

THE ETHICAL DOCTRINE OF HOBBS

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THE moral doctrine of Hobbes, in many ways the most interesting of our major British philosophers, is, I think, commonly seen in a false perspective which has seriously obscured its real affinities. This is, no doubt, largely due to the fact that most modern readers begin and end their study of Hobbes's ethics with the *Leviathan*, a rhetorical and, in many ways, a popular *Streitschrift* published in the very culmination of what looked at the time to be a permanent revolution, and do not pay such attention to the more calmly argued statements of the same doctrine contained in the *Elements of Law*, circulated before the outbreak of the Civil War, or the *De Cive*, produced (apart from the explanatory notes appended in the second edition of 1646) before the issue of the conflict could have been thought to be already decided by "the sword." As a corrective to misunderstandings based on exclusive attention to the *Leviathan*, I shall, in these pages, take my references to Hobbes almost entirely from the *De Cive*, and, for convenience' sake, I will use the text of the English version, *Philosophical Rudiments concerning Government and Society*, printed in 1651 and reproduced in Vol. II of Molesworth's edition of the *English Works*. (I have remarked a few errors in this volume, notably the total perversion of Hobbes's sense by the omission of a whole line of text in XVI, 16, p. 245, of Molesworth.¹ But with these few exceptions it seems to me a sufficiently faithful rendering for my purposes.)

The impression which the average reader of the *Leviathan* carries away with him might, I think, be fairly summed up thus. (I assume that the reader has really read Hobbes's text, and not merely run away with the *malicious* interpretation suggested by the singular essay prefixed to the Clarendon Press edition of it.) The answer to the question *what ought a good man to do?* is the simple one that he ought to obey the political "sovereign" without asking any

¹ In the original Latin text of the sentence Hobbes says, as we should expect him to say in the course of an attempt to prove that the supreme power, both spiritual and temporal, was possessed, in the days of the Israelite and Jewish monarchies, by the kings, that the priests could only do rightfully what God commanded them, whereas the king had rightfully all the power over every man which that man had over himself (*sacerdos id tantum iure poterat quod Deus iuberet, rex autem iure poterat quidquid poterat iure unusquisque in se*). In Molesworth's edition this is represented by the sense-destroying statement that "the priest could do rightly whatsoever every man could rightly do himself."

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questions or making any difficulties, and the reason why he ought to do this is equally simple. It can be shown, if not to demonstration, yet with overwhelming probability, that he stands personally to lose by doing anything else, and the object of every man's desire is "always some good to himself." It is my personal interest that the miseries of anarchy should be prevented; by disobeying the civil law in any particular, I am, so far, contributing to the recurrence of anarchy; *ergo*, it is always to my interest to conform to the law. And to say that this is to my interest is equivalent to saying that it is my duty; my duty, in fact, means my personal interest, calmly understood. That this should be popularly accepted as an adequate account of Hobbes's teaching about morality may be partly explained by historical causes. When Butler set himself to expose the fallacies of the "selfish" psychology of human action, he found admirable examples of them in some of Hobbes's analyses of the "passions," and he did the work of refutation so thoroughly that he has perhaps made the notion that there is nothing in Hobbes but this "selfish psychology" (a charge which he himself is careful never to make) current from his day to our own. Partly also I think Hobbes himself must be held unintentionally responsible for the result. The *Leviathan* is far the most readable and amusing of his works, and it was written in a time of revolution and unsettlement as a persuasive to cessation from fruitless civil strife. For its immediate purpose, as an exhortation to peace, it was right and proper that the author should develop the contention that peace is the real interest of his fellow-countrymen as persuasively as he could; it is not surprising, therefore, that it attains such dimensions in his book as to give the impression that it is really all, or almost all, that he has to say.

And yet it is not all, nor nearly all. There are really two distinct questions before Hobbes, the question why I *ought* to behave as a good citizen, and the question what inducement can be given me to do so if my knowledge of the obligation to do so is not in itself sufficiently effective. According to his repeated declarations, it is a certain fact of psychology that I shall violate the law and break the peace if I believe that I stand to gain by doing so¹ Hence the

¹ Thus (*De Cive*, V, 1): "It is of itself manifest that the actions of men proceed from the will, and the will from hope and fear, in so much as when they shall see a greater good or less evil likely to happen to them by the breach than observation of the laws, they will wittingly violate them." Hence Hobbes goes on to maintain that the moral guilt of offences into which subjects are led by the insufficiency of the penalties provided for them falls not in the subject but on the sovereign. "If, therefore, the legislator doth set a less penalty on a crime, than will make our fear more considerable with us than our lust, that excess of lust above the fear of punishment, whereby sin is committed, is to be attributed to the legislator, that is to say, to the supreme" (*De Cive*, XIII, 16).

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importance for him of arguing that I never really stand to gain by such conduct, since the recurrence of the state of "war of every man against every man" is a disadvantage to me which cannot be offset by any compensating advantage. But the Hobbian answer to the other question, why I ought, or am obliged, to be a good citizen is quite different; it is, quite explicitly that I have, expressly or tacitly, pledged my word to be one, and to violate my word, to refuse to "perform my covenant as made," is *iniquity, malum in se*.¹ Hobbes's ethical doctrine proper, disengaged from an egoistic psychology with which it has no logically necessary connection, is a very strict deontology, curiously suggestive, though with interesting differences, of some of the characteristic theses of Kant.

