without any contradiction whatsoever; and finally, that the right of self-defense is, in Hobbes's thought, very broad indeed, and forms the basis for a full-scale theory of legitimate revolution, or at least its functional equivalent. In the process, I hope to show that Hobbes's prudential advice to the ruler—namely, to govern well—is not merely incidental or tangential to but, rather, part and parcel of his formal account of sovereignty.

The Ends of the Social Contract

We must begin by describing in precise terms the actual goals of the state, for this is an issue that is often misunderstood.

According to Hobbes, the state or commonwealth is best conceived as the product of an agreement, actual or hypothetical, among individuals who would, in virtue of that agreement, become citizens. The grounds of obligation are contractual. And insofar as the theory of the social contract fails to explain the obligations of most citizens of most states, Hobbes's formulation is, in this respect, unpersuasive. But on the question of the limits of obligation, the situation is quite different.

Many readers of Hobbes have believed that the agreement to constitute political society, as he understood it, is based on each citizen's fear of violent death, hence that the purpose of the contract and of the state that it creates is to preserve life itself. While there is much textual evidence in Leviathan to support such a view, there is also important and unambiguous evidence to indicate that it is far from the whole story. Consider, for example, the well-known passage in Chapter 13, where Hobbes tells us that "(t)he Passions that encline men to Peace, are Fear of Death; Desire of such things as are necessary to commodious living; and a Hope by their Industry to obtain them" ([1651] 1968, 188). Here, fear of death is but one of three reasons for entering into the compact, hence the appropriate function of the state must go well beyond the securing of mere physical existence. Indeed, if "commodious" means anything in such a context, then surely it means that commonwealths are created, in part, to secure at least some plausible array of creature comforts—and this, presumably, to make it possible for individuals to enjoy something that approximates, one might say, the good life, rather than simply life itself.
In Chapter 14, where the discussion considers more directly the right to resist, Hobbes's account is similarly broad. He insists famously that "...a man cannot lay down the right of resisting them, that assault him by force, to take away his life; because he cannot be understood to ayme thereby, at any Good to himselfe" ([1651] 1968, 192). Again, preservation of life is crucial. But once more, it is not enough, for "the same may be sayd of Wounds, and Chayns, and Imprisonment; both because there is no benefit consequent to such patience; as there is to the patience of suffering another to be wounded, or imprisoned; as also because a man cannot tell, when he seeth men proceed against him by violence, whether they intend death or not." The word "both" here is crucial. It indicates that simply the threat of punishment—the threat of mere imprisonment—may be sufficient, in and of itself, to justify resistance, hence to break the bonds of obligation, whatever their foundation might be. One's obligation to the state thus dissolves not simply when one's life is in danger but when one is threatened with jail and/or corporal sanction. Hence, the purpose of the state is not simply to secure the lives of its citizens but to secure as well their liberty and at least a certain minimal level of physical comfort.

Hobbes (still in Chapter 14) elaborates as follows:

... (T)he motive, and end for which this renouncing, and transferring of Right is introduced, is nothing else but the security of a mans person, in his life, and in the means of so preserving life, as not to be weary of it. And therefore if a man by words, or other signes, seem to despyle himselfe of the End, for which those signes were intended; he is not to be understood as if he meant it, or that it was his will; but that he was ignorant of how such words and actions were to be interpreted. ([1651] 1968, 142) [emphasis added]

Again, we have mere life. But again, we seem to have a good deal more, specifically, a manner of living that is, one must presume, sufficiently comfortable or rewarding or otherwise satisfying such that one does not find it unduly tiresome. Indeed, I think it plausible to infer from what Hobbes says that a life of unrelenting pain, of unbroken drudgery and oppression, of stupefying labor devoid of hope and meaning—such a "weary" life, even if entirely safe and secure, would not be what individuals have in mind when they agree to the terms of the social contract.

The point is made once more at the beginning of Chapter 30. There, Hobbes reiterates his view that the sovereign has been created for one and only one purpose, namely, to procure "the safety of the people." But once again, he is explicit in denying that this is merely a matter of preventing violent death: "...by Safety here, is not meant a bare Preservation, but also all other Contentments of life, which every man by lawfull Industry, without danger, or hurt to the Commonwealth, shall acquire to himselfe" ([1651] 1968, 376). Clearly, then, the aims of the social contract include the protection not just of life itself but of a happy life, hence of all those things—especially material possessions—that make contentment possible. It is for this reason, moreover, that Hobbes insists ([1651] 1968, 212) that certain rights cannot be contracted away, and that these include not only the right to self-defense from violence but also the right to "enjoy aire, water, motion, waies to go from place to place" and, indeed, "all things else" that make it possible for humans not simply to live but to "live well."

