



THE POLITICAL PHILOSOPHY OF THOMAS HOBBS

A THESIS

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TO MY WIFE, MARIE.

## SUMMARY OF THESIS

Whilst it is true that any social or political theory worthy of the name and of its subject matter must be complex, at the same time there is often at the heart of such theories a sound and simple idea, though formidably complex in its full ramifications. In the case of the political philosophy of Thomas Hobbes, this idea is his dual conception of the laws of nature. At the end of his exposition on the laws of nature, Hobbes points out that they are not 'in propriety of speech' laws at all. They are merely rational maxims; whereas law, strictly, is the word of him who has a right to command others, formerly obliged to obey. However, as they (the laws of nature) are delivered in the Scriptures, which contains the word of God, they are properly termed laws. There are then two possible ways of conceiving of the laws of nature; naturalistically, in which case they are merely rational maxims; and as God's law, in which case they are authoritative and obligatory because within this particular conceptual framework, they are seen as the commands of a Superior Being.

Primarily to accord with the distinction made by Hobbes with regard to the ways of regarding Natural Law, the thesis is divided into two main parts. In the first part my primary concern is to demonstrate that Hobbes' main argument from the 'known, natural inclinations of mankind' to where 'both the duty and liberty of subjects' are made manifest, is sound and logically proper. In this section we are concerned only with the laws of nature as maxims of prudence as distinct from the authoritative commands of God. In order to properly evaluate Hobbes' argument, it is important not only to look closely at what Hobbes actually says but we must also be familiar with contemporary trends in modern moral philosophy, for Hobbes is constantly being criticized from different perspectives within that lively discipline. Simple equity requires that we examine such trends thoroughly. Hobbes must be fully acquainted with the reasoning of his judges before he can be either condemned by them or acquitted

of the major charges. Hence I have outlined my position on the controversial is-ought debate in Chapter Three, paying particular attention to 'hypothetical oughts' or, as Hobbes would call them, maxims of prudence. Having done so, I then proceed to look at the specific argument advanced by Hobbes and conclude that it is perfectly sound as it stands.

A similar procedure is followed in the next two chapters. Chapter Five presents a novel way of understanding rights and in Chapter Six we turn to see what kind of light the analysis sheds on Hobbes' account of rights. We find, in my view, that Hobbes' account meets the test of intelligibility outlined in Chapter Five. However, the further question of how the right to self-preservation ties in with Hobbes' main argument from the 'known, natural, inclinations of mankind' to where 'both the duty and liberty of subjects' are made manifest cannot, in my view, be answered in Hobbes' favour.

The second part of the thesis is concerned with straightforward Hobbesian exegesis. There we consider the second of the two great tributaries that unite to form the mainstream of Hobbes' thought. i.e. the laws of nature conceived of as the authoritative commands of God. However, not only will we be concerned with what men ought to do, but also with what they are actually capable of doing, and this leads us to consider Hobbes' differential theory of human nature, i.e. his division of mankind into a just minority and an unjust majority. It is not until Chapter Nine that we are finally in a position to grasp the full ramifications of Hobbes' dual conception of the laws of nature for his political theory as a whole. In general, I hope to show that the alleged incompatibility between different interpretations of Hobbes' work has been exaggerated and that Hobbes' work is indeed remarkable for the degree of complementarity it exhibits.

This thesis contains no material which has been accepted for the award of any other degree or diploma in any University and to the best of my knowledge and belief, the thesis contains no material previously published or written by any other person, except when due reference is made in the text of the thesis.

B.T. TRAINOR

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PART ONE

INTRODUCTION



## CHAPTER ONE

### THE LAWS OF NATURE

#### (1) Hobbes' dual conception of the Laws of Nature.

Whilst any social or political theory worthy of the name and of its subject matter must be complex, at the same time there is often at the heart of such theories a sound and simple idea, though formidably complex in its full ramifications. In the case of Hobbes, I would say that it is his dual conception of the laws of nature. It is appropriate therefore to begin with a brief description of what Hobbes has to say about the latter.

Hobbes' understanding of the laws of nature is broadly consistent throughout his various works. His account of natural law is always preceded by a description of the conditions prevailing in the state of nature, where, in the absence of any common power, every man is the enemy of every other man, and there is a constant state of war. The term war here denotes not so much actual physical struggle, as a willingness or preparedness for such struggle just as, to use Hobbes' own analogy, 'the nature of Foule weather lyeth not in a shoure or two of rain; but an inclination thereto of many days together'.<sup>1</sup> One might be tempted to deduce from this that men are intrinsically evil, naturally disposed to injure and oppress one another. Yet Hobbes vigorously denies that this is the case. He points out that the war of all against all is not to be understood in terms of the innate wickedness of man's nature but is rather the unfortunate consequence of the absence of any reliable means of differentiation between the wicked and the righteous.

1. Leviathan In W. Molesworth, Ed., The English Works of Thomas Hobbes (London 1839-1845) Vol. III P. 113. All subsequent references to Hobbes' work are to this Edition.

For though the wicked were fewer than the righteous, yet because we cannot distinguish them there is a necessity of suspecting, heeding, anticipating, self-defending, ever-incident to the most honest and fairest conditioned. <sup>2</sup>

He denies that those who are wicked are so by nature, insisting that a distinction should be made between the passions and actions proceeding from them. The former in themselves are not wicked or sinful, but the latter may be if 'they are offensive or against duty'.<sup>3</sup>

Man's condition in the state of nature is wretched and full of incommodities, verging at times on the intolerable. The chief concern of those who find themselves in such an unenviable position is to discover a means of escape from it. Hobbes looks to rational fear to provide a solution. This combination of forces is sufficient for the task in hand, for fear provides the motive, and reason the method or instrument of escape.

Hobbes attaches great importance to fear. He held that every man 'shuns what is evil but chiefly the chiefest of natural evils, which is death; and this he doth, by a certain impulsion of nature, no less than that whereby a stone moves downwards'.<sup>4</sup> This proposition about human nature has often been challenged by commentators on the grounds that men do on occasion choose to die rather than live dishonourably; but such instances generally presuppose established social structures. The man who suffers death rather than divulge vital state secrets to an enemy power may still regard death as the 'chiefest of natural evils' but not from his point of view the worst of all possible misfortunes.

2. De Cive, E.W. Vol. 11. p. XVI.

3. Loc. cit.

4. Ibid. P. 8.

Our conscientious and patriotic hero might regard the prospect of bearing an insufferable burden of guilt for the rest of his lifetime as an even greater evil than death. This point is made with some vigour by Bernard Gert,<sup>5</sup> who insists that Hobbes recognised a distinction between natural and artificial evils and that civilized man, in Hobbes' system, may have aversions which are greater than the fear of death.

If the fear and insecurity engendered by the constant struggle for survival provides the major motive for wishing to depart from the state of nature, reason provides the method. Man's reason suggests to him certain convenient articles of peace, and it is these rational theorems which Hobbes terms the laws of nature. In De Cive he defines Natural Law as 'the dictate of right reason conversant about those things which are either to be done or omitted for the constant preservation of life and members as much as in us lies'.<sup>6</sup> The first and fundamental law of nature is 'that peace is to be sought after where it may be found; and where not, there to provide ourselves for helps for war'.<sup>7</sup> The rest of the precepts of nature are derived either immediately or ultimately from this fundamental law. The second law of nature for example states that the right of all men to all things should be relinquished; otherwise our primary objective, peace, is no nearer. The remaining laws of nature therefore, for example those telling men to act with gratitude, humility and mercy towards their fellows, are little more than detailed expositions of what, in Hobbes' view, is logically implied in the first and fundamental law of nature.

5. "Hobbes and Psychological Egoism" in B.H. Baumrin (Ed.) Hobbes' Leviathan, California, 1969. pp. 120-121.

6. De Cive, E.W. Vol. II p. 16.

7. Loc. cit.

At the end of his exposition on the laws of nature, Hobbes points out that they are not 'in propriety of speech' laws at all. They are merely rational maxims; whereas law, strictly, is the word of him who has a right to command others, formerly obliged to obey. However, as they are delivered in the scriptures, which contain the word of God, they are properly termed laws. There are then two possible ways of conceiving of the laws of nature; naturalistically, in which case they are merely rational maxims; and as God's law, in which case they are authoritative and obligatory, because within this particular conceptual framework, they are seen as the commands of a Superior Being. This passage is so important that it is worth quoting in full.

These dictates of reason, men used to call by the name of laws, but improperly; for they are but conclusions, or theorems 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 theorems, as delivered in the word of God, that by right commandeth all things; then are they properly called laws.<sup>18</sup>

(2) Scope and Method of Analysis.

Both for purposes of exposition and also to accord with the distinction made by Hobbes with regard to the ways of regarding Natural Law, the thesis is divided into two main divisions. In the first, my primary concern is to demonstrate that Hobbes' main argument from the 'known, natural inclinations of mankind' to where 'both the duty and the liberty of subjects are made manifest,' is sound and logically proper.

It is important to stress that in the section of the thesis where this demonstration is made (PART TWO) we are concerned only with the laws of nature qua maxims of prudence as distinct from the authoritative commands of God. Our task requires us to investigate some of the latest developments in modern moral philosophy, for it is from various perspectives within that rapidly evolving and lively discipline that Hobbes' argument from the 'known, natural inclinations of mankind' (the 'naturalistic' argument) is constantly being criticized. R.S. Peters, for example, accuses Hobbes of committing the 'naturalistic fallacy' in trying to derive moral conclusions from purely factual premises.<sup>9</sup> C.B. Macpherson, in The Political Theory of Possessive Individualism,<sup>10</sup> has attempted to defend Hobbes' position, though in my view, unsatisfactorily. (See Chapter III: Section (2)). More recently, Preston King in The Ideology of Order, has insisted that it is logically impossible to derive an 'ought' from an 'is' and that if that is what Hobbes attempted to do, he was seriously mistaken.<sup>11</sup> However, he believes that the real starting point of Hobbes' political theory was the assertion that men ought to seek their preservation, so that Hobbes in fact presents us with an ought-ought derivation. Finally J. Kemp in Ethical Naturalism insists that Hobbes' argument is perfectly proper as it stands and that there is no need to resort to such stratagems as postulating a hidden norm at the root of Hobbes' political theory in order to make it acceptable to our logical consciences.<sup>12</sup>

9. Hobbes London, 1956, P. 170 footnote.

10. Oxford, 1962 p. 17.

11. Oxford, 1974. pp. 161-177. But see also Appendix Five pp. 311-339.

12. London, 1970. *passim*.

Indeed Hobbes' reputation as a political theorist seems to hinge upon the ebb and flow of the competing forces that make up the is - ought controversy.

Since it is clear that the position one adopts in relation to the is - ought debate will largely determine whether or not one believes Hobbes' main argument to be sound or unsound, I have outlined my position on this debate in Chapter Three, paying particular attention to 'hypothetical oughts' or, as Hobbes would call them, maxims of prudence. Having done so, I then proceed in Chapter Four to look at the specific argument advanced by Hobbes (the 'naturalistic' argument) and come to the conclusion that it is perfectly logical and sound as it stands. The analysis presented in Chapter Three may initially seem to be an unduly lengthy aberration from the particulars of Hobbes' political philosophy, but my purpose is to substantiate to the fullest possible extent the claim, presented in Chapter Four, that Hobbes does not commit the naturalistic fallacy. Chapter Three provides the necessary logical framework for the claims advanced on Hobbes' behalf in Chapter Four.

A similar procedure is followed in Chapters Five and Six, which are primarily concerned to elucidate and evaluate what Hobbes has to say about rights. Chapter Five presents a novel way of understanding rights, questioning the usefulness of certain ways of distinguishing between different kinds of rights, and suggesting that it is advisable to regard rights as always one and the same triadic relation. The three terms of the relation are specifically an agent or agents (one), his or their liberty, (two), and other people's duties or obligations (three).

I shall argue that all three elements will be found to be present in all cases of rights. When we turn in Chapter Six to see what kind of light this piece of conceptual analysis sheds on Hobbes' account of rights, we encounter a major problem. We find Hobbes talking about the universal right of self-preservation as a 'right to all things', thus apparently using the term right with the unusual meaning of 'freedom from obligation'. It would seem that Hobbes is asserting that there can be a right which does not imply a duty on the part of other people. If, as I argue in Chapter Five, a right, to be at all intelligible, must be conceived of as a triadic relation, then the 'right to all things' must be rejected as failing to comply with the conditions under which talk about rights is intelligible. However, the analysis in Chapter Six of what Hobbes has to say about rights reveals that he does not espouse the indefensible view that whilst each man has a natural right to all things which in his estimation serve to realize the goal of self-preservation, at the same time there is no duty either to recognise or respect this right in others. Hobbes' position seems rather to be that each man should recognise that others have this right but that on account of the inauspicious circumstances prevailing in the natural condition, no-one is actually obliged to respect it.

In Chapter Six then, I argue that Hobbes' right to self-preservation is a triadic relation and is thus correct in form. It meets the test of intelligibility outlined in Chapter Five. However, the further question of how this particular right ties in with Hobbes' main argument from the 'known, natural inclinations of mankind' to where 'both the duty and liberty of subjects are made manifest', remains to be answered.



In my view, Hobbes simply cannot provide a satisfactory response. In the Leviathan he says that anticipatory violence in the state of nature is no more than a man's conservation requires and is thus generally allowed. But Hobbes provides no justification for this remark. He is prevented from doing so by his naturalistic premises. Only hypothetical oughts, via the consistency principle, can issue directly from the heart of nature. Yet Hobbes introduces a right to self-preservation, the third term of which is clearly categorical. He tells us that 'augmentation of dominion over men, being necessary to a man's conservation, it ought to be allowed him'<sup>13</sup> (emphasis added). But why? Hobbes arrives at this position after an apparently neutral analysis of ends imposed by natural passion. He points out that men attempt to subdue each other, principally for 'their own conservation and sometimes their delectation only'. But in that case, upon what grounds is anticipatory violence in the interests of conservation permitted and aggressive violence, say for love of power or 'delectation', forbidden? Hobbes could be either appealing to or unwittingly expressing his agreement with the common moral opinions of his readers, who would probably accept as obvious that the former is right, the latter wrong. But then, we may ask, what becomes of his project of establishing 'rights' upon the known, natural, inclinations of men? The crux of the problem, in my view, is that hypothetical obligations, or maxims of prudence, are simply not the stuff of which rights can be made.

13. Leviathan. E.W. Vol. III, P. 116.

The second main division of the thesis is concerned with straightforward Hobbesian exegesis. There we consider the second of the two great tributaries that flow together to form the mainstream of Hobbes' thought. If in the earlier sections of the thesis we are primarily concerned with the laws of nature as maxims of prudence, in Part Three we are also concerned with the laws of nature as the authoritative commands of God. However, as I shall demonstrate in Chapter Seven, the meeting of the waters brings forth its own problems. The main area of turbulence lies in the region of justice. Hobbes makes an elementary distinction between the justice of actions and the justice of persons but a common difficulty runs through his presentation of both and this has its origin in his dual conception of natural law. Viewed merely as maxims of prudence, justice is itself enjoined by the third law of nature. Yet Hobbes also describes obedience to the laws of nature as a whole as justice and when he does so, it would certainly seem that he has the laws of nature, as God's law, uppermost in his mind. There is thus considerable confusion in Hobbes' writings concerning what precisely constitutes a just action.

In the latter portion of the thesis we also begin to consider not only Hobbes' ideas concerning what men ought to do but also what they are actually capable of doing. The main question dealt with in Chapter Eight is 'What actually motivates men to obey the laws of civil society?' Hobbes' answer is complex because, in my view, he upheld a differential theory of human nature, i.e. he made a fundamental distinction between a just minority and an unjust majority.

It is not until Chapter Nine that we are finally in a position to consider the full ramifications of Hobbes' dual conception of the laws of nature for his political theory as a whole. I shall argue in that chapter that the laws of nature, conceived of alternately as God's laws and maxims of prudence, had a special relevance for and application to, the just and the unjust respectively. Chapter Ten presents an overall evaluation of Hobbes' work.

In the following chapter, I present a review and evaluation of major interpretative standpoints. The secondary literature on Hobbes is of such a very high standard that it is only with genuine trepidation that one can dare to advance a novel interpretation of this kind. Still, I am reassured by my indebtedness to the major schools of Hobbesian scholarship. Indeed precisely because each of them strikes a telling note, I concluded that if taken together as a unified whole, one could recapture the original harmony of Hobbes' Leviathan. On the whole, Hobbes' work is remarkable for the degree of coherence and consistency that it exhibits. By tying together the different schools of thought with the properly revealed thread of his dual conception of the laws of nature, its beauty to the intellect is enhanced and many of its discordant notes removed.

CHAPTER TWO

A REVIEW AND EVALUATION OF INTERPRETATIVE STANDPOINTS

(1) Interpretative Standpoints.

As the whole field of Hobbes' scholarship has developed over the years, it has become clear that no other area of his thought has caused more controversy than the question of the nature of the relationship between his philosophy and his political theory - so much so, in fact, that when W.H. Greenleaf attempted a brief review of the history of Hobbes' scholarship, he was able to categorise different interpretations largely according to the manner in which they dealt with this specific problem. (The three main types of interpretation of Hobbes' ideas he calls the 'traditional case', the 'natural-law case', and the 'individualist' case.)<sup>1</sup> However the whole field of Hobbes' scholarship has become so large and unwieldy that any attempt at dividing the various interpretations into three major categories cannot claim to be wholly successful. Greenleaf himself admits as much when he states that these are, in a sense, artificial categorisations since each encompasses a range of internal variation. The task of constructing a classificatory system is an exceedingly difficult one, firstly because those who write about Hobbes do not always agree with their location in the classifier's scheme,<sup>2</sup> and secondly, because categorisations of this kind necessarily have only a limited lifespan, as new interpretations appear which fit uneasily, if at all, into the old lines of division. Thus, to take just one example,

1. See 'Hobbes: The problems of Interpretation' in Cranston and Peters (Editors) Hobbes and Rousseau New York 1972 p. 6.
2. Ibid P. 23 Footnote. Watkins says that his interpretation of Hobbes was incorrectly categorised by Greenleaf.

while T. A. Spragens' excellent work, The Politics of Motion, The World of Thomas Hobbes (London 1973) is clearly a strong defence of the traditional case, Preston King in his book The Ideology of Order (London, 1974) has a decidedly novel approach to some old problems faced by Hobbes scholars, arguing that there is a hidden norm, that men ought to seek their own preservation, located at the very root of Hobbes' political theory and which serves as its real starting point. It is by no means apparent how Greenleaf's classificatory scheme can comfortably accommodate an interpretation of this kind.

Perhaps, given the diversity and complexity of the material with which we are dealing, it would be advisable to regard Greenleaf's categories as simply referring to important mainstreams in the interpretation of Hobbes; in this way we could freely admit the existence of eddies and undercurrents, interacting with the mainstreams of thought but having nonetheless a life of their own, and thereby avoid the necessity of having to place each and every interpretation of Hobbes into a particular slot. The introduction of a more fluid form of categorization - if I might be excused the pun - would have the additional advantage of allowing undercurrents to become mainstreams in the due course of time rather than foreclosing this possibility by adhering to a too rigid form of classification.

There are then three broad interpretative standpoints from which Hobbes' writings have been approached. To give a detailed exposition of each would occupy several volumes, especially if all variations and deviations were taken into account. I therefore intend only briefly to outline and review the interpretations of some of the main exponents of each interpretative standpoint.

(2) The Traditionalist Case.

The traditionalist case, or orthodox interpretation of Hobbes, is that he is both a materialist and a firm adherent of the 'new' natural science, and that he attempts to apply its theories and procedures in elaborating his civil and moral philosophy. On this view, we have not far to look for the source of Hobbes' naturalistic presuppositions, in particular his conviction that everything which exists is body or matter-in-motion, nor for his belief that duty is no different from prudence, or the dictates of rational self-interest.

Two questions immediately arise from this view.

1. Was morality, for Hobbes, merely a matter of rational calculation in the pursuit of one's interests?
2. How did Hobbes' materialist philosophy affect his theory of human nature and the substantive political conclusions based upon that theory?

It might seem that the first question is easily enough answered by referring again to the quotation from Hobbes where he presents his dual conception of the laws of nature. Thus we might say that, for Hobbes, maxims of prudence can scarcely be dignified by calling them 'duties' at all. They do oblige but only in a hypothetical sense and it is only when considered as God's laws that they are properly called moral because they then have their source in authoritative command. However, Howard Warrender has warned us that once we take Hobbes' allusion to divine rewards and punishments into account, the equation of moral laws with God's authoritative commands does not of itself negate the possibility that for Hobbes moral duty was purely a matter of rational calculation. Hobbes' view then on this crucial issue is not so easily ascertained and it is precisely because of the ambiguity that so many of Hobbes' contemporaries either condemned his naturalism and materialism because, in their view, this entailed a demeaning, selfish and deterministic

view of human nature or, as Mr. Quentin Skinner has pointed out,<sup>3</sup> they were quick to praise Hobbes' doctrines precisely because of what they took to be their uncompromising naturalistic character. According to J.P. Plamenarz,<sup>4</sup> it is the latter which the 19th century Utilitarians found so attractive in Hobbes' work.

It is certainly true that, for Hobbes, it is consistent with a person's rational self interest to abide by the terms of a valid covenant, especially the political covenant, and this could be interpreted as meaning that a man ought to keep faith with his sovereign because the consequences of so doing will be beneficial for society as a whole, and hence ultimately for himself as well. Thus for example, according to Plamenatz, Hobbes denies that 'virtue, which is obedience to the moral law, has a value for men independent of its power to promote their happiness',<sup>5</sup> but such an interpretation is insecurely based on Hobbes' actual texts. Hobbes concedes that a man may at times succumb to the fallacy that it would be in his best interests to break his word but his advice to such a person is 'Do what you know is right. Fulfill your obligations', rather than 'Do what you think is in accord with your rational self-interest'. It is not because it is ultimately in our best interests that covenant-keeping is obligatory. It is so as a matter of fact but that is not the reason for its obligatory character. According to Hobbes,

3. See his 'History and Ideology in the English Revolution' Historical Journal, VIII (1965), pp. 151-178 especially pp. 170-171; 'The Ideological Context of Hobbes's Political Thought', Ibid, IX, (1966), pp. 286-317; 'Thomas Hobbes and his Disciples in France and England,' Comparative Studies in Society and History, VIII, (1966), pp. 153-167.
4. J. Plamenatz. The English Utilitarians, Oxford, 1949, pp. 11-12.
5. Ibid. p. 12.

the just man abides by the terms of the covenants he enters into not because he is reasonable - though he may well be eminently so - but because he is a just man. If the biggest fool in Christendom were also a just man, then by virtue of that fact, he would act in more or less the same way as a highly intelligent and reasonable person in those spheres of human activity which involve trust and the keeping of faith. Hobbes makes this perfectly clear when he says that the unjust person's 'will is not framed by the justice but by the apparent benefit of what he is to do'.<sup>6</sup> Presumably then the just man is characterised by an indifference with regard to the beneficial consequences of his actions. Motive is all important in Hobbes' moral system. The just man obeys the law from the right motive whereas the unjust person's motive for obedience is generally found to be fear or the adverse consequences of disobeying the law (Civil or Divine).

It is true that Hobbes eventually arrives at a position where he is in fact saying that men will, hopefully, behave in a manner necessary for the preservation of the state largely through a consideration of the consequences of not so doing.

The force of words being, as I have formerly noted, too weak to hold men to the performance of their covenants; there are in man's nature but two imaginable helps to strengthen it. And these are either a fear of the consequences of breaking their word; or a glory or pride in appearing not to need to break it. This latter is a generosity too rarely found to be presumed on especially in the pursuers of wealth, command or sensual pleasure, which are the greatest part of mankind. The passion to be reckoned upon is fear.<sup>7</sup>

6. Leviathan. E.W. Vol. III p. 136.

7. Ibid. pp. 128 - 129.



But there are two points worth noting here. Firstly it is only after Hobbes has pointed out that those who have the right motives are too rarely found to be presumed upon that he proceeds to base his political system on a meaner human motive i.e. fear of the consequence of infringing the law. But secondly, and more importantly, there is nothing particularly 'moral' in the behaviour of most men in Hobbes' sovereign state. Since their adherence to the sovereign's commands is largely guaranteed by fear of the consequences of defiance, they are in Hobbes' view unjust and immoral people, though their actions may be just. Had Hobbes expounded a utilitarian style of ethics, an ethic of results, then presumably virtue in his system would have been no more than a capacity for coldly calculating the probable consequences of actions. However, the virtuous and moral person is not in Hobbes' view an excellent calculator but, quite simply, an excellent person.

