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THE LAWS OF NATURE AS MORAL NORMS
IN HOBBS' *LEVIATHAN*

A DEEP tension runs through Thomas Hobbes' *Leviathan*, one which has been often taken to be a fundamental and irreconcilable contradiction.¹ On the one hand, Hobbes argues a need for a social contract and a sovereign authority, and these are given their shape through Hobbes' moral philosophy, both through the laws of nature and through Hobbes' other quite extensive and elaborate discussions in the text. On the other hand, Hobbes also espouses a moral nominalism and, one might say, positivism which seems to make not only justice, but even the proper employment of reason required to understand and apply moral distinctions, ultimately dependent on the authority of the sovereign as it is applied and devolved. In the state of war and natural right, moral distinctions seem to be purely subjective, even deceptive, and in civil society, one central role of sovereign authority is to give moral distinctions and norms determinacy and efficacy, if not their very reality. The laws of nature represent not only a means of transition from the state of nature to civil society, but also Hobbes' reworking and redefinition of traditional moral distinctions. Troublingly, they seem both to be prior in Hobbes' scheme to sovereign authority and to be dependent upon sovereign authority's application and efforts for their efficacy.

The dilemma can be put in a deceptively simple way: *Either* there are some moral norms that do not derive their objective status ultimately from their imposition by or instantiation through a political authority, *or* moral norms have whatever objective status they have by such an imposition.² In the latter

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¹ Alasdair MacIntyre diagnoses this problem, writing: «Hobbes makes two incompatible demands of the social contract: he wishes it to be the foundation of all shared and common standards and rules; but he also wishes it to be a contract, and for it to be a contract, there must already exist shared and common standards of the kind which he specifies cannot exist prior to the contract» (A. MACINTYRE, *A Short History of Ethics*, MacMillan, New York 1996, p. 137). MacIntyre's account is fairly typical of philosophically astute critics of Hobbes, as is his conclusion that «[t]he concept of an *original* contract is therefore ruined by internal self-contradiction and cannot be used even to frame a metaphor of a coherent kind» (*ibidem*, p. 137). In this paper, I do not dispute whether the notion of an original contract is or is not self-contradictory, but I do contend that there is a non-contradictory way to untangle the problem posed by the status of moral norms and authority in Hobbes' *Leviathan*.

² Another alternative appears possible, that of the sort of "internalism" discussed by

case, it seems that there really are no moral norms for Hobbes in the traditional sense, just the play of power and questions of prudence, efficiency, and policing.³ In the former case, the authority of the sovereign can be guided by moral norms but cannot not fully determine them in the way Hobbes seems to present. The aim of this paper is to examine this tension in Hobbes' moral philosophy through a reading of *Leviathan*, to see whether it can be reduced in the end to such a fundamental contradiction or not.

1. THE PROBLEMATIC MORAL SITUATION

Hobbes does seem committed to a deep-running nominalism, not simply about moral distinctions and values, but involving reason itself as well. He denies that there is any highest good or final end (*EW*, p. 85),⁴ which could guide moral inquiry or function as a reference point, and the great amount of analysis that he devotes to a number of moral phenomena in chapters VI-XIII thoroughly relativizes them. It is missing the point somewhat to note that the picture that Hobbes sketches of humanity is pessimistic or cynical. In its

Michael LeBuffe. «Internalism, generally, is the view that there is a necessary connection of some sort between what one ought to do and what one wills, or is motivated to do. Hobbes, I think, is best represented as holding a very straightforward band of internalism: agents ought to do only what they will to» (M. LEBUFFE, *Hobbes on the Origin of Obligation*, «British Journal for the History of Philosophy», vol 11, no. 2, (2003), p. 15). LeBuffe claims that «Most critics today, including myself, believe that Hobbes holds an internalist theory of obligation» (*ibidem*, p. 15), and that «the laws of nature oblige just because agents understand their instrumental nature and so, will their rule» (*ibidem*, p. 15).

This "internalism" is akin to what Edwin Curley, opposing it to the "traditional theory", and the "Taylor-Warrender thesis", calls the "individualist interpretation," which «... contends that Hobbes does acknowledge the existence of genuine moral obligations, but sees them as arising in some way from voluntary human activity» (E. CURLEY, *Reflections on Hobbes: Recent Work on his Moral and Political Philosophy*, «Journal of Philosophical Research», vol. 15 (1990), pp. 188-189).

Neither really escape the dilemma, however. Clearly, Hobbes thinks that some force is required to make the laws of nature fully obliging and effective, and just as clearly Hobbes does not think that moral norms can be just whatever one happens to will. The laws of nature are the core of Hobbes' moral theory, and the problem is ascertaining where their full normative status derives from.

³ This is in fact the position taken by many critics and even some proponents of Hobbes philosophy. Edwin Curley calls this «the traditional theory of Hobbes' moral philosophy (or his lack of one)... a very common view in the postwar period». In such accounts, the laws of nature are «only hypothetical imperatives, and insofar as they prescribe a means to an end we can assume that all men actually have, assertoric hypothetical imperatives, or counsels of prudence. So, they are not moral imperatives, they do not state genuine principles of moral obligation» (E. CURLEY, *o.c.*, p. 188). Further discussion of this is provided in David BOONIN-VAIL's, *Thomas Hobbes and the Science of Moral Virtue*, Cambridge University Press, Cambridge 1994, pp. 59-67.

⁴ All references to Hobbes' *Leviathan* are from *The English Works of Thomas Hobbes*. William Molesworth, ed. Vol. III, John Bohn, London 1839. They are noted herenceforth as *EW*.

natural state unconditioned by civil society, Hobbes views humanity as fundamentally driven by a myriad of changing but related desires. Nothing seems to be absolute, no value seems to be irreducible to a play of power and desire of competing agents, nothing seems to provide humans with any sort of constantly reliable norm or criterion.