The Abrogation of the Contract

For Hobbes the bonds of the commonwealth dissolve when it fails to achieve the ends for which it was created. Individuals enter into mutual agreement with the understanding that the costs of doing so—the transfer of rights or powers—will be more than compensated by the benefits. If, however, the benefits are not forthcoming, then the terms of the contract have not been satisfied. The agreement has been violated and the contract itself is null and void. It no longer exists.

The point is outlined primarily in Chapter 21 of Leviathan. There, Hobbes says that "every Subject has Liberty in all those things the right of which cannot by Covenant be transferred" ([1651] 1968, 268). But what are those things? What rights cannot be transferred? Plainly the answer is to be found, as we have already seen, in Chapter 14: one cannot transfer the rights to those things for which one covenanted in the first place. Otherwise, why covenant? If the purpose of the contract is, in part, the preservation of physical life, then it makes no sense to relinquish the right to defend one's physical life when, as a result of the contract, that life comes under threat. And if the purpose of the contract is not simply the preservation of physical life but the achievement of a relatively commodious, free and happy life, then again the failure of the state to provide such a life—through the imposition of "wounds or chains" or by otherwise "despoiling" the ends of the contract—frees the individual to pursue it independently, even if this means defying the powers that be.

One might want to say that Hobbes has here defined the limits of political obligation. Indeed, this seems to be
precisely Hampton's claim in describing the so-called fallback position, according to which citizens can withdraw their power from the sovereign "whenever an expected-utility calculation tells them it is in their interest to do so" (1986, 221). But I think that such a claim cannot be correct, for it ignores the Hobbesian idea of the state itself. When the activity of the state fails to achieve or threatens, directly or indirectly, the ends for which it was created, hence when the costs of living in the state outweigh the benefits, then the terms of the contract are violated. But this means that the contract itself, hence the obligations entailed therein, dissolve. I don't see how it can be any other way. If I formally agree to give up some Y (e.g., a sum of money) for the purpose of receiving, and with the guarantee that I will receive, some X (e.g., a service) in exchange, and if it turns out that giving up Y actually has the opposite effect and destroys my chances of obtaining X, then surely the agreement is (ceteris paribus) null and void and I'm entitled to require Y, if it all possible. And so too for the Hobbesian contract. When the state fails to do what it was designed to do—when it threatens, rather than protects, the interests of the citizens—then the social contract, i.e., the original agreement among the citizens, is annulled.

But what could this mean, other than that the state—whose very existence presupposes the contract—ceases to be a state? It is hard to know how else to make sense of the Hobbesian covenant. The authority of the state qua state is absolute and unlimited, hence the obligation of the citizen is equally absolute. But when the state fails to accomplish the things it was designed to accomplish—when, indeed, it subverts the very ends for which it was created—then the contract that the citizens had entered into with one another has now been abrogated, hence has been rendered null and void, in which case the state is literally no longer. The citizens are no longer citizens but are immediately plunged back into a condition of mere nature, and each individual is obliged only to maximize his or her interests as he or she determines. Individuals who defend their lives, liberty, property or other basic interests, as they are entitled and even obligated to do, are defending them not against a state but against some entity that claims to be but is not a state; for if that entity were a state, it would by definition be protecting rather than threatening those interests, as specified in the social contract that created the state in the first place; and this is true even if, as Hobbes indicates, the parties to the contract were the citizens themselves, rather than the sovereign.

Hobbes is pretty specific. He says, for example, that "[a] Covenant not to defend my selfe from force, by force, is always voyd. For ... no man can transferre, or lay down his Right to save himselfe from Death, Wounds, and Imprisonment (the avoyding wherof is the onely End of laying down any Right. . . .)" (Hobbes [1651] 1968, 199). In other words, a covenant is invalid if it undermines the very purpose—the "onely End"—for which it was made in the first place. And while the passage in question emphasizes the purpose or end of avoiding death, pain, and incarceration, only a few lines later Hobbes similarly denies that a contractual obligation to testify in court means that one can be contractually obligated to testify against a loved one—or even a benefactor—if the result would bring "misery" to the testifier. In all such cases, the failure of the contract to achieve the ends for which it was made constitutes "some new fact or other signe" that has arisen "after the Covenant [was] made" and that renders the covenant "voyd" (Hobbes [1651] 1968, 196). Paying due attention to names and their consequences, we may say that a contract that turns out to undermine, rather than achieve, the goals for which it was created is a contradiction in terms, hence is no contract at all.