We do well to remember that for Hobbes justice is a God - given yet natural, human passion. He states that God is 'the giver of all graces, that is, of all good habits and inclinations'<sup>8</sup> and points out that when 'justice or injustice are attributed to men, they signify proneness and affection and inclination of nature, that is to say, passions of the mind apt to produce just and unjust actions.'<sup>9</sup> (Emphasis added) Thus whilst it may be true, as H. Warrender suggests, that 'Hobbes makes no statement which definitely implies that regard for divine sanctions would not be a perfectly proper motive for the just man'<sup>10</sup>, it is equally true that Hobbes never at any time suggested that his definition of the justice of persons as a disposition to act justly required any further elaboration. It was not to be explained

8. The Questions Concerning Liberty, Necessity and Change, E.W., Vol. V. p. 9.

9. The Elements of Law, E.W. Vol. IV p. 97.

10. Howard Warrender The Political Philosophy of Hobbes, Oxford, 1957 P. 290.

away in terms of fear of Divine sanctions or anything else. In short, it is unlikely that Hobbes would have regarded fear of divine sanctions as a proper motive for the just man.

The second question raised by the traditionalist view can best be answered by a review of the Strauss - Watkins debate on the philosophy - politics nexus. Strauss' thesis rests basically on a differentiation between substance and form and on the postulate that the former cannot be logically inferred from the latter. He argues that Hobbes derived his conception of the human will from introspection and his observation of men and not from any scientific or philosophic considerations. The substantive question of what the human will is, its aim and quality, is aloof, so to speak, from questions of philosophy and method. J. W. N. Watkins however maintains that Hobbes' conception of nature and causation did, at least indirectly, influence his conception of the human will.

It must be stressed from the outset that both writers share a certain amount of common ground. As if in anticipation of Watkins' criticism, Strauss concedes that Hobbes' choice of the resolute-compositive method does have important consequences for the content of his political theory.

It would thus seem that the characteristic contents of Hobbes' political philosophy - the absolute priority of the individual to the State, the conception of the individual as asocial, of the relation between the state of nature and the State as an absolute antithesis, and finally of the State itself as Leviathan - is (sic) <sup>11</sup> determined by and, as it were, implied in the method.

Similarly Watkins duly concedes, as if in deference to Strauss, that Hobbes' conception of the human will could not have been deduced from his conception of nature and causation. Certainly then both commentators are in substantial agreement on what would appear to be the fundamentals of the

11. L. Strauss. The Political Philosophy of Hobbes, Oxford 1936, p.2.

issue. The fact that Watkins subsequently disagrees with Strauss' interpretation means in effect that one of them must have overstepped the limits which they themselves prescribed - attaching either too much or too little importance to the role played by Hobbes' philosophy and method in determining the substantive elements of his political theory. In my view, it is Watkins who is at fault in his assessment of the relationship which exists between the substance and form of Hobbes' political theory. A few examples will serve to illustrate why this is so.

Hobbes subscribed to a very rigid doctrine of materialism. He believed that everything which exists is body and that the events of the universe can be explained in terms of the motion of matter. Hence 'life itself is but motion.' But what, we may ask, are the consequences of this doctrine for Hobbes' conception of the human will? Watkins' reply is that 'two principles follow which reappear as premises in his account of the state of nature'. The first is that all motivation is essentially egocentric. This is indeed true and it is further true that this is a principle which clearly derives from Hobbes' mechanical conception of human appetite and not from any moral attitude. But at the same time it must be emphasized that this first principle is purely formal. The fact that man is deemed to be egocentric does not necessarily mean, or even imply, that he is egoistic. It is at a later stage when Hobbes infuses some substance into this formal principle that we would expect his characteristic moral attitude to become evident.

Watkins' second principle is that 'since aversion is aroused when the vital motions are hindered, the prospect of their stoppage, i.e. of death, will arouse the most violent aversion of all.' It is debatable however whether this second principle necessarily follows from Hobbes' conception of nature and causation. Of course it actually does follow but we are not thereby given adequate grounds for assuming that this was the only choice open to Hobbes, even given his materialist assumptions. It is incumbent upon Watkins to demonstrate that the stream of influence flowed, directly and unobtrusively from Hobbes' philosophy of nature into his motivational psychology, and that at no stage could it have encountered the sturdy rocks of Hobbes' conception of human nature which would have served to deflect the waters of his philosophy in one direction rather than another.

Watkins also points out, I think correctly, that according to Hobbes '....truth is made by definitions, and uniform standards of justice between men can only be created by the definitions of a single authority above man. Hobbes' nominalism and his conventionalist theory of truth lead to a command theory of justice.'<sup>12</sup> However, it must be stressed that his account tells us absolutely nothing of the justice of persons. We must be careful not to overlook the purely formal character of the argument. There is no mention here of what actually constitutes the just attitude. The sovereign can lay down a code of regulations which he can then call the rules of justice but he cannot create a disposition to act justly. Hobbes' nominalism then may lead ultimately to a command theory of the justice of actions. In the absence of a universal code of morality, the responsibility for establishing a standard for the justice of actions is assumed by the sovereign once the state has been instituted. Yet the justice of persons, that is the

12. 'Philosophy and Politics in Hobbes' J.W.N. Watkins.  
Hobbes Studies, p. 258.

passion to give to each his own, the passion which Hobbes equates with charity and magnanimity<sup>13</sup> cannot be meaningfully related to, let alone deduced from his nominalism. Clearly it has its origins in Hobbes' own pre-philosophical moral attitude.

Watkins seems to miss the significance of Hobbes' moral attitude because he fails to appreciate the role of dispositions, or the passions, in Hobbes' political system and in particular the manner in which Hobbes, in defining them, gives expression to his own peculiar moral convictions. The passions are indispensable for the sound and simple reason that something is needed to explain our differing reactions to the same external stimuli. Between the object and the reaction, there must be some sort of mental receptacle, an accommodating device, a means whereby our specific reactions are determined. It is hardly enough to say that men react to external stimuli; one must also investigate the mechanism of their reaction in order to discover why men act differently in the same situations and the passions are the obvious key to any such discovery. It is in Hobbes' account of the passions that one would expect to find his moral attitude and his conception of the human will and it is precisely this sphere which is aloof, so to speak, from philosophy and scientific method.

A similar sort of objection can be made against Spragens' account of the philosophy/politics nexus in Hobbes' thought. After recognizing his willingness to abide by the basic ground rules in this debate, as agreed upon by both Strauss and Watkins, namely that one cannot deduce a substantive political theory from a cosmology which is fundamentally ahuman, Spragens argues that Hobbes was so impressed by the new philosophy of nature that some sort of carry-over into the political realm was extremely probable. First, however, certain conditions must be met.

13. De Cive. E.W. Vol. II, pp. 300 - 301.

In order for perceptual models of natural philosophy to become influential in shaping perceptions of political order, it is necessary for them to achieve what might be called resonance with some patterns found in the realm of politics... If there is a predisposition to see paradigms of nature as relevant to politics, and if in addition these paradigms can achieve some resonance with significant political phenomena, then a philosophy of nature can have a real impact on a theory of politics ... In human vanity, egocentricity, appetiveness, desire for power and self-preservation, Hobbes found aspects of human behaviour which lent themselves readily in his view to conceptualization by the same basic models that had proved so powerful in the understanding of natural phenomena.<sup>14</sup>

The main carry-over from natural to civil philosophy is to be found in the law of inertial motion, namely that when a thing is in motion it will perpetually stay in motion unless it is stopped by something else. Hence when Hobbes ascribes to all men 'a perpetual and restless desire of power after power, that ceaseth only in death' and states that 'there can be no contentment but in proceeding,' he is in effect presenting a human equivalent of the law of inertial motion. Furthermore man fits easily into the pattern discerned in nature. All nature desires to preserve itself, and man is similarly characterised by a perpetual urge to stay alive.

The plausibility of this argument is however undermined by the fact that any number of theories concerning the human passions can achieve 'resonance' with the law of inertial motion and by the fact that different components of Hobbes' basic paradigm could be used to espouse wholly incompatible theories of human motivation. Thus for example he could have argued that because men, in accordance with the law of inertial motion, constantly strive for ever more power, they therefore can have no proper conception of a state of repose, such as death is in fact in Hobbes' thought. It is precisely because

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14. T.A. Spragens Jr. The Politics of Motion, London 1973, p.169.

men are so preoccupied with power striving that it is only in their cooler philosophic moments, if at all, that they can conceive of an end to the constant struggle and hence fear of death constitutes only a minor motivation. The trouble with man's nature is that it contains a hybrid mixture of elements, often contradictory, so that if Hobbes wished to carry over his law of inertial motion into the human sphere, he could choose a number of areas of application, including a specific element in man's nature, (such as the desire for power) or the self-preserving instinct; or he could apply the law indiscriminately to all elements of man's nature so that there is constant interaction between various forms of bodily motions (the passions) with no predictable end product. Hobbes' position seems to be a mixture of these last two options; the passions are indeed endlessly in conflict but by and large the passion for life itself achieves pre-eminence. However given the availability of such a wide number of options - there are no doubt considerably more than my own imaginative powers can generate - may we not safely presume that Hobbes' own private pre-philosophical conception of the human will comes into play at this stage?

Even if we accept as correct Spragens' suggestion that the primacy of the self-preserving urge is an analogical carry-over of the law of inertia into Hobbes' motivational psychology (Spragens does not deal with the issue of whether or not it is the only possible analogical carry-over or even the most evident one) difficulties still persist; for had Hobbes personally felt that fear of death was not particularly important as a motivating factor, he could quite easily have referred to his theory of sensations to support such a conviction. He could for example have argued that man, a percipient being who is constantly subjected to a barrage of sense impressions, can have no constant fear of death. It is well-nigh

certain that if one person witnesses the death of another, he will be saddened by the event and may morosely reflect that the same end must surely befall himself. However because of man's nature as a percipient being, such experiences cannot have a lasting impression, for before long the senses are again inundated with beautiful sunsets, smiling faces, sounds of laughter etc., which generate quite different and less morose reflections. A theory of motivation which states that man seeks what he considers to be the good things of life because they are continuously present and is only seldom influenced by his fear of death and disease because his contact with the latter accounts for just a small proportion of his total experiences achieves 'resonance' with Hobbes' theory of sensation.

In fact, on closer scrutiny, Hobbes' theory is found to be peculiarly susceptible to this kind of 'deduction'. After all, it emphasizes the importance of the causative role of the object of sense in the whole process of perception rather than the filtering role of the mental receptacle into which the sensations flow. With Hobbes the only possible cause of motion was prior motion and, as applied to the theory of sensation, this means that the only cause of perception can be the motion of the accidents of external bodies or, more precisely, the motions which cause the appearance of such things as heat, colour, light, etc. These things are only apparent; the real cause of sensation is the motion of the object.

Whatever accidents or qualities our senses make us think there be in the world, they be not these but are seeming and apparition only; the things that really are in the world without us, are those motions by which these seemings are caused. <sup>15</sup>

15. E.W. Vol. I, P. 8.



This is a puzzling account<sup>16</sup> but what nonetheless stands out clearly is the primacy of the object of sense in the process of perception, and indeed of conception. 'For there is no conception in a man's mind, which hath not at first, totally, or by parts, been begotten upon the organs of sense.'<sup>17</sup>

Aristotle had argued that the movement of an object could not be accounted for without assuming that some force had been transmitted by a contiguous agent, which he called the efficient cause. But besides determining the efficient cause Aristotle argued the necessity of postulating a 'final' cause in order to make the explanation of an object's movement complete. Hobbes denied this. 'There can be no cause of motion,' he insists, 'except in a body contiguous and moved.'<sup>18</sup> Objects of sense cause perceptions and conceptions. If death is only occasionally before our senses, it 'follows', if one has a mind to make it follow, that the horrors of death will not be long in our thoughts.

It seems then that Hobbes' own private observation of men and manners both guided his application of key concepts borrowed from his basic paradigm and influenced his assessment of which elements from his natural philosophy he could most usefully employ in his civil philosophy. Hobbes could have branched out from his philosophy of nature into the political realm in a variety of ways, each of which would have been isomorphic with conceptual patterns to be found in his natural philosophy. His conceptual model then was such that his original view of man's nature could survive the impact of his natural philosophy virtually intact.

16. T.A. Spragens gives a lucid account of the difficulties which Hobbes encounters in espousing this particular theory. *Op.cit.*, P. 73.

17. LEVIATHAN E.W. Vol. III, P. 1.

18. DE CORPORE E.W. Vol. I, P. 124.

It would seem then that Hobbes was fully aware of his final destination well before he ventured upon his journey into politics; that he had already formulated his conception of virtue, of justice, of human nature in general and the importance of fear of death in particular, well before writing De Cive. In addition to the arguments already advanced against Watkins and Spragens, I would further suggest that the proposition that the philosophic Hobbes completely dominated the moral Hobbes simply lacks credibility. It is difficult to imagine how anyone can be so thoroughly philosophical, so totally given to the activity of thinking systematically as to be able to devise a system of morality as a mere appendage of a philosophical position, and without consulting his own views upon and insights into human nature.<sup>19</sup>

Fortunately however, Hobbes never attempted to do this. He based his civil philosophy on the 'known, natural inclinations' of men and at the same time stipulated that in order to understand his political theory, it was necessary to have first grasped the principles of his natural philosophy. But this hardly justifies the allegation that Hobbes' deductive chain goes one step back from his motivational psychology into his philosophy of nature. At best, this stipulation gives adequate grounds for believing that, in Hobbes' view, his civil philosophy was fully consistent with his natural philosophy and that when he employed key concepts and theorems which were equally relevant and applicable to both realms of philosophy, he did so without significantly altering their sense.

19. Richard Peters, Hobbes (Harmondsworth, 1956), P. 22, maintains that Hobbes' 'great imaginative idea' was 'the geometrical deduction of man in society from the abstract principles of the new science of motion'. This is a somewhat extreme version of the traditionalist case and would not, I suspect, be acceptable to such writers as Watkins or Spragens, neither of whom would agree that Hobbes' philosophy and method could have such a direct effect on his political theory. However, Peters' interpretation would be perfectly acceptable to such writers as G.C. Robertson (Hobbes, London 1886) and Leslie Stephen (Hobbes, London, 1904) and perhaps also to M.M. Goldsmith (Hobbes' Science of Politics, New York 1966), though these writers would differ in their estimate of how successful Hobbes was in his attempted 'geometrical deduction'.

(3) The Individualist Case.

I would like to deal with just one version of the 'individualist' case, namely that presented by Leo Strauss. He contends that 'the real basis of Hobbes' political philosophy is not modern science' and that if it was Hobbes' intention to base his political theory on the new ideas of modern science, he was engaged in a well-nigh impossible task. In Strauss' words:

As traditional moral and political philosophy was, to some extent, based on traditional metaphysics it seemed necessary, when traditional metaphysics was replaced by modern natural science, to base the new moral and political philosophy on the new science. Attempts of this kind could never succeed: traditional metaphysics was, to use the language of Hobbes' successors, 'anthropomorphic' and, therefore, a proper basis for things human; modern science, on the other hand, which tried to interpret nature by renouncing all 'anthropomorphisms', all conceptions of purpose and perfection, could, therefore, to say the least, contribute nothing to the understanding of things human, to the foundation of morals and politics.<sup>20</sup>

To have fully embraced the cosmos revealed by 17th Century scientific discoveries would have inevitably committed Hobbes to the view that all appetites and aversions were morally indifferent. But Hobbes does not hold to such a view; rather, he describes pride and fear of death as unjust and just passions respectively. Man is fundamentally a creature of vanity; all his other appetites are properly viewed as modifications of this gross conceit. But man also fears violent death and it is in this passion, Strauss alleges, that Hobbes finds the origins both of right and morality.<sup>21</sup>

20. L. Strauss, *Hobbes' Political Philosophy*, Oxford 1936. P. XIII.

21. *Ibid.* P. 18.

Having pinpointed pride and fear of death as the origins of the just and unjust attitudes, Strauss is in a position to distinguish clearly between justice and injustice, moral and immoral motives. The unjust man, he asserts, obeys civil law only because of a shortsighted fear of the penal sanctions at the disposal of the sovereign. In contrast, the just man obeys these laws 'for fear of death, and therefore from inner conviction, as it were once more accomplishing in himself the founding of the state...'<sup>22</sup> Now it would certainly seem that Hobbes, in thus endowing the passions with moral characteristics, is not so much influenced by his fascination with modern science as by his experience of everyday life and, as Strauss adds, by a specific moral attitude which compels its holder to see men and their mannerisms in a particular way. Thus Strauss would agree with the exponents of the natural law case that the modern naturalistic appearance of Hobbes' thought can be misleading and that his theory of political obligation was not based upon his materialism. At the same time, however, Strauss would reject the view that Hobbes was within the natural law tradition, regarding Hobbes as having in fact broken from that tradition in no uncertain terms. In the view we are considering, Hobbes begins his argument not, as hitherto, with natural law, but with natural right i.e. with an absolutely justified subjective claim.

22. Ibid. PP. 25 - 26.

Since we have already dealt with the question of the relationship that exists between Hobbes' philosophy and his political theory, the main question that arises from Strauss' interpretation is whether or not there is truth in his assertion that the real basis of Hobbes' theory of political obligation is the righteousness of fearing death and the injustice of indulging our vain desires. The criticisms already advanced against Plamenatz's view of Hobbes as an ethical naturalist and Warrender's contention that fear of divine punishments is at least a possible motive of the just man apply, in my view, with no less force to the interpretation here presented by Strauss. However, the following critical points should also be borne in mind.

Fear of death cannot be the origin of the just intention because whilst the just man fears death like everyone else, yet this passion is not the predominant motive force of his actions. Justice is an aspect of magnanimity and the magnanimous man is one who is both courageous in war and sociable in peace. Now courage is defined by Hobbes as 'contempt of wounds and death' which breaks Strauss' alleged chain of connection between justice and the fear of death. On the contrary, the just man is characterised, not quite by the absence of this fear, for Hobbes asserts that all men avoid death by a necessity of their nature, but by its relegation to a position of secondary importance in his scale of motives.

According to Strauss, Hobbes views life as a continual tension between pride and fear of violent death. Yet, as we have just seen, in the case of at least one group of men, the courageous, this tension scarcely exists at all. His assertion that vanity is the fundamental human passion, and such related assertions as that only the irrational striving after power is to be taken as natural human appetite, are similarly suspect and in need of some qualification. Now quite undeniably, Hobbes makes a distinction between irrational and rational striving after power.

Also because there be some, that taking pleasure in contemplating their own power in the acts of conquest, which they pursue further than their security requires; if others, that otherwise would be glad to be at ease within modest bounds, should not by invasion increase their power, they would not be able, long time, by standing only on their defence, to subsist. And by consequence, such augmentation of dominion over men being necessary to a man's conservation, it ought to be allowed him.<sup>23</sup>

Now Strauss simply assumes that this distinction between irrational and rational striving after power is not one in respect of persons but rather a distinction between differing characteristics of specific individuals,<sup>24</sup> whereas in fact he has no grounds for making such an assumption. Hobbes is distinguishing between those who desire 'power after power', merely because they are obliged by circumstances to do so, and those who naturally and instinctively seek precedence over their fellows. Now this to me is quite clearly a distinction between persons and, quite possibly, a distinction in embryo between the just and the vain. What Hobbes is saying is that irrational striving after power is a natural appetite of some men (no doubt most men) and not of others, but that those others are forced to descend to the level of their power obsessed neighbours in order to survive.

Strauss' interpretation has, I think, more validity if confined to the account in the Elements of Law which has a decidedly egoistic bias. It is here that we find the well-known comparison of life to a race, precedence over one's fellows is apparently the goal of existence and the passions are suitably interpreted to accord with this view. Hence

'Continually to be out-gone is misery  
Continually to out-go the next before is felicity  
And to forsake the course, is to die'.<sup>25</sup>  
(Emphasis in original)

23. Leviathan, E.W. Vol. III PP. 111-112.

24. See L. Strauss, The Political Philosophy of Hobbes, Oxford P. 11.

25. Human Nature. E.W. Vol. IV. P. 53.

It is as well to point out, however, that Hobbes does not regard every individual as a competitor in the race, or perhaps more precisely, he does not regard everyone as having the same ardent desire to be foremost. Life may be a race but there are some competitors who can be dismissed as 'also-rans' from the word go, those for example who have a 'dullness' of spirit. Such men are obsessed with 'ease, food, operations and exonerations of the body',<sup>26</sup> and they therefore attach relatively little importance to considerations of honour and glory. The pursuit of sensual delight takes top priority. Thus even in the Elements of Law the tension between fear and pride, which is allegedly part of our universal human predicament, scarcely exists at all in the case of what Hobbes probably regarded as a fairly sizeable part of mankind.

There is one further defect in Strauss' account which can be briefly summarized as follows; after establishing that the fear of death is emotional and inevitable, he proceeds to speak as if it were somehow generated by the circumstances of the state of nature. This particular deficiency must be dealt with at some length because it is important to our understanding of the role of this passion in the motivation of the just man.

Strauss argues, in my own view accurately, that what drives men to form a Commonwealth is 'Not the rational and therefore always uncertain knowledge that death is the greatest and supreme evil but the fear of death, i.e. the emotional and inevitable, and therefore necessary and certain aversion from death....'<sup>27</sup>. If this is so, however, then it is

26. Ibid. P. 55.

27. L. Strauss, The Political Philosophy of Hobbes, Oxford. P. 17.

surely wrong to assert, as Strauss later does, that fear for his life comes upon man in his struggle for triumph,<sup>28</sup> for man is by his very nature continually aware of his mortality. The main point about Hobbes' argument is that man in the state of nature does not, as yet, discern any contradiction between such passions as vanity and fear of death. This discernment comes later and is generated by violent conflict. For the moment however, the tension remains latent. Man can subsist quite happily in the 'world of imagination'. He is not driven from this cosy world by fear of death as such, but by the pressure from external reality which generates the incompatibility between vanity and fear of death. It is not then, as Strauss asserts, the imperious majesty of death which is the ideal condition of self-consciousness<sup>29</sup> but the recognition that the fear of death, which was there all along, and such passions as vanity, are irreconcilable. Man gains this knowledge when he leaves or is forced to abandon the world of imagination. This departure is all-important. Before it, fear of death and vanity exist quite happily together. However worrying the former may be, it has no effect on the latter. After the departure, however, men must engage in an actual physical struggle for power and recognition of superiority, and it is in the course of this struggle that the latent antithesis emerges. It is the latter, and not the fear of death, which is generated by human relations in the state of nature.

Not all men, however, come to appreciate the real relationship between vanity and fear, and their basic incompatibility. It is only the vanquished in fact who attain to the level of true self-consciousness. The struggle has given rise to a 'conscience of their own weaknesses' in relation to their fellows. The victor is, if anything, only confirmed in his former self-estimation. His vanity has now become justified pride, for it has been tested against the realities of the external world and

28. Ibid. P. 21.

29. Ibid. P. 19.



not found wanting. In a sense, therefore, it is a mistake to assert that before engaging in physical combat, all men live in the world of imagination. This is certainly true of those who are about to appreciate, for the first time, the antithesis between vanity and fear but not for those who are on the verge of illustrating, by force of arms and character, that the world of their imagination corresponds to the real world.

It is not so much that those who love military glory, who indulge in heroics for their own sake or those magnanimous men, who whilst sociable in peace are formidable in war, are not afraid of death, as that the typical antithesis simply does not exist in their case. Vanity and fear are not seen to be in any kind of opposition. It is then actually the unjust man, and not the just man, who achieves 'true self-consciousness' - a condition which the just man, who is also the magnanimous man, clearly cannot attain. His desire to escape from the state of nature is therefore not prompted primarily by his fear of death but by his willingness to translate his disposition to be sociable into actual deeds.

Despite these criticisms of Strauss, his thesis does serve as an eminently useful warning that if it can be shown that, in the course of his exposition, Hobbes' account of political obligation is dependent upon, not a simple fact of man's nature but one that is morally charged, his naturalistic argument must be emphatically rejected. Thus, precisely to the degree that Strauss is correct in what he says, i.e. to the extent that Hobbes illicitly introduces moral assumptions which his naturalistic premises presumably should have ruled out of court in advance,

Hobbes' main argument must be judged to have failed. Now as I shall argue, Hobbes' argument is sound. Even if it is true that in Hobbes' private thought he regarded man's desire for self-preservation as morally praiseworthy, such a conviction does not find expression in his argument from the 'known natural inclinations of mankind'. This is not to deny that there are occasional streaks of moral evaluation in his account of the passions; even one so thoroughly rigorous as Hobbes would find it extremely difficult to avoid their inclusion altogether. Yet Hobbes nowhere attempts to base his theory of political obligation on the alleged righteousness of the pursuit of any particular passion. He says simply that fear of death is an important human motive and as long as he abides by this condition, he treads on safe ground. However the same cannot be said - and here I would agree with Strauss - for Hobbes' attempt to establish the propriety of the 'right' to self-preservation. In Chapter Six. Section (3) I will argue that the latter task is impossible for Hobbes, given his naturalistic assumptions, and that this constitutes a flaw in his argument which he failed to notice.