This does not mean, however, that all moral discourse, distinctions, and values are therefore meaningless. They are in fact quite meaningful for the people who use and pursue them. They are meaningful enough for there to be controversies, even violence over them. Some may even be widely accepted by a great number of human subjects.⁵ Such a widespread acceptance could even be a consequence of the second principal cause of quarrel discussed in chapter XIII, «diffidence», or «anticipation», which leads to larger social organizations motivated by fear of being dominated by others and structured by domination of others, what Hobbes calls «augmentation of dominion» (*EW*, p. 112). This acceptance, however, for Hobbes, will ultimately rest on individual subjects and their positions in the play of power and desires. He outlines his doctrine in the course of his discussion of the passions:

«For these words of good, evil, and contemptible, are ever used with relation to the person that useth them. There being nothing simply and absolutely so; nor any common rule of good and evil, to be taken from the nature of the objects themselves; but from the person of the man (where there is no common-wealth); or (in a common-wealth,) from the person that representeth it; or from an arbitrator or judge, whom men disagreeing shall by consent set up and make his sentence the rule thereof». (*EW*, p. 41).

Variance in moral distinctions depends in part on the «constitution of a mans body», which is in «continual mutation» (*EW*, p. 40), and, if we completely accept Hobbes' mechanistic view of human beings, all such variance ultimately, and indeed trivially, depends on the mutations of corporeal states. What is particularly interesting and not trivial, however, is that this variance also derives from a complicated and reflexive interpersonal dynamic involving many different moral distinctions and valuations.⁶ According to Hobbes, human be-

⁵ Raymond Polin expresses the problem felicitously. «We see then that there is a morality that one could call natural, or rather, an infinity of natural moralities, since there are just as many as there are men living in quest of the ends inscribed in their passions, in their desires, towards that indefinite felicity that each one pursues by ways peculiar to him. One cannot say that because of this there is no morality; there are, actually, as many moralities as there are man and ways of living ones life, i.e. of mores, i.e. precisely moralities» (R. POLIN, *Hobbes, Dieu et les hommes*, P.U.F., Paris 1981, p. 216 [author's translation]).

⁶ My analysis here is indebted to, though textually independent of, the psychoanalytic reading of Hobbes found in C. FRED ALFORD, *The Self in Social Theory: A Psychoanalytic Account of Its Construction in Plato, Hobbes, Locke, Rawls and Rousseau*, Yale University Press, New Haven 1991. I do not follow Alford as far as to view the Hobbesian self as he does, an archaic (as opposed to mature) one marked by and in constant danger of "narcissistic injury," but find his analysis depicts the concrete interpersonal and reflexive dynamic of value,

ings are caught up in a web of interactions and comparisons, which he details in chapters x and xi. The various modalities of power are interrelational and in fact interpretative, as Hobbes' analysis of value and honor shows.

«The *Value*, or worth of a man, is as of all other things, his price; that is to say, so much as would be given for the use of his power: and therefore is not absolute; but a thing dependent on the need and judgement of another... And as in other things, so in men, not the seller, but the buyer determines the price. For let a man (as most men do,) rate themselves at the highest value they can; yet their true value is no more than it is esteemed by others». (*EW*, p. 76).

Honor is «the manifestation of the value we set on one another» (*EW*, 76), and Hobbes views this as a constant and mutable process. It is worth noting the tension between the valuation a person will place on him or herself and their "true" valuation in the esteem of others, as well as the reflexivity and transitivity of honor and value in relations between human subjects. Hobbes outlines several important ways in which one honors or dishonors a person, and which he calls «natural» (*EW*, p. 78), meaning that they take place both within and outside of commonwealths, and therefore everywhere. Among the many different behaviors significative of honoring and dishonoring another, one stands out as a paradigm. «To contemn, or less to love and fear, than he expects, is to dishonor; for 'tis undervaluing» (*EW*, p. 77). This occasion of dishonoring will be quite frequent, if Hobbes is correct that people tend to value themselves higher than other people value them, and this dishonoring might very well be mutual and reciprocal.

Among the many different ways that honor and dishonor is structured in interpersonal relations, two assume particular importance here. One of these might be called mimetic, and the other might be called intellectual.⁷ Three of Hobbes's formulations describe a mimetic aspect to honor and dishonor: «[t]o do these things to another, which he takes for signs of honor, or which

honor, desire and power in individual Hobbesian subjects much better than most other accounts of Hobbes, with the exception of R. POLIN, *Hobbes, Dieu et les hommes*, cit., and IDEM, *Politique et philosophie chez Thomas Hobbes*, P.U.F., Paris 1952.

⁷ The other ways that honor and dishonor is structured in interpersonal relations could be arranged in terms of the modalities of interpersonal relation, but perhaps more telling are Hobbes' explanations of why these behaviors are ways of honoring.

«To give great gifts to a man» can be brought together with «to obey», «to pray to another, for aid of any kind», «to be sedulous in promoting another's good, also to flatter», and «to speak to another with consideration, to appear before him with decency and humility», because the motivations of all of these seemingly dissimilar acts are to gain aid or protection or to avoid hurt. Giving gifts is «buying of protection», promoting another's good is akin to flattery, because it is «a sign that we seek his protection or aid» (*EW*, pp. 76-77).