The abrogation of the contract—manifested in a failure to achieve the ends for which the contract was made in the first place—does indeed license the individual to disobey. But such disobedience in no way compromises the absolutism of the state, since the abrogation of the contract means that there is literally no longer a state. The nature of the entity that was the state has changed dramatically, its legitimacy gone. Again, the state's authority had rested entirely on the contract, on the act of sovereign authorization. The dissolution of the contract thus means the dissolution of authority; and a state without authority is, by definition, not a state at all but merely, at best, an entity that claims to be a state.

The point seems to me a straightforward one, but it is routinely ignored by commentators. For example, Johnston writes that "Hobbes considers the desire to avoid death to be so reasonable that he regards it as a justifiable excuse for a subject to refuse his sovereign's command. . . ." (1986, 100). But if the citizen's life (or, indeed, well-being) is threatened, then the terms of the contract have been abrogated, which means that there is literally no sovereign; and if there is no sovereign, then the citizen cannot be refusing the sovereign's command. Martinich says that, for Hobbes, the "sovereign's authority is always in potential conflict with the subject's right of self-preservation. . . . Hobbes would abhor this consequence but, given his principles, it is not clear how he can avoid it" (1997, 48). If in the relevant circumstances, however, what was a sovereign is no longer a sovereign, then the conflict simply doesn't exist, and there is no consequence for Hobbes to avoid. As we have seen, Baumgold tries to
demonstrate Hobbes’s consistency by arguing that the right to resist is “inconsequential in practice” (1988, 31–35), meaning that the right can be exercised only by individuals in isolation and never by political groupings of individuals. Such a contrivance is unnecessary, however, once we see that there is, in fact, no right to resist a sovereign. Tuck famously argues that Hobbes struggled unsuccessfully to reconcile a theory of natural rights and a theory of natural law, and that as a result his work was “essentially rather confused . . .” (1979, 129–32, 175). The only confusion, however, is a failure to take seriously the terms of the social contract itself, and the sense in which the contract, and everything that it has created, dissolves when the individual’s well-being is put in peril. All of these writers, and the literature in general, have struggled to figure out how it’s possible coherently to defend the individual’s right to disobey an absolute sovereign. But due attention to the relevant “names”—contract, sovereign, state—and their consequences shows this to be a nonproblem, for Hobbes defends no such right.

Absolutism and resistance coexist in Hobbes without the slightest contradiction. There are no “fallback” positions, no equivocations or qualifications or compromises, for none are needed. The right to resist is never a right to resist the state. There is no such right. The state’s authority is absolute, and this means that the right to resist is and can only be a right against individuals or groups in the condition of nature. It is true that any number of individuals or groups—including some very powerful ones—may claim to be the state, hence may insist on an absolute right to be obeyed. But any such claim can be true only insofar as the ends for which a state might be instituted—a secure, commodious, free, nonwearying life—are realized. To the degree that they are not realized, a state does not exist; and in such a circumstance, resistance, far from being a crime, is rather an act of war.

The Existence of the State

To summarize: the Hobbesian right to resist—to self-defense—is by definition never a right to resist the state. The very circumstances that make self-defense necessary literally and immediately constitute the abrogation of the contract. And the abrogation of the contract means, literally and immediately, that the threatening entity must be something other than a state.

At first blush, such an account may seem little more than a matter of word play. To resist a “non-state”—i.e., an entity that claims falsely to be a state—is, in practical terms, perhaps not much different from resisting a state that is corrupt or ineffective or that one simply doesn’t like. But much more is involved here. To begin with, Hobbes’s argument has the virtue of demonstrating that the very concept of the state itself does not allow for disobedience. What the state characteristically produces is law, and the claims of law qua law are by definition absolute, categorical and obligatory. In this sense, laws are sharply different from, say, mere suggestions or admonitions. The speed limit on the highway, the prohibition against murder, tax policies that require a percentage of income to be returned to the government, the First Amendment to the United States Constitution—such positive laws, understood as embodiments of the idea of law itself, are structurally and conceptually distinct from, say, the suggestion that one should be careful when crossing the street, or that one should be neither a borrower nor a lender, or that one should eat a balanced diet or lead a clean life or respect one’s mother and father. If an individual were free to decide that the law need not be obeyed according to his or her lights, and if the legitimacy of such a decision were to be enshrined as a general principle of individual action, then as a logical matter the question of whether or not the law will be obeyed would always be up to each and every citizen, acting more or less independently. In such a circumstance, law would cease to be law. It would become, instead, a kind of recommendation, and its status and character would change dramatically.