(4) The Natural Law Case.

In 1938 A.E. Taylor advanced his now famous thesis, the main purpose of which was to demonstrate that Hobbes in effect posed two separate questions, namely why I ought to behave as a good citizen and what inducement can be given to me to do so if my knowledge of the obligation to do so is not in itself sufficiently effective. He continues,

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 so. Hence the 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. Hobbe's ethical doctrine proper, disengaged from an egoistic psychology with which it has no logically necessary connection, is a very strict deontology...<sup>30</sup>

Taylor goes on to argue that even in the state of nature there exists a moral obligation to obey natural law and that, indeed, this must be the case; otherwise Hobbes could be accused of extracting the moral obligation to abide by one's covenant from a total moral vacuum. God is the author of the laws of nature and it is his authorship which makes them morally obligatory. Hence, according to Taylor, 'a certain kind of theism is absolutely necessary to make the theory work.'<sup>31</sup> In short, while Hobbes' wider philosophy, his nominalism and materialism may have some connection with his psychology, they are strictly irrelevant in any account of his theory of obligation.

30. 'The Ethical Doctrine of Hobbes' in K. Brown (Ed). Hobbes Studies, Oxford. 1965. pp. 36-37.

31. Ibid. P. 50.

There can be no doubt that the natural law case is well-founded in Hobbes' texts. It is perfectly proper and elucidating; it helps us to appreciate that for Hobbes the ultimate roots of authority lie in the hearts and consciences of men and that the natural condition of mankind cannot be represented as a complete moral vacuum. With painstaking care, H. Warrender in The Political Philosophy of Hobbes pieces together for us the vertical structure of obligation in Hobbes' writings, with God or natural law as its apex. These efforts are not in vain. However we must not forget that there are many houses in the mansion that Hobbes inhabits and that the light shed by Warrender serves only to illuminate one of them, albeit an important one. The problem is that the surrounding houses rebel against the surfeit of light and overly luxuriant growth caused by this one-sided illumination. Stuart M. Brown Jr. marshalls the forces of discontent, pointing out that the Taylor/Warrender thesis is 'false' because it contradicts Hobbes' explicitly and frequently stated intentions. He points out that a statement of the type of argument Hobbes was elaborating is contained in all of his major works.

And as to the whole doctrine, I see not yet, but the principles of it are true and proper; and the ratiocination solid. For I ground the civil right of sovereigns, and both the duty and liberty of subjects, upon the known natural inclinations of mankind, and upon the articles of the law of nature.<sup>32</sup>

Having therefore thus arrived at two maxims of human nature,... I seem from them to have demonstrated by a most evident connection, in this little work of mine, first the absolute necessity of leagues and contracts, and thence the rudiments both of moral and civil prudence.<sup>33</sup>

32. Leviathan, E.W. Vol. III. P. 710.

33. De Cive E.W. II. P. vii.

To reduce this doctrine (of justice and policy in general) to the rules and infallibility of reason, there is no way, but first to put such principles down for a foundation, as passion not mistrusting, may not seek to displace; and afterward to build thereon the truth of cases in the law of nature (which hitherto have been built in the air) by degrees, till the whole be inexpugnable.<sup>34</sup>

Brown does well to draw our attention to these passages. Taylor and Warrender do seem to ignore Hobbes own statements with regard to the type of argument he was advancing. Yet this sound defensive strategy forfeits legitimacy once it becomes offensive. The Taylor/Warrender thesis is described, not as inappropriate outside its proper sphere or when given undue emphasis, but simply as false. Innocent patriotism becomes guilty imperialism. The very bulwark of the Taylor/Warrender thesis, its solid foundation in Hobbes' texts, is itself put under siege by the indignant enemy forces. We must somehow try to avoid pledging our exclusive loyalty to just one of the houses in Hobbes' mansion. A very fine Platonic sense of 'proportion' is called for, but whether or not the present writer - hopelessly imbued as he is with notions of his scholarly objectivity and dispassionate concern - has even approached this ideal is an issue that must be left to others to decide.

The writer, incidentally, who impresses me as most closely approximating this ideal is Michael Oakeshott and it is to his 'Moral Life in the Writings of Thomas Hobbes'<sup>35</sup>, as well as H. Warrender's The Political Philosophy of Hobbes that I am most indebted. In the latter, the case for regarding Hobbes as an exponent of the Natural Law tradition is comprehensively and convincingly made. In the former,

34. Human Nature E.W. Vol. IV The Epistle Dedicatory.

35. Rationalism in Politics, London, 1962. pp 248 - 300.

Oakeshott forthrightly states that in order to penetrate the core of discrepancy at the heart of Hobbes' work, nothing less than a general explanation will do and he provides a useful hint to those anxious to pursue the quest by suggesting that Hobbes' work may contain both an esoteric and exoteric doctrine. However, it seems to me that both the interpretations share a common fault in raising a clear-cut distinction between, in the case of Warrender, Hobbes' motivational psychology and his theory of obligation and, in the case of Oakeshott, between the causes of conduct alleged to be just and the reasons for thinking it just. Psychological causation is constantly contrasted with deductive moral reasoning, in such a way as virtually to deny that any form of obligation could possibly arise out of human motives. Yet this is what Hobbes explicitly affirms, what the traditionalist case affirms, what Kant affirms when he talks of hypothetical imperatives and what I will be at some pains to affirm in Chapters Three and Four of this thesis. If a man acts on the self-preserving urge because he believes he ought to, what 'caused' his conduct? Certainly, without the desire for self-preservation, there would have been no conduct; yet obviously this desire was insufficient, in and of itself, to produce the action. The 'ought' requires the person to go, so to speak, beyond the outer reaches of the action-determining power of even this strong human motive. Hobbes reminds us that 'hope, fear, anger, ambition, covetousness, vain, glory, and other perturbations of the mind, do hinder a man so as he cannot attain to a knowledge of these laws (of nature): but there is no man who is not sometimes in a quiet mind'.<sup>36</sup> In such quiet times a man may say to

36. De Cive. E.W., Vol. II. P. 44.

himself 'there is nothing more I want than my own preservation and I will try to act accordingly' but the hypothetical obligations thus incurred have to be implemented in the 'perterbing' times. The self-preserving urge or the felt need for security is deemed insufficient, in and of itself, to guarantee this result and man qua rational agent is called to his assistance.

I do not wish to suggest that Hobbes does not present us with a theory of motivational psychology on the one hand and a theory of political obligation on the other. Certainly both of these are present in his work and I have dealt with each theory separately in this thesis, the former in Chapter Eight and the latter in Chapter Nine. However, I think it might be more appropriate to put the word 'separately' in inverted commas because Hobbes believed that 'everything which exists is body' and therefore regarded the ratiocination involved in moral thinking as itself determined by motivational states. But how then it may be asked, can Hobbes be both a materialist and a natural law philosopher? Surely Hobbes cannot have it both ways and, if he thinks he can, he is being too clever by half. Against his demonic cleverness, can we not call upon the superior redemptive wisdom of Warrender and Oakeshott for the distinctions they draw are certainly valid as far as moral reasoning is concerned? Unfortunately not. Whilst the validity of Oakeshott's distinction would be accepted by Hobbes, its power to do harm is conveniently dissolved by the acid of his materialistic determinism. Since everything which exists is body, man as moral agent is not distinguishable in any fundamental sense from man as matter. From Hobbes' perspective, the distinction raised is one within matter rather than between matter and something else. Thus to the question 'Why does the just man offer appropriate reasons for his just actions?' Hobbes would

reply, 'Because of his just disposition.' In other words, because of certain psychological facts about ourselves, we are obliged to think in certain ways. The wish is father to the thought. For Hobbes, even divine grace was a perfectly natural and ordinary disposition. The just man is obliged, by his nature, to take natural law as Divine command seriously. He may think that he autonomously chooses to take it seriously but he does not. We have free will but not the will to will. Thus Hobbes inhabits a world of force vectors. The unjust man will be literally moved by his iniquitous disposition towards committing acts which contravene the civil law, but the threat of the punitive powers of the sovereign will simultaneously act as a counteracting force on his mind. It is the duty of the sovereign to ensure that the latter force is the stronger, thus determining the will of the unjust person to 'right' actions.

Materialistic determinism is then the continuous thread that runs through the whole of Hobbes' political philosophy. If the reader finds his dedicated and uncompromising support of this doctrine somewhat startling, it may help to remember that Hobbes admired and was influenced by such writers as John Calvin. In refuting what he considered to be the false accusations of Bishop Bramhall, he states that:

Other doctors of the Church, as Martin Luther, Philip Melancton, John Calvin, William Perkins and others that did write their sense clearly, I never slighted but always very much revered and admired.<sup>37</sup>

His formidable polemical powers were, however, used unreservedly against the advocates of School Divinity, which he described contemptuously as 'mock theology' and as an unpardonable corruption of the Scriptures.

37. The Questions concerning Liberty, Necessity and Chance,  
E.W. Vol. V. P. 266.



Furthermore, Hobbes' casual, matter-of-fact identification of the 'just' with the 'righteous' suggests that Calvin's influence was profound, and lasting. Yet Hobbes could not accept Calvinist theology in its entirety. As F.C. Hood has observed,

He brought an independent mind to the study of Scripture: to the end he retained that freedom of thought which had marked the earlier stage of the Reformation but which in his time was being stifled by a thickening crust of Protestant dogmatism. His attitude displays a combination of the critical and the fundamentalist.<sup>38</sup>

Yet even more important were the difficulties raised by Hobbes' belief in metaphysical materialism, his conviction that the events of the universe were to be explained in terms of the motion of matter. God does not govern the world directly or arbitrarily, as Calvin would have it, but is only responsible for the initial act of creation of the vast 'machine' of the universe, after which it proceeds almost independently under its own momentum, i.e. from natural, secondary, causes. Grace, spirit, justice and other related concepts, though divine and supernatural in respect of their source, were not for Hobbes vague, metaphysical abstracts but by and large constituted forms of bodily motion and as such, could be treated naturalistically in his philosophical system.

The similarities in their outlook, however, are more striking than the differences. Like Calvin, Hobbes insisted that his doctrines were exclusively based on Scripture and rejected emphatically the authority of traditional dogma. He fully agreed with Calvin's assertion in the French Catechism that:

38. F.C. Hood, The Divine Politics of Thomas Hobbes, Oxford, 1964, P. 3.

The seed of the word of God takes root and grows fruitful only in those whom the Lord, by his eternal election, has predestined to be his children and heirs of the heavenly Kingdom. To all the others who, by the same counsel of God before the constitution of the world, are reprobate, the clear and evident preaching of the truth can be nothing else but an odour of death in death.<sup>39</sup>

Hobbes similarly maintained that the preaching of the word does not equally move all that hear it, but bears its fruits only in the elect; whereas to the reprobate it brings only death. He insists that:

We may further observe from Scripture that the end of Miracles, was to beget belief not universally in all men, elect and reprobate; but in the elect only: that is to say, in such as God had determined should become his subjects.<sup>40</sup>

The elect or righteous may be under the illusion that it was through the operation of their independent powers of reasoning that they arrived, by correctly reading the signs (miracles) presented in the Gospels, at true faith. Hobbes however is under no such illusion.

In the remainder of this thesis, I have deliberately ignored the question of Hobbes' attitude to God and religion because in interpreting Hobbes, I have assumed that he meant what he said and he certainly says that he believes in the Christian God. The informed reader will of course realise that this question has occasioned a good deal of controversy. Hobbes' commentators have arrived at totally opposite conclusions in this respect. F.C. Hood for example sees God as the ultimate source of obligation in Hobbes' system whereas F.S. McNeilly regards the role of God in that system as being completely dispensable and without significance. Undoubtedly the main cause of this confusion is the difficulty in deciding whether or not Hobbes actually believed the religious views that he himself expressed. Certainly the weight of available evidence suggests that Hobbes was being sincere; it would seem that the by no means negligible amount of time and energy he devoted to the discussion of theological

39. John Calvin, *The French Catechism*. P. 22, 46.

40. *Leviathan*, E.W. Vol. III. P. 431.

topics points to a sincerely held religious faith. Yet it can also be argued that the extent of his preoccupation with the finer points of theology was in direct proportion to the fear and insecurity he felt for his life. This may be so but it is highly improbable. If Hobbes wrote insincerely at such length merely to create a smokescreen to protect himself from persecution for his atheistic views, it is difficult to see why he so frequently expressed controversial religious opinions which were bound to attract hostile criticism. As W.B. Glover points out 'If Hobbes purpose had been to avoid persecution, this purpose would have been better served by a clear and unqualified Erastianism without elaboration.'<sup>41</sup>

Since, as it seems to me, most commentators have approached Hobbes with the assumption that the interpretation of his work which ties together the various strands of his philosophy with the thread of consistency is the one to be preferred, this means that the question of whether or not Hobbes was an atheist has tended to resolve itself in the minds of individual commentators into the further question 'What would be the consequences of Hobbes' atheism or Christian faith for the consistency of his system as a whole?' Thus those commentators such as J. Plamenatz, who are convinced that Hobbes was an atheist, regard all his talk about God not only as superfluous chatter or a smokescreen but also as damaging, if taken seriously, to the consistency of his main arguments. Similarly those commentators, such as A.E. Taylor, who hold the opposite view, are convinced not only that Hobbes was perfectly sincere about what he said concerning God and religion but also - and perhaps more significantly - that by taking Hobbes seriously, we are better able to grasp the overall consistency in his arguments. Thus Taylor argues that 'a certain kind of theism is absolutely necessary to make the theory work'<sup>42</sup> I need hardly say that I think Taylor is correct.

41. 'God and Thomas Hobbes' in K. Brown (Ed.) Hobbes Studies, Oxford. 1965. P. 148.

42. A.E. Taylor op. cit. P. 50.

If Hobbes' distinctive brand of Calvinist theology helps us to better understand his dogged determinism and uncompromising materialism, it is nevertheless my sincere hope that the advance in understanding does not produce a corresponding shift in sympathy with Hobbes' doctrines. Whilst recognizing their consistency and systematic character, I am nevertheless not persuaded by Hobbes' arguments. Hobbes was a determinist; I am not. Hobbes would have regarded the distinction between man as body and man as moral agent as a distinction within the realm of matter whereas I would not. At times, Hobbes looks disturbingly like Jean Paul Sartre's 'champion' of sincerity, demanding of the unjust person 'that he constitute himself as a thing' and regarding the actions of this person 'as consequences flowing strictly from his essence.' In treating the mental operations of the just man, his right reasoning and moral thinking, as mere epiphenomena, as a kind of effervescence on the wave of his noble character, he reminds me of those thinkers (to be first encountered in Chapter Three Section 5) who refuse to acknowledge that the stem can be conceived of as in some sense separate from its roots and who thus mistake an aspect of the truth for the whole of it. This mistaken attitude tends to lead towards an unduly rigid formalism in ethics or to an equally rigid form of materialism in philosophy and ethics generally.

The foregoing comments, let me stress, are not meant to be treated as a serious argument against Hobbes' materialistic determinism. Their purpose is only to insinuate a few sceptical doubts. Obviously, I can pursue these differences with Hobbes no further for they would lead us into the most broad ranging discussion of the merits and demerits of determinism. i.e. into an area no less controversial and treacherous than the terrain covered in the is-ought debate. I will thus proceed to examine the latter without further ado.

PART TWO

'IS' AND 'OUGHT'; RIGHTS AND LIBERTY

CHAPTER THREE

WANTS, DECISIONS AND OUGHT STATEMENTS

(1) Introduction: The Is-Ought Debate

In this section I will summarize some of the most recent developments in modern moral philosophy, all of which deal with the question 'How is what is the case related to what ought to be the case?' This is commonly known as the is-ought problem. Despite the enormous variety of positions adopted in relation to this problem, there seems to be a remarkably widespread and deep respect for the insights of David Hume, especially as displayed in a now famous passage of his Treatise. It runs as follows:

In every system of morality, which I have hitherto met with, I have always remarked that the author proceeds for some time in the ordinary way of reasoning, and establishes the being of a God, or makes observations concerning human affairs; when of a sudden I am surprised to find that, instead of the usual copulations of propositions is and is not, I meet with no proposition that is not connected with an ought or ought not. This change is imperceptible; but is, however, of the last consequence. For as this ought or ought not expresses some new relation or affirmation, it is necessary that it should be observed and explained; and at the same time that a reason should be given for what seems altogether inconceivable, how this new relation can be a deduction from others, which are entirely different from it. But as authors do not commonly use this precaution, I shall presume to recommend it to the readers; and am persuaded, that this small attention would subvert all the vulgar systems of morality, and let us see that the distinction of vice and virtue is not founded merely on the relations of objects, nor is perceived by reason.<sup>1</sup>

This passage has commonly been interpreted as propounding the doctrine that moral judgements cannot be derived from factual statements and has been quoted approvingly by the intuitionist, H.A. Pritchard,<sup>2</sup> the emotivist A.J. Ayer<sup>3</sup> and the leading exponent of prescriptivism, R.M. Hare. Indeed

1. D. Hume, A Treatise of Human Nature III, i.1; Selby-Bigge edition pp.469-470. I have slightly modified the spelling and punctuation.
2. Moral Obligation, Oxford, 1949, p.89.
3. Logical Positivism, Glencoe, Ill., 1959, p.22.

the latter refers to the logical impossibility of deriving 'ought' from 'is' as 'Hume's law'.<sup>4</sup> (Hare's opponents however have shown a preference for the slightly pejorative description of this law as 'Hume's guillotine'.)<sup>5</sup> Professor Macintyre<sup>6</sup> however has expressed dissatisfaction with this standard interpretation of Hume's passage, arguing that it was not Hume's intention to show that there was an unbridgable logical gap between 'is' and 'ought'; rather he intended to show how it was possible - and indeed proper and desirable - to draw an inference from the one to the other. When Hume says that the possibility of an is-ought derivation 'seems altogether inconceivable', Macintyre sees no reason to suppose, as supporters of the standard interpretation commonly suppose, that this is an instance of Hume's famous irony and that what he in effect meant was that this possibility was unquestionably inconceivable. Rather Hume should be taken literally; his point was that an is-ought derivation may seem inconceivable but is not in fact so. Furthermore, he asserts, Hume used the term deduction as a synonym for inference. In his other writings Hume sometimes speaks of what we call induction as deduction and refers to a deduction, as we understand that term, as a 'demonstrative argument'. These considerations should incline us to believe that Hume was simply claiming that others had misunderstood the facts from which it was possible to infer moral judgments and that his own account of them was correct. Macintyre ascribes this position to Hume.

.....the notion of 'ought; is for Hume only explicable in terms of the notion of a consensus of interest. To say that we ought to do something is to affirm that there is a commonly accepted rule; and the existence of such a rule presupposes a consensus of opinion as to where our common interests lie. An obligation is constituted in part by such a consensus and the concept of 'ought' is logically dependent on the concept of a common interest and can only be explained in terms of it. To say that we ought to do what is to the common interest would therefore be either to utter an aphoristic and misleading truism

4. Freedom and Reason, Oxford, 1963, p.108.
5. Max Black, "The gap between 'is' and 'should'," The Philosophical Review, LXXIII (1964), p.164.
6. "Hume on 'is' and 'ought'", Philosophical Review, LXVIII (1959), p.451-468.

or else to use the term 'ought' in a sense quite other than that understood by Hume.<sup>7</sup>

Hence when Hume talked of the 'vulgar systems of morality' he was referring exclusively to the religious morality of his own time, which held that judgments about what ought to be done could be inferred from what were believed to be facts about God's Law or purpose. Hume then was 'repudiating a religious foundation for morality and putting in its place a foundation in human needs, interests, desires, and happiness.'<sup>8</sup> Far then from suggesting that there was an unbridgable logical gap between 'is' and 'ought', Hume was asserting the very opposite, i.e. that the transition from 'is' to 'ought' can be effected by such notions as wanting, needing, desiring, pleasure, happiness and health. These are, for Hume, the 'bridge notions' of moral reasoning, without which the latter would be virtually unintelligible.

Macintyre's interpretation of Hume has been criticised at a number of points. Professor Atkinson<sup>9</sup> for example has noticed that Reid's understanding of 'deduction' in Hume's is-ought passage was in line with the standard interpretation, so that there is at least considerable doubt concerning the sense in which Hume was using this term. Macintyre's point, though not undermined, is rendered much less secure. Atkinson also draws attention to the fact that even at the beginning of the passage quoted earlier Hume states that he is concerned to criticise 'every system of morality' which he has hitherto encountered, which certainly makes Macintyre's suggestion that Hume's prime target was popular religious morality seem very odd. Hudson<sup>10</sup> is another critic who thinks that Macintyre has mistaken

7. Ibid, p.457.

8. Ibid, p.464.

9. "Hume on 'is' and 'ought': A Reply to Mr. Macintyre", Philosophical Review, LXX (1961), p.235-236.

10. "Hume on 'is' and 'ought'", in W.D. Hudson (ed.), The Is/Ought Question, London, 1972, pp.73-80.



Hume's target for the latter, he points out, claimed to be making a contribution to the eighteenth-century debate about the nature of moral judgments and when we set Hume's passage in its proper context it becomes evident that his real quarry was the rational intuitionism of such writers as Cudworth, Clarke and Price.

Let us briefly consider just two further points made separately by Atkinson and Hudson, both of which are intended primarily to reaffirm the standard interpretation of Hume's passage. No one disputes that Hume believed that there was a very close connection between the notion of obligation and common interest but Hudson gives reasons for denying that Hume thought that the one could be reduced to the other. He (Hudson) considers that there is a vital distinction to be drawn between what logically constitutes morality and the circumstances in which it occurs, and that moreover Hume had this distinction in mind in his writings. In the following passage, he notices that Hume distinguishes between observing that something is the case and justice taking place:

When therefore men have had experience enough to observe that whatever may be the consequence of any single act of justice, performed by a single person, yet the whole system of actions, concurred in by the whole society, is infinitely advantageous to the whole, and to every part; it is not long before justice and property take place.  
(Treatise III ii2).<sup>11</sup>

He continues:

According to Hume here, when we observe that X serves the common interest, then 'not long' afterwards, the judgment 'X is just' takes place. Whether this can be substantiated or not, as an empirical claim, is not the point. What matters is that observing that something

11. Ibid, p.76.

is the case is differentiated from, yet connected with, pronouncing the moral judgement that it is just. Hume certainly does not make the distinction between constitutive and consequential characteristics explicitly. Nor would one claim that he is as clear about it as modern writers. But that nothing of this kind is in his mind is hard to credit. Here, as elsewhere in Hume, adumbrations of modern theory are distorted by his failure to differentiate clearly and explicitly logical from psychological or sociological issues.<sup>12</sup>

Atkinson's criticism is along similar lines. He notes that against Wollaston's peculiar view that all immorality, in the end, is merely falsehood (If I steal someone's property, I implicitly deny that it is his property), Hume's final argument is in effect that the facts do not speak for themselves, i.e. that they cannot provide a logical basis for morality without the assistance of a principle stating that we should not lie about what is the case (the facts). Hume's critique here is entirely in tune with the standard interpretation and tends to support the view that the latter is correct.

It has also been argued that Hume dispensed with the is-ought gap altogether by identifying ought propositions with certain is propositions. G. Hunter<sup>13</sup> for example claims that, in Hume's opinion, the possibility of an is-ought derivation 'seems altogether inconceivable' only when we entertain the false assumption that such a transition needs to be made. Once it is understood that moral judgments are statements of fact, it becomes clear that such a move is quite unnecessary. Hunter relies especially on the following quotations from Hume to support his interpretation.

(i) ..... when you pronounce any action or character to be vicious you mean nothing, but that from the constitution of your nature you have a feeling or sentiment of blame from the contemplation of it. (Treatise III ii.1)

(ii) We do not infer a character to be virtuous, because it pleases but in feeling that it pleases after such a particular manner, we in effect feel that it is virtuous. (Treatise III ii.2)

12. Loc.cit.

13. "Hume on 'is' and 'ought'", Philosophy XXXVII (1962), pp.148-152.