The other behavior Hobbes discusses, «to praise, magnify, or call happy», has a different motivation, that of showing that one values another. It is not the person, however, who is valued, but their state or possession, and Hobbes writes «nothing but goodness, power, and felicity is valued» (*EW*, p. 77).

law or custom makes so;» (EW p. 77) «[t]o imitate;» (EW 78) and «[t]o honor those another honors» (EW, p. 78). More interesting in the scope of this paper are the many formulations of an intellectual aspect to honor: «[t]o believe, to trust, to rely on another;» (EW, p. 77) «[t]o hearken to a mans counsel, or discourse of what kind soever;» (EW, p. 77) «to agree with in opinion;» (EW, p. 78) and «to employ in counsel, or in actions of difficulty» (EW, p. 78). Whereas the mimetic aspect can be seen as a matter of safely following conventions, the intellectual aspect is more disquieting, for it indicates that, in Hobbes' view expressions of intellectual disagreement are profoundly destabilizing to social concord and life.

2. PHILOSOPHY, REASON AND CONFLICT

The real thrust and import of Hobbes' philosophy is not its nominalistic starting point or principles, but in fully thinking through certain implications of that nominalism. He realizes that a great many philosophical, moral, political, and religious ideas, systems, and doctrines taken as indexes of truth, as ways in which we can understand humankind and live together in society, are not only lacking in the universality that one expects of them, but can be, are, and have been employed as means by which humans try to achieve dominance over each other, in their «perpetual and restless desire of power after power, that ceaseth only in death» (EW, pp. 85-86). Humans do not simply, innocently, and honestly disagree with each other about the good, the just, the right, the principles and applications of moral distinction and valuation, for they are already caught, like it or not, in a complex dynamic of each other's desires, recognition, power, and comparisons which not only relativizes moral distinctions and valuations, but makes them a constant and dangerous source of discord. Furthermore, even position-taking, inquiry, and argumentation on moral matters both takes place within *and* exacerbates this dynamic instead of providing an absolute vantage point outside of it. For Hobbes, there is no such thing as innocent philosophy. All philosophical positions, including his own, have a role to play not only in disinterested pursuit of truth, but also and perhaps more importantly in the constitution and transformation of social and political relations. Even if the originator(s) of a particular philosophical position do not do so motivated by a secret or not-so-secret wish to dominate (and Hobbes ascribes this motive to not a few other philosophers), any philosophical position, like any other artifact of human social existence, can be appropriated as a tool in a quest for domination.

Despite Hobbes' rationalism, he does not exhibit a great deal of faith in reason as employed and possessed by actual human beings.⁸ Bracketing Hobbes'

⁸ On the issue of Hobbes' degree of faith in reason, cf. Lodi NAUTA, *Hobbes the Pessimist? Continuity of Hobbes' views on reason and eloquence between The Elements of Law and Leviathan*, «British Journal for the History of Philosophy», vol. 10, no. 1 (2002).

implausible insistence that reasoning is simply a form of addition and subtraction as we earlier bracketed his oversimplistic mechanics, we can still examine the function and role reason plays in his moral philosophy. It is possible, and quite common for humans to disagree in their reasoning.

«But no man's reason, nor is the reason of any one number of men, makes the certainty... And therefore, as when there is a controversy in an account, the parties must by their own accord, set up for right reason, the reason of some arbitrator, or judge, to whose sentence they will both stand, or their controversy must either come to blows, or be undecided, for want of a right reason constituted by nature» (*EW*, p. 31).

Hobbes' dismissal of a naturally and immediately effective reason is interesting for two reasons. First, he thinks that appeal to «right reason for judge» actually conceals a will to dominate, «that things should be determined, by no other men's reason but their own» (*EW*, p. 31). A consensus of "any one number of men" would presumably just conceal a group aiming at domination. Second, using a metaphor of a card game, he denounces a tendency to keep shifting and escalating what is to function as the criteria of right reason. As in a card game, to take Pinochle as an example, once the trump suit⁹ has been declared, one cannot legitimately expect «to use for trump on every occasion, that suit whereof they have the most in their hand» (*EW*, p. 31). Hobbes views this as «hav[ing] every one of their passions, as it comes to bear sway in them, to be taken for right reason» (*EW*, p. 31). An interesting similarity can be noted here between this portrayal of the true motives of an appeal to right reason, and the appeals to revelation that Hobbes so keenly distrusts as well.

The human capacity for reason is counterbalanced by a capacity for going astray. Hobbes notes that the privilege of reasoning according to a quasi-geometric method is «allayed by another; and that is, by the privilege of absurdity; to which no living creature is subject, but man only. And of men, those are most subject to it, that profess philosophy» (*EW*, p. 33). Later, discussing the difference between humans and other "political creatures" such as ants

⁹ Although Hobbes undoubtedly had in mind a card game other than Pinochle, some interesting comparisons suggest themselves. In that game, unlike several other games that also have "trump" cards or suits, one of the four suits is declared the trump suit by the highest bidder in each hand, and the suit remains trump during the duration of that hand, meaning that it "trumps" or "takes" all other non-trump cards (in the Canadian French in which I learned the game, trump is called, more literally, "l'a-tout", literally, "that which has all"), regardless of their respective value.

One has to bid in order to declare trump, and one derives certain advantages in points, not only from the strength of one's cards in play, but also from counting the "meld" before playing out the hand. For instance, in counting the meld, a double marriage (two kings and two queens) in a non-trump suit is worth four points, whereas a double marriage in trump is worth forty. A very interesting correlation to Hobbes' moral philosophy lies in that bidding to declare trump requires both a capacity for bluffing, estimating the other opponents, and analyzing the situation of one's cards, both if one declares trump, and if one does not.

and bees, he notes that, besides the fact that humans are individuated in their desires and compete for honor,

«These creatures, having not (as man) the use of reason, do not see nor think they see any fault, in the administration of their common business: whereas amongst men, there are many, that thine themselves wiser, and abler to govern the public, better than the rest; and these strive to reform and innovate, one this way, another that way; and thereby bring it into distraction and civil war». (*EW*, p. 156).