This comes out particularly strikingly in the passage in *De Cive* (III, 5), where Hobbes is explaining the difference between the justice of an act and the justice of a person. A just *act* is "what is done in accord with right," but a man who does acts which are in accord with right is not *eo ipso* a just *man*. "When the words are applied to persons, *to be just* signifies to be delighted in just dealing, to study how to do righteousness, or to endeavour in all things to do that which is just; and *to be unjust* is to neglect righteous dealing, or to think it is to be measured not according to my contract, but some present benefit. . . . That man is to be accounted just, who doth just things because the law commands it, unjust things only by reason of his infirmity; and he is properly said to be unjust, who doth righteousness for fear of the punishment annexed unto

¹ When he is speaking strictly, Hobbes makes a distinction between *injustice* and *iniquity*, though the distinction is not always carefully kept up (less carefully, I think, in *De Cive* than in *Leviathan*). Injustice, in the strictest sense of the word, is possible only in the "civil" state, since it is by definition disregard of the commands of the lawful sovereign. Iniquity, which can exist in "the state of nature," or in the conduct of the sovereign, who, since he is not subject to his own commands, cannot be guilty of injustice proper, is violation of the "natural law," which is also, according to Hobbes's repeated explanations, the *moral law*. But since my obligation to obey the sovereign is based on the assumption that by living under his protection I have expressly or tacitly "covenanted" with all my neighbours to accept his commands as the rule of life, and the obligation to observe a "covenant" is thus antecedent to the institution of civil society, the moral guilt of "injustice" arises from the fact that all injustice is also *iniquity*, and therefore breach of the moral law, though not all iniquity is "injustice." Even in the "state of nature" to which, according to the *Leviathan*, it is "consequent" that no act can be just or unjust, *wanton* violation of a promise could be iniquitous. (It is true that since, according to Hobbes's psychology, a man inevitably acts to secure what he believes to be his own greatest good, really wanton promise-breaking could never occur. The promise-breaker would always be acting from the "reasonable" motive that he hoped to secure more good by breaking his word than by keeping it.)

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the law, and unrighteousness by reason of the iniquity of his mind.”¹

This is precisely Kant's distinction between action done merely in accord with law and action done from law, with the characteristic difference that Hobbes is trying to reduce the law from which the virtuous man acts to the single law that a promise once duly fulfilled must be kept, and Hobbes is laying himself open to the very same line of argument which has, fairly or unfairly, been used against Kant, that a “good will” which wills nothing but this conformity to laws because it is law, is formal and empty.

Indeed, Hobbes actually goes as far as to anticipate Kant's attempt to reduce all really wrong willing to the irrational attempt to will both sides of a contradiction at once. Thus we read (*De Cive*, III, 3, and the argument is equally used in other expositions of his theory) “There is some likeness between that which in the common course of life we call *injury*, and that which in the schools is usually called absurd. For even as he who by arguments is driven to deny the assertion which he first maintained, is said to be brought to an absurdity; in like manner, he who through weakness of mind does or omits that which before he had by contract promised not to do or omit, commits an injury, and falls into no less contradiction than he who in the schools is reduced to an absurdity. For by contracting for some future action, he wills it done; by not doing it, he wills it not done; which is to will a thing done and not done at the same time, which is a contradiction. An injury therefore is a kind of absurdity in conversation, as an absurdity is a kind of injury in disputation.” “There is in every breach of covenant a contradiction properly so called; for he that covenanteth, willethe to do, or omit, in the time to come; and he that doth any action, willethe it in the present, which is part of the future time, contained in the covenant; and therefore he that violateth a covenant, willethe the doing and the not doing of the same thing, at the same time; which is a plain contradiction. And so injury is an absurdity of conversation, as absurdity is a kind of injury in disputation.” The thought here is at bottom the same as Kant's, but for the differences that (1) Hobbes, for his own reasons, reduces all “injury” to the violation of an express or implied promise; (2) and he has not, like Kant, thought of the “universalizing of a maxim” as a criterion of its freedom from contradiction. But the really important point is that Hobbes agrees with Kant on the “imperative” character of the moral law, exactly as he also agrees with him in the assertion that it is the law of “right reason.”

¹ Cf. *De Cive*, IV, 21. “Although a man should order all his actions so much as belongs to external obedience just as the law commands, but not for the law's sake, but by reason of some punishment annexed to it, or out of vain glory; yet he is unjust.”

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Hobbes's recognition of the imperativeness of the natural, which is also the moral law, is obscured for a hasty reader by the fact that he also repeatedly describes the contents of that law as "theorems" discovered by our reason, like the theorems of mathematics, and even goes so far as to say that these theorems only become *laws* proper in civil society.

Thus (*De Cive*, III, 33) "those which we call the laws of nature (since they are nothing else but certain conclusions, understood by reason, of things to be done and omitted; but a law, to speak properly and accurately, is the speech of him who by right commands somewhat to others to be done or omitted) are, not in propriety of speech laws, as they proceed from nature. Yet, as they are delivered by God in holy Scriptures . . . they are most properly called by the name of laws"; again (*Leviathan*, XV), "these Dictates of Reason, men use to call by the name of Lawes, but improperly: for they are but Conclusions, or Theoremes concerning what conduceth to the conservation and defence of themselves; whereas Law, properly, is the word of him, that by right hath command over others. But yet if we consider the same theoremes, as delivered in the word of God, that by right commandeth all things; then are they properly called Lawes." So in the *Elements of Law* (XV, 2), the "precepts of Natural Law" are said simply to be "those which declare unto us the ways of peace, where the same may be obtained, and of defence where it may not," without any reference to an imperative character, though we read later in the same work (XVIII, 1) that they are "also divine laws in respect of the author thereof, God Almighty." One might, at first, be disposed to understand these deliverances to mean that in themselves the "laws of nature" are mere propositions indicative about the means which are commonly found to be most conducive to a peaceful existence, and that their imperative character as laws, in the proper sense of the word, is entirely secondary; it only arises in a civil society when the sovereign has bestowed it upon them, and reinforced it with penal "sanctions." Thus outside a civil society with penalties for breach of contract, the "law" that "men perform their covenants" would mean merely the proposition that in the vast majority of cases, perhaps in all, a man will find that it pays him better to keep his word than it would do to break it; in civil society, so far as regards contracts of which the law takes cognizance, this statement of fact is converted into an imperative by the sovereign who imports the "thou shalt" into it by making covenant-breaking actionable in his courts. And this is, I believe, how Hobbes has commonly been understood by most of his readers.