These passages are taken as indicating that Hume was a subjectivist i.e. one who holds that ethical terms simply report psychological facts about the speaker and his feelings, and thus in certain respects akin to Hobbes. The latter for example argues that the word 'good' means nothing more than 'desired by me'. Since ought can be adequately defined in terms of is, then any endeavour to infer the one from the other is obviously a pointless exercise.

Hunter draws attention to an important point. It is beyond dispute that Hume disagreed strongly with the views of his contemporaries, for example the rational intuitionists, and held that moral judgments are ultimately grounded in human sentiment. But this conviction of Hume's is open to more than one interpretation and this becomes clear if we ask how exactly are moral judgments grounded in human sentiment. Professor A.G.N. Flew<sup>14</sup> argues that those who think that Hume's answer would have been that moral judgments report human sentiments get the emphasis wrong. It is 'so much better to say' that his 'central insight' was that moral judgments express feelings of praise and blame. In an Appendix to his Enquiry Concerning the Principles of Morals, Hume said

And when we express that detestation against him (Nero) .... it is not that we see any relations of which he was ignorant, but that, .... we feel sentiments against which he was hardened ....<sup>15</sup>

Our judgment then expresses our detestation and this is what is meant by saying that moral judgments are grounded in sentiment. Flew does not stress unduly the importance of this single quote but he does think that it shows that Hume was perhaps closer to emotivism than to any other modern ethical theory. Lest the reader thinks that the difference between Hunter and

14. "On the interpretation of Hume", Philosophy XXXVIII, 1963, pp.

15. Appendix I.ii., p.291 (Flew's italics).

Flew is as trivial and unimportant as the distinction between reporting and expressing feeling, let me briefly mention a pertinent point made by C.L. Stevenson. In Ethics and Language he tackles the problem of how we should approach and interpret 'This is good'. There seems to be two possible ways of understanding this statement, at least for those in general sympathy with his own ethical theory (emotivism). Either it could mean 'I approve of this; do so as well' or 'I approve of this and I want you to do so as well' (where the 'I want' clause simply describes and has no imperative force). The former is the interpretation favoured by Stevenson because it allows for the possibility of genuine moral disagreements. If one person says 'This is good' and another says 'No it isn't', then on the first interpretation there is a disagreement for one is saying 'Approve of this' and the other is saying 'Don't!' On the second interpretation however there is no necessary disagreement between them: one is saying 'I want you to approve of this' and the other 'I don't', and each of them could concede that both these statements are true without self-contradiction. Stevenson insists that the major use of moral judgments is 'not to indicate facts but to create an influence .... They recommend an interest in an object, rather than state that the interest already exists .... The difference between the traditional interest theories and my view is like the difference between describing a desert and irrigating it.'<sup>16</sup>

In the following sections I wish to outline a general position on the is-ought problem. I shall argue that the group of philosophers who are coming to be known as descriptivists commit a serious logical error when

16. Facts and Values, New Haven, 1963, p.15-16.

they attempt to deduce an ought-statement from an is-statement. Even this summary glance at the is-ought controversy reveals that what philosophers have dealt with in the main is factual statements of a particular kind, namely 'want' statements and that what is at issue, more specifically, is the propriety of want-ought derivations. I shall argue that deductions of the latter kind are improper and that this becomes apparent once we take account of the element of conscious decision making involved in all attempts to effect the transition from 'want' to 'should'.

(2) Practical Inferences

Professor Von Wright, in his paper on 'Practical Inference'<sup>17</sup> asks us to consider the following practical argument.

A wants to make the hut habitable.  
Unless A heats the hut it will not become habitable.  
Therefore, A must heat the hut.

The question at issue here, Von Wright points out, is whether the argument is valid, even though A may be unaware of the practical necessity of the action to be performed. He continues:

The answer depends upon how we interpret the 'must'. If we understand the phrase 'A must heat the hut' to mean the same as 'unless A heats the hut, he will fail to attain some end of his action' or to mean the same as 'there is something A wants but will not get, unless he heats the hut', then the answer is affirmative.<sup>18</sup>

17. Philosophical Review LXXII, (1963), p.159-179.

18. Ibid, p.164.

As Max Black has observed however, Von Wright only succeeds in demonstrating that his practical inference is valid by interpreting its conclusion as factual. Black continues:

To say what the speaker meant may be only to specify the implications of his utterance in a given context. Now 'must', 'should' and similar words used with normative force in practical inferences are highly schematic and admit of various specifications in alternative contexts; but to admit this is not to concede that the 'must'-statements are synonymous with their appropriate specifications - nor is it to concede that the meaning of 'must' varies from context to context.<sup>19</sup>

Black then goes on to stress, in my view correctly, the distinctly performative aspect of 'must' utterances in this kind of context; but by making clear the impossibility of eliminating this performative aspect of 'should' utterances, Black renders even more acute the problem of how 'ought', 'must', 'should' and similar words used with normative force in 'practical' arguments can emerge from purely factual premises. I propose therefore to examine some of the varied functions of 'should' in allegedly practical inferences in order to show that an ought can not emerge from a series of 'is' statements. I use the term 'emerge' advisedly because I wish to leave open the question of whether, when we are examining the kind of sequence presented by Von Wright, we are dealing with inferences or entailments.

Consider the following argument:

A want to do X.  
Unless A does Y he cannot do X.  
Therefore A should (ought to, must) do Y.

Now the argument presented above, as it stands, contains a blatant non sequitur, unless it is understood that the person who advances it requires us

19. Philosophical Review LXXIII (1964), p.170-171.

to presuppose that A has made a conscious decision to act upon the want in question. It is obvious on reflection that an ought statement cannot follow from a mere experiential fact. To illustrate why this is so, let us take a closer look at the first premise. This tells us that A is experiencing an inner urge of some kind but it does not tell us whether or not A decides to act according to its dictates. He is simply recording an experiential fact. However if A says 'I want to do X; therefore I ought to do Y in order to realize my objective', he is here not merely testifying to the existence of an inner urge but recording a decision to act upon it. We simply cannot make sense of the argument unless we assume a conscious commitment to the end dictated by the desire. In arguments of this kind, therefore, at least one function of the normative term, though by no means a function of normative terms exclusively, is to pinpoint the element of conscious decision making contained in the preceding premises or, perhaps more accurately, to unmask this element where it is disguised from our immediate view.

We can perhaps better understand why this is the case if we consider the following objection. It may be argued that when 'I ought to Y' appears as the conclusion of a chain of reasoning, it does not necessarily tell us that the agent in question has recorded a decision of any kind. It may be just an interim conclusion:

- (i) I want to do X  
Y is a necessary condition for X  
Therefore I ought to do Y
  
- (ii) But I also want to do R  
Doing Y is a sufficient condition for not doing R  
Therefore I ought not to do Y

So, though using 'ought' the agent still hasn't decided what to do. He may however conclude as follows:

- (iii) But I want X more than I want R  
Therefore, I ought to do Y

The objection may be answered in various ways. We could for example qualify the claim that 'ought' statements indicate an element of conscious decision making in arguments of this kind by adding that it is only the 'ought' which appears at the end of a chain of reasoning which serves this purpose. Thus we may say that whilst the term 'ought' in all cases records a recognition on the part of the agent that he has a reason for deciding upon a course of action, the final ought alone serves to indicate that he has actually decided to set about securing an end and to adopt the appropriate means. However I am inclined to believe that an answer in this vein is quite unnecessary because the term 'ought' in (i) and (ii) is used improperly. To say that 'I want to do X' is already to have said 'I have a reason for deciding to do Y', so that the ought clause in (i) appears quite redundant. I find it hard to escape the conclusion that it tells us nothing that we do not already know and that it lacks performative force. We can only make sense of it by assuming that it is roughly equivalent in meaning to 'I have a reason for deciding to do Y'. Unless the agent positively commits himself to securing X, he is in no position to utter the 'interim' ought conclusion. He must not only want X but decide to secure X before he can be obliged to do Y and if both these conditions are met then (ii) appears very strange. He may also want to do R but obviously should not set about securing R. He may have good reasons for wanting to do X and R but he cannot decide to do both and he cannot incur any obligations until he makes up his mind. Before we can pass a judgment on the validity of want-ought deductions in general, we must first investigate whether or not a decision to act upon a human want can under certain circumstances engender a form of obligation and, if so, how this is possible. Some light can, I



believe, be shed on the matter if we consider the ways in which we might react to the following statements made to us by a friend.

1. I decided yesterday to get my car fixed today but I think I'll leave it till next week.
2. I decided yesterday to give up smoking but today I think I'll have just one cigarette.

These decisions committed our friend to a specific course of action or to the omission of certain actions in the future and in both cases the 'but' indicates a sense of regret or at least of moderate disappointment that he did not, for whatever reasons, do what he had originally decided to do. Yet our reactions would be quite different. The first statement hardly calls for comment at all. We might simply ask 'Well, what made you change your mind?' We would hardly adopt a censorious tone or express annoyance at his failure to do what he had decided to do, for we are well aware from our own experience that we very often change our minds on such simple matters. When circumstances change, we often revise our decisions accordingly. However, normally a statement of the second kind does cause raised eyebrows and comments of a different order:

But you should stick to your guns and do what you decided to do. Otherwise what was the point of your initial decision?

If our friend replies 'Look! I simply changed my mind' we would hardly find this a satisfactory response, but why is that the case? Is it simply because today there is an increased awareness that smoking is a health hazard and because people generally feel that they should not smoke even when they in fact do? Is there a sense of moral outrage against smoking per se lurking behind these criticisms? This may well be the case, but the strange

thing is that most of us are able to concentrate our criticism on our friend's inconsistency. Nor do I think that this is simply a form of hypocrisy on our part, just another way of getting at the unfortunate smoker. Our friend may well feel that he is being victimized, since other instances of people failing to act in accordance with their decisions do not evoke the same kind of criticism. But he would be wrong to feel victimized because there is, I maintain, a perfectly valid distinction to be drawn between serious or sincere decisions, which give rise to a form of obligation and casual or flippant decisions which do not. If our friend concedes that he really wanted to stop smoking and seriously intended to do so when he made his original decision, then he has incurred an obligation not to smoke any more cigarettes and he can hardly advance a 'simple change of mind' as an adequate justification for resuming the habit. If, on the other hand, he points out that he was not really serious about his decision, then we cannot realistically claim that he has infringed any obligation, though we may perhaps point out that he should not be so flippant in relation to matters of such importance.

It is of course by virtue of a suppressed major premise such as that 'One ought not to be deflected from one's chosen course of action in relation to matters of serious import without good reason' that we regard our friend as having incurred an obligation. We might variously describe the principle involved here as the 'consistency' principle, the 'rationality' principle or even the 'gravity in relation to decisions of serious import' principle. Consistency is a human virtue and its opposite, inconsistency, is not simply a logical defect. It makes perfectly good sense to say that a person ought to behave consistently with what he himself has decided and to describe the behaviour of a person who does not do so as in some sense reprehensible and not just illogical. From a strict logical point of view, inconsistency means asserting something and denying it at the same time but

the term inconsistency is also used to describe an incongruity between a person's expressed intentions and his actual deeds and in this sense it is a human vice. But when we say that a person ought to be consistent we are, I think, assenting to a principle of conduct that is not properly describable as moral, because consistency, like all other human virtues, does not necessarily lead to morally right actions. Before we can agree that a person ought to be rational or consistent, we must first ask 'rational or consistent in the pursuit of what end?' The actions of a person who managed to overcome his moral scruples and decided to murder all his enemies may be good or virtuous in the sense that they are done from a penchant for consistency but wrong in that he infringes the clearly moral principle that human life ought to be respected.

The consistency principle holds a peculiar midway position between what Kant described as categorical imperatives (oughts) which are moral and universalizable and hypothetical imperatives (oughts) which are neither moral nor universalizable. In Kant's philosophy, all imperatives are expressed by the words 'I ought'. To say that I ought to do something is to recognize that a course of action is necessitated or imposed by an objective principle valid for any rational agent as such. Hypothetical imperatives have the form 'If or given that I will this end, I ought to do such and such'. They require us to do actions which are necessary as a means to an end that we actually will or might will. But some objective principles are unconditioned. They are not based on the previous willing of some further end. Kant calls them categorical imperatives because they require us to act in accordance with universal law as such, i.e. to act on a principle valid for all rational beings. This is expressed in the formula 'Act only on that maxim through which you can at the same time will that it should become a universal law'. It is important to note however that we can only be obliged, even in a hypothetical sense, if we

subscribe to the consistency principle, that is, if we recognize that we ought to do whatever is a necessary means to an end that we have chosen. Kant is somewhat ambiguous on this point. He always assumes that a principle on which a fully rational agent would necessarily act is also one on which an imperfectly rational agent ought to act. Thus he would say that a proposition of the kind 'Any fully rational agent who wills an end necessarily wills the means to the end' is analytic. But it is by no means clear how he would describe the proposition 'Any imperfectly rational agent who wills an end ought to will or adopt the means'. It is perhaps true that, even in the case of an imperfectly rational agent, he who wills the end also wills the means - at least at the time of his initial decision to secure the end. However precisely because he is an imperfectly rational agent, there is no guarantee that he will continue to will the means or that he will actually adopt the necessary means. The proposition 'If I fully will the effect, I also will the action required for it' may be analytic when uttered by a fully rational agent but not by an imperfectly rational one (or, if you like, by an ordinary human being). The consistency principle therefore is not analytic. It is a non-moral normative principle. Consider the case of a person who says:

Although I had always realized that I ought to respect human life, my desire for vengeance was so intense that I resolved on this occasion to kill my wife's lover and I knew that, to give effect to my decision, I ought to take the greatest care in executing my plan.

It is clear that this enraged husband does not experience any inner conflict between two competing moral points of view. (I ought to respect human life; I ought to act consistently with his decision). Rather he is quite clear in his own mind about what he morally ought or ought not to do but on this occasion resolves to pursue a course of action which, in his own estimation, is morally indefensible. What this person says constitutes

an indirect appeal to the principle of consistency. It is because he has this standard or rule in mind that his final 'ought' makes sense, but at the same time he concedes that it is a rule which applies to men as 'deciders' and not to men as men. The consistency principle is thus universalizable in this qualified sense but not moral, for it is plainly the case that men often make up their minds to do what they morally ought not to do.

The often lengthy process of making up one's mind or resolving to do something may give rise to different types of obligation at one and the same time. Making a firm decision not to smoke, I have argued, entails an obligation not to do so. However a person may be moved to make this decision in the first instance by the consideration that smoking is wrong, positively immoral (Mormons for example), so that he will also have a moral obligation not to smoke. The extent then to which a person is morally obliged by a decision of this kind is dependent upon his reasons for making the decision (he may for example have simply thought that cigarettes were outrageously expensive).

Now admittedly I have chosen two examples which are finely tailored to my purposes. I have tried to show that certain decisions give rise to obligations (e.g. deciding to give up smoking) whereas others do not (e.g. deciding on what precise day to get the car fixed). But of course if we were to represent decisions diagrammatically with ought-engendering decisions at one end of a spectrum and casual or flippant decisions at the other, we would find that most of our decisions in daily life fall somewhere in between. When a smoker has tried and failed on innumerable occasions to give up smoking and takes up the challenge yet again, he may do so in the full knowledge that the odds are stacked against him and that the addiction will probably beat him in the end. His decision may not be entirely serious

or sincere; it may be qualified by ifs and buts and other 'let-out' clauses. The extent to which it generates any form of obligation is thus problematical. Similarly our friend in the 'car' example may have had a special reason for getting his car fixed. He may have felt that, since he was going on a driving holiday the following week, he ought to have the car fixed by then. Again, whether or not he has incurred any obligation is problematical.

It may seem that by classifying decisions in accordance with the seriousness of intent with which they are made and thus making each individual the arbiter of whether or not he has incurred an obligation, I am introducing a notoriously imprecise and subjective element into the discussion. However most of the problems which arise can be easily avoided by taking the first person use, 'I ought to do such and such', as primary in order to elucidate the second and third person uses. Let us consider the following example of a first person use:

I want to do X.  
Unless I do Y, I cannot do X.  
Therefore I should do Y.

In this case the 'should' clearly serves to indicate not only that I have made a decision but also that I am sufficiently serious about my decision to regard myself as bound by it. In the second and third person formulas, the function of the 'should' is problematical and its propriety is highly questionable. When for example are we faced with an argument of the above kind where the conclusion reads, 'Therefore you should do Y' we simply lack sufficient evidence to judge the propriety of the 'should'. Whilst we know that the hearer wants to do X, we do not know that he has actually decided to do X. The first person usage avoids this complication.

The procedure that I have recommended differs from the proposal offered by Max Black in relation to the same matter. He suggests that, when we are attempting to explain what a speaker counts as doing when he makes a 'should' statement, 'the beginnings of an answer might be obtained by taking the second-person use, 'You should do such and such' as primary, in the hope of explaining the first and third person uses in terms of their relations to that second person use. It is plausible to hold that the prime function of the second person formula is to urge the hearer to adopt a course of action selected by the speaker as preferable, optimal, or correct.'<sup>20</sup> However if my analysis is correct, the primary function of the second person formula is to urge the hearer to act in a manner consistent with his decision. The course of action selected by the speaker is only preferable, optimal or correct because it spells out the evident implications of the hearer's own decision. The 'should' statement is, in effect, a simple plea for consistency based on the presumption that the hearer has actually decided to act upon the want referred to in the first premise. I would maintain then that the type of argument we are dealing with here is not a practical inference at all, as Von Wright would assert, but a straitforward entailment. From our wants, considered as simple experiential facts, we can infer nothing; yet our decisions to set about securing the ends suggested by our wants can, if undertaken with due gravity, give rise to obligations, so that the relationship which holds between our decisions and the obligations they engender seems to be one of entailment.

This account of the want/should derivation by no means claims to be a comprehensive examination of the functions of the normative term. In a first person use, the should always serves to indicate an awareness of the implications of one's decision but it may also serve an additional function.

20. Philosophical Review, LXXVIII, 1964, p.171.

Consider the following conversation between two well-intentioned people:

A: I want to be charitable; that means helping other people in my day-to-day existence; so I really should set about being of service to my neighbour.

B: Yes, I can see that if you're really serious about wanting to help other people, you must do something concrete about it. There's not much point setting yourself an objective if you don't try to realize it in fact.

A: That's certainly true; but, you know, my major problem is my own selfishness. I often find that I haven't got the time or that I get too wrapped up in my own affairs; and you just can't leave your own interests completely to one side.

Now it would seem that A is not simply using the term 'should' with the consistency principle in mind, as B evidently, and, as it turns out, wrongly supposes. In addition to pinpointing what is practically necessary to realize a particular decision, the should-statement also serves to indicate a weakness in the active force of the want term. The 'should' here asks more of A than the actual want, even when aided by the human penchant for consistency, inclines him to do; it requires him, so to speak, to go beyond the outer limits of the want's action-determining power. Now when we are examining a want/should derivation, it is not always clear whether the normative term performs this kind of function. Consider Von Wright's example:

A wants to make the hut habitable.  
Unless A heats the hut it will not become habitable.  
Therefore, A must heat the hut.

Now at first glance it would certainly appear that the function of the normative term is simply to state the implications of A's decision and what is required to make the hut habitable. However we cannot be sure of this. The person recording A's situation may have made a poor job of it. He may have isolated A's want from a whole series of other and possible conflicting wants. A, speaking for himself, might say:



Yes, it's quite true that I want to make the hut habitable but the problem is that I also want to cultivate a half-decent vegetable patch in the garden and to buy a new car. Sure, I resolved last week to give the heating of the hut top priority but there are times, I must admit, when I spend rather more time in the garden than I should.

Ultimately then each of us knows what we mean when we use the term 'should' in a want/should derivation. When we do not envisage any major obstacles to realizing the want in question, we are using the normative term with the consistency principle in mind. A would have been using the term in this way if he had found the objectives of cultivating his vegetable patch and heating the hut thoroughly compatible. However when we predict that we will or may have to overcome major obstacles to achieve our goal - normally what Kant would have described as subjective conditions or limitations and what I would refer to more simply as the imperious demands of our assorted wants to have a say in what we do - our use of the normative term serves two distinct, though obviously interrelated functions.

### (3) Is-is or Is-ought?

I would suggest that the whole debate about formalism in ethics has been obfuscating in one respect at least. It is surely strange that we should devote so much time to examining the propriety of the deduction, 'A wants to make the hut habitable....etc' and yet allow a statement of the kind 'I want to become a teetotaler: therefore I will stop drinking alcoholic beverages', to pass by without question, even when the speaker of the latter statement has for most of his life been an alcoholic and has tried on innumerable occasions to give up drinking. The propriety of the latter deduction is in many respects much more questionable than the former but we are often prevented from seeing this by our myopic concern with the question of formailty in ethics. If we are concerned to elucidate

our moral thinking we should perhaps be more sceptical towards certain is/is derivations, in particular the want/will derivation and less critical towards want/ought derivations where the context makes it reasonably clear that the normative term is being used with the consistency principle in mind. If we foresee that we can only achieve a certain goal that we have set ourselves in the face of the insistent demands of our various wants and if we recognize, as I think we must, that reason does not have unfettered control over our appetites, then we will find it more fitting to say that we ought to do such and such rather than that we will so such and such. Under these circumstances, a person who says 'ought' simply recognizes the difficulties to be overcome; whereas a person who says 'will' throws the gauntlet, so to speak, at the obstacles which lie in his path. He is confident that he can overcome them and literally treats them as nothing. But of course however he treats them, they nonetheless exist, so that the linguistic function of 'will' in this situation is to express a person's determination to do what he ought to do, i.e. what his decision entails.

When a person says 'I will do such and such' this normally implies the condition 'other things being equal', as for example when a person says that he will go on a world trip three years from now. A statement of this kind is best construed as a statement of intent in view of the ceteris paribus condition, rather than as a statement of projected fact, a positive assertion that the holiday will in fact take place. Whether he actually does what he intends to do is to some extent dependent on circumstances beyond his control. When a person's want is susceptible to immediate gratification, we may dispense with the ceteris paribus condition altogether. However where the ceteris paribus condition is internal in the main, i.e. where the major obstacles in the way of realizing an intention are from within, from the imperious demands of a

person's assorted wants (Kant's subjective conditions), then 'will' is in effect synonymous with 'ought' or, perhaps more accurately, with an 'ought' expressed with determination.

(4) Is-Ought or Ought-Ought?

If the analysis presented so far is correct, then the claim that an ought statement can be derived from a want statement can be reformulated as the claim that a decision can, of itself, give rise to a form of obligation. In order to assess the validity of this claim, let us reconsider Von Wright's example:

A wants to make the hut habitable.  
Unless A heats the hut it will not become habitable.  
Therefore, A must (ought to) heat the hut.

Let us assume that it is the case that the ought asks more of A than his actual desire inclines him to do; that it requires him on occasion to suppress other wants, such as cultivating the garden patch, so that he can get on with the job of making the hut habitable. If we were to ask A 'Why should you heat the hut?', a reply that is exclusively in terms of A's want must be deemed deficient, because it does not explain why he feels obliged to go beyond the outer limits of the want's action determining power. He cannot simply reply, 'Because I want to make the hut habitable'. He may however more plausibly reply 'Because I have decided to...' (resolved, made up my mind) and insist that the decision, of itself, engenders a hypothetical obligation. The crucial question is whether or not A's answer is satisfactory and complete as it stands. A may insist that it is; that while 'Humes' law' serves as a useful rule of thumb in elucidating moral discussion, its unduly rigid application seems to

have the opposite effect; that there is a distinction to be drawn between a moral ought, from which a series of deductions may flow, and a hypothetical ought, which simply requires us to pursue the means to a given end and to which Hume's law has no proper application ; and finally, that the latter form of obligation does not derive from any higher order principle but is intimately connected with our character as rational beings and that consistency is a particular form of this human rationality. All that is required then for an 'ought' to follow from a decision is a sound understanding of what is involved in decision-making. Understanding is the subjective link between decisions and hypothetical obligations. Is it not, then, reasonable to suggest that we can, merely by deciding, incur a hypothetical obligation provided we understand what it is to make a decision? By so doing, we can retain intact the familiar distinction between hypothetical and moral imperatives.

I regard A's argument as mistaken for the following reasons. Firstly, whilst it may be true that human rationality makes hypothetical oughts possible, it is nonetheless the case that it is not because of the fact of man's rationality but because he ought to be rational that this type of obligation arises. Secondly, I would contend that at least part of what is involved in understanding what it is to make a decision is a recognition that we ought, where possible, to act in a manner consistent with what we have decided. Finally, I do not think there is any need to jettison the familiar distinction between moral and hypothetical oughts, though it is important to stress that the latter are only intelligible when viewed as appealing to the higher order consistency principle. The distinction only becomes blurred if we regard the consistency principle as a constant guiding moral light and, as we have seen in the case of the enraged husband, it is certainly not that.

My main concern throughout has been to show that it is simply wrong to regard want-ought arguments as practical inferences. Once it is recognised

that an element of conscious decision making is involved in this kind of argument and that 'who wills the ends wills the means' is not analytic for ordinary human beings, except perhaps at the time of their initial decision to set about securing some objective, it becomes clear that we are dealing with entailments and that it is proper to speak of want-ought deductions. We can then rest assured that, since hypothetical oughts do not spring magically from 'want' statements but rather derive from and constitute an appeal to the consistency principle, we have not been constantly committing the naturalistic fallacy in our everyday discourse.

#### (5) Hare on Hypotheticals

I have argued that hypothetical oughts derive from and constitute an appeal to the consistency principle and that it is a mistake to insist that a human decision, by itself, can engender a hypothetical ought. I would thus contend that the difference between moral and hypothetical oughts has nothing to do with the 'class of comparison' as R.M. Hare appears to think. The extent of the class of comparison may be relevant in explaining the difference between intrinsic and instrumental goodness, but not the difference between categorical and hypothetical uses of ought. To see why this is so, let us follow Hare in comparing such statements as:

- (1) He is a good poisoner (instrumental)
- with(2) He is a good man (intrinsic)
- and (3) You ought to give a second dose (said to a would-be poisoner)
- (hypothetical)
- with(4) You ought to tell the truth (categorical).

A poisoner can only be said to be good at his chosen profession but if we say that a man is good, without any further specifications, we mean that he is good in himself and not at any particular form of activity.

Similarly it is only the case that one ought to administer a second dose of poison if one is bent on killing one's victim. But one ought to tell the truth without condition.

Hare states that it is clear that (4), on most occasions of its use, expresses a moral judgment and equally clear that (3) does not.<sup>21</sup> However he rejects Prichard's contention that there is 'a total difference of meaning' between the two uses of the word 'ought'. Just as the primary - or evaluative meaning of 'good' is the same in (1) and (2), since in both it commends, so too the primary meaning of 'ought' is the same in (3) and (4) for in both it prescribes. In (3) the standards which are being applied (the principles that are being referred to) are those for poisoning people; and in (4) we assume that the principles referred to are moral ones. But in either case, a form of activity is prescribed as necessary in order to meet a certain standard. Hare states that the crucial difference between (1) and (2) and between (3) and (4) has to do with the extent of the class of comparison. In (1) and (3) for example our commendations and prescriptions only apply within the class of poisoners i.e. to poisoners as such. By contrast, (2) commends one man as a man and the class of comparison is all men and likewise (4) is normally intended as a prescription for all men. As Hare puts it:

...we cannot get out of being men; and therefore moral principles, which are principles for the conduct of men as men - and not as poisoners or architects or batsmen - cannot be accepted without having a potential bearing upon the way that we conduct ourselves. If I say to a certain person 'You ought to tell the truth', I signify my acceptance of a principle to tell the truth in the sort of circumstances in which he is; and I may find myself placed unavoidably in similar circumstances. But I can always choose whether or not to take up poisoning or cricketing as a profession. This is bound to make the spirit in which we consider moral questions very different from that in which we consider how we ought to poison Jones, or build him a house; but the logic of the word 'ought' is not markedly different in the two cases.<sup>22</sup>

21. R.M. Hare, The Language of Morals, Oxford, 1961, pp.160-161.

22. Ibid, p.162.

Hare's main point is that the difference between the two oughts in (3) and (4) is really a difference between two sets of principles. However he makes no attempt to show that the standards being applied in (3) are those for poisoning people exclusively. If a would-be poisoner agrees that he ought to administer a second dose, it is not at all clear what precise standard he has in mind. His options are, however, limited. The principle could be that 'All poisoners ought to do such things as will result in the death of their victim' which is tantamount to saying that they ought to do their job efficiently or on a more general level 'Anyone who decides to achieve an end should adopt the necessary means'. These principles are not in my view markedly different; indeed the former may be viewed as spelling out what the latter principle requires in the case of would-be poisoners. However even if it is argued that there is a significant difference between the principles 'One ought to adopt the means necessary to achieve one's chosen goal' and 'One ought to do what one has decided to do efficiently', and that the would-be poisoner may therefore posit the value of efficiency as well as, or instead of, consistency, as a justification for his proposed action, it nevertheless remains the case that the reasons offered in his defence do not pertain exclusively to the class of would-be poisoners. The sorts of reasons offered, whether they involve an appeal to a standard of consistency or efficiency, are by no means peculiar to this group.

Let us be clear then about this criticism of Hare. The crucial point which he concedes and which is, in my view, damaging to his case is that we have an option as to whether or not we will take up poisoning as a profession. Hare contrasts this with 'we cannot get out of being men', but the contrast is superficial and certainly misleading because neither can we get out of making decisions, of choosing one of the available options before us. It is pointless to compartmentalize the subject matter

about which we decide (for example to become a murderer, batsman or architect) for a would-be poisoner ought, under certain circumstances, to administer a second dose to his victim, not because he is a poisoner but because he has chosen to become one. The reasons for his proposed action are thus universalizable well beyond the class of poisoners to the class of all men.

In a recently published paper entitled 'Wanting: Some Pitfalls', Hare makes a fascinating attempt to grapple with the various logical problems raised by hypothetical oughts. The first part of his paper, with which we shall be largely concerned, is an attempt to show what is wrong with Professor Max Black's argument in his article 'The Gap between 'Is' and 'Should''. He starts with an amusing dialogue between two relatives, John, an elderly and rich bachelor and James, his nephew and sole heir. They are fishing in shark-infested waters out of sight of other vessels. James makes a series of statements, such as that there is nothing in the world he wants more than to have a half a million dollars, and that the one and only way in which he could possibly get that amount of money is to push his uncle out of the boat. After each of these statements the uncle agrees that his nephew's reasoning is sound and the dialogue ends in tragi-comic fashion with Uncle John being pushed out of the boat, evidently a martyr, a sacrificial victim who willingly died in the interests of sound logical thinking.

Hare regards it as obvious that there is something logically wrong and not merely morally disreputable about this wierd dialogue<sup>23</sup> and in order to investigate the matter further, he asks us to consider and contrast the following two remarks, both of which might be said to a friend dining in a restaurant:

23. R.M. Hare, Practical Inferences, London, 1971, p.45.



- (1) If you want sugar in your soup, you should ask the waiter.
- (2) If you want sugar in your soup, you should get tested for diabetes.

We can discern the difference between the two remarks by noticing the entirely different reasons that would be given to justify them. The first would be justified if it was pointed out that the waiter was the only person who could get the sugar whereas to state that an inordinate desire for sugar is a symptom of diabetes and that diabetics should seek medical help would be an acceptable justification of the second remark. Hare continues:

The difference between these two kinds of 'If you want' statements was pointed out by me in The Language of Morals<sup>24</sup> and also by Jonathan Harrison<sup>25</sup>, who made the additional point that the consequent of the 'diabetes' hypothetical can be detached by using modus ponens, but that of the 'waiter' hypothetical cannot. Thus it is permissible to argue 'If you want sugar in your soup, you should get tested for diabetes; but you do want sugar in your soup; therefore you should (absolutely) get tested for diabetes'. But it is not permissible to argue 'If you want sugar in your soup, you should ask the waiter; but you do want sugar in your soup; therefore you should (absolutely) ask the waiter'... I say 'you should (absolutely)' in order to contrast it with 'you should, if you want sugar in your soup'.<sup>26</sup>

Hare points out that it is impossible to clarify the meaning of 'If you want' in these cases until we know more about what it is to have a desire and he takes up a suggestion by Mr. Kenny that to have a desire is to say-in-one's-heart an imperative. Hare concedes that this is artificial and disclaims any intention of taking over the suggestion in its entirety but, he goes on, it is illuminating 'and its artificiality is, perhaps, no greater than that which we have to endure in all cases in which we want to give linguistic expression to something that we do not say but only think'.<sup>27</sup> Moreover unless we adopt some such device as that proposed by Kenny, 'we shall not be able to display the logical relations

24. R.M. Hare, The Language of Morals, Oxford, 1952, p.34 footnote.

25. J. Harrison, 'When is a principle a moral principle' (symposium) Aristotelian Society Supplementary Volume XXVIII (1954) p.111-134.

26. R.M. Hare, op.cit. p.46.

27. loc.cit.

between desires and other thoughts or expressions'.<sup>28</sup> Hare stresses the point that it is unimportant whether or not the man who wants something 'says anything in his heart' but if we are to get wants into the logical machinery at all, then we must have some idea of what the man is thinking and this is most appropriately expressed in language as an imperative. It would be extremely difficult, if not impossible, to summarise the next part of Hare's argument without doing an injustice to it and I will therefore quote this important paragraph in full:

Now let us consider the 'diabetes' example with this point in mind. The inference seems to go like this (if you will tolerate for the moment Kenny's artificial translation): If anyone does, as a matter of fact, say-in-his-heart 'Let me have sugar in my soup', he should get tested for diabetes; but X (the man in question) does as a matter of fact, say-in-his-heart 'Let me have sugar in my soup'; therefore X should get tested for diabetes. This is relatively unproblematical. It is the actual occurrence, in fact, of this thought in his heart which entitles us to detach the consequent of the hypothetical. But when we come to the 'waiter' example, the situation is different. There, what entitles us to detach the consequent is not the mere fact of X's saying-in-his-heart 'Let me have sugar in my soup'. Before we can ourselves affirm absolutely 'X should ask the waiter', we have to be, like X, saying-in-our-hearts 'Let X have sugar in his soup'. In fact the real premiss in the argument is not the factual statement that X wants, or says-in-his-heart, what he wants or says; the real premiss is what he is saying in his heart - the thought that he is having, not the fact that he is having it. From this it follows that the consequent of a 'waiter' type hypothetical 'should' statement is detachable only by someone who is prepared himself to subscribe to the imperative which is implicitly contained in the conditional clause.<sup>29</sup>

I think that Hare is seriously mistaken, not because the device he adopts is unhelpful or misleading, but because his analysis does not take account of all the relevant factors involved in 'want-should' statements. To understand what is missing, it will be helpful if we concentrate our attention on the first-person use of the verb 'want' and then see if our investigation casts any light on the second-person formula.

28. Ibid, p.47.

29. Ibid, p.47-48.

When a person says 'I want sugar in my soup' he is, first and foremost, telling us something. Whatever else he may be doing, it is at least certain that he is conveying some information about himself. When a doctor asks us 'Do you find that you want a lot of sugar?' we do not regard this as a query concerning the types of imperatives that we issue to ourselves in thought. He is looking for a simple factual reply in terms of the physiological urges that we experience and normally this is what he gets. I think Hare and Kenny are near enough to the truth, that it is allowable in general to view want statements as 'saying-in-the-heart' imperatives but we must remember, not only that they do have a descriptive use, but also that they may have a purely descriptive use. When we say 'I want...' we can literally mean 'I have a physiological urge to...' as in our conversations with doctors. My point here is that we must take care not to confuse physiological urges with the 'saying-in-one's heart' imperatives to which they give rise, for I am not at all convinced that Hare is sufficiently attentive to this distinction.

Normally when we utter a want statement, we are at one and the same time describing a psychological or physiological condition and issuing imperatives in thought. But having done these two things, we do not then jump headlong into the arena of action, for we must first decide whether or not we will act in accordance with the imperative in question. A person may say 'I want sugar in my soup' and then add (i) 'so I should ask the waiter for some' or else (ii) 'but since I'm on a diet, I ought not to have any'. Wants have the power to project themselves into our deliberations but they do not have the final say. Whilst there is normally a presumption that wants will be acted upon without further ado (as in (i) above), this should not blind us to the obvious fact that this is not always the case (for example (ii) above). For this reason the Hare-Kenny recommendation, though useful and illuminating, is incomplete. Consider case (i)

translated artificially into a form of sub vocal mouthing;

I say in my heart 'Let me have sugar in my soup', so I should ask the waiter for some.

It is immediately clear that there is nothing to link what I say in my heart with the subsequent ought clause, i.e. with the prescription to be given effect in the outside world unless I consent to the imperative. Taking this into account, our translation into this peculiar mode of sub vocal discourse would have to be as follows:

I say in my heart 'Let me have sugar in my soup'. I consent to the imperative; so I should ask the waiter for some.

Now let us see if all this casts any light on the second-person formula. Hare's waiter hypothetical example will serve as well as any. An appropriate expression in language for what the speaker is thinking would be as follows:

If you say in your heart 'Let me have sugar in my soup' and if you consent to this imperative, you should ask the waiter for some sugar.

Let us assume that we are the speaker in question and X is the name of our friend. Hare states that we are only entitled to detach the consequent of the waiter hypothetical if we ourselves, like X, say-in-our-hearts 'Let X have sugar in his soup'. But once we take account of the factor of consenting or deciding, it becomes clear that there is simply no question of our saying anything in our hearts; it is X's want, not ours and we are merely pointing out what appear to be the evident implications of his consenting to his own imperative. We are saying what he should do if he respects the consistency principle as we do. Of course if we ourselves do

not respect this principle, we will presumably refrain from giving advice of this kind.

Hare maintains that we cannot detach the consequent of a waiter-type hypothetical by using modus ponens whereas when the ought in question is really categorical, as it is in the diabetes example, it is possible to detach the consequent. As has been pointed out earlier, by categorical 'oughts' Hare has in mind those imperatives which apply to 'men as men'. By the latter expression, it seems to me, we in fact mean that such imperatives apply to men as creatures capable of somehow discerning the righteousness of fundamental moral precepts; whereas when we say that hypothetical 'oughts' apply to certain men under certain circumstances, we are thinking primarily of men as deciders, as choosers of ends, as rational agents. Man qua rational agent can be at the service of man qua moral agent or of man qua sensuous being, a creature of need. In the latter case, as Kant would put it, the principles of reason are at the service of inclination but in either case the actual implementation of a resultant imperative may be thwarted by 'subjective conditions', unruly impulses etc. The enraged husband of our earlier example may have to overcome ordinary human sympathy and fellow feeling before implementing his vindictive act. Indeed it may be in virtue of such obstacles that the consistency principle acquires its performative force in his case. When the deed flows easily from the wish, exhortations to consistency or rationality or even efficiency are quite beside the point. In the case of Hare's waiter-hypothetical, for example, the exhortation of the speaker who said 'You should ask the waiter' would sound a little odd unless he had reason to believe that the person who wanted sugar was shy or reluctant to disturb over-worked waiters.

Despite the fact that the maxims of hypothetical oughts are material,

in Kant's meaning of that term, since the consistency principle always presupposes a material end, they are nevertheless universalizable to the class of all men qua rational agents and it seems to me therefore that it is not universalizability per se but rather universalizability by men qua moral agent which is the criterion of those formal maxims which constitute duty. Obviously, in hypothetical usages of 'ought', man qua moral agent is, so to speak, temporarily suspended from consciousness. I can, therefore, see no logical objection to detaching the consequent of a waiter-type hypothetical, using the first person usage for clarity's sake, in the following way:

But I do say in my heart 'Let me have sugar in my soup' and consenting to the imperative, I do decide to set about acquiring it: Therefore I qua rational agent (absolutely) ought to ask the waiter for some.

Obviously then I must regard as unsuccessful Hare's attempt to undermine Black's argument that the transition from 'is' to 'should' in the latter's famous Fischer/Botwinnick example<sup>30</sup> is logically proper as it stands. The 'should' in question has a distinctly performative aspect and it is precisely the latter which Hare leaves entirely unexplained.

I make these criticisms of Hare with some embarrassment for they involve using the Hare of The Language of Morals and Freedom and Reason, with whom I am in substantial agreement against the Hare of Practical Inference: In the latter work he states that 'I do not think that many people would wish to deny that hypothetical 'should' statements can be derived from 'is' statements.<sup>31</sup> Now this is a strange statement for Hare

30. Fischer wants to mate Botwinnick.  
The one and only way to mate Botwinnick is for Fischer to move the Queen.  
Therefore, Fischer should move the Queen.
31. R.M. Hare, op.cit. p.50-51.

to make; indeed it almost seems like an act of betrayal for it accuses those who thought that they had understood and agreed with his earlier arguments of now holding an unfortunate and unfashionable minority viewpoint. This may be no fault of Hare's; he may have been simply misunderstood. But a brief glance at some of his earlier statements suggests otherwise. In The Language of Morals he insists that the primary - or evaluative meaning of ought, whether it is used hypothetically or categorically, is invariably the same; it always prescribes.<sup>32</sup> In the same work, he asserts that value words are used in order to teach, or affirm, or otherwise draw attention to, standards, rules or principles for choosing between actions or states of affairs.<sup>33</sup> In Freedom and Reason Hare maintains that prescriptive meaning is always logically prior to descriptive.<sup>34</sup> Yet in Practical Inferences or more specifically in 'Wanting: Some Pitfalls', he freely and gladly concedes that hypothetical 'should' statements can be derived from 'is' statements. Either he is allowing that at least some hypothetical 'shoulds' do not draw attention to any standard or he is waiving the condition that a standard must be accepted before it is invoked. My own view is that he has yielded far too much precious ground - perhaps under pressure from Black - and that the Hare of Freedom and Reason and The Language of Morals is in the main, right ; the Hare of Practical Inferences, in the main, wrong.

What then, it may be asked, is wrong with Black's argument? In my view this can be pinpointed in the following way. Black asks us to consider any argument of the following form:

You want to achieve E.  
Doing M is the one and only way to achieve E.  
Therefore you should do M.

32. R.M. Hare, The Language of Morals, Oxford, 1961, p.161.
33. Ibid, p. 159.
34. R.M. Hare, Freedom and Reason, Oxford, 1963, pp.24,27.

He points out that it is often said - and I would agree - that any argument of this form is really an enthymeme with an unstated premise, possibly of the form:

Everybody should do anything which is the one and only way to achieve anything that he wants to achieve.

He then continues as follows:

Since this general premise is held to be 'normative' or 'practical' its addition is held to convert the original inference into a formally correct one still conforming to Hume's guillotine. My answer is that the proposed additional premise must be held to be analytic, in the sense of being guaranteed correct by virtue of the meanings or functions of the terms it contains.<sup>35</sup>

In my view, it is here forgotten that words are the tools of agents operating in different capacities and in different circumstances. For example, we may regard the statement 'He who wills an end also wills the necessary means' as analytically true only under certain conditions, i.e. if the agent in question is perfectly rational or if the agent is imperfectly rational but does not envisage any obstacles to the actual implementation of his will. We have to remember too that this statement may be analytically true for only a limited time span, i.e. the period of the agent's initial willing or deciding. An imperfectly rational agent (or ordinary human being) may continue to will an end, without continuing to will the means, as guilty recollections from our own past experience will no doubt verify. The road to hell, they say, is paved with such discrepancies. In contrast, the statement 'He who wills an end should also will the necessary means' makes no truth claim whatever, has performative or advisory force and mercifully takes account of the time perspective which is all-important where the 'willing' of ordinary human beings is concerned. For me, the

35. Philosophical Review, LXXIII (1964), p.173.



main thrust of Black's article - and here he is embarrassingly like the Hare of his major works - is that every usage of 'should' has performative force or is, if you like, prescriptive and it seems arbitrary, to say the least, to attempt to make an exception of the general premise 'Everybody should...etc.' As with Hare, the point where he goes astray is highlighted by his own earlier insights, for it is Black who has elucidated for us the meaning and function of the key term in the general premise, i.e. the 'should' and this makes it well-nigh impossible for us to see how this premise can be analytically true.

Finally, could it not be said, quite simply, that in the Fischer/Botwinnik example we are confronted with an 'ought'-'ought' and not an 'is'-'ought' derivation? After all the assumption with any game or sport (assuming only two sides) is that the opposed contestants, within the rules, should do their very best to win. It is this commitment which makes such contests interesting for them and for us. And this is tantamount to an assumed rule. Thus, it is because I believe (as we all do, generally) that Fischer ought to be trying to win, that I conclude that he ought to move the Queen to achieve this effect. Therefore Fischer should move the Queen (whether or not he wants to). In short there is no 'is'-'ought' derivation involved in this case but merely a specific application of a more general rule.

Here of course we are dealing with what Kant would have described as imperatives of skill, in which case there is no question about the morality of the end but only about what must be done to attain it. He says that a prescription required by a doctor in order to cure his patient completely and one required by a poisoner in order to make sure of killing his victim are of equal value so far as each serves to effect its purpose perfectly, and I presume he would have no qualms about adding Fischer's

imperative to the list. Of course, the doctor's imperative of skill may be related to a higher moral purpose and the same may be true, for all we know, of Fischer. It is at this point that we do well to remember Kant's distinction between the empirical part of ethics (based on sensuous experience) and the a priori part (not so based) and his insistence that we can never be sure that there are any examples of 'dutiful' acts. The empirical part of ethics requires us, for example, to take account of the complex mixture of motives that attract both players and spectators to a game. If a football game becomes somewhat lethargic and the spectators express their annoyance by means of a slow handclap, we can hardly assume that this is entirely due to their sense of moral indignation. Their irritation may also be due to the consideration that their afternoon could have been more profitably spent at the local pub. They wanted to enjoy themselves but were disappointed. The practical implementation of their want was, also, dependent upon factors over which they had insufficient control. Certainly, they believe that players should try their hardest but it is not entirely coincidental that when the players do so, it produces pleasant results for them (the spectators). Similarly, Fischer and Botvinnik or Roche and Vilas may try their hardest within the rules of their respective games but only because they want to win the prize money or because of their desire to humiliate a hated rival or whatever. Most, if not all, of what we would like to believe are our moral usages of 'ought' have more than a tinge of the hypothetical. If it were possible to plumb the depths of human motivation, then we could say whether a particular usage of 'ought' was more properly describable as hypothetical or categorical or both - as is likely, in the case of the doctor's imperative of skills. (Moral values, after all, also require technical implementation in the sensuous world in accordance with circumstances, as every doctor knows.) In the absence of such information, we must rely heavily on what people tell us. If, for example, Mr. Roche tells us that he is, first and foremost, a

sportsman, then we can urge him to excellence for its own sake, exhort him to enter fully into the spirit of the game, to move to the net when appropriate etc. However if he insists absolutely that he primarily wants to win the prize, then we can only via the consistency principle, recommend technical efficiency in the pursuit of that goal, once again advising him to move to the net when appropriate, though this time for a different reason. We may even try to inculcate into him the 'spirit' of the game, as a means to realizing his goal, though in the light of his expressed intentions, such a ploy is unlikely to be successful.

It is then impossible to ascertain with precision the shades of meaning and function of the 'should' in 'Fischer should move the Queen' until we know more about why Fischer wants to mate Botwinnik. If we probe the matter further, we may discover that the hypothetical 'should' is rooted in a personal motive or a more impersonal general rule or, as is more likely, in both. Yet in a way the quest is futile and unnecessary, for whilst a 'root and stem' analogy is useful in suggesting that the thread of personal consciousness can unite 'shoulds' of various kinds, it is misleading in so far as it suggests that the stem cannot be deemed to have an existence in some sense independent of the roots. It makes sense to talk of a stem without constantly referring to the conditions of its existence. Hence once a doctor decides to cure a patient, then, via the consistency principle, he incurs a series of hypothetical obligations which are independent, so to speak, of the reasons (moral or non-moral) behind his decision. Similarly, Roche is obliged to move to the net when appropriate and this remains true whether he conforms more to the high minded or low minded ideal-type of tennis-player that we have invented.

Of this much, at least, then, we can be certain: that the 'should' here in question is hypothetical and that it derives its main performative force from the consistency principle. Whether or not the term has additional shades of meaning depends largely on the personality and circumstances of the speaker. I am sure, for example, that I am not alone in knowing people who seem to have a high moral purpose constantly before their eyes and who are frequently referred to in a mildly derogatory fashion as 'moralistic'. The word is perfectly suited, for such people seem scarcely to have heard of hypothetical oughts and are singularly averse to using them. Everything becomes a matter of serious moral concern. The doctor is forcefully reminded by such a person that it is not liver or intestines he is dealing with but human life. The stem is seen purely as an extension of the roots which of course, in a sense, it is but thus is interpreted in such a monistic fashion as to virtually deny the separate existence and legitimate function of the stem. It is as if there is a need to make the roots, the moral 'basics' in life more visible and constantly present. In this way even hypothetical oughts become invested with a distinctly moral tone. On the other hand, consider the case of a learned physician who becomes overly engrossed in liver and intestines, finding it all terribly interesting, and who is reminded by some sensitive and humane onlooker that he really should take greater care with his instruments. It is difficult to believe that such a 'should', uttered in such circumstances, would be purely hypothetical.

#### (6) Moral Arguments: Deductive or Defective

It is beyond the scope of this work to attempt a solution to the logical problems of induction or to establish a case against the possibility of inductive reasoning in ethics, though I think there is one to be made. However before proceeding to an analysis of Hobbes' is-ought derivation,

I would like to insinuate a few sceptical doubts about the possibility of a genuinely inductive argument in ethics by briefly supporting the view that a moral argument must be deductive or defective.

Hume has been interpreted by Hare,<sup>36</sup> Professor A.N. Prior,<sup>37</sup> Professor P.H. Nowell-Smith,<sup>38</sup> and a number of others as insisting in the famous passage, quoted in full at the beginning of this chapter, that what ought to be the case cannot be deduced from what is the case. Since a set of non-moral premises cannot entail a moral conclusion, how then can we make the transition from 'is' to 'ought'? In Chapter Four of The Language of Morals, Hare asserts that a practical conclusion and a Fortiori a moral conclusion is reached syllogistically, the minor premise stating 'what we should in fact be doing if we did one or other of the alternatives open to us' and the major premise stating a principle of conduct. As A.C. Macintyre has observed, this suggests an answer to our question.

If you wish to pass from a factual statement to a moral statement treat the moral statement as the conclusion to a syllogism and the factual statement as a minor premise. Then to make the transition all that is needed is to supply another moral statement as a major premise. And in a footnote to chapter iii of Ethics we find Nowell-Smith doing just this. He quotes from Bishop R.C. Mortimer the following passage: 'The first foundation is the doctrine of God the Creator. God made us and all the world. Because of that he has an absolute claim on our obedience. We do not exist in our own right, but only as His creatures, who ought therefore to do and be what He desires'.<sup>39</sup> On this Nowell-Smith comments: 'This argument requires the premise that a creature ought to obey his creator, which is itself a moral judgment. So that Christian ethics is not founded solely on the doctrine that God created us.'<sup>40</sup> That is, he argues that the inference 'God created us, therefore we ought to obey him' is defective unless and until it is supplied with a major premise, 'We ought to obey our creator'.<sup>41</sup>

37. Logic and the Basis of Ethics, Oxford, 1949, p.32-33.

38. Ethics, Oxford, 1954, pp.36-38.

39. R.C. Mortimer, Christian Ethics, London, 1950, p.7.

40. P.H. Nowell-Smith, Ethics, Oxford, 1954, p.51.

41. A.C. Macintyre, 'Hume on 'is' and 'ought'', The Philosophical Review, LXVIII, 1959, p.453.

The recommendation is, I believe, a sound one but Macintyre treats it with scepticism. He complains that we can only make sense of the above position by assuming that arguments must be either deductive or defective and argues that it is a useless procedure to render inductive arguments (such as Bishop Mortimer's) deductive. He points out that we may, if we wish, pass from 'The kettle has been on the fire for ten minutes' to 'So it will be boiling by now' by writing in some such major premise as 'Whenever kettles have been on the fire for ten minutes, they boil'. However we will achieve precisely nothing by adopting this procedure for, as Macintyre observes 'if our problem is that of justifying induction then this major premise itself embodies an inductive assertion that stands in need of justification.<sup>42</sup> If then, when men are arguing about morality, they pass from a factual to a normative statement, why should we assume that the transition must be an entailment? In the case of specifically moral arguments, what special reason is there for attempting to present inductive arguments as deductive?

In reply, I would argue that an inductive moral argument i.e. one which infers what ought to be done from a consideration of what is the case is an impossibility, a contradiction in terms. Inductive arguments are usually factual throughout, the conclusion being based on the empirical evidence available. Indeed if a person does not present us with a clear-cut factual conclusion to round off such an argument, we would suspect that he is not at all sure that the conclusion is correct. For example when a person says 'The kettle has been on the fire for ten minutes; so it ought to be boiling by now' he presumably does not mean that the kettle is in any sense obliged. Rather what he means is either that 'the kettle will be boiling, other things being equal' i.e. subject to the condition that no unforeseen factors, such as a strong cross wind, intervene to offset the

42. Ibid, p.454.

normal course of events; or that the kettle will be boiling if his past experience of the sort of thing that happens when kettles full of water come into contact with intense heat, is anything to go by. If the latter interpretation is correct, he would be expressing some doubt concerning whether his past experience of these matters (which may be limited) is in fact a reliable guide. He may be wholly persuaded by Hume's point that 'it is impossible for us to satisfy ourselves by our reason, why we should extend that experience beyond those particular instances which have fallen under our observation' and whilst he would agree with the inductive assertion 'Whenever kettles have been on the fire for ten minutes, they boil', he may nonetheless have reservations in this particular case, thus opting for 'ought' rather than the ungrounded certainty of 'will'. However it is at least clear that the 'ought' has no normative function. It is important to note furthermore that if we discovered that kettles did not in fact normally boil after being heated for ten minutes, we would revise our inductive generalisation to accord with the newly observed facts.

It is otherwise with human beings; in an allegedly inductive moral argument i.e. where a person is the subject of the 'ought', the verb does have a normative function. If a person says 'I'm feeling sick; so I ought to go straight to bed' and subsequently does not do what he says he ought to do, we would not therefore conclude that the person's ailment did not in fact exist or that we had not heard him properly or that our senses had somehow deceived us. (We might be tempted to conclude this if a kettle that had been on the fire for ten minutes did not in fact boil.) In this case the 'ought' clearly derives from a submerged principle of conduct, such as that 'We ought to take care of ourselves' and the real function of the factual premise is to serve as an explanation of why the speaker ought to behave in this fashion in this particular case. If he decides not to act as, in his own estimation, he ought, the stubborn fact of

his sickness persists, untouched and unchallenged so to speak, but the submerged principle on which the ought is based is infringed. Moral arguments then are deductive or defective; if it can be shown that the relations exhibited in such an argument are not entailments, then it may be dismissed as invalid.

It may be pointed out that those, like Macintyre, who regard the view that moral arguments must be deductive or defective as mistaken would not necessarily subscribe to the view that moral arguments can be inductive in form. Rather they draw a comparison between induction and the reasonableness of inferring what ought to be done from a consideration of what is the case. Just as the principle of induction admits of no logical demonstration, so too they would argue, is-ought inferences are not susceptible to strict 'proof' but should not on that account be dismissed as invalid. But those who argue as Macintyre does do not present us with any clear cut alternatives. They give us no concrete, positive advice about how we should regard a statement of this kind:

From a consideration of what is in our common interests, we can proceed to firm moral conclusions concerning what ought to be done.

Macintyre tells us what not to do in a case of this kind i.e. we must not assume that the method of argument here is deductive or that there is any suppressed major premise. Telling us what not to do however is not all that we want to be told, useful though the advice may be. We would like to know further what kind of argument it is and to tell us that it is comparable to induction does not tell us this. Macintyre's point seems to amount to this. We cannot assume that the above argument is an entailment, requiring a suppressed major premise, but we must leave our minds open to the possibility that it may nonetheless be valid when construed as some other type of argument (as yet unspecified except



by vague analogy). This, I think, will hardly do. The onus is upon Macintyre and his supporters to explain where the difference lies between rules of inference which apparently do apply to moral arguments and inductive procedures which apparently do not. Macintyre never claims that Hume's argument, as he sees it, is an instance of induction but until we know of what kind of argument it is an instance, we must suspend judgment on the question of its validity. If it is true that arguments in general must be either deductive or inductive, depending upon the subject matter involved, then moral arguments must be deductive or defective and beyond hinting at other possibilities (that for example there may be specifically moral rules of inference) no one has as yet shown that there is another method of argument which would enable us to avoid this conclusion.

CHAPTER FOUR

'IS' AND 'OUGHT' IN HOBBS' POLITICAL THEORY

(1) Introduction

In this chapter, I shall argue that Hobbes did not attempt to deduce a series of moral injunctions from some cardinal facts about man's nature. From the fact that men have a fundamental urge to preserve themselves and to avoid violent death, we cannot deduce that they are morally obliged to seek peace and to endeavour to create the conditions necessary for their survival. However this is not Hobbes' position: his project is the much less ambitious, though surely more feasible, one of showing how a series of hypothetical ought statements can be deduced from man's most fundamental desire (self-preservation) and the endeavour, in my view, encounters none of the major logical obstacles or pitfalls with which we have become familiar in recent years.

Before proceeding further however, we must first briefly examine Hobbes' usage of certain key terms, such as 'good'. Hobbes would agree that what is conducive to self-preservation is 'good' and that self-preservation itself is 'good' but it would be quite wrong to assume that we have here a disguised ethic at the root of Hobbes' political theory which serves as its real starting point. If I say that it is good, for whatever reasons, that we have a strong inclination to preserve ourselves, then I may perhaps deduce that we ought to do so. However Hobbes is not in a position to make such a deduction for, in line with his naturalistic assumptions, he regards all passions and inclinations as morally neutral and hence as neither good nor bad in themselves. From the fact that men view self-preservation or any other inclination as good, nothing can be deduced since they are merely describing their appetites which may be of the most thoroughly destructive kind. Hence whilst Hobbes describes the

urge to self-preservation as good, he does not offer that as a reason for acting upon it. He freely concedes that there are men who view the selfish pursuit of glory, power and wealth as good but does not regard this estimation on their part as somehow serving to justify their activities. Preston King, in a recent work concerned with Hobbes, spends some considerable time in arguing that for Hobbes self-preservation was not desired but desirable and good.<sup>1</sup> However the effort is in my view misdirected. For Hobbes self-preservation is desirable because desired; good, because generally conceived of as such. More precisely, self-preservation is good simply by virtue of its being a human appetite. Since on Hobbes' own account, moral statements cannot be derived from what we would nowadays refer to as statements of value or evaluative judgments, they had to be derived from some other source and that source is to be found in law. Hobbes makes this clear in his account of the status which we should ascribe to the laws of nature.

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.<sup>2</sup>

Later in Leviathan he refers to the laws of nature as moral laws. He says that they 'are called not only natural but also moral laws'<sup>3</sup>. But it is clear that the laws of nature are morally obligatory only when they are considered as God's law. For Hobbes law, properly speaking, '...is command; nor a command of any man to any man; but only of him whose command is addressed to one formerly obliged to obey him'<sup>4</sup>. He

1. P.King, The Ideology of Order, Oxford 1974, pp.311-314.
2. Lev. E.W. vol.III, p.147.
3. Ibid., p.271.
4. Ibid., p.251.

states on several occasions that there is 'no obligation on any man which ariseth not from some act of his own.'<sup>5</sup> Where there is no law then, there is no duty. Hobbes insists moreover that it is the act of authorization which both creates law in the proper sense and gives rise to obligations in the proper sense (i.e. moral obligations). Understood merely as the dictates of natural reason, the only type of obligation to which the laws of nature can give rise will be of a purely prudential or hypothetical kind. Considered as such, these laws tell us what we should do if we wish to be wise in the pursuit of our interests whereas laws of morality or covenanted commands tell us what we should do, whether we want to or not, whether it appears to us reasonable or not and whether or not it accords with prudence.

Hypothetical ought statements tell us what we must do or what is logically required of us in order to secure an end - morally good, bad or indifferent. In Hobbes' case the end, self-preservation, is preordained, so to speak, by nature and is not a matter for rational reflection.

Hobbes' theory of political obligation is not as daring or dramatic as is sometimes alleged. He did not attempt to deduce moral obligations from eternal facts of man's nature or from the mundane facts of men's actual relations with each other in the state of nature. Rather he states that such facts about the human condition make it imperative that men assume hypothetical obligations, that they enter into a political covenant which creates duties. Hobbes does not endow his salient facts about human nature and human relations with any moral significance. Where he states that men ought, rather than simply do, react to their condition in the state of nature in a certain fashion, this ought is used in a purely hypothetical sense. I shall argue, at a later stage, that the laws of

5. Ibid., p.203.

nature imposed moral obligations on those who regarded them as God's law but for the moment we are, with Hobbes, merely regarding the laws of nature as they appear from a purely naturalistic standpoint i.e. not as laws at all but as action-guiding theorems which can impose only hypothetical or prudential forms of obligation.

(2) A Lifeline

Hobbes often argues that since men have a fundamental desire to preserve themselves, they therefore ought to seek peace and security. In my view the 'ought' here is hypothetical and the deduction is legitimate but we must be clear about the reasons for asserting that this is the case. C.B. Macpherson for example attempts a defence of Hobbes' position at this crucial point in his argument which I find quite unacceptable. This 'lifeline' is thrown to Hobbes in Macpherson's book The Political Theory of Possessive Individualism and runs as follows:

It has become axiomatic in recent years that no moral principle can logically be deduced from any statements of fact; so much so that a simple reference to the axiom is generally considered enough to dispose of the question. But to dispose of the question in this way is to leave unconsidered a highly important innovation of Hobbes. I shall argue that in any sense short of strict logical entailment it is possible to deduce obligation from fact; that senses short of entailment are so important as to make it humanly necessary to attempt such deduction; that the deduction is possible, even in these senses, only when the social facts contain a significant equality of men; that Hobbes grasped this; and that his attempt to deduce obligation from fact was therefore valid in principle.<sup>6</sup>

He later reinforces this line of argument when he states:

It must be granted that on the model of formal calculi, moral utterances cannot be entailed in factual statements. But there is

6. C.B. Macpherson, The Political Theory of Possessive Individualism, Oxford 1962, pp. 81-82.

no reason why all thought should be reduced to that model. And there is a strong reason, in the nature of human needs, why all thought should not be reduced to that model.<sup>7</sup>

Now these quotations raise a whole host of issues but the most important for our present purposes is the suggestion that Hobbes' derivation of obligation from fact, though not quite logical, is nonetheless humanly necessary and that 'strict logical entailment' should not be allowed to stand in the way of concrete human needs. Faced with a choice between the requirements of logic and those of real flesh and blood men and women, Hobbes rightly took his stand on the side of humanity. The deduction therefore is valid, not because it is logically unassailable but because it is grounded on the primary needs of 17th century Englishmen. There can be no doubt that people are at times forced to choose between what appear to be the rival claims of philosophy and humanity. Macpherson suggests that Hobbes in effect experienced a dilemma of this sort but even if this were the case, he is merely entitled to allege that Hobbes sacrificed logic to humanity, not that such a magnanimous gesture somehow endowed his deduction with logical propriety. If one decides to write a logical exposition, establishing a clear deductive chain, then there are certain ground rules which have to be observed and the claims of humanity are not a sufficient reason for waiving them.

However there is no real evidence that Hobbes did experience any such dilemma. Rather the evidence suggests that Hobbes was an ardent exponent of the virtue of strict logical propriety and that he would have viewed as absurd the notion of a mid-way path between logical and non-logical

7. loc.cit.

thinking. His major work, Leviathan, was in fact an attempt to demonstrate what men's duties were by strict deductive reasoning from premisses which he held to be self-evident.

And as to the whole doctrine, I see not yet, but the principles of it are true and proper; and the ratiocination solid. For I ground the civil right of sovereigns, and both the duty and liberty of subjects, upon the known natural inclinations of mankind, and upon the articles of the law of nature.<sup>8</sup>

There is no hint here, nor indeed in his other major political works, of any logical qualms of conscience.

### (3) A Solution

Hobbes' argument to the effect that men ought to seek peace and security because they desire to preserve themselves is valid because it involves the deduction of one 'ought' statement from another (the consistency principle) and not, as is often thought, the deduction of an 'ought' statement from a simple factual statement. Hobbes might argue that, in the special circumstances prevailing in the state of nature, a decision to preserve oneself of itself engenders a hypothetical obligation to seek peace and security or, more plausibly, that a person can only be obliged to do these things by his decision in relation to his preservation if he subscribes to the consistency principle. To illustrate why this is so, let us briefly retrace part of our previous argument<sup>9</sup> by considering the following simple statement made by X.

I desire to preserve myself.

8. Leviathan E.W. Vol.III, p.710. See also Human Nature, E.W. Vol.IV, 'The Epistle Dedicatory' where Hobbes says that 'truth and the interest of men oppose not each other.'
9. See Chapter Three, Section (2) entitled 'Practical Inferences'.

This statement tells us that X is experiencing an inner urge but it obviously does not tell us whether or not X decides to act according to its dictates. He is merely recording an experiential fact. However if X says 'I desire to preserve myself and furthermore I will endeavour to do so' or else 'I desire to preserve myself; therefore I ought to seek peace and security' he is here not merely testifying to the existence of an experiential fact but also recording a conscious decision to act upon it. We simply cannot make sense of the latter deduction, which is the kind of fact/obligation deduction that Hobbes makes, unless we assume a conscious commitment to the end dictated by the desire. The men of whom Hobbes speaks are not simply recording experiential facts: otherwise the deduction could not be made. There would exist a logical hiatus between the experiential facts on the one hand and the ought statements allegedly derived directly from them on the other. All want statements from which an ought statement is directly derived harbour this element of conscious decision making: indeed the 'ought' serves to unmask this element when it is hidden from our immediate view. For Hobbes to deduce a hypothetical ought from a 'want' statement what is required is not that men regard self-preservation as right or apt but simply that they decide to act upon this particular impulse and regard themselves as bound via the consistency principle by their decision.

It seems to me that the term 'ought', as employed by Hobbes, also serves the additional function of pinpointing a certain weakness in the active force of the want denoted by the want term. Hobbes constantly reminds us that the self-preserving urge is a cardinal fact of our human nature but it is also a want, an inclination and as such it is constantly in competition with other inclinations for control of the human will. How it will actually fare in any competitive struggle cannot be predicted with certainty; its action-determining power largely depends on the extent



to which the mind is 'perturbed' by other passions. The self-preserving urge is constantly in a state of siege. Hobbes was acutely aware that the active force of his most salient fact of human nature was not sufficiently strong to be constantly relied upon, especially since the competition from other 'facts' (inclinations) was so fierce and unrelenting. It is not that there is any inbuilt human urge to self-destruction but simply that there are other passions, notably pride, which if unthinkingly acted upon, might destroy life altogether. Hence if a person does not act as he ought, (in this case, as he decides to) he not only breaches a hypothetical obligation but also reveals the limitations of the active force of the self-preserving urge and its liability to be overpowered by other, more sinister rivals.

It is noteworthy that a hypothetical ought only serves this kind of function when the want in question is not susceptible to immediate gratification. It would be strange, though not illogical, for a person to say, without any further specification or explanation, 'I want to telephone my wife; so I ought to dial the appropriate number'. In this case the ought clearly does not indicate an inadequacy in the active force of the want denoted by the want term. However the 'ought' seems positively odd and to say 'will' seems so much more appropriate in these circumstances precisely because the want is susceptible to immediate gratification and because the 'ought' therefore does not perform this function. Whilst then there is normally a presumption that wants will be acted upon without further ado, as in the case of wanting to telephone someone, this does not always hold, as in the case of wanting to preserve oneself in a Hobbesian state of nature. If wants were automatically acted upon, then there would be no leeway for an ought statement of any kind, hypothetical or moral. To make a moral judgment would be to engage in a literally nonsensical and futile activity. If there were not this weakness

in the action determining power of human wants and a corresponding strength in human reasoning (which lies in its capacity to order human experience) there could be no intelligible ought statements at all.

Hobbes' 'ought' then, in the deduction we have been discussing, is hypothetical. Those who would wish to endow it with strictly moral significance must first inquire into whether or not, in Hobbes' view, it was right, apt or proper for men to seek their preservation. It is only by asserting the righteousness of this motive, or indeed any motive, that a merely hypothetical ought can be transformed into a moral ought. If the motive is morally neutral, then the ought will similarly be morally neutral, though obligatory in a hypothetical sense if a person decides to act upon it. However Hobbes expounded a command theory of law and (moral) obligation which meant that his own and indeed anyone else's personal evaluation of the propriety of any motive was quite irrelevant in relation to questions of morality and certainly could not constitute a source of moral obligation. Hence when he moves directly from the 'fact' to the 'obligation' this implies that the ought in question is hypothetical and morally neutral.

For Hobbes, self-preservation is the fundamental human passion. Admittedly men have other desires and inclinations but generally, when their minds are not overcome by these passions, they prize self-preservation above self-esteem, glory, love of power etc. It is for this reason that Hobbes derives the series of hypothetical oughts, which he calls the laws of nature, from the self preserving urge and not from any of the other human desires.

(4) An Objection

The logical infrastructure of Hobbes' system, or at least that part presently under discussion, possesses in my view a virtually unassailable coherence and consistency. However such a claim clearly requires defence in the light of the claim recently made by Preston King that 'writers often become tiresome in their endless exegetical attempts to manufacture consistency where none exists, and this is particularly true in analyses of Hobbes'.<sup>10</sup> Yet perhaps equally tiresome, and in certain respects less defensible are attempts to manufacture inconsistency where none exists. King castigates F.S.M. McNeilly for wanting to remodel Hobbes in such a way that the latter's arguments for self-preservation involve replacing 'the material concept of death' with the 'formal concept of frustration of all men's desires'.<sup>11</sup> Yet this castigation of attempts at remodelling Hobbes is self-contradictory in the light of King's own readjustment of Hobbes' argument in order to endow it with logical propriety. Hobbes' is-ought derivation is held to be indefensible; so King argues the necessity of postulating a hidden norm, as the true starting point of his deductive chain, in order to make Hobbes' argument coherent. However well intentioned and sympathetic towards the ghost of Hobbes, however concerned to demonstrate that Hobbes entertained certain unstated, perhaps unconscious, assumptions to the effect that men not only do but ought to preserve themselves, King's argument nonetheless vitiates Hobbes' intellectual and logical integrity. To claim that Hobbes' procedure, with a few additions and subtractions here and there, would be quite acceptable to our logical consciences obviously suggests that it is unsatisfactory as it stands. That Hobbes' endeavours were totally misconceived is presumed rather than demonstrated.

10. P. King, The Ideology of Order, Oxford, 1974, p.328.

11. See F.S.M. McNeilly, The Anatomy of Leviathan, New York, 1968, p.181.

He accepts as 'elementary logic' that one cannot legitimately deduce a norm from a fact and then goes on to argue in the following fashion:

From the fact that I wish to preserve myself it does not follow that I should; from the fact that I seek peace (or revenge) it does not follow that I ought to, from the fact that a boy is determined to steal it does not 'follow' morally that he 'must'.<sup>12</sup>

But Hobbes' deduction is not of the kind: ...

I want to do X; therefore I morally ought to do X.

The strict illogic of such a procedure is clear. However Hobbes says something quite different namely:

I want to do X; therefore I ought to behave in a manner consistent with the realization of X.

As we have already observed, statements of the latter kind inevitably harbour an element of conscious choice which transforms the ought clause into a simple plea for consistency and makes the ought hypothetical. It is indeed 'elementary logic' that moral obligation cannot be deduced from facts about human nature but to assume that Hobbes attempted to do this is to fly in the face of his text. What Hobbes states explicitly and often enough is that the laws of nature, unless conceived of as God's Law or enacted by a civil sovereign, are not laws at all but rational maxims and as such, the only type of obligation to which they could give rise is of a hypothetical or prudential kind. Furthermore what Hobbes states concerning his command theory of law and moral obligation is, as we have seen, simple and straitforward with the result that those who accuse Hobbes of inconsistency or ambiguity in this respect usually present

12. P. Kind, The Ideology of Order, Oxford, 1974, p.163.

a complex and contorted admixture of what Hobbes said, what he should have said, and what he really intended to say. We may or may not believe in natural morality: we may or may not believe that this natural morality, if we agree that it exists, represents the plans and purposes of a personal God that are pertinent for mankind and experienced by the latter as forceful commands, as an independent and impelling criterion of right. However Hobbes' claim that such an entity exists and the hypothesis offered by way of explanation, is not prima facie implausible. Certainly there are difficulties in espousing such a position. Hobbes for example states that the Law of Nature is declared by God to his natural subjects in the 'Dictates of Natural Reason' but it is not immediately clear how these subjects are able to link the law with its authoritative source. Still, whatever the difficulties associated with it (and I still argue in Chapter Nine, Section 2, that they are non-existent in the case of ardent Christian believers), it is undoubtedly Hobbes' position and in my view eminently defensible. It is therefore redundant to attempt as King does to rescue Hobbes' integrity by talking of an 'implied' duty to preserve ourselves. It is also highly questionable in what is ostensibly an interpretation of Hobbes to argue against his explicit statement that the laws of nature, as God's commands are morally obligatory, to insist, contranwise, that 'if self-preservation is a good per se, and if the laws of nature only show us how we may best achieve it, then although we may be additionally enjoined to obey these laws because God commands it, clearly the initial good, if it is really a good, is sufficient to obligate us to adopt the means.<sup>13</sup> But of course Hobbes never actually says that self-preservation is a good per se; nor does he say that the laws of nature serve only to indicate to us how we might best achieve our self-preservation. Perhaps we need to turn our attention once more to what Hobbes actually says about the laws of nature:

13. Ibid, p.323.

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.<sup>14</sup>

Is not Hobbes simply saying here that we can view the same object from different perspectives; that a physicist and a carpenter can view the same piece of wood with different ends in view; that, if we symbolically represent the laws of nature as a door, then those of pure and impure heart (the just and the unjust) will regard it as serving altogether different functions? The latter will view it only as a passageway to their own personal welfare whilst the latter, in addition, will regard it as providing access to God's plan for men and, ultimately, to salvation. We may certainly disagree with what Hobbes says and attempt to advance effective counterarguments but it would be surely erroneous to then say that the counterarguments are what Hobbes actually believed or really intended.

Finally Hobbes would, I am sure, have profoundly disagreed with King's contention that a person 'will inevitably take that course of action which he deems most apt to achieve his end'.<sup>15</sup> Hobbes does not merely address different audiences (as I shall argue in Chapter Eight and Nine) but also each of us in our different moods. This is an important point. I think that what Hobbes must be given due credit for and what his critics must in turn be charged with generally ignoring is his recognition of the importance of something so pervasive in human experience as moods. C.S. Lewis once remarked that, when an atheist, there were times when and moods in which he found Christianity extremely probable but that, when a Christian, there were occasions when, invaded by certain moods, he found atheism extremely

14. Leviathan, E.W. Vol.III, p.147.

15. op.cit., p.331.



probable. It is this very tyranny of moods which makes it perfectly sensible to say that we ought to act in accordance with our better judgment rather than that we simply do. Our conception of truth and right, whatever it may be, may subsist for long periods like a lighthouse on a rock surrounded by calm seas. But there will be occasions when waves of doubt and tempests of mood attack with such force that the light is well-nigh extinguished. The light of reason may seem to exercise a kind of superiority on calm, quiet nights but the illusion of constant, undisputed sovereignty is quickly dispelled in the storm. Similarly, Hobbes tells us that not only do 'divers men'differ in their judgement as to 'what is comformable or disagreeable to reason' but also that even 'the same man, in divers times, differs from himself; and one time praiseth, that is, calleth Good, what another time he dispraiseth, and calleth Evil.'<sup>16</sup> He also points out that 'hope, fear, anger, ambition, covetousness, vainglory, and other perturbations of the mind do hinder a man so as he cannot attain to a knowledge of these laws (of nature) whilst those passions prevail in him.' However, he quickly adds that 'there is no man that is not sometimes in a quiet mind.'<sup>17</sup> Whilst in the natural condition, we may determine to do our best to seek opportunities for peaceful co-operation. Our reason may tell us that this course of action is ultimately in our best interests. But there may be occasions, the frequency of which depends no doubt on the justice of our dispositions, when we are so overcome by the desire to engage in a military conquest for the sheer pleasure of it or out of ambition, covetousness, or vainglory, that Reason is displaced from its sovereign seat. On such occasions, following Hobbes account, we would call such conquests 'good'. Old habits and 'perturbations of the mind' are not so easily overcome by mere resolutions or maxims of prudence, as Hobbes clearly saw. Hobbes too would have been rightly suspicious of the kind of want/will or is/is

16. Leviathan, E.W. Vol.III, p.146.  
17. De Cive, E.W. Vol.II. p.44.

deduction discussed in Chapter Three Section (3) which, however unassailable from a strictly logical point of view, nonetheless flies directly in the face of everyday human experience. In a sense, as I argued at the beginning of this Chapter, King is perfectly correct when he says that Hobbes regarded self-preservation as 'good', not only desired but desirable. After all, Hobbes tells us that 'man calleth good that which pleaseth him.' Thus 'good' for Hobbes is merely a function of each man's psychological condition at any particular time. Whilst it is true that Hobbes nowhere actually describes self-preservation as 'good', it is nonetheless perfectly obvious that he thought that it was well-nigh universally regarded as such. But he never once refers to self-preservation as a duty because duty, in his view, has its unambiguous source in authoritative command. It is for this reason that neither Strauss' 'fear of violent death' nor King's 'self-preservation' can provide the moral foundation upon which Hobbes' political theory is constructed. The more pertinent question to consider is not whether Hobbes regarded self-preservation as good in the sense of being both desired and desirable, for that he did so is entirely uncontentious, but whether Hobbes viewed 'good' merely and exclusively as the effervescence of the ever changing flux of human volition. Is it possible that in his own mind Hobbes entertained a further sense of good which corresponded with an independent criterion of right? Did he perhaps regard certain actions as good because they conformed to such an external standard and certain human dispositions, such as self-preservation, as virtuous because they helped man to achieve this conformity in his actions? If so, this fundamental desire, whilst remaining a part of the flux of volition and as such 'good' in a morally neutral sense, would nevertheless point to something other than itself. In so far as the central thrust of this desire tends to support rather than to impede the implementation of the laws of nature, Hobbes would regard it as having the same kind of significance that we normally attribute to the moral virtues. Indeed if we may



provisionally define a moral virtue as a fact about ourselves which brings action in accordance with duty within the realm of possibility, then self-preservation would be, for Hobbes, the supreme moral virtue. It would, following our earlier series of hypotheses, be the crucial wedge by which a transcendent God regulates the diffuse energies of natural man to make them accord with justice and right, a part of and yet separate from the flux of human volition, a Divine mainstream into which all other tributaries would, or should, flow. It is possible, even probable, that Hobbes did think in this way and that he regarded self-preservation as good in some objective sense of the term because of its unique and vital relationship with the laws of nature as God's commands. If so however, he was duty bound to keep his views to himself in his naturalistic argument.

My view is that, true to his strict endeavour to establish the laws of nature naturalistically, Hobbes does not illicitly smuggle any moral evaluations into his argument. It is perfectly sound. However, as I shall argue in Chapter Six, Section (3), Hobbes does have very real difficulties in establishing the legitimacy of the right to self-preservation within a purely naturalistic framework. In order to establish such a right, Hobbes in effect argues that not only is self-preservation widely desired, and therefore desirable and obviously 'good' but also that it is somehow legitimate to act upon this desire but not upon others. Those for whom self-preservation is only rarely, if ever at all, their predominant desire are unfairly discriminated against. At this point in his argument, there are certainly grounds for asserting that 'what pleases Hobbes' (self-preservation) is illicitly introduced into his argument as 'what should please everyone' or even 'what is morally good', but at this point only. Certainly, we must take note of this flaw in the unfolding of Hobbes' argument but it is just that, a flaw in its development and not a cancerous growth at its roots. It would be unfair to regard this mistake on Hobbes'

part as greater than it actually is or to fling out the original healthy baby, with the bathwater in order to provide what is deemed to be a more acceptable substitute.

Lest I be accused of viewing Hobbes through modern analytical spectacles and thus inflicting upon him the same fate as that suffered by Hume at the hands of some modern commentators, let me point out that whilst it is true that Hobbes never mentions such things as 'hypothetical' oughts or the 'consistency principle', he does repeatedly deny that the laws of nature, when conceived of naturalistically as rational maxims, are not properly describable as moral laws and it is difficult to see how else he would have characterised the sense in which they are obligatory if asked to do so by a modern commentator and if made fully familiar with Kant's distinction. In any case, I do not myself think that Hobbes' terminology is in any way inferior to or markedly less precise than our own; indeed the terms Hobbes uses are a shade less cumbersome. Whereas, following Hobbes' account, we might describe the laws of nature as hypothetical imperatives (oughts) which oblige those men who seek their preservation as an end, Hobbes simply states that they are 'dictates of reason' leading men to 'conclusions or theorems concerning what conduceth to the conservation and defense of themselves'. Whether or not Hobbes would have been impressed by my defence of his position by alluding to a suppressed major premise which the consistency principle states, I am not at all sure. On this more vexed question, all I am asserting is that Hobbes' argument is susceptible to the kind of defence I have offered. If this much has been shown, then I am content, for I do not regard Hobbes' argument as standing in need of any special kind of defence. His argument calls for precisely the same sort of justification as we are all required to give when we say for example that because we want to make the house habitable, we should do something about the heating system. When we make statements of this kind, normally we simply assume that the conclusion does follow from the premise. We think it is

obvious. If someone asked us 'Why should you?' we would be somewhat surprised; we would regard that question as having already been answered and Hobbes, I suspect, would have viewed the question 'Why should men in the state of nature seek peace and security?' in the same light, i.e. as having already been answered by his earlier assertion that self-preservation is man's most fundamental desire. I have been trying to show why indeed it is obvious that an 'ought' conclusion follows quite properly from factual premises via the consistency principle both in such simple occurrences in our daily lives and in the more complex political philosophy of Thomas Hobbes.

CHAPTER FIVE

UNDERSTANDING RIGHTS

(1) Introduction.

The puzzling question of what precisely rights are and how we should set about explicating the concept of a right seems to be something of a running sore in moral philosophy, not perhaps as acute as the notorious 'is-ought' problem but nonetheless troublesome. Even the application of some drastic surgery, especially in the fifties,<sup>1</sup> has not completely healed the wound. In this chapter, I wish to suggest a novel way of understanding rights. I will show that the usefulness of certain ways of distinguishing between different kinds of rights, in particular the distinction between 'permissive' and 'reciprocal' rights is questionable and that we would be well-advised to regard rights as always one and the same triadic relation.<sup>2</sup> The frequent use of the terms 'permissive' and 'reciprocal' as descriptions of rights by philosophers and jurists alike, has tended to create the impression that these terms somehow serve to distinguish two genuinely different kinds of rights, two separate dyadic relations which can be considered in isolation from each other. However, I shall argue that their linguistic function is, or should be, to focus attention upon one or the other of two features of every case of a right.

1. See in particular A.I. Melden and W.K. Frankena "Human Rights" (symposium) American Philosophical Association (Eastern Div.) I (1952) 167-207, H.L.A. Hart, S.M. Brown, Jr., and W.K. Frankena, symposium on rights, Philosophical Review LXIV (1955), 175-232 and S.I. Benn and R.S. Peters, Social Principles and the Democratic State, London, 1959, pp. 88-104.
2. In suggesting that we should view rights in this way, I am following the lead of G.C. MacCallum Jr. who has already aptly demonstrated the usefulness of this approach and its contribution to clarity when applied to the concept of freedom. See Philosophical Review 76 (1967) pp. 312-334.

(2) Permissive and Reciprocal Rights.

The distinction between permissive and reciprocal rights has been stated most precisely by D.D. Raphael<sup>3</sup> and may be summarized as follows. Permissive rights or rights of actions denote what a man may do, what he is at liberty to do. They attempt to define an area where a man may act without moral or legal impediment. Actions done in accordance with rights of this kind are often deemed to be morally unobjectionable i.e. neither required nor forbidden by any prescriptive rule. By contrast, reciprocal rights or rights of recipience denote that a person has a right to something or against someone, which is tantamount to saying that someone else has an obligation towards him. They are rights to be treated in a certain way by others and correspond to the obligations of these others. H.L.A. Hart notes that jurists have isolated rights in the former sense 'and have referred to them as 'liberties' just to distinguish them from rights in the centrally important sense of 'right' which has duty as correlative'.<sup>4</sup> I do not wish to quibble with the time-honoured inclination of jurists to make this distinction, nor with Raphael's presentation of it. As a tool of convenience it is unexceptionable. But we must not make the mistake - one which repeated use of the distinction actively encourages - of assuming that there are two quite separate senses of the term right being employed between which we must distinguish. I shall argue that both liberty and obligation will be found to be present

3. Political Theory and the Rights of Man, London, 1967, pp. 56-57.

4. Philosophical Review LXIV (1955) p. 179.

in all cases of rights, or at least can be easily and legitimately inferred from the context in which they appear. A right then is an agent's liberty, facilitated by the duties or obligations of others, to do as he would in relation to a specified object or form of activity.<sup>5</sup> The three terms of the relation are specifically an agent or agents, (one), his or their liberty, (two), and other people's duties or obligations (three).

It has often been alleged that when a person asserts a right to an object, he is merely using the term right as a summary of other people's obligations towards himself. To say that I have a (reciprocal) right to an object is to say no more than that I am entitled to it. With regard to rights in this sense Professor Warrender states:

Thus a phrase such as 'a right to property' may be translated into a series of statements that set out the duties of neighbours or of the State towards oneself with regard to various kinds of property. It may be noted, however, that used in this sense, the term 'right' has a rhetorical rather than a philosophical value. Whatever can be said in the rights - formula can be said in the (other people's) duties - formula, and therein stated more precisely... Any serious examination of this alleged right would have to be a scrutiny of the duties - formula, that corresponds to it. The rights - formula therefore, is a loose summarising expression that would be useful in an argument where others are denying this right, or where long windedness is to be avoided, or where its emotional and personal reference is to be emphasized, but, as a vehicle of philosophical inquiry, it is insignificant.<sup>6</sup>

5. Appendix One provides a brief discussion of the ways in which an agent's liberty may be facilitated by the actions of others, irrespective of whether those actions are done from a sense of duty.
6. H. Warrender, The Political Philosophy of Hobbes, Oxford, 1957, p. 18.

Now this account, whilst accurate and extremely perceptive in one respect, is misleading in another. That certain rights, such as the right to property, entail reciprocal obligations is aptly demonstrated and would I think be widely accepted as indisputable, but the key issue here is whether, as Warrender asserts, such rights are merely 'the shadows cast by duties', or whether, in attempting the translation from the rights' formula to the (other people's) duties formula, something vital to the notion of a right is lost in the process. I maintain that when we say that a person has a right to property we do not simply mean that there exists an intricate system of obligations binding other people, for this right further signifies that the person is at liberty to dispose of his property as he wishes. His liberty is facilitated by but is not the same as other people's obligations. In short to say that a person has a right to property broadly means i) that he is at liberty to do with his property as he pleases and ii) that other people ought not to interfere with his belongings. It is thus best conceived of not as a dyadic relation, requiring only an agent and other people's obligations to be fully understood, but as a triadic relation, thereby taking into account the agent's liberty as well as the process whereby it is made possible.

Right then implies but is never entirely synonymous with an intricate duties formula, so that the revelation that the term right always implies corresponding duties can only take us part of the way in explicating the concept of a right. In like fashion moreover, by examining an instance of an allegedly 'permissive' right, say a person's right to go for a walk, we discover that a right of this kind can only be properly

understood by assuming the existence of an extensive and intricate system of obligations binding other people. Unless other people recognize and act upon an obligation not to interfere with me as I stroll along the highway, then I cannot be said to have, though I may claim, a 'permissive' right to do so. If I have such a right, this means not only that I may walk or not walk as I see fit but also that others ought not to interfere with my activity in so doing. To talk of rights as a kind of permission on the one hand or as moral entitlements on the other is, in effect, to emphasize as the occasion requires the importance of the second or the third term, respectively, of an invariably triadic relation. For example in a situation where we are reasonably sure that our right, say to free speech, will be respected and we proclaim that we have this right, normally we have the second term of the relation uppermost in our minds i.e. our liberty to say what we think; whereas when we assert this right in circumstances where we are not sure that others will live up to their appropriate obligations or when our main purpose is to encourage people to assume these obligations, obviously we are primarily concerned with the third term of the relation.

The above account may appear to undermine some of our cherished beliefs about rights. It may be objected for example that it is surely true that we have certain rights irrespective of whether other people facilitate or respect these rights. The problem with an objection of this kind is that 'other people' can be variously interpreted; the degree of generality involved needs to be determined with considerably more precision. These words could mean just a few or most 'other people' and until the degree of generality is at least more clearly specified, we are in no position to determine the validity of the objection. Let us reconsider our previous example. Due to the existence of a widespread network of



reciprocal obligations, we may be said to have a right to stroll down the highway but on occasion our liberty to do so is interfered with by thieves and ne'er do wells. However it is clear on reflection that this kind of interference with the exercise of our right does not alter the fact that we have such a right, in the same way that a systematic rejection of this right by a significant number of people would. All our rights are precarious in the sense that an unscrupulous individual or group of individuals may choose not to respect them. If it were made a condition of our having rights that they must never be interfered with, then we could not realistically be said to have rights at all. We say that we have rights, despite this precarious element, and usually recognize, no doubt regretfully, that having a right does not carry any absolute guarantee that it can always be exercised at will. Thieves are no respecters of our liberty to dispose of our property as we would but whilst they may annoy their unfortunate victims, they cannot deprive them of their property rights. However as I have already intimated, it is quite a different matter if my fellow citizens, or at least a significant number of them, either do not acknowledge that I have a right in some regard or persistently fail in practice to respect a right which they recognize in principle, for in this case I do not have, though I may claim that I should have, the right in question. An example will serve to make this clear. Often when a popularly based left-wing government takes over certain key industrial enterprises in a nation's economy, their previous owners say that they nonetheless have property rights. Now either they are living in a fool's paradise - for they must be so regarded if we are to interpret what they say literally - or they are using the term 'have' rhetorically as a way of bolstering their claim to rights. If however they say that they have these rights de jure, though not de facto, then what they are

saying is indistinguishable from ordinary rights claims. To insist or claim that we should have certain rights is in effect to demand of our fellows that they recognize and act upon a set of obligations. Thus, in claiming rights, we are primarily concerned with the third term of the relation.

(3) The 'Dyadic' Right to Proper Treatment.

One of the major problems in the world today is that our assorted rights are not always respected and on those occasions when they are infringed, we are apt to complain that others are not behaving towards us as they ought and that they should be made to do so, for we have a right to proper treatment from our fellows. Now it is quite clear that this latter right can be translated into a series of statements setting out other people's duties without loss of meaning. But of course it is evident that rights of this kind exist only in virtue of our having rights which are triadic in form. They are perhaps best described as derived or dependent rights. In other words we can only be said to have a dyadic right to proper treatment because of the liberty that comprises the second term of the parent triadic right from which it is derived. An example should make this clear. If a person's neighbours tear down his fences and otherwise desecrate his property, he will understandably insist against them that he has a right to proper treatment. Obviously there is no difficulty and perhaps in this case even greater clarity in reformulating this right as a series of forceful statements demanding that his neighbours behave towards him as they ought. Yet in this case the dyadic right to proper treatment is not fully intelligible except by referring to the right to property which, as we have already shown, is best understood as a triadic relation.

The case of the beleaguered property owner is of course a reasonably straightforward and unproblematical example of the dyadic right to proper treatment. An exhaustive survey of the idioms of rights of this kind would reveal considerably more complex cases but since a thorough examination is well-nigh impossible, I will deal only with what I regard as the most perplexing cases. In each of these my major task will be to show that for the sake of intelligibility, a second term must be inferred. However, in certain cases there is the further difficulty of deciding in the first place whether the right in question is to be understood as a dyadic or a triadic relation i.e. whether the second term can be incorporated directly into our definition or whether it must be inferred from the context of the discussion in which it is used. For example a first glance at the claim that there is a right to a job does not tell us which of these two procedures is the more appropriate or liable to be more productive in elucidating the concept of right in this case. Further consideration is required.

We may construe a person's right to work as his liberty, facilitated by the obligations of other people - or at least the most economically and politically powerful amongst them - to work or not work as he sees fit. If a person claims the right to work, he would then be saying that his liberty ought to be facilitated in this way. However it is important to be clear about what exactly is being claimed. Those politicians for example who are the staunchest supporters of the right to work would complain bitterly that they were being grossly mis-interpreted if they were taken to mean that in a situation of full employment, no able bodied person should be allowed not to work. They might reply that what they were advocating is that the economy should be so arranged and suitable fiscal measures introduced to ensure that sufficient jobs be made available for those who want them. When rights are conceived of as a triadic relation,

this response looks very much like a healthy reminder that the second term, liberty, is a vitally important element in the right to work. Admittedly in a situation of high unemployment where the right to work is most fervently advocated by those who want to work, the 'choice' which this right implies must appear to the claimants as largely formal. Nonetheless what they are claiming is that there ought to be enough positions available for those seeking employment, not that each man ought to be made to work. Certainly the desire for employment will decide the way in which the choice, if made available through recognition and implementation of the right, will be exercised but that is not to say that there is no choice. Moreover we generally say that a person has a right to a job if he wants one rather than since he wants one and perhaps this is not without good reason.

Alternatively the claim that there is a right to work may be construed as a dyadic relation i.e. as a simple insistence by the agent that others either live up to or assume an obligation to provide suitable employment opportunities. If such a construction is preferred, then the rights formula in this case does serve as a comprehensive description of the duties of other people. Apparently we have succeeded in rendering the right to work, so construed, intelligible by referring only to an agent and other people's duties. The success however is more apparent than real. Whenever a right statement can be reformulated as a series of duties statements, it then becomes appropriate to ask why should other people behave in a particular way towards the agent and we are thus liable to find ourselves once again confronting a triadic right. For example if the agent is asked why other people should provide employment for him, he might reply that he has a right to live and that there is therefore an obligation on his fellow men to strive to create the economic conditions necessary for

his well being. Of course the agent might reply that other people ought to be humane and sympathetic to his plight but then there would have been no point in asserting a right to work in the first place. The claim that rights are best understood as a triadic relation is not a claim about what we do in fact say or assert but rather about the conditions under which what we say is intelligible.<sup>7</sup> The intelligibility of talk concerned with the rights of agents rests in the end upon an understanding of the term right as a triadic relation.

A person's right to a payment is another case of right which appears dyadic in form but is not in fact so, for when a person has this right he is at liberty to exact or not exact payment as he sees fit. People normally assert a right to payment when they are on the verge of setting about securing it from an unfortunate debtor so that their assertion becomes a kind of ritualistic prelude to action, statement of intent and justification wrapped up into one. Yet the presumption that a person will normally demand what is owed to him should not blind us to the fact that he is nonetheless at liberty not to do so. When a person does refuse to exact payments or waives the debtor's obligation altogether, this is equally an exercise of his right. When X talks of having a right to payment 'against' Y, this can be either a simple factual statement, indicating that X has a right to payment and that he may or may not use it against Y as he sees fit or, more probably, a statement of intent, indicating that X is about to exercise his right against Y. Hence I am inclined to argue that 'rights against' do not constitute a special category or kind of dyadic right, which require separate consideration, for by and large they serve merely to indicate that a person is about to exercise his right in a certain way and, where they do not serve this purpose, they are indistinguishable from right in the ordinary sense.

7. I owe this way of formulating the claim to G.C. MacCallum Jr.

Few would challenge the claim that children have a right to proper treatment from the adult world. Yet, curiously enough, whilst we recognise that children have this right, we are often at a loss for an explanation as to how this can be so. In fact the difficulties which accompany the ascription of rights to children often loom so large that it seems altogether preferable to dispense with the notion altogether and to talk only in terms of adult duties towards children. Thus H.L.A. Hart writes:

These considerations should incline us not to extend to animals and babies whom it is wrong to ill-treat the notion of a right to proper treatment, for the moral situation can be simply and adequately described here by saying that it is wrong or that we ought not to ill-treat them or, in the philosopher's generalized sense of 'duty', that we have a duty not to ill-treat them. If common usage sanctions talk of the rights of animals or babies it makes an idle use of the expression 'a right', which will confuse the situation with other moral situations where the expression 'a right' has a specific force and cannot be replaced by other moral expressions.<sup>8</sup>

As an attempt to appease the puzzlement which persists over this issue, I would suggest that the right to proper treatment, when ascribed to children, is best understood as a triadic relation. However we must remember that children's rights are special and different and that therefore we are liable to discover some unfamiliar features of all three terms of the triadic relation. I propose a two pronged approach, consisting of an initial definition which follows the procedure adopted so far and then a supplementary definition to account for the special features of the case. Our initial definition would be as follows. The right of children to proper treatment refers to their liberty, facilitated by the duties of those having them in their charge, to provide suitable amenities, to creep, run, play, talk etc. as they desire. However as any parent knows, this will

8. Philosophical Review LXIV (1955) p. 181.

hardly suffice. In the case of children we are dealing with agents who are considerably less rational than ourselves and we are aware that what they actually desire is often not in their best interests. Normally in discussions concerning rights we do not distinguish between an agent's real and actual will. The agent has the 'facilitated' liberty to do whatever he has a will to do. But in true Rousseauian fashion, children must be forced to be free; they must be coerced into behaving in their own best interests. This suggests a second approach. May we not define children's rights as their liberty, facilitated by the duties of those in their charge, to grow and develop both physically and intellectually? The liberty referred to here is not so much that of the agent as of the rational kernel or embryo of consciousness contained therein; the obligations of the parents in this regard centre on ensuring that all sorts of childish impulses, often self-destructive, are not allowed to interfere with the child's mental and physical development.

At least part of the philosophic puzzlement involved in the notion of children's rights is removed once we recognise that this particular category of rights implies two quite separate senses of liberty at one and the same time. The ambiguity of the second term is reflected in the third term for parents have an obligation to ensure that, on certain occasions, the child is free to enjoy himself as he pleases and that on other occasions, he is prevented from indulging his desires. But of course the original source of the ambiguity is to be found in the unique character of the agents, for children are able to will and yet because they are less rational than most adults, are significantly less able to will what is in their own best interests.

The statement that the enjoyment of rights is conditional upon the performance of duties has secured virtually unanimous approval but this statement is not to be confused with the suggestion that no-one can reasonably expect that his rights and interests will be safeguarded unless he recognises and respects corresponding duties towards others. Let us consider the simple statement 'I have a right to X'; in this case the duties pertain to other people and not to myself. It would be ludicrous to say that my right is in any sense tied to the performance of my duties since in this instance I have none. It is for this reason that it makes sense to say that children and even animals have rights, for in their case there assuredly are no corresponding duties. However if I say 'Everyone has a right to X', this means not only that other people have obligations towards me but that I have the same obligations in respect of other people. Many rights of course are like this i.e. general in character, which means that there is a widespread recognition that they exist, that they must be respected and that everyone's rights and corresponding duties are precisely the same. Those rights which we describe as natural or human or fundamental, as well as certain civil or legal rights (for example the right to property), are general in this sense but children's rights are not. In short then whilst there is always a necessary connection between an agent's rights and other people's duties, it is only in the case of general rights that there is a necessary connection in a logical sense between a person's rights and his duties.

Finally I would like to examine what is perhaps the most puzzling of all rights claims to proper treatment i.e. that there is a right to be told the truth. Again the real question at issue here is not whether this right entails correlative duties but whether any instance of such a right can properly be equated with the sum total of correlative duties involved. Considered in abstraction from a real life situation it is not possible to say how we should understand this



right i.e. as a dyadic or triadic relation; generally however an examination of the context in which the right appears will provide us with a reasonably clear indication as to how we should proceed.

Let us suppose that a business man, concerned to run his affairs efficiently, employs a clerk on the condition that he must be completely truthful in all matters and that the clerk agrees to this somewhat unusual condition. The businessman may be thus said to have acquired a right to be told the truth, which is dyadic in form though derived from his right to conduct his own affairs as he sees fit. Telling lies would be a breach of an obligation and would constitute prima facie grounds for the employee's dismissal. However let us suppose that another businessman, not disposed to making such peculiar agreements with his employees, simply dismisses one of them for telling lies and asserts as a justification for his action that 'I have a right to be told the truth'; or, to remove altogether the complications which might be held to arise from the employer/employee relationship, let us suppose that one friend says to another whom he suspects of lying or at least of being unduly flippant in relation to some serious matter 'Come now, I have a right to be told the truth'. Since in both these cases, but especially and most assuredly in the latter, there is no obligation arising either from law or an agreement, it would certainly seem that this alleged right can be restated as a straitforward insistence that one person has a duty to tell the other the truth; if so then it is dyadic in form and underived. It may be that this is the best way of understanding the right to be told the truth i.e. as a straitforward dyadic relation in no sense derivable from a parent right but I would commend that a final judgment be suspended until we have examined the nexus between natural rights and natural duties which, I shall argue, sheds some light on the matter.

(4) Natural and Human Rights

It is important to clarify exactly what is meant by calling rights natural. It has often been held that to claim that there are natural rights is to say that there are rights which we possess in virtue of certain properties shared by all men. Now whilst this is true it can be easily misunderstood. What it means is that unless there are some common human properties, primarily life, liberty and reason, there can be no natural rights. These common properties are properly regarded as preconditions for the existence of natural rights, so that if it could be empirically demonstrated that there are no such properties, the natural rights case would collapse. What it does not mean is that if it could somehow be shown that men do in fact possess these common characteristics, then the case for natural rights would be established. We cannot proceed deductively from the bare facts of common human properties to the assertion that there are natural or unalienable rights; nor as W.K. Frankena has observed, did the traditional theory attempt to do this.

It (the traditional theory of natural rights) does not involve deducing 'all men have inalienable rights' from 'all men have the (nonethical) property P' alone, but only with the help of an additional ethical premise like 'all beings with the property P have inalienable rights'.<sup>9</sup>

Frankena in an earlier article also makes an enlightening comparison between the current belief in human rights and the earlier doctrine of natural rights. He states that in both there is an assertion of certain universal and fundamental rights of man so that the two are often associated in people's minds today. He goes on:

But the doctrine of natural rights, as traditionally understood in either its Thomistic form or in the eighteenth century form which Thomists so much decry, involves a cognitivist metaethical theory, intuitionistic or Aristotelian as the case may be, whereas the belief in human rights does not, except in the minds of some of its professors.<sup>10</sup>

9. Philosophical Review LXIV (1955) p. 224.
10. American Philosophical Association (Eastern Div.) I (1952) "Human Rights" (symposium) p. 192.

A little later he makes the point

If we use 'natural rights' to mean only 'rights which belong to a man by virtue of his nature as a man' and do not include any theory of how these rights are known, then this phrase will mean essentially the same as 'human rights' and a noncognitivist can believe in natural rights.<sup>11</sup>

Frankena does not assert that declarations of human or natural rights have no metaphysical presuppositions but points out that a belief in such rights can be justified, if an advocate is pressed for reasons, by any number of metaethical theories. In this section I will use the phrase 'natural rights' in this metaethically non-committal sense since my primary concern is to discover how the description of rights as natural affects our understanding of them as triadic relations.

The most fervent believers in natural rights have always insisted that the key characteristic of these rights is that they can and do exist independently of any human contrivances. No merely human arrangements can create or negate natural rights. Rather they are facilitated by other people's natural duties. However, since natural rights are general in character there is, as we noted earlier, a necessary connection not only between an agent's natural rights and other people's natural duties but also between an agent's natural rights and his own natural duties in respect of other people and this relationship holds in precisely the same way for everyone. Instead of specific obligations as the third term, we have general duties. I would suggest that this is the most fruitful way of understanding natural rights. Unless for example we recognise the invariably triadic structure of rights, we are liable to become confused when confronted with the claim that there is a natural right to liberty. Such a right cannot be absolute and unrestrained. This is analytically true in virtue of our suggested definition of 'right' as an agent's liberty

11. Ibid, p. 193.

in some respect which is facilitated by other people's duties or obligations for the latter always serve to render specific and limited the extent of the liberty involved. A person who asserts that there is a natural right to liberty which is wholly unrestrained and under no circumstances to be interfered with fails to understand that the liberty in question is always liberty in respect of a specific area of activity. Essentially, the assertion that natural rights exist is the claim that natural duties, despite their general character, can or at least ought to facilitate an agent's liberty.

This approach to natural rights requires us to distinguish between an obligation and a duty in the manner recommended by H.L.A. Hart.

... one factor obscuring the nature of a right is the philosophical use of 'duty' and 'obligation' for all cases where there are moral reasons for saying an action ought to be done or not done. In fact 'duty', 'obligation', 'right' and 'good' come from different segments of morality, concern different types of conduct and make different types of moral criticism and evaluation. Most important are the points (1) that obligations may be voluntarily incurred or created, (2) that they are owed to special persons (who have rights), (3) that they do not arise out of the character of the actions which are obligatory but out of the relationship of the parties. Language roughly though not consistently confines the use of 'having an obligation' to such cases.<sup>12</sup>

Hence from this point in the discussion it will be advisable to introduce much more precision into our use of 'duty' and 'obligation' than has hitherto been the case.<sup>13</sup> What Hart emphasizes is that the latter are characterised by their specificity, the former by their

12. Philosophical Review LXIV (1955) p. 179.

13. At times I have used these terms as if they were virtually synonymous but it has proved difficult to do otherwise. It has not been necessary to make this distinction as a means of criticizing those views of rights which I have judged to be incorrect or misleading. Warrender for example uses the terms interchangeably but this does not affect his argument and thus to have introduced this distinction would have been needlessly circuitous and beside the point. However from this point the distinction between 'duty' and 'obligation' as depicted by Hart is crucial to my argument.

generality. The conceptual distinction is a useful one and contributes, almost inestimably, to clarity in moral thinking but the dualism in morality which Hart has noticed can be easily exaggerated. Certain natural law theorists, for example Hobbes, maintained that the obligations incurred by making agreements are underwritten by a general duty to keep promises. Hence if a situation arises where one has an obligation to do something (having promised to do it) and yet a duty not to (because it will cause suffering), Hobbes would maintain that the moral dilemma involved is best described, not as a duty versus an obligation, in which case the former would appear to take precedence but as a duty versus an obligation underwritten by a general duty to obey the moral law, in which case it is not at all apparent which should take precedence. Hobbes conceded that the moral law and civil law are not and, in the nature of things, can never be coextensive but was quick to point out that if we wanted to know why there was an obligation to obey the civil law, a satisfactory response must refer to a more fundamental duty to obey the moral law (or laws of nature). He would have rejected any suggestion that there were two separate segments of morality involved since the obligation to obey the civil law derives from our duty to obey the moral law in relation to promise-keeping. Yet Hart's distinction is useful and important because it reminds us that there can be duties (e.g. to relieve suffering) without specific obligations.

Hard alleges that rights and obligations belong to one sphere of morality, ought and duties to another. The right to have a debt paid and the obligation to pay it pertain to one sphere whilst the duty to relieve suffering pertains to the other. In the latter sphere there are, properly speaking, no rights and in the former, there are no duties. Since the

term right is alleged to be intelligible only in terms of its sister-concept, obligation, it is held that duties are strictly irrelevant in any inquiry into what a right is. However to assert this is to assert at the same time that there can be no natural rights at all, for it is a generally acknowledged feature of such rights that they do not arise from any merely human arrangements. Hart himself concedes as much when he states that the natural right of all men to be free 'is not created or conferred by other men's voluntary actions; other moral rights are'.<sup>14</sup> Yet since obligations arise from man's voluntary actions and since Hart states that rights and obligations are inextricably linked, how are we to make sense of the term natural right? It seems that we cannot, which leaves us no alternative but to recognise that natural rights are facilitated by the very duties that Hart dismisses as irrelevant in relation to rights. Certainly the notion of a natural right of each man to be free which other man have no duty to respect simply exceeds the bounds of comprehension.

I have dealt with Hart's position at some length because the distinction which he draws between obligation and duty strikes me as useful and important and because it is mirrored almost precisely in the field of rights. Here too we must distinguish between two spheres of morality. When for example it is said that a person has a moral right to something, it is not at once clear whether the term 'moral' here is used in virtue of some obligation incurred by another person (or persons) or because of certain general duties which oblige men in general. Generally of course this can be inferred from the context in which the term appears. If a debtor claims a moral right to repayment from a debtee, the force of the

14. Philosophical Review LXIV (1955) p. 175-176.

term 'moral' in this case derives from the obligations which arise from a contract agreed upon by the two parties; whereas the 'moral' in the claim that there is a moral right to life derives from the alleged duty, which obliges men in general, to respect human life. When people talk of a moral right to life, they normally have such duties in mind, even when there are positive laws forbidding murder, bodily harm etc. There is then an important distinction to be drawn between natural or fundamental rights and contractual rights, the difference being that the former are facilitated by duties, the latter by obligations. Admittedly there are problematical cases - such as the 'moral' right to property where we have to decide whether the right in question derives its moral character ultimately from the voluntary actions of men in a particular society<sup>15</sup> or, in a much less pedestrian fashion, from a general and timeless duty on each of us to respect each other's property and estates. Similarly when a person in peril of his life from a thief with a sawn-off shotgun proclaims in desperation that he has a right to live, he could be either appealing to the thief's fundamental moral sense or referring to the existence of a complex network of legal obligations, although in this extreme circumstance I think few of us would deny that the former alternative is the more feasible. But despite the difficulties involved in characterizing certain cases of moral rights as either fundamental or contractual, the conceptual distinction is certainly clear and constitutes a useful, indeed an indispensable tool in reducing to order some of the chaos which has prevailed in the large and unwieldy, because undifferentiated, morass of moral rights.

15. In this regard there is no need to refer to an original social contract or to the mystical moment when we all agreed to the use of money. In all western liberal democracies, for example most people vote for a political party which upholds the right to property in one form or another; such voluntary actions may be viewed as legitimizing the existing system of property relations, though the wisdom of 'most people' in continually conveying this legitimacy may of course be questioned.

One further problematical case which requires special attention is the right to be told the truth. Now as we observed earlier this may be viewed, depending on its context, either as a contractual right (as in the case of the businessman contracting with his employee) or, as is more often the case, as a fundamental right (as in the discussion between the two friends). It is interesting to note that if there is a duty to tell the truth, it is specific as well as general in its application. There may for example be a duty to relieve suffering but that would not apply to each and every instance of suffering that a person encountered or even to most, whereas the duty to tell the truth is specific as well as general i.e. it prescribes a way of dealing with each and every person that we meet. I would suggest that the widespread recognition of this right is so essential to the smooth running of human affairs that it is best regarded as derivative from such widely acclaimed natural rights as those to life, liberty and happiness. The gentleman reproving his friend was perhaps at the same time reminding him that his rights in this regard were facilitated by a whole series of duties, of which truth telling was one of the more basic. It seems to me that when this right is asserted, it is not asserted categorically as a matter of principle, as for example when we say that there is a duty to tell the truth, but as a way of saying that if people do not tell the truth, a whole host of other rights will be extremely difficult to exercise. It is clear to most people that we ought to tell the truth but once we talk of rights to be told the truth some such interpretation is required to render what we say intelligible.

People have been known to claim natural rights to such things as life, liberty and happiness and on occasion, they have demanded further that they have rights to the protection of these things. Yet seldom has it



been claimed, as Stuart Brown Jr. does,<sup>16</sup> that this latter right is either natural or inalienable. What traditional natural rights theorists have at least intuitively understood is that the notion of a right cannot be properly explained without referring to other people's duties and that it is only because other people do not always perform their required duties that we acquire a derived right to be properly treated by them. These theorists have stressed the fact that in the state of nature, where there is no government to control men, natural rights are more often claimed than respected. Generally therefore men agree to set up a Commonwealth which will ensure that their rights are not flouted by those who are either incapable or unwilling to fulfil their natural duties towards their fellows. Hence the right to proper treatment becomes the right to protection once a civil society is instituted. The traditional theorists would hardly have described the right to protection as natural and inalienable and with good reason, for it is firmly rooted in such a blatantly human contrivance as the social contract; nevertheless the right to proper treatment with which it has strong affinities may be described as natural since it derives from the natural rights to life, liberty and happiness. To claim that there is a natural right to proper treatment is to draw attention to the fact that, if natural rights are to be effective at all, then people must be conscious of and prepared to act upon their natural duties.

16. Philosophical Review LXIV (1955) p. 192-211.

Brown's account raises the question of whether there can be any inalienable rights, by which I mean rights of which a person may never be justly deprived. Children's rights are certainly inalienable in this sense for, as we have seen, no matter how badly they behave, their right to proper treatment remains nevertheless intact and this is so irrespective of whether it is underwritten by the civil law. However it is not the case that there are certain natural or human rights which are inalienable because they belong to man as man. With regard to general rights, we have seen that whilst there is a necessary logical connection between a person's failure to discharge those duties that correspond to the rights of others and the latter's enjoyment of these rights, there is no such connection between a person's failure to discharge these duties and the loss of his rights in some respect. Criminals are known to have been successful in their endeavours and to have nevertheless retained their right to freedom. However when a loss of rights, even fundamental human rights, does in fact follow upon a failure to discharge his duties, such a deprivation of a person's rights is not per se unjust. I would hold then that it is significant to say that all men have a natural right to freedom, even if they sometimes have no actual right to it.

One right to freedom, as well as being characterised as natural or human or fundamental, may also be viewed, following the lead of W.D. Ross, as a prima facie right i.e. it must always be taken into consideration and sound reasons offered as a justification for its denial on any occasion. We must remember that there may be other prima facie rights which have to be taken into account, such as the right of a government to enlist the aid of its citizens when it is under attack from a foreign power, and these may sometimes take precedence over the right to freedom when they conflict with it. But a persons' failure to fulfil his duties in respect of others'

rights may likewise be a consideration which overrides his prima facie right to freedom, so that under certain circumstances he may have no actual right to it. Whilst then we may certainly claim to have certain, fundamental human rights, we cannot make the further claim that they are inalienable for situations may and often do arise in which they can be justly denied. It may be asked then what it means to say that rights are natural or human or fundamental. These adjectives, when used to describe rights, tell us that the rights in question are thoroughly independent of any human contrivance or accident of history. We have these rights, not because of any social contract, nor because they happen to have social recognition, nor because they have become enshrined in any constitution or agreed to by any set of political rulers but because we, as human beings, recognise that we ought to behave towards each other in a certain way.

Understanding the natural right to life as a triadic relation i.e. as the liberty of an agent, facilitated by the natural duties of others, to live (or not live) as he sees fit, raises considerable difficulties. For example it might seem that in certain cases where it is alleged that this right exists, we cannot readily discern the three terms of the relation i.e. an agent, his liberty and other people's duties. I have in mind here the debate concerning abortion in which the assertion that there is or is not a natural right to life usually has pride of place. It might seem that in this case the natural right of the unborn child to live can be reformulated as the insistence that parents should behave towards the agent as they ought. The relation is thus dyadic, involving only an agent and other people's duties. But to so describe it would misrepresent what is being asserted both by the supporters of abortion who strongly dispute that the unborn 'child' can properly be regarded as an agent at all

and by the opponents of abortion, for it is a crucial part of their argument that there is an identifiable agent and that his or her liberty to grow and develop ought to be allowed. Supporters of abortion will insist that it is nonsensical to talk of the natural right to life in the case of unborn children, or at least before a certain stage of pregnancy, because there is no agent, hence no liberty and certainly no duties on other people; whereas opponents of abortion will insist that, because there is an agent, they can be satisfied with nothing less than a conception of the natural right to life as a full triadic relation and that therefore parents have a clear-cut responsibility towards their unborn children.

Another difficulty which arises when the natural right to life is conceived of in this way is that one result of so doing is that suicide appears morally unobjectionable- merely a simple and legitimate exercise of one's right. A Christian for example might object to this formulation of the right to life on the grounds that, since life is a gift conferred by God, we are not at liberty to renounce it and such liberty as we do have cannot be 'facilitated' by other men. The question before us then is this. If the natural right to life is conceived of as a triadic relation and if life itself is regarded as one of God's gifts to mankind, how does this affect the second and third terms of the relation? The answer is that it does not, as a brief examination will show. If life is conferred by God, then this will mean only that we ought to exercise our liberty positively. Whilst then there may be prescriptions governing our usage of this liberty, the second term is otherwise unaffected. When the Christian asserts that we are not at liberty to renounce our lives, he cannot be understood to mean this literally since many people do in fact commit suicide. Rather what he means is that we should not do so. Similarly the third term is unaffected because irrespective of how we conceive of human life, our exercise of the

liberty which the right of nature confers is still facilitated by other people's duties not to interfere. I would suggest then to Christian and non-Christian alike, that suicide is a perfectly proper but not necessarily a morally unobjectionable exercise of a person's natural right to life. Most of us would probably agree that the eviction of tenants by a landlord for the flimsiest of reasons is nonetheless a legitimate exercise of his right to property but that is to say nothing about the moral quality of his act.

In conclusion, I would like to stress that in discussions about rights it is of paramount importance to be clear about what we are saying. The task of clarification involves making appropriate distinctions and I have argued that philosophical discussions are considerably elucidated by distinguishing between straightforward triadic and dyadic rights and between fundamental and contractual rights. The danger lies in taking our cue from ordinary usage of the term right, since the familiar distinction for example between permissive and reciprocal rights does not serve to isolate two genuinely different kinds of rights. Rather than being regarded as shorthand descriptions of different types of rights the terms 'permissive' and 'reciprocal' are best viewed, as we have seen, as ways of emphasizing one or the other feature of every case of a right. Not all distinctions then are helpful as tools of clarification and some are positively confusing and misleading. Moreover ordinary usage of the term moral right covers a cumbersome multitude of rights which, if left undifferentiated, would practically negate the possibility of clear philosophical discussion in this area. Yet such distinctions as I have made have been introduced with one end in view, namely to demonstrate that all discussions of the rights of agents can only be fully understood once each term of the relation has been specified and its special features, if they exist, clearly identified.

CHAPTER SIX

RIGHTS AND LIBERTY IN HOBBS

(1) Introduction: Warrender's Analysis.

In this section I will be primarily concerned to apply the conditions of intelligibility outlined in the previous chapter to Hobbes' theory of rights. Of course what that theory is, is a matter for interpretation but surprisingly enough, considering the formidable differences of opinion among Hobbes' commentators, the analysis of Hobbes' theory of rights presented by H. Warrender in The Political Philosophy of Hobbes has received widespread approval. I shall argue that Warrender's analysis has been accepted rather too uncritically but it does provide us with a useful starting point for a discussion of Hobbes' theory of rights.

Warrender asserts that Hobbes uses the term right with two distinct meanings:

- (1) as that to which one is morally entitled;
- (2) as that which one cannot be obliged to renounce.

The first usage has already been discussed at some length in the previous chapter and needs to be only briefly restated here. Warrender argues that Hobbes on occasion uses the term right, as it is generally used in moral and political philosophy, to mean something to which one is morally entitled. In this sense, he points out, it is used as a comprehensive description of the duties of other people towards oneself in some particular respect. I have argued that a translation of a rights-formula into a more complicated but allegedly more precise duties-formula cannot be effected without a serious loss of meaning. Any attempt at making such a translation, rather than fully elucidating what we mean when we use the term right in certain contexts, falls short of the mark since it ignores the second term (an agent's liberty) of an

invariably triadic relation and hence takes us only part of the way in explicating the concept of a right. However there is little evidence that Hobbes either believed or attempted to show that there was a sense of the term 'right' which was susceptible to such a translation. Warrender alleges that Hobbes uses the word right with this sense of entitlement on some occasions, particularly when he is discussing the rights of the sovereign.<sup>1</sup> He goes on to cite the sovereign's right to levy taxes as an example. However when Hobbes asserts that the sovereign has this right, he presumably means that the sovereign is at liberty to levy or not levy money as he sees fit and that his liberty in this respect is facilitated by the contractual obligations of his subjects. It is by no means obvious that this right of the sovereign can be adequately explicated in terms of the manifold obligations that pertain to his subjects and there are no grounds for asserting that Hobbes thought that it could. In fact Hobbes explicitly states:

For though they that speak of this subject, use to confound jus, and lex, right and law; yet they ought to be distinguished; because RIGHT, consisteth in liberty to do, or to forbear; whereas LAW, determineth, and bindeth to one of them; so that law, and right, differ as much, as obligation and liberty; which in one and the same matter are inconsistent.<sup>2</sup>

Thus to say that the sovereign has the right to levy money means simply that he is at liberty to levy or not levy money as he sees fit and that he is under no specific obligation to do either, for in one and the same matter, as Hobbes remarks, liberty and obligation are inconsistent. For the sake of clarity Hobbes might have said 'in one and the same matter and for one and the same person' for it is obvious that, with regard to the sovereign's right to levy taxes, liberty and obligation are not only consistent but logically interdependent, in the sense that unless other people (the sovereign's subjects)

1. The Political Philosophy of Hobbes, Oxford 1957, p.18.
2. Leviathan, E.W. Vol.III, p.117.

are obliged, there can be no liberty at the sovereign's disposal in the first place.

The sovereign's rights can be summarily described as his liberties, facilitated by the contractual obligations of his subjects, to rule as he sees fit. However Hobbes reminds us that the sovereign, like everyone else, is obliged by the laws of nature so that when he refers to the rights of the sovereign as liberties or 'freedoms' from obligation pertaining to the various aspects of ruling, this is purely in relation to his subjects qua subjects. He makes it clear that whilst the sovereign has obligations towards God, as the author of the laws of nature, he can only be said to have obligations towards his subjects (for example to secure their safety) in an indirect sense.

The OFFICE of the sovereign, be it a monarch or an assembly, consisteth in the end, for which he was trusted with the sovereign power, namely the procuration of the safety of the people; to which he is obliged by the law of nature, and to render an account thereof to God, the author of that law and to none but him.<sup>3</sup>

The second sense of the word 'right' that Warrender distils from Hobbes' writings denotes something that the individual cannot be obliged to renounce. A right in this sense is a freedom or exemption