Earlier in *Leviathan*, Hobbes notes that the variance of «different tempers, customs, and doctrines of men» causes them not only to disagree in «their judgement, on the senses of what is pleasant, and unpleasant to the taste, smell, hearing, touch and sight; but also of what is conformable, or disagreeable to reason, in the actions of common life» (*EW*, p. 146).

Hobbes will later argue for the need for and the power of the sovereign in order to fix and determine not only actions, but also manners of thought and expressions in civil society. His treatment introduces some ambiguities into the relationship between authority and reason. In order to illuminate them, it is important to reflect on what, according to Hobbes, affords humans an opportunity to settle these matters. There are three mutually supporting motifs that Hobbes' presentation tangles together: the role of reason and the laws of nature, the relationship between the laws of nature and the civil laws, and most importantly, the self-ascribed status of Hobbes' work as science. The third motif helps to illuminate and contextualize the other two motifs, so I treat it first here.

3. HOBBS' MORAL PHILOSOPHY AS SCIENCE

Hobbes adopts what he views as a scientific viewpoint, proceeding *more geometrico*, not only in *Leviathan*, but throughout his philosophy generally. Inherent in this viewpoint is not only a reductivism that allows a subsequent reconstruction, which may be inherent to some extent in all theory, but also and more importantly a dual claim. First, science is supposed to assure us certainty both in understanding phenomena and in being able to apply this understanding to human affairs. This certainty is held to be lacking in all other discourses and theories regarding the phenomena, which leads directly to the second part of the claim. A scientific treatment of a matter is not only certain and veridical, but is certain and veridical *for the first time*, representing the first instance or case of a treatment that is fundamentally correct. For Hobbes, one literally cannot go wrong by consistently sticking with a scientific treatment of moral philosophy, as one can with any other treatment. Hobbes calls his own work the true moral philosophy, which treats of and investigates the laws of nature. «And the science of [the laws of nature], is the true and only moral philosophy. For moral philosophy is nothing else but the science of what is *good*, and *evil*, in the conversation and society of mankind. . . Now the science

of virtue and vice, is moral philosophy; and therefore the true doctrine of the laws of nature is the true moral philosophy» (*EW*, p. 146).

Depicting the “natural condition of mankind”, the state of nature, in chapter XIII, Hobbes argues for a natural equivalence (not exact equality) in most of the mental faculties of humans, based on prudence acquired through experience. This prudence, coupled with inexhaustible and interminable human desires, generates a state where «every man is enemy to every man», where «men live without other security, than what their own strength, and their own invention shall furnish them withal», culminating in the dystopia of «the life of man, solitary, poor, nasty, brutish, and short» (*EW*, p. 113). Hobbes does not say, however, that prudence also leads people to the laws of nature, the social contract, and the sovereign authority. Rather, in chapter XIII, this possibility «consist[s] partly in the passions, partly in his reason» (*EW*, p. 116). Despite the stress laid in later chapters on the passion of fear of death, there are two other passions that «incline men to peace»: «Desire of such things as are necessary to commodious living; and a hope by their industry to attain them» (*EW*, p. 116). The part of reason lies in “articles of peace” that reason suggests, which are the “laws of nature” (*EW*, p. 116). Given Hobbes’ assessment of the liability of reason to be corrupted or coopted by the passions, one cannot identify reason’s suggestion with that of natural and roughly equivalent prudence.

There is a faculty of the mind which is not generally shared like experientially based prudence is for Hobbes, «that skill of proceeding on very general, and infallible rules, called science; which very few have, and in but few things; as being not a native faculty, born with us; nor attained (as prudence)» (*EW*, p. 110). One can persuasively argue that the laws of nature are in fact within the domain of what Hobbes calls science. Hobbes clearly has his moral philosophy in mind when he writes, «[w]hen for the doing of any thing, there be infallible rules, (as in engines, and edifices, the rules of geometry), all the experience of the world cannot equal his counsel, that has learnt, or found out the rule» (*EW*, p. 247). The laws of nature and indeed Hobbes’ entire moral philosophy are counsels, not commands or laws, which require the coercive power of a sovereign authority. Hobbes believes he has something original and valuable to offer actually existing civil societies which could be and ought to be implemented by sovereign authority.

«And as the art of well building, is derived from principles of reason, observed by industrious men, that had long studied the nature of materials, and the divers effects of figure and proportion, long after mankind began (though poorly) to build: So, long time after men have begun to constitute commonwealths, imperfect, and apt to relapse into disorder, there may, principles of reason be found out, by industrious meditation, to make their constitutions (excepting by external violence) everlasting. And such are those which I have in this discourse set forth» (*EW*, pp. 324-325).