It may be, of course, that a society of recommendations rather than of laws could, pace Hobbes, function perfectly well. Theorists of anarchism have thought so. But such a society would not be state.

Now it seems plain that the actual existence of a particular state, hence of law, could well be a matter of some controversy. Imagine a regime that has lost much its

It is true that a great many recommendations—especially the most plausible and widely-held ones—would emerge out of and derive their plausibility from a society’s shared structure of moral and metaphysical presupposition, hence would be in some important sense authoritative. But presumably the structure would also define them as what they are, recommendations rather than laws; and this means that they would be authoritatively understood to describe rules of behavior that make sense and should be followed, the violation of which, however, would not be punishable by the state.

Of course, it would also be up to the state to decide when and if something that had been defined as a recommendation should indeed be redefined as a law, hence as something that one must obey. One society’s suggestion might well be another society’s requirement.

Here I begin to extrapolate from Hobbes’s explicit argument in ways that are, I think, consistent with both the letter and spirit of his text. In effect, I’m attempting to reckon some of the further consequences of the names that he himself analyzes.
HOBESIAN RESISTANCE

ability to enforce the law. Whether through lack of physical resources or lack of will, it fails effectively to punish, hence to deter, law-breakers. To the extent that potential law-breakers learn that they may be able to violate the rights of others with impunity, they will be inclined to do so. Those whose rights have been violated will learn, in turn, that the state is unable to protect them, hence will be inclined to protect themselves, thereby violating the law in their own right. In Hobbesian terms, the degree to which all this occurs is the degree to which the state ceases to be a state and begins to approximate, instead, a condition of nature in which there is no political authority, no political obligation.

As a practical matter, of course, it is often difficult to know exactly where to draw the line. The difference between a state that is flawed but functioning and one that is utterly dysfunctional may be far from self-evident. But a distinction that is difficult to apply in practice does not thereby cease to be a distinction. Imagine, then, a condition of mere nature—a war of all against all—in which one of the warring parties is able to develop a predominance of physical force. Here there is no authority, no law. One party gets its way simply by coercing the others. In such a circumstance, the average individual who obeys the dominant power does so not out of a sense of political obligation—not because the dominant power has authority, for it has none—but simply because obedience is thought to be the safest choice; and whenever this ceases to be the case, whenever it seems both possible and profitable to disobey, then this is something that the individual is free to do, as he or she determines. But here again, the conceptual distinction between a dominant power on the one hand and an emergent state on the other will often be difficult to apply in practice. For to the degree that a dominant power—a war-lord, a junta, a private army, a cabal, a majority faction—begins to provide genuine security and satisfaction, it may start to look more and more like a state, albeit perhaps a “tyrannical” one; and to that degree, whether tyrannical or not, it may be able to claim with increasing plausibility that it deserves, on moral grounds, the respect and allegiance of those it rules.

At this point, an obvious problem seems to arise, for surely it’s possible that a Hobbesian state could threaten me—my physical life and my opportunities for com-mo-

dious living—but may pose no such threat to you. Perhaps the paradigm case occurs when I am accused, rightly or wrongly, of criminal behavior, as a result of which the state threatens to punish me, while no such accusation, hence no such threat, hangs over your head. Is the state, then, really a state? The problem has long plagued readers of Hobbes, but the logic of his idea of the state in fact provides a straightforward and, I think, highly plausible solution. In the circumstance described, the contract has been abrogated for me whereas for you it has not, my obligations are now dissolved while yours are still in force, and I find myself plunged back into the condition of mere nature while you are still living comfortably in political society. The entity that threatens me is, at best, a dominant power in the state of nature, something to which I have no obligation whatsoever, while the entity that protects you—the very same entity—is a state, something to obeyed absolutely and unquestioningly. I see nothing to debar such a solution and, indeed, much to recommend it. The social contract is an agreement among the citizens in which each acts as an individual, and there’s no reason to doubt that an agreement of this kind might work out for some of the citizens and not for others. The upshot is that the legitimacy of a state can never be in dispute. The state must always be obeyed, its authority absolute. But the actual existence of a state can be, and often is, a matter of the most intense dispute, since the terms of the contract can be violated for some and not for others. Context and individual circumstance matter a great deal, and it may be that much of political history involves, above all, disagreements as to whether or not one is actually living in a state, properly conceived.