But there are, as it seems to me, insuperable difficulties in the way of such an interpretation.

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(1) It is to be observed that from the first, and even when he is speaking of the condition of things in his imaginary "state of nature," Hobbes always describes the items of the natural law as *dictamina*, or dictates, never as *consilia*, or pieces of advice, and the very use of this language implies their imperative character. ("Dictates," as the inhabitants of many European countries are finding out to their cost to-day, are something very different from counsels or recommendations.) So, too, Hobbes regularly says of his natural law that it is a "theorem" which *forbids* certain actions, and uses imperative or quasi-imperative language in his formulation of them. Thus (*De Cive*, II, 1) the law of nature is defined as "the dictate of right reason, conversant about those things which are either to be done or omitted (*dictamen rectae rationis circa ea, quae agenda vel omittenda sunt*) for the constant preservation of life and members, as much as in us lies." "A Law of Nature (*Leviathan*, XIV) is a Precept, or generall Rule, found out by Reason, by which a man is forbidden to do, that, which is destructive of his life, or taketh away the means of preserving the same; and to omit that, by which he thinketh it may be best preserved." And (*ibid.*) the "Fundamentall Law of Nature" is that "by which men are commanded to endeavour Peace." The imperative character of the law is thus inseparable from it. Even in the "state of nature" the "fundamental law" is not "men cling to life and are reluctant to leave it"; but "I *am* to do what will, so far as I can see, preserve my life, and I am *not* to do what I judge will imperil it." (Suicide would apparently be wholly excluded, even amid all the miseries of the "natural state.")

It is in strict accordance with this recognition of the imperativeness of the law that Hobbes always lays it down that *obligation* is not created by the sovereign when he issues his orders backed by threats of penalties. The moral obligation to obey the natural law is antecedent to the existence of the legislator and the civil society; even in the "state of nature" the law obliges "in foro interno," though not, as Hobbes is careful to add, *always* "in foro externo." This is not a mere idle playing with words. Hobbes could have conveyed his meaning more unambiguously perhaps, if he had laid more stress on the point that the fundamental law of nature and morals, as he conceives it, is a law of *reciprocal* obligation: what it commands is peace with him who is willing also to be at peace with me, "that peace is to be sought after, *where it may be found*," "that every man ought to endeavour Peace, *as farre as* he has hope of obtaining it." The *caveat* that the "Laws of nature oblige *in foro interno* . . . but *in foro externo*, that is, to the putting them in act, not *alwayes*" is, after all, only meant to remind us that the obligations of these laws are reciprocal, and that where there is no common power to

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act as protector, a man has to judge for himself whether his desire for peace with me is reciprocated on my part. It has also a fuller implication, which Hobbes's unfriends have not always been fair enough to keep in mind. Whereas the civil law can only be infringed by overt acts or words, the moral law is violated by an improper thought or purpose. "Whatsoever Lawes bind *in foro interno* may be broken, not onely by a fact contrary to the Law, but also by a fact according to it, in case men think it contrary. For though the Action in this case, be according to the Law; yet his Purpose was against the Law, which where the Obligation is *in foro interno* is a breach." (*Leviathan*, XV). "The laws which oblige conscience, may be broken by an act not only contrary to them, but also agreeable with them; if so be that he who does it, be of another opinion. For though the act itself be answerable to the laws, yet his conscience is against them (*De Cive*, III, 28, 7)."

Hobbes is thus quite consistent with himself in maintaining that the natural law—unlike the civil—is "*immutable and eternal*; what they [the 'laws of nature'] forbid, can never be lawful, what they command can never be unlawful. For *pride, ingratitude, breach of contracts (or injury), inhumanity*, contumely will never be lawful, nor the contrary virtues to these ever unlawful, as we take them for dispositions of the mind, that is, as they are considered in the court of conscience, where only they oblige and are laws" (*De Cive*, III, 29).

(The meaning of the last clause is only that an outward act which would otherwise have been an exhibition of pride, or a breach of contract, and therefore contrary to the moral law, may acquire a different character, at a particular place and time, owing to the dispositions of the civil law. Thus to exact marks of respect which it would be pride in a private man to demand, may be a proper proceeding on the part of an ambassador or a judge who has the dignity of his sovereign and his sovereign's courts of justice to maintain, and is consistent with the most perfect personal modesty. To desist from fulfilling a contract which the law-courts have pronounced illegal and forbidden me to fulfil is not to show myself a promise-breaker and a man of bad faith, but to prove myself a good citizen; it is my duty as executor under a friend's will *not* to pay legacies which the law has declared invalid, and so on.)

To do full justice to Hobbes we have to remember that the private man in the civil state has other obligations besides that of "keeping his covenant" by obeying all the commands and prohibitions of the civil law. There is a large range of action in respect to which the "sovereign" has not laid down any specific commands, and here, Hobbes holds, I am obliged by the natural law to exhibit the "equity" which he sums up in the traditional maxim not to do to

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another what I am unwilling to have done to myself. "Justice" is not the whole of that to which a citizen is obliged only, and quite naturally, in view of the political disorders of the reign of Charles I and the Commonwealth, the practical importance of obedience to constituted authority is so great in Hobbes's eyes that it becomes his predominant theme; it is easy to forget that he equally teaches that we are under an "eternal obligation" to practise an equity which demands mercy, benevolence, gratitude, and to practise it because the law demands it.