Although Hobbes adds to this passage, «Which whether they come not into the sight of those that have power to make use of them, or be neglected by them, or not, concerneth my particular interest, at this day, very little» (*EW*, p. 325), it is clear that he does not really view the implementation of the program of his moral philosophy with such insouciance. This last disclaimer does, however, reflect the fundamental tension explored in this paper. In a certain sense, for Hobbes' philosophy to be entirely true, it has to be implemented and imposed by the sovereign.¹⁰ That it has not been, both at the time of Hobbes writing and at the time of our reading, indicates to Hobbes that civil society has always been flawed, "imperfect", troubled by discord and always liable to lapse into a state of moral anarchy, where, because there is no common power, and no common consensus on moral distinctions and values, «[f]orce and fraud, are in war the two cardinal virtues» (*EW*, p. 155). Hobbes describes the likely reception of his own position in writing:

«It is true, that in a commonwealth, where by the negligence or unskillfulness of governors, and teachers, false doctrines are by time generally received; the contrary truths may be generally offensive: yet the sudden, and rough bustling in of a new truth, that can be, does never break the Peace, but only sometimes awake the war. For those men that are so remissly governed, that they dare take up arms, to defend, or introduce an opinion, are still in war; and their condition not peace, but only a cessation of arms for fear of one another» (*EW*, p. 164).

One can argue that Hobbes in fact views actual civil societies as in a state between war and peace, a state that his philosophy seems to rule out as an impossibility between the state of nature and the state of civil society. This could be viewed as simple inconsistency of his part, and either excused or taken to vitiate his doctrine on logical grounds. Alternately it can be viewed as a more realistic and nuanced position that sheds light on the picture of politics Hobbes perhaps too darkly outlines. Hobbes develops his doctrine of the natural state of war in chapter XIII with three arguments that support this nu-

¹⁰ My interpretation of these passages is thus in partial agreement with that of Sheldon S. WOLIN's in *Hobbes and the Culture of Despotism*, in *Thomas Hobbes and Political Theory*, Mary C. Dietz (editor), University Press of Kansas, Lawrence 1990. Wolin asks the question «what if the structure of truth were to exhibit features similar to those associated with despotic rule?» (S. S. WOLIN's, *o.c.*, p. 15). He notes that «[e]ver since antiquity, despotism has exercised a fascination as a potential liberating force, but with modern times, that emancipatory hope has become linked to the theorizing mind and a theorizable world», (*ibidem*, p. 16) and he views Hobbes as having been instrumental in «fashion[ing] a mind-set in which the despotic would assume the status of an unacknowledged cultural icon» (*ibidem*, p. 18). Wolin further argues that «a common thread of despotism» ties together Hobbes two main and connected projects of «reconstitution of theoretical knowledge and ... reconstitution of society on the new bases of scientific modes of thought» (*ibidem*, p. 18).

Most importantly, Wolin diagnoses a «despotic mentality pervad[ing] the structure of Hobbes' arguments» (*ibidem*, p. 26), mirroring, justifying, and requiring the imposition of and by sovereign authority.

anced view. The first appeals to the ordinary human experience of suspiciousness and caution. Even though «he knows there be laws, and public officers, armed, to revenge all injuries shall bee done him», (*EW*, p. 114) and would therefore seem to be in the state of civil society, the reader Hobbes appeals to takes precautions against aggression both while traveling and at home. Hobbes' second argument is both anthropological and historical. He thinks that Native Americans of his time «have no government at all, and live at this day in that brutish manner» (*EW*, p. 114), and he refers to «the manner of life, which men that have formerly lived under a peaceful government, use to degenerate into, in a civil war» (*EW*, p. 115). Dismissing Hobbes' view of Native American societies as ignorant and simplistic, many historical accounts of civil wars would lend weight to the second part of his second argument. His third argument rests on foreign policy, and is particularly interesting because he asserts that, although nations take towards each other «a posture of war», it is not a state of war on the individual level, «because they uphold thereby, the industry of their subjects» (*EW*, p. 115), one of the fruits of civil society, and indeed a precondition for the development of Hobbes' own theory, given that in the pure state of war as Hobbes' depicts it, there is no possibility for intellectual developments of the caliber he takes his theory to be.

The civil society that Hobbes lived in, although glaringly imperfect to him, allowed for the industry required to discover and articulate the principles of reason that make moral philosophy scientific at last. Still, there will be resistance to Hobbes' moral philosophy, but resistance that moral philosophy can provide a scientific account of.

«But all men know that the obstructions to this kind of doctrine, proceed not so much from the difficulty of the matter, as from the interest of them that are to learn. Potent men, digest hardly anything that setteth up a power to bridle their affections; and learned men, any thing that discovereth their errors, and thereby lesseneth their authority: whereas the common-peoples minds, unless they be tainted with dependance on the potent, or scribbled over with the opinions of their doctors, are like clean paper, fit to receive whatsoever by public authority shall be imprinted on them» (*EW*, p. 325).

These *tabulae rasae* of ordinary minds do not, however, have the laws of nature immediately impressed upon them. There are three alternatives implicit in this receptivity, in Hobbes' view. Either their minds are "tainted" or "scribbled over" by the powerful and the learned, or the sovereign authority imposes a doctrine, but an ultimately unsatisfactory one, on them, or the sovereign imposes Hobbes' moral philosophy on them.

Hobbes' account sets up a contrast between various elites and the "common people" within the scope of civil society under the sovereign. The elites are more likely to cause trouble within the commonwealth, not only because they have more power (in the many senses and modalities Hobbes outlines), but also because they are prone to rely on their own judgement or the judge-

ments of those similar to themselves, to work out their own doctrines and positions, and to advocate and even teach those doctrines and positions. In chapters 27 and 30, it is clear that, in Hobbes' view, elites bear a much greater responsibility for potential civil strife than the common people precisely for these reasons. For example, in chapter 27, Hobbes ascribes a lesser responsibility to one «whose error proceeds from the authority of a teacher, or an interpreter of the law publicly authorized» than to «he whose error proceedeth from a peremptory pursuit of his own principles and reasoning» (*EW*, p. 290), since relying on the judgement of another places some of the responsibility for the error on the shoulders of its originator(s) and promulgator(s). In the same chapter, Hobbes states a general principle, that «all crimes are the greater, by the scandal that they give» (*EW*, p. 293), and singles out in particular «authorized preacher[s]», «professor[s] of the law» and those who «hath such reputation for wisdom as [their] counsels are followed, or [their] actions imitated by many» (*EW*, p. 293). Hobbes views his society and other contemporary societies (and would doubtless view our own) as one in which competing claims not only to political authority, but also intellectual, moral, and religious authority consistently lead people into error with social repercussions, and thereby also perpetuate this problematic condition of social strife, from which Hobbes presents his doctrine and the only scientific, and thus conclusive and certain remedy.