With such an account in mind, we can make sense of any number of passages in Hobbes that would otherwise be troubling. Hampton (1986, 241), for example, cites two well-known passages that seem entirely to contradict one another. According to the first,

[It] is annexed to the Soveraignty, the whole power of prescribing the Rules, whereby every man may know, what Goods he may enjoy, and what Actions he may doe. . . . These Rules of Propriety (or Meum

5As should be clear by now, I adopt a cost/benefit account of the logic of Leviathan—"man by nature chooseth the lesser evil" (1968, 199)—rather than the kind of deontological approach suggested famously by Warrender (1957), Taylor (1965) and Raphael (1977).

6For a relevant historical/empirical discussion, see Charles Tilly (1985, 172-83).

7It is here, moreover, that we can make sense of certain seemingly odd locutions in Hobbes’s text. He does talk, for example, of an individual being “compelled to do a fact against the Law” or of otherwise resisting the “state” and “sovereign.” How can we account for such formulations in light of the argument that a law that threatens a man’s life and well-being is no law, a sovereign that necessitates self-defense no sovereign? Surely the answer is that in many particular circumstances an individual may threatened by, hence have a right to resist, entities that are, for other, non-threatened individuals, states and sovereigns indeed and that, as a result, can be coherently referred to in that way.
and *Tuum* and of *Good, Evill, Lawfull, and Unlawfull* in the actions of Subjects are the Civill Lawes. . . . (Hobbes [1651] 1968, 165)

The second, on the other hand, says that

By a Good Law, I mean not a Just Law: for no Law can be Unjust. The Law is made by the Soveraign Power, and all that is done by such Power, is warranted, and owned by every one of the people; and that which every man will have so, no man can say is unjust. . . . A good Law is that, which is *Needfull*, for the *Good of the People*, and withall *Perspicuous*. ([1651] 1968, 388)

As Hampton sees it, “[w]hereas in the earlier chapter the sovereign was the sole judge of what was good or bad, in the later chapter Hobbes is admitting that there is a standard for evaluating law independent of the sovereign. . . . And because no sovereign legislator is going to say that some of her laws are bad, the judges of the goodness or badness of the laws must be the subjects . . .” (1986, 241). But we can now see that there is, in fact, no contradiction whatsoever. In the earlier chapter, Hobbes merely states the obvious: anything properly called “law” is, by definition, just and authoritative; the sovereign, properly so conceived, is the sole source of law; and the obligation to obey the law is absolute. In the later chapter, Hobbes first restates this—the law is made by the sovereign and is always “warranted”—but then indicates what is also obvious: some putative laws are not wise or well-crafted, hence fail to achieve the ends for which they were formulated. The laws or “rules of propriety” do indeed determine what is officially deemed to be good or evil action on the part of subjects. But the law can make mistakes about this. What it deems to be a good action may actually turn out to have evil consequences; and if such consequences are, in fact, so evil as to undermine the purposes of the original contract, then again the contract is abrogated, obligation dissolves, and the sovereign is no longer. We can thus see that Hobbes’s prudential advice to govern well does not contradict but, in fact, is consistent with and even underwritten by his theory of sovereignty.

Similarly, Schrock finds a sharp contradiction between two passages in Chapter 28. According to the first of these,

[i]n the making of a Common-wealth, every man giveth away the right of defending another; but not of defending himselfe. Also he obligeth himselfe, to assist him that hath the Soveraignty, in the Punishing of another; but of himselfe not. But to covenant to assist the Soveraign, in doing hurt to another, unless he that so covenanteth have a right to doe it himselfe, is not to give him a Right to Punish. It is manifest therefore that the Right which the Common-wealth (that is, he, or they that represent it) hath to Punish, is not grounded on any concession, or gift of the Subjects. But I have also shewed formerly, that before the Institution of Common-wealth, every man had a right to every thing, and to do whatsoever he thought necessary to his own preservation; subduing, hurting, or killing any man in order thereunto. And this is the foundation of that right of Punishing, which is exercised in every Common-wealth. For the Subjects did not give the Soveraign that right; but only in laying down theirs, strengthned him to use his own, as he should think fit, for the preservation of them all: so that it was not given, but left to him, and to him onely. . . . (Hobbes [1651] 1968, 353–54)