Since all obligation, including the obligation to honour my "covenant" by strict obedience to the sovereign, is thus derived by Hobbes from a "natural law" which is the "dictate of reason," he really escapes from the charge brought against him by Cudworth of making moral distinctions the creation of "meer will." It is true that, according to him, there is one distinction which the sovereign does make by his "meer will," that between *just* and *unjust*, *unjust* meaning by definition what the civil law forbids, and *just* what it permits. But the sovereign does *not* in this fashion make the antecedent and more important distinction between *equity* and *iniquity*; his will does not create the iniquity of refusing him the obedience we have promised. And the declaration that he does create the distinction between justice and injustice is, in exposition, so whittled down that it loses a great deal of its apparent sting. Thus we learn that the sovereign does nothing to create the obligation to keep a "covenant"; all that he really does is to decree that the performance of certain "covenants" is illegal, and to prescribe the precise forms of declaration of our intentions which his courts will regard as constituting a contract. So, we are told, he does not make adultery wrong; it was wrong antecedently by the "natural law"; he merely decides "what copulations" are to be regarded as adulterous.¹ I suppose this means that in any case, independently of the authority of any civil law, we could lay it down that sexual connections which are incompatible with the existence of a civilized community are wrong and should be forbidden; but I should be taking too much upon me if I presumed on my own authority to say just what sexual unions are so incompatible; if I am a loyal citizen, I shall regard that as settled for me by the civil law. The law may, of course, make a mistake, exactly as Hobbes himself says, one monarch

¹ E.g. *De Cive*, XIV, 10. "For though the law of nature forbid theft, adultery, etc.; yet if the civil law command us to invade anything, that invasion is not theft, adultery, etc. For when the Lacedaemonians of old permitted their youths, by a certain law, to take away other men's goods, they commanded that these goods should not be accounted other men's, but their own who took them; and therefore such surreptions were no thefts. In like manner, copulations of heathen sexes, according to their laws, were lawful marriages."

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may wage an iniquitous war against another. But, as he argues with reference to that illustration, the iniquity of the war is not the guilt of the subject who is commanded to bear arms in it; his business as a good subject is simply to obey the command of his own sovereign, to whom he has "covenanted" to be loyal, and must therefore obey, if he is not to break the command of the natural law that "covenants" are to be kept. He has thus discharged his own conscience; if the command were iniquitous, the iniquity concerns only the sovereign who gave it, and he, according to Hobbes, will have to answer for it to God; if the subject had broken his "covenant" to obey his lawful sovereign on the strength of his personal belief that the command given him was iniquitous, the iniquity of the disobedience would have been with him. This is, of course, just the familiar doctrine, "Theirs not to reason why; Theirs but to do and die," a principle which perhaps few of us would care to apply as unrestrictedly as Hobbes does, but without some recognition of which all transaction of concerted human business would become impossible.¹

It must be remembered, however, that this unqualified submission to the sovereign is regarded by Hobbes not as a mere counsel of safety, but as a strict moral obligation, and that the obligation is imported into it from the "eternal" natural law that faith once given is to be kept, which is antecedent to the creation of political society. His view is not that in civilized societies the natural (or moral) law has been superseded by another, but that, in virtue of his theory of civil society as created by a "covenant" of every member with every other to recognize the sovereign's commands as the rule of life, even when I disapprove of some particular command, I am strictly bound by a "prior obligation," which I cannot violate without bad faith, to comply with it, exactly as a judge is

¹ *De Cive*, XII, 3. "Whatsoever any man doeth against his conscience, is a sin; for he who doth so, contemns the law. But we must distinguish. That is my sin indeed, which committing I do believe to be my sin; but what I believe to be another man's sin, I may sometimes do without any sin of mine. For if I be commanded to do that which is a sin in him who commands me, if I do it, and he that commands me be by right lord over me, I sin not. . . . They who observe not this distinction, will fall into a necessity of sinning, as oft as anything is commanded them which either is, or seems to be unlawful to them; for if they obey, they sin against their conscience; and if they obey not, against right. . . . For by our taking upon us to judge of *good* and *evil*, we are the occasion that as well our obedience, as our disobedience, becomes sin unto us." Clearly Hobbes would have been on the side of those who have regarded Sophocles's *Antigone* as simply criminal in her defiance of Creon. The doctrine, in its unqualified form, may have its dangers, but in the middle of the seventeenth century many "subjects" needed the warning that the commands of a lawful authority are not to be disobeyed whenever they do not approve themselves to the private judgment of a subordinate.

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bound by his office to give sentence in accord with the law, even when he personally thinks the existing law a bad one.

If we grant Hobbes's assumptions about the dependence of civil society on the "covenant," and the character of the "covenant" itself, the duty of obeying the civil law, even where I personally think it to be iniquitous, follows as part of a consistent deontology. It is not a logical necessity of the system that we should also accept his egoistic moral psychology. Even if we reject this psychology *in toto*, so long as we grant the premises that civil society rests upon a "covenant" to obey whatever shall be enacted as the "law of the land," and that breach of covenant is always a violation of duty, the conclusion he wishes to draw will follow, viz., that I am only free to be guided by my personal opinion as to what is equity when the civil law has seen fit to leave me free.