4. REASON AND THE LAWS OF NATURE

The laws of nature, which Hobbes sets forth in chapters XIV, XV, and XVI, occupy a place in Hobbes' philosophy on its face quite clear, but upon reflection, rather ambiguous. It seems in places that the laws of nature are unalterable and have their normative force aside from and prior to any authority. Yet, they do not in themselves have any compelling force, and seem to require imposition and implementation by sovereign authority in order to have any normative force.¹¹ As argued just earlier, these laws require a commonwealth or civil society fundamentally different from the natural state of war in order to make their discovery and full articulation possible. Yet, they are claimed to provide the definitive criterion and articulation of the conditions required not only for the maintenance but also the institution of civil society. These

¹¹ As Mary C. Dietz points out, the citizenry, and in particular the common people are an important third factor, although her interpretation seems to go too far in stressing a fairly traditional understanding of virtue of citizens. «My emphasis here is ... upon Hobbes' observation that a civil law in and of itself does not give rise to obligation. Obligation, it seems, emerges only as a result of an inculcation of a certain code of conduct ... Hobbes' point, in other words, is that the civil law, the rights of the sovereign, and the commonwealth itself are secured only when the people have a sense of duty that springs 'naturally' from the cultivation of certain qualities...» (M. C. DIETZ, *Hobbes's Subject as Citizen, o.c.*, p. 104).

ambiguities reflect the fundamental tension discussed all along in the paper, and before addressing the relationship between the civil law and the laws of nature directly, it is worthwhile exploring the contours of these ambiguities.

Hobbes does paint a picture presenting the laws of nature as clearly fixed and unchangeable, and he makes two kinds of appeals. One of these asserts a divine status to the basis of Hobbes' moral philosophy. «Princes succeed one another; and one judge passeth, another cometh; nay, heaven and earth shall passe; but not one title of the law of nature shall pass; for it is the eternal law of God» (*EW*, p. 264). The other relies on human reasoning about the moral qualities or virtues and vices that the laws of nature address. «The laws of nature are immutable and eternal; for injustice, ingratitude, arrogance, pride, iniquity, acceptance of persons, and the rest, can never be made lawful. For it never can be that war shall preserve life, and peace destroy it» (*EW*, p. 145). It makes sense that Hobbes would ascribe an absolute status to the laws of nature, for they are supposed to be parts of a science that is supposed to finally succeed, where so many others have failed, in understanding reality itself, so far as a human can. Reason, guided and structured by the canons of science as Hobbes conceives of it, is capable of fundamentally understanding reality,¹² at least as far as human affairs are concerned.

Reason is corruptible,¹³ however, and in most people, under the sway of the passions and caught up in the dynamic of competition and valuation, is lead astray. In chapter xxvi, where he deduces two additional laws of nature,¹⁴ Hobbes argues that the law of nature, perhaps more than any other, requires interpretation.

«All laws, written and unwritten, have need of interpretation. The unwritten law of nature, though it be easy to such, as without partiality, and passion, make use of

¹² It is not unreasonable to think that Hobbes ascribes to himself a status analogous to those "greatest of benefactors" (Rackam's translation) (*megistón agathón aitios*), as Aristotle calls those who first established political associations (*ó ðè prótos sustésas*), (1253a30) in a passage in the *Politics* where Aristotle stresses that when humans are "perfected, fully developed or brought to fruition (*teleothéis*), they are the best of animals, but the worst when sundered (*chériston*) from law and justice" (1253a30-34).

¹³ S.A Lloyd ascribes an elenctic function to Hobbes' early discussions in *Leviathan*, diagnosing the many ways in which reason and discourse can be and (according to Hobbes, have been) corrupted «Hobbes' remarks on science, morality, and language must be taken in context. What appears at first to be a motley hodgepodge of disconnected topics in Part 1 of *Leviathan* turns out to be a catalog of most of the root sources of disorder in Hobbes' commonwealth and a first pass at correcting disruptive errors at their source» (S.A LLOYD, *Contemporary Uses of Hobbes' Political Philosophy in Rational Commitment and Social Justice: Essays for Gregory Kavka*, Jules L. Coleman and Christopher W. Morris (editors), Cambridge University Press, Cambridge 1998, p. 138).

¹⁴ «[O]bedience to the civil law is part also of the law of nature» (*EW*, p. 254) «[I]t is a dictate of natural reason, and consequently an evident law of nature, that no man ought to weaken that power, the protection whereof he hath himself demanded or wittingly received against others» (*EW*, p. 260).

their natural reason, and therefore leaves the violators thereof without excuse; yet considering there be very few, perhaps none, that in some cases are not blinded by self love, or some other passion, it is now become of all laws the most obscure; and has consequently the greatest need of able interpreters» (*EW*, p. 262).

The laws of nature, which articulate fundamental moral norms, are most liable to be misinterpreted in the civil society and historical situation Hobbes finds himself in. His discussion of the ways in which reason goes astray regarding law applies to the laws of nature as well as to other laws

«From defect in reasoning (that is to say, from error,) men are prone to violate the laws, three ways. First, by presumption of false principles...