But shortly thereafter, Hobbes also says that

the evil inflicted by usurped power, and Judges without Authority from the Soveraign, is not Punishment; but an act of hostility; because the acts of power usurped, have not for Author, the person condemned; and therefore are not acts of publique Authority. ([1651] 1968, 354–55)

Schrock sees a serious discrepancy: “[w]ithin the space of four paragraphs . . . [Hobbes] both says that [the citizen] cannot, and yet also assumes that he can, authorize his own punishment” (1991, 861). But again, we can now see that there is no contradiction. The first passage hinges on the distinction between hurting and punishing. To hurt is to inflict evil; to punish is to inflict evil legally, i.e., through civil law. Individuals in the state of nature do not have the right to punish since law does not yet exist; and lacking such a right, they cannot very well transfer it to the sovereign. They do, however, have a right to hurt other people; and in renouncing this right, they empower the sovereign to do whatever is necessary to keep the peace, including punishment. Thus, the right to punish is not explicitly transferred in the contract, but it is fully authorized by the contract. The second passage simply indicates that the powers of the sovereign, which the sovereign can use to impose punishments if desired, must be rooted in contractual obligations undertaken by all the citizens, each of whom might well become the target of punishment. Again, those obligations authorize the sovereign to keep the peace, and the sovereign must be obeyed until and unless the individual citizen determines
that the “acts of power” in question are such as to undermine the goals for which the citizen contracted in the first place, at which point the contract has been abrogated and the sovereign ceases to be the sovereign, at least for that particular citizen.

Obligation and Fear

It may be doubted, however, that the distinction I have drawn between an authentic state on the one hand and a dominant power in the condition of mere nature on the other could truly be Hobbesian. Again, Hobbes insists that there is no important difference between a legitimate state and a tyrannical one, that obedience is always rooted in fear, that obligation is fundamentally a matter of pragmatic calculation, and that sovereignty by conquest is no less legitimate than sovereignty by institution. He insists, further, that one of the defining features of the state of nature is the rough equality of power, which is at least part of what makes nature so dangerous. Given all of this, why would a dominant power be any different from a state? Wouldn’t the emergence of such a power, hence of inequality, effectively end the condition of nature? How would such a circumstance be different from the case of sovereignty by conquest?

It seems that the state is an entity that either fulfills the terms of the social contract or, in the case of conquest, provides the kinds of benefits for which such a contract might be instituted. Again, it provides opportunities for physical security and for a life sufficiently commodious and comfortable as not to be excessively tiresome. Thus, all states are originally established—either through express or tacit consent, either contractually or through conquest—for purely pragmatic reasons, and are sustained, in part, by the power of the sovereign to determine and enforce the law. What this means, I think, is that the citizen is motivated to obey the sovereign by a kind of double fear—fear of being punished for breaking the law and fear of being plunged back into the dangerous condition of mere nature.

But fear is complicated thing. I myself am not too crazy about heights. The thought of standing on a narrow ledge high above the ground, or of sky-diving, or of bungee-jumping makes me afraid. It fills me with fear; and as a result of this fear, I always make a point of trying to stay as close to terra firma as possible. Sitting here in my ground-floor office, I feel perfectly safe and secure; but this doesn’t change the fact that I have, at the very same time, a morbid fear of heights. Surely, though, fear of this kind is very different from the fear that I would have if, say, my loan-shark held me by my ankles and dangled me from a window on the twentieth floor of a high rise building. In the first case, the fear is hypothetical. If I were standing on a narrow ledge high above the ground—which I am not—then I would be terrified. In the second case, on the other hand, the fear is immediate. I am danging from the twentieth floor and I am terrified.