(2) The strictly deontological character of Hobbes's thought comes out equally in the doctrine, essential to his argument, that the civil sovereign himself, who obviously cannot be subject to the jurisdiction of his own courts, but has been, in Hobbian language, "authorized" in advance to command and forbid at his own discretion, is just as much under a rigid law of moral obligation as his subjects. He is obliged to equity, the strict observance of the natural (or moral) law, which means, in effect, that he is bound to command and forbid always with a view to the good of the community (and, therefore, as Hobbes is careful to explain, to the practice of just judgment, humanity, mercy, and benevolence). And Hobbes's professed doctrine is that though no human court can take cognizance of the sovereign's shortcomings in this matter, he has always to reckon with the account he will yet have to render to God, who is no acceptor of persons. A hasty reader of the *Leviathan* (though he would be a hasty one) may come away with the impression that Hobbes's sovereign has extensive rights, but nothing to speak of in the way of corresponding duties. The impression should be corrected by a perusal of *De Cive*, XIII, *Concerning the Duties of those who bear Rule*, a chapter of which I would particularly recommend the concluding sections (15–17), which deal with the way in which this duty is violated by "princes" who unduly restrain the "harmless liberty" of the subject by a multiplicity of superfluous laws, allow law to be stultified by the imposition of inadequate penalties or made odious by the infliction of unnecessary severities, or poison its administration by conniving at the corruption of judges by bribes and presents. All such misconduct on the part of "princes" is constantly described by Hobbes as *iniquity* and *sin*.

Now since Hobbes also attempts to reduce all *iniquity* in the end to breach of an express or implied contract, and since he also, as we all know, makes it so capital a point that the parties to the original con-

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tract by which civil society was created are not the "sovereign" and the "subject" (who only come into existence in virtue of the contract itself), but the individual items of a "dissolute multitude" which is not yet a society and has no legal personality, we might find a difficulty here. If the original contract, which must not be broken, imposed no conditions of any kind upon the future sovereign's arbitrary exercise of the power to command and forbid, how can he be said to be guilty of *iniquity* if he chooses to issue a host of grandmotherly commands, to enforce them savagely, or to neglect enforcing them, or if he winks at the bribery of his judges? He never covenanted with his subjects that he would not do these things; if he does them, then, he breaks no "covenant," and cannot be iniquitous, if iniquity and breach of contract are the same thing. Hence it is not unnatural that Hobbes should have been suspected of meaning no more by all his talk about the "duties" of sovereigns than that a sovereign who acts in the ways he condemns is likely to draw unpleasant consequences on himself. Yet it is, I think, impossible not to feel that Hobbes is writing in earnest all through the chapter of the *De Cive* which deals with the duties of "them who bear rule," he does mean that in observing the rules he lays down, rulers are only discharging a *debitum*, and Hobbes would have been the first to insist that a man cannot properly be said to owe a debt to himself. It must be remembered that he is always very careful to insist that in ruling with a single eye to the public good, the sovereign is doing what he is *obliged* to do by the "natural law," and that, in his terminology, there is an essential difference between following a *counsel* and obeying a *law*. "*Counsel* is a *precept*, in which the reason of my obeying it is taken from *the thing itself which is advised*; but *command* is a *precept*, in which the cause of my obedience depends on the *will* of the commander. For it is not properly said that *thus I will and thus I command*, except the will stand for a reason. Now when obedience is yielded to the laws, not for the thing itself, but by reason of the adviser's will, the law is not a *counsel* but a *command*, and is defined thus: *law is the command of the person, whether man or court, whose precept contains in it the reason of obedience*. . . . *Law* belongs to him who hath power over those whom he adviseth; *counsel* to them who have no power. To follow what is prescribed by *law*, is *duty*; what by *counsel* is *free-will*" (*De Cive*, XIV, 1). If Hobbes had meant, then, that the sovereign who does the various things which he condemns in a sovereign is acting in an *ill-advised* way, doing what he is likely hereafter to be sorry for, and nothing more, he ought, according to his own definitions, to have called the "precepts" of *De Cive*, XIII, simply counsels, not duties. If the ruler can be said to have duties at all, he must be himself subject to a *law* that is to the *command* of some "persons whose precept

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contains in it the reason of obedience." (Here, again, we may remark an anticipation of Kant, though with a difference. Hobbes means to say that a "counsel" is exactly what Kant calls an *analytic* imperative; it takes the form "do this, if (or since) you desire that, to which this is required as a means." But a dutiful act is one of obedience to a law for which obedience the motive is just that the law is law, is, in fact, in the Kantian not very well-chosen phrase, a *synthetic* imperative.) If Hobbes is to be regarded as consistent with himself we must explain how, on his theory, the sovereign can be guilty of breach of faith, and how this breach of faith can be the violation of a command which is the command of a *person* (in the Hobbian sense), and "contains in it the reason of obedience."

Now as to the first point, there is something to be considered on which Hobbes himself has hardly laid all the stress he should have done. The sovereign, according to him, is created by a voluntary transference to him of what, in the "state of nature," had been the personal right of each of his future subjects. What each of us transferred to the sovereign by this transaction was the right to prescribe at his discretion what we should do and omit. But the purpose of this transference was the promotion of the safety and commodious living of each of us. We did not renounce our claim to this when we renounced our claim to judge of our own discretion how it may be attained. And though the "renunciation" was made not by a contract between the sovereign "of the one part" and the "people" of the other part, but by one between each individual man and every other, in which the sovereign is a beneficiary, but not a party, Hobbes is quite clear on the point that to make the transaction complete there must be an *acceptance* of the proposed transfer of rights by the beneficiary. "In the conveyance of right, the will is requisite not only of him that conveys, but of him also that accepts it. If either be wanting, the right remains" (*De Cive*, II, 5). Hence, though Hobbes does not say much on the point, there *is* a bargain to which the sovereign *is* a party in the constitution of civil society. He is not a party to the bargain, of which Hobbes speaks in particular, between you and me to divest ourselves of most of our "natural right," he alone has divested himself of none of it. But, as the beneficiary under the bargain, to whom the "rights" you and I lay down are transferred, he *accepts* the transfer, and in accepting it must be supposed to understand and accept the provision that the powers transferred to him are to be exercised for the preservation and commodity of all of us. This does not affect the conclusion Hobbes is most anxious to establish, that you and I cannot equitably cashier the sovereign or call him to account, since we are supposed to have agreed together to authorize beforehand whatever commands the sovereign may, in his arbitrary discretion,

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think good to give. We may not rebel because *we* think that what he commands is not conducive to the ends for which the transfer of right was made, since we expressly agreed that *he* was to be the judge of what is so conducive. But it is enough to show that there really is a bargain, to which the sovereign is a party by his acceptance of the sovereignty, that the transferred rights shall be exclusively used in the ways which the sovereign honestly believes to further the end aimed at in the transference, and this is enough to explain why, even on the assumption that all "iniquity" can be reduced to breach of contract—an assumption which Hobbes can hardly be said to carry through with complete success—the sovereign can be said to be capable of "iniquity," to be bound by the natural law, and to have a variety of exacting duties. By accepting the sovereignty he has virtually contracted, not indeed to submit his commands to the judgment of any council or body of ministers, but to use them only as he, in his conscience, deems to be for the common safety and welfare. Hence iniquity on his part, too, though not an offence of which any court can take cognizance, could be brought, at a pinch, without any departure from the main lines of Hobbes's thought, under the head of breach of the great law that "men perform their covenants once made."

(3) There still remains a further point for consideration. Sovereigns, we are told, have duties; a duty means "following what is prescribed by law," and a law is "the command of the person . . . whose precept contains in it the reason of obedience."

If the fulfilling of the law of nature is a duty in the sovereign, it follows that the law of nature is a *command*, and a command the reason for obedience whereto is that it is the precept of a "person" with the *right* to command. What "person," then, is this, whose commands are binding on princes because they are *his* commands? Not the "natural person" of any man, since Hobbes denies the existence of any universal monarch of the earth; not a "court" composed of many "natural persons," since there is no such "court" with jurisdiction over the independent princes of the world. I can only make Hobbes's statements consistent with one another by supposing that he meant quite seriously what he so often says, that the "natural law" is the command of God, and to be obeyed *because* it is God's command. Its clauses are "theorems," because they are discoverable by the unaided use of clear and rational thinking. But if they are also commands, then on Hobbes's principles they are commands laid by one will upon another; no man, as Hobbes puts it, can oblige himself, because, being at once obliger and obliged, he could equally release himself at will from his obligation. "It were merely in vain for a man to be obliged to himself, because he can release himself at his own pleasure, and he that can do this

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is already actually free" (*De Cive*, VI, 14). "No man can be obliged except it be to another" (*ibid.*, XII, 4). It would seem to follow that the rules of natural "equity" cannot be commands, or laws, and therefore compliance with them a *duty*, so long as we know no more about them than that they are conclusions rightly collected by reason. To recognize them as *laws*, we must also know that they are the commands of God, and since Hobbes teaches that a law which binds *in foro interno* is not really complied with unless there was a formal intention to obey it as law, we do not really fulfil the demands of equity unless we obey the divine command as such, because it is a divine command.

On the question how we know that the "theorems" which figure in Hobbes's text *are* commands of God, the answer seems to me to vary from one exposition to another. From a passage already quoted from the *Elements of Law* it would look as though the "theorems" obtain this fuller character of being divine laws from their being laid down as commands in Scripture. If that is so, it should consistently be added that they are not laws, but remain simply true "theorems" everywhere outside the "kingdom of God by covenant," i.e. that they are only *laws* to the Jews and Christians who recognize the authority of the Scriptures to which Hobbes appeals. Yet in *De Cive*, XV, 4–5, we meet another different theory. There we are told that God has a two-fold kingdom, "*natural*, in which he reigns by the dictates of right reason; and which is universal over all who acknowledge the divine power by reason of that rational nature which is common to all," and "*prophetical*, in which he rules also by the *word of prophecy*; which is peculiar, because he hath not given positive laws to all men, but to his peculiar people and some certain men elected by him." It is then added that in the *natural* kingdom God's right to rule is founded solely on his *irresistible power*" (whereas in the *prophetical* kingdom, as is explained in detail in the sections of *De Cive* and *Leviathan* devoted to the subject of religion, God's sovereignty over the "elected" rests on a *covenant*). It seems to follow that according to this version of the doctrine, the natural law is a *law* (and not merely a collection of true theorems) for all men except atheists (when Hobbes always regards not as disobedient subjects of God, but as aliens, outside God's kingdom).¹

¹ I confess here to finding a real difficulty in understanding how Hobbes could hold that mere *irresistible power* can be the foundation of a moral *obligation*. In strict consistency, should he not have held that the moral obligation to obey the natural, which is also the divine, law only covers the case of Israelites in the past, and Christians in the present, who are subjects of God in virtue of a "covenant," by which they are pledged to "faith and obedience" (or, when they have erred through frailty, repentance)? As the omnipotent Lord of all things, God is only king over "infidels" in the same sense in which He is king over the beasts whose subjection to his "irresistible power" is not supposed to give rise to any obligations.

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We should, in consistency, have to suppose that the knowledge that the natural law is the command of God may be attained independently of acquaintance with the Jewish and Christian Scriptures. I do not know whether there is any way of reconciling the various passages, nor how, if the view of the *De Cive* is adopted, Hobbes supposes persons unacquainted with the Scriptures to have discovered that the natural law *is* a command of God. But we are, I think, bound to believe that he means what he says when he calls it such a command; in no other way can we make his explicit statements about the connection between the notions of a *duty*, a *command*, and a *law* inherent with each other. A certain kind of theism is absolutely necessary to make the theory work.

The reasons which used to be given in the nineteenth century for supposing these theistic utterances to be insincere verbiage are really not creditable to the knowledge or intelligence of the writers who used them. In substance they only amount to this, that Hobbes always insists strongly on the incomprehensibility of the divine nature, and on the impossibility of our having a "conception" of God, and that he points out in particular the danger of anthropomorphism attending the ascription of intellect and will to God. (The difficulty is that in us, according to Hobbes, will is *appetite*; the "last appetite in deliberation," and intellection has its beginnings in "sense"; but clearly we cannot ascribe appetite and "sense" to the infinite and irresistible being.) Utterances of this kind are so far from being necessarily expressions of atheism that they are the common stock-in-trade of orthodox Christian scholastics. If Hobbes said that we have no conception of God, it was the universal scholastic doctrine that the *essentia* of God cannot be known to us in this life; though we can answer the question *an sit Deus*, we have to leave the question *quid Deus sit* to be solved in a better world. Neither will nor intellect, nor anything else, according to the greatest of the scholastics, can be *univocally* predicated of God and of any creature. When Hobbes in *De Corpore* threw doubt on the value of philosophic arguments for the beginning of the universe in time, he was only repeating that had long before been more fully urged by St. Thomas. When he says—and the words have actually been used in support of the allegation of "atheism"—that we may only attribute to God two kinds of predicates, negative predicates which deny of Him anything which is a mark of limitation, and superlatives which, by their form, indicate that there is no comparison between Him and the creatures of whom the same epithets are predicated in the positive degree, he is, consciously or not, reproducing the teaching and phraseology of the *de divinis nominibus* of "Dionysius the Areopagite," a writer sympathetically expounded by St. Thomas. Clearly arguments which, if valid, would prove the

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atheism of most of the schoolmen, including the *Doctor angelicus*, prove nothing about that of Hobbes. On the other hand, he *seems* always to accept at its face value the argument that the universe (= the aggregate of bodies) must have a cause, and since, on his own definition of causation, nothing can be *causa sui*, it follows at once (1) that the "cause of the universe" is neither itself (the "aggregate of bodies") nor any part of itself, and (2) that, if as Hobbes held, nothing can be conceived but body, this cause, though certainly known by the causal argument to exist, must be incomprehensible to us. The internal consistency of this doctrine seems to me to be the best proof that it was sincerely held. (There is, perhaps, a certain inconsistency between Hobbes's definition of cause and effect, for which it should follow that a cause is always temporally prior to its effect, and the doubt expressed in the *De Corpore* about the validity of the reasons given for a beginning of the world in time.¹ But the utmost that this proves, I think, is only that Hobbes had not thought out the implications of the problem to the end. He has been laughed at for leaving the question undecided until it shall be authoritatively determined by the sovereign. But he is here again in the company of St. Thomas. Both leave the last word on the matter to the authorized interpreter of Scripture. The only

¹ The relevant facts are these:—

(1) Hobbes expressly says, here agreeing completely with St. Thomas that no good reasons can be given why the world should have had a beginning (*De Corpore*, IV, 26, 1) (I quote from the text of 1668). *Illos igitur qui mundi originem aliquam fuisse rationibus suis a rebus naturalibus demonstrasse se iactitant laudare non possum. . . . Nonne qui reternitatem mundi sic tollunt, eadem opera etiam mundi conditori aeternitatem tollunt.*

(2) According to the definitions of cause and effect given in the same work (II, 9, 3), a *causa integra* (entire cause) is the "aggregate of all the accidents both of the agents how many soever they be, and of the patient put together; which when they are all supposed to be present (omnibus suppositis) it cannot be understood but that the effect is produced *at the same instant* (quin effectus una sit productus) and if any one of them be wanting, it cannot be understood but that the effect is not produced," and we are consequently told "quo instante causa sit *integra*, eodem quoque effectum esse productum." Thus the "entire cause," including the requisite conditions "is the patient," and the effect are simultaneous. But Hobbes infers from this very proposition the "causation and the production of effects consist in a certain continual progress" (*ibid.*, II, 9, 6), and this seems to imply that the "agent," if not the "patient," also has an existence which is temporally prior to the "effect." If this principle can be extended to the causation of the universe, it would follow that the universe is *not* eternal. I suppose, however, that Hobbes, who held that philosophy is only concerned with those things of which there are "generations," could quite consistently have said that the principle, being a philosophical one, must not be applied to God, nor yet to the "world" if the world is "eternal," and that the question therefore remains open for us as philosophers, though as good subjects we must acquiesce in the sentence of the sovereign, if he thinks fit to pronounce on the matter.

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difference between them is that St. Thomas's authorized interpreter is the ecclesiastical power, and it has already given its decision; Hobbes's is the temporal, and its decision cannot be known until the "sword" has finally settled who is to be the temporal sovereign in England.)

The "incomprehensibility" of God, so far from being inconsistent with the thesis that the natural law is a divine command, actually serves to remove a possible objection. If God were comprehensible, it is conceivable that accurate knowledge of His nature might prove that nature to be such that we cannot think of it as the source of commands which oblige mankind. But if the nature of God is an inscrutable mystery, then this very inscrutability makes it impossible to use our inability to understand *how* God commands us as any argument against the fact that He does so command us, provided that the fact appears to be sufficiently authenticated. *If* a man finds evidence for the fact either in the witness of our sense of imperative obligation itself, or in the coincidence of the "theorems" of "right reason" with the injunctions of Scripture, a Hobbist cannot retort on him by alleging, to use the unlovely diction of modern slangishness, that "ultimate reality is unethical," and therefore *cannot* be the source of moral commands and prohibitions. As we simply do not know what the "ultimate reality" is (have no "conception" of it), we are talking idly when we pretend to know that it is "non-ethical."

My own belief, for whatever it may be worth, is that Hobbes simply meant what he said about the natural law as a command of God, and that he was led to this conviction not so much by the Scriptural testimonies which he produces in such profusion, as by the unusual depth of his own sense of moral obligation. The impression repeated study of his works leaves on me is that Hobbes was a fundamentally honest man, and a man, as Professor Laird has said, with an almost overwhelming sense of duty. To such a man the thought that duty is a divine command is so natural that it is almost impossible not to form it. And I conceived that Hobbes's religion—for, in spite of De Quincey's jests, I think it clear he had one—consisted, as Kant's did, almost exclusively in the discharge of the duties of everyday morality with an accompanying sense of their transcendent obligatoriness. It is clear that he was not "religious" in any deeper sense of the word; the worship of the heart was plainly not congenial to him, and his theories, in fact, make any direct personal relation between the worshipper and his god illusory. But such as it was, his religion does impress me as a genuine thing, and it is not very different from that of many worthy persons of to-day who would be sincerely shocked if they were to be accused of "atheism." It seems to me that when we make the

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necessary allowances for ways of thinking which were current in the middle of the seventeenth century but are now obsolete, Hobbes may have been more in earnest than is usually allowed in supplementing this religion of the duty of a citizen with the one "article of faith" that Jesus is yet to reappear in Palestine and reign endlessly in temporal felicity over resuscitated believers. Such a "faith" would have no chance of being accepted as "the good Christianity" if it were to be proclaimed to-day. But I do not think it impossible that a man living in the welter of conflicting and bitterly hostile creeds of all kinds prevalent in England in the period 1640-50 may have fancied that something of this kind would emerge at last as the simple "substance of the faith."¹

My serious concern, however, is not with what may have been Hobbes's personal opinions on these things, and I only make the remarks of the last paragraph by very free protest against the too facile assumption that there is nothing in the scriptural exegesis with which *Leviathan*, in particular, abounds beyond an ingenious treating of the ecclesiastics with their own weapons. The point I am really anxious to make is that Hobbes's *ethical* theory is commonly misrepresented and unintelligently criticized for want of sufficient recognition that it is, from first to last, a doctrine of *duty*, a strict deontology. It is true that Charles II had the good taste to enjoy the philosopher's conversation, and that the Whitehall of the Restoration is an unlikely quarter in which to find a deontologist. But Hobbes, after all, was not so very often at Whitehall, and he does not belong to the age of the Restoration wits. He is the contemporary of Clarendon, Falkland, and Selden, not of Rochester, Etherege, and Villiers.

¹ I certainly do not myself think that the feats of Biblical interpretation in the *Leviathan* are, in the main, a mere game. Hobbes's exegeses, where they are opposed to those generally current in his time, are often manifestly sound, and even where, to our better informed age they are not sound, they may well have seemed so to their seventeenth-century author. It is only in a small minority of cases that he seems to me to be merely "answering a fool according to his folly." It should always be remembered that Hobbes has an admirable practical purpose in his endeavour to reduce the articles of belief "necessary to salvation" to a minimum. He wants, in an intolerant age, to put an end to persecution for speculative disagreements without challenging the generally accepted view that it is the sovereign's duty to "cause such a doctrine and worship to be taught and practised" as he believes "necessarily conducive to the *eternal* salvation" of his subjects (*De Cive*, XIII, 5). And he held, as we see from his *Behemoth*, that the ultimate cause of the great rebellion had been the zeal of Presbyterian ministers to enforce all their own personal opinions on points of speculative divinity as "necessary to salvation." Persecution, he thinks, will cease if the sovereign insists on no article as fundamental beyond the recognition of Jesus as the future Messianic king, and the subject understands that conformity to the established worship does not imply speculative agreement in opinion, except on this single point.

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N.B.—I have in the text omitted to quote what is perhaps the most important single sentence of Hobbes about *obligation*. In view of its definiteness, I give it both in the Latin and the English forms. *De Cive*, XIV, 2, *annot.*—Clarius ergo hoc dico. Pacto obligari hominem, id est propter promissionem praestare debere. Lege vero obligatum teneri, id est metu poenae quae in Lege constituitur, ad praestationem cogi. *Philosophical Rudiments concerning Government and Society*, XIV, 2.—More clearly, therefore, I say thus: that a man is obliged by his contracts, that is, that he ought to perform for his promise's sake; but that the law ties him being obliged, that is to say, it compels him to make good his promise for fear of the punishment appointed by the law.

The clear distinction thus made between the *obligation* and the subsequent *compulsion* though the "penal sanction" is (a distinction merely overlooked in Bentham's statement that "a Sanction is a source of obligatory powers or motives") explains at once how Hobbes could maintain that the "laws of nature" oblige *in foro interno* even before the creation of civil society, that in civil society they continue to oblige wherever the civil law has issued no injunctions, and that they oblige the sovereign himself, who is inamenable to the civil law. The obligatory force of the civil law itself is, in fact, derived entirely from that of the natural. If we are always to obey the civil law, even when in our private opinion it is inequitable, that is because we are already obliged, in virtue of the natural law itself, to honour our "previous engagement" to be directed by the commands of the sovereign. I am always sure that to break this engagement is inequitable, whereas my personal opinion that the act the sovereign commands me to do is inequitable is, in Hobbes's eyes, never more than a conjecture, and even if I have conjectured rightly, the answerability for the iniquity of the act so commanded lies not with me, but with the sovereign.