Second by false teachers, that either misinterpret the law of nature, making it thereby repugnant to the law civil; or by teaching for laws, such doctrines of their own, or traditions of former times, as are inconsistent with the duty of a subject.

Third, by erroneous inferences from true principles; which happens commonly to men that are hasty, and precipitate in concluding, and resolving what to do; such as are they, that have both a great opinion of their own understanding, and believe that things of this nature require not time and study, but only common experience and a good natural wit» (*EW*, p. 281-282).

The second and third reasons for error in reasoning are particularly important.¹⁵ In the third, Hobbes notes that one can misapply even true principles like the laws of nature by assuming that one does not need to devote studious reflection to them. Treating the laws of nature as intuitively evident is likely to result in their misapplication. The second reason impugns all manners of other teachers, from those who teach their own doctrines or those they have been handed down to those who simply misapply the laws of nature. Given the historical context of Hobbes writing, these are not entirely separate classes, for other theories of natural law contemporary with Hobbes' own placed themselves within traditions. Interestingly, Hobbes seems to undermine his own authority when he writes:

«The interpretation of the laws of nature, in a commonwealth, dependeth not on the books of moral philosophy. The authority of writers, without the authority of the commonwealth, maketh not their opinions law, be they ever so true. That which I have written in this treatise, concerning the moral virtues, and of their necessity, for the procuring, and maintaining peace, though it be evident truth, is not therefore presently law; but because in all commonwealths in the world, it is part of the civil law» (*EW*, p. 263).

He does not, however, think that he actually does undermine his own author-

¹⁵ The first reason for error in reasoning is not unimportant. Hobbes signals that acceptance of and proceeding on false principles can vitiate even the sort of scientific study he advocates and represents. «For it is possible that long study may increase, and confirm erroneous sentences: and where men build on false grounds, the more the build, the greater is the ruin» (*EW*, p. 256).

ity but rather recognizes the basis for its possible acceptance as a more articulate and scientific theory of what he takes to be already the case. «The law of nature therefore is a part of the civil law in all commonwealths of the world» (EW, p. 253). Hobbes' own "books of moral philosophy" are not superfluous, however, because of the imperfect condition of all existing commonwealths. One plausible interpretation here is that his aim is to remedy this imperfect condition, not by providing the intellectual framework for a radically new social contract and establishment of sovereign authority, but by providing a new perfect and scientific understanding and arrangement of existing civil society and sovereign authority through the resources of the imperfect civil society.

5. CIVIL LAW AND THE LAWS OF NATURE

This brings us finally to the relationship between the civil law and the laws of nature, which is again complicated by some ambiguities in Hobbes' presentation, introduced largely because of an equivocation in the use of the term "civil law". In the beginning of chapter 26, civil law seems to be restricted in scope to laws shared generally by all civil societies, for Hobbes distinguishes between «particular laws» known by those who «profess the study of the laws of the several countries», and «the laws, that men are therefore bound to observe, because they are members, not of this, or that commonwealth in particular, but of a commonwealth» (EW, p. 250). Civil law in this sense seems to be one of the traditional objects of political philosophy. «[M]y design being not to shew what is law here, and there; but what is law; as Plato, Aristotle, Cicero, and diverse others have done, without taking upon them the profession of the study of the law» (EW, p. 251).¹⁶

At the same time, civil law also appears to be something particular and determinate in each civil society. Hobbes defines civil law as «*to every subject, those rules, which the commonwealth hath commanded him, by word, writing, or other sufficient sign of the will, to make use of, or the distinction of right, and wrong; that is to say, of what is contrary, and what is not contrary to the rule*» [emphasis Hobbes'] (EW, p. 251). These laws can even be particularized to apply not to «all the subjects in general», but to «particular provinces», «particular vocations», and even «particular men» (EW, p. 251). It is possible to reconcile these

¹⁶ It is noteworthy that Hobbes' examples only partly fit his statement. Plato, Aristotle, and Cicero all made some inquiry into the laws of their own (in Aristotle's case with Athens, adopted) society, and perusal of their works indicates that they had some familiarity with specific laws of other polities. In addition, Aristotle is supposed to have made extensive studies of the constitutions of many city states, and Cicero himself actively pursued a career as an advocate.

Hobbes' use of these examples is, however apt, precisely because for each of these philosophers, their inquiry into general moral norms informed their study of more particular laws.

two different extensions of the term "civil law" within the scope of Hobbes' text. Several times in the chapter, Hobbes makes two key points about the civil law and the law(s) of nature. First, the civil law and the law of nature are equal in extent, and the fundamental difference between them is that the civil law is written, the law of nature unwritten. Second, both of them require interpretation and implementation by the sovereign.

The civil law and the law of nature are not simply two different views of the same moral norms, with the difference happening to be that one is written, the other not, although this is one feature of their relationship. Hobbes notes that «The law of nature, and the civil law, contain each other and are of equal extent» (*EW*, p. 253), and one part of his discussion supporting this thesis argues: «Reciprocally also, the civil law is a part of the dictates of nature. For justice, that is to say, performance of covenant, and giving to every man his own, is a dictate of the law of nature» (*EW*, p. 253-254). In chapter 26, Hobbes even provides features of laws of nature not enumerated in chapters 14 and 15. The first two deal with general obligations of subjects. «[I]f an unwritten law, in all the provinces of a dominion, shall be generally observed, and no iniquity appear in the use thereof; that law can be no other but a law of nature, equally obliging to all man-kind» (*EW*, p. 255). «[I]f it be a law that obliges all the subjects without exception, and is not written or otherwise published in such places as they may take notice thereof, it is a law of nature» (*EW*, p. 257-258). The third addresses particular cases and circumstances. «[I]f it be a law that obliges only some condition of men, or one particular man, and be not written, nor published by word, then also it is a law of nature» (*EW*, p. 258).

These passages indicate that the normativity that the laws of nature articulate and express is not exhausted by Hobbes' theoretical enumeration of them in chapters 14 and 15. He extends the laws of nature to include a host of customs that did not necessarily (or even likely) have their origin in explicit legislation or theorization, but which have "caught on" so to speak, and become part of the moral landscape and vocabulary of a culture or society. The third case, as Hobbes' examples of public ministers and judges clearly indicates, deals with the normativity inherent and required for application of rules, i.e. the commonly noted theme asserting that there cannot be rules covering every case, rules fully determining rules, so that some sort of prudential interpretation and grasp of the concrete features of cases is required. To return to the fundamental tension that motivates these exegetical discussions of *Leviathan*, it seems, if we look at the relationship between civil law and the law(s) of nature in this light, Hobbes does presuppose a normativity prior to sovereign authority. Indeed, his lengthy and sophisticated discussion of equity and precedents as norms for judges articulates in part the features of this normativity.

The other side of the reciprocity between the civil law and the law(s) of nature, however, is that the civil law, imposed by sovereign authority, gives

the law(s) of nature their full normative force. Three mutually supporting themes support this contention. First, laws of nature, in themselves, are not commands. Second, the full normative force that the laws of nature seem at first glance to possess in themselves actually derives from the power of the sovereign authority and the institution of the civil law. Third, noted earlier in this paper, the sovereign authority and those to whom power is delegated interpret the laws(s) of nature. Only the first requires further comment here.

Hobbes articulates the laws of nature in *Leviathan*, and, as noted earlier, he considers his articulation to be the most adequate because it is fully scientific. He does not believe, or claim that they have not been articulated at all prior to his work, of course, but rather that other articulations have suffered from certain defects and lent themselves to abuses, and that his treatment best represents these laws of nature as they really are. But the laws of nature, considered in themselves, abstracting from determinate institutions of authority and power, are not commands, for they possess a lesser normative force. They are «conclusions or theorems» (EW, p. 147), «dictates of reason» (EW, p. 147), «convenient articles of peace» (EW, p. 116), and they consist in «moral virtues» or «qualities that dispose men to peace, and obedience» (EW, p. 253). They fit into the category of counsel, which covers normative statements that are deduced «from the benefits that arriveth by it to him to whom he saith it» (EW, p. 241). Reason, or Hobbes' articulating reason, *counsels* humans to adopt the fundamental norms that are the laws of nature. Certainly Hobbes views these as productive of benefits and preventative of harm to citizens, and although Hobbes does not say this explicitly, he thinks that the laws of nature also have this status with respect to those in authority. Furthermore, he thinks that the laws of nature, once properly and fully understood, provide a fundamental normative structure by which sovereign authority can be used to benefit and protect the citizenry.

Yet, for all of their attractiveness and persuasiveness, the laws of nature, considered in themselves, remain mere counsels. They derive their ultimate moral force not from themselves in the abstract but from the fact that humans actually do live in already constituted societies, which do have people already vested with authority and the institutions of civil law.¹⁷ Directly after calling the laws of nature qualities, he notes: «When a commonwealth is once settled, then they are actually laws, and not before» (EW, p. 253). One reason for this is that, as pointed out earlier, even in the same society, people do not agree about what the laws of nature actually mean, and this introduces and

¹⁷ It could be argued, of course, that Hobbes ultimately bases the normativity of laws of nature on God's will, basing this argument on his statement at the end of chapter 15. «But if we consider the same theorems, as delivered, in the word of God, that by right commandeth all things; then they are properly called laws» (EW, p. 147). This raises, however, serious and contentious problems of interpretation of Hobbes theological discourse outside of the scope of this paper.

perpetuates conflict. «For in the difference of private men, to declare, what is equity, what is justice, and what is moral virtue, and to make them binding, there is need of the ordinances of sovereign power, and punishments to be ordained for such as shall break them; which ordinances are therefore part of the civil law» (*EW*, p. 253). The normativity inherent in the laws of nature cannot be made actual, functioning, determinative, and real without the force of authority and the expression of this force through civil laws.

So, as an endnote to this exegesis, several important questions remain. What is Hobbes really arguing for in *Leviathan*? Is this deep tension in his discussions really a sign of a fundamental contradiction and perhaps even incoherence vitiating Hobbes' philosophy? The interpretation developed in this exegesis depicts Hobbes' doctrine as both coherent and consistent, arguing that Hobbes does in fact view the laws of nature as a moral foundation in *some* sense prior to sovereign authority, but only prior in a sense, since they require institution as civil law under sovereign authority in order to be effective, and in order to fully provide a moral foundation. In the course of this exegesis, implications of this claim have already been presented in Hobbes' own words. Hobbes views his doctrine as the fullest and most correct articulation of the laws of nature and their implicative relationship to both political authority and moral discourse, and the most definitive contrast in Hobbes' mind between his articulation and other articulations is not simply that he views his position as scientific, but rather that he views the others as remaining conditioned by and perpetuating the very obstacles to civil concord they are claimed to remedy, in ways that he diagnoses and criticizes generally and specifically. There is a deep-running tension to Hobbes' account in *Leviathan*, but it stems from the complicated and problematic moral situation he writes within, against, a moral situation in which, in his view, continual strife issues from and is perpetuated by the very and various efforts to understand, interpret, and instantiate morality.