In the Hobbesian state of nature, fear is immediate. The individual is constantly and perpetually at risk. Violent death or other forms of victimization loom around every corner. A life lived in the state of nature is a life lived on the edge. Once the state has been established, on the other hand, the citizen’s fear becomes merely hypothetical. What the citizen seeks is security, and this presumably means enjoying the kind of peace of mind that comes from knowing that one’s life, liberty, and comfort is not inordinately at risk, that one’s fears are largely and merely hypothetical. Such an existence would be very different from one lived in perpetual immediate fear. Any citizen must, of course, be afraid of breaking the law, but he or she also must feel relatively confident that such fear is merely hypothetical, hence that obedience—not breaking the law—will indeed produce safety. In effect, the individual must be afraid to disobey, but not to obey, the law; for if that were not the case—if obedience produced immediate and not merely hypothetical fear—then obedience wouldn’t make any sense.

The implications of this are several. First, if fear is to be merely hypothetical rather than immediate, then the citizen needs to have good reason to believe that law-abidingness will be rewarded. He or she must be confident that the decision to accept the authority of the law will provide in a relatively predictable way the kind of benefit that one expects from a state, viz., freedom from immediate fear. This means, among other things, that the law must be reasonably well-known and comparatively stable. After all, the citizen cannot obey the law reliably without being pretty certain that his or her actions are indeed in conformity with it and will be interpreted as such by those whose job it is to enforce it—something that is impossible if the law is promulgated and applied in secret, or if it changes without warning or for no discernible reason. And from this it follows, further, that the procedures by which particular positive laws are both produced and enforced must be relatively orderly, systematic, institutionalized, and public. They cannot be capricious, ephemeral, or irrational; for if they were, one could never be certain about the law, never certain about what it would mean to obey the law, never certain about whether or not one will be punished for obeying what one takes to be the law, hence never free from immediate, as opposed to hypothetical, fear.
These stipulations serve sharply to distinguish a state from a dominant power. The difference manifests itself in the behavior and motivation of private individuals. When the law is established and enforced according to a kind of due process—and whether or not the state exists by institution or conquest—the individual citizen obeys unquestioningly, provided, of course, that the law is generally effective in providing security, liberty, and comfort. Such a law is legitimate and carries the state's absolute authority. It may be inconvenient, unwise, unpopular, even painful at times. As such, it may legitimately become the focus of political disagreement, dissent, protest. But insofar as it is produced by a state that generally provides security, comfort, liberty, and satisfaction, the inconvenience and pain must in the end be borne with equanimity. In such a circumstance, one is indeed afraid of the sovereign—a fear of disobedience—but such fear is merely hypothetical. On the other hand, when the dominant power operates not through consistent, recognizable and rational procedures but capriciously, inconsistently and irrationally, the individual can never feel secure and confident. The fear is immediate. One obeys the dominant power not in the sense of participating in and taking advantage of a stable, institutionalized structure of expectations that provides the kinds of benefits states are supposed to provide. Rather, one lives by one's wits, obeying entirely on a case-by-case basis. There is no predictability, no sense of security or reliability, hence no foundation for obligation or authority. To be sure, the result need not be open war. On this score, Hobbes is clear: "[t]he nature of War, consisteth not in actual fighting; but in the known disposition thereto, during all the time there is no assurance to the contrary . . ." ([1651] 1968, 186). But the absence of fighting suggests only that the individual has evaluated each separate demand that the dominant power has made, and has decided, because of immediate fear, to acquiesce. If it's safer, freer, more comfortable, and commodious to obey this time, then I obey; but if not, then I don't. In effect, each demand that the dominant power makes is a kind of recommendation. It is a suggestion that the individual act in a certain way, underwritten by the immediate threat of negative consequences if the suggestion is not followed; and like any suggestion, it is something that the individual follows or doesn't according to his or her lights.

As a practical matter, such an account returns us to the idea of a continuum. For at least some people some of the time, even a good state is more an enemy than a friend; and if one were to deny this, one still cannot deny that the benefits provided by the state always come with costs that need to be monitored and evaluated. Analogously, rare is the dominant power that doesn't provide some rewards to some substantial portion of the populace. It is hardly unusual, moreover, for the activities of such a power to become institutionalized over time, to acquire some of the regularity and routine that we associate with responsible organization, hence to develop at least the rudiments of what might plausibly be called due process. History shows that just as states can collapse into chaos and disorder, so too can dominant powers evolve into secure and stable instruments of law.

For private individuals, the result is a kind recurrent and episodic existential challenge. The question of the state must be, in the end, a matter of either/or. Each person presumably has to decide whether or not the terms of the social contract are being satisfied. Each, in other words, has to decide if the benefits of obedience outweigh the costs, if the entity that claims to be the state makes the individual sufficiently happy—providing a secure and commodious existence, one that is not oppressively wearing—so as to compensate for the inevitable inconvenience of the law. We cannot have it both ways. Either the putative law of the state is law indeed, in which case it must be obeyed without fail, or else it is merely a set of recommendations, to be followed or not as the individual sees fit, in which case it is no different from the kinds of admonitions, warnings, or threats that one might well encounter in a cooperative/anarchist society or, as Hobbes would have it, in a condition of mere nature.

Frequently, we choose to obey the law unquestioningly and simply because it is the law, and we continue to do so without reflection, as a matter of habit and implicit conviction born, in Hobbes's view, of hypothetical fear. But we also reserve the right to revisit that conviction, should circumstances require. If we begin to realize that a practice of unthinking obedience is doing more harm than good, if the security and satisfaction that we expect from political society begins to dissolve, if for whatever reason the state begins to threaten rather than protect life and happiness, then the question arises as to whether the contract has been abrogated, hence whether the state is really a state and the law is really the law. When such questions arise for the single person—whether it be an ordinary criminal or a conscientious objector, a villain or a saint—and presuming those questions are answered in a certain way, we have then the basis for individual resistance. When the same questions arise for large groups of

8The distinction is well established in the popular mind. For example: "As the Russian Army closes in on Chechnya's besieged capital, Grozny, it is using a fresh strategy: promising Chechens that their bedraggled towns will be spared a relentless bombardment if they surrender, and attempting to secure loyalty by restoring services like gas and electricity. But this month's capture of Gudermes, the bleak but strategically important second largest city in Chechnya, shows that it is one thing to scare Chechen civilians into submission, and quite another to win their allegiance" (Gordon 1999, 1).
people, and again presuming a certain kind of response, we have the basis for a full-fledged theory of revolution—a revolution not against the state but against an entity that has ceased to be a state, if in fact it ever was one. While Hobbes doesn’t explicitly talk about revolution, I see nothing in his theory to debar it. To the contrary: the contract having been abrogated, hence voided, it would be perfectly acceptable and entirely natural for individuals to defend themselves by banding together.

It seems clear, to be sure, that Hobbes would counsel his readers to exercise the revolutionary option only with the greatest imaginable caution. The condition of nature is so dehumanizing, the breakdown of authority so cataclysmic, the war of each against all so dangerous and debasing—so immediately frightening—as to provide the strongest possible incentive to accept things as they are, hence to give the benefit of the doubt to whatever entity claims to be a state. And insofar as such an entity has real power to inflict (inter alia) death, wounds, and imprisonment, the individual, who “by nature chooseth the lesser evil” ([1651] 1968, 199), is less likely—indeed, highly unlikely—to believe that resistance is less dangerous than nonresistance. But the logic of Hobbes’s position absolutely requires that such a strategy have its limits. In order to avoid being plunged into a condition of mere nature, or simply to avoid severe reprisals, the individual may be forced to accept with equanimity an extraordinary number and variety of inconveniences; this simply comes with the territory. But when the costs of passivity outweigh the benefits, then all bets are off.

**Final Remarks**

One may well wonder why Hobbes’s language does not more straightforwardly invite the kind of interpretation I have offered. In a sense, this is a historical, biographical or even literary question, hence beyond the scope of the present essay. But a couple of observations may be hazarded. To begin with, the contexts in which Hobbes wrote—a time of violent civil upheaval—may well have encouraged him to emphasize certain features of his account (e.g., absolutism) rather than others. One need not subscribe to a strong distinction between esoteric and exoteric texts to believe that some authors take pains to produce works designed to have a salutary influence on the majority of readers. Hobbes may have wanted to encourage obedience and acquiescence, but from this it doesn’t follow that his teaching is, at the core, as one-sided or, indeed, simplistic as some have assumed.

But further, it’s not entirely clear just how inexplicit Hobbes’s formulation is. The standard reading attributes to him an egregious contradiction. It may never have occurred to him that his readers would go in that direction by overlooking the logical implications of the abrogation of the contract. More generally, to reject my account is, it would seem, to presuppose that Hobbes—certainly one of the half-dozen or so greatest political theorists and a philosopher of unusual learning and acuity—could have made the kind of massive and self-apparent mistake that wouldn’t be accepted in an ordinary doctoral dissertation, or in an essay such as this. That’s hardly an appealing proposition.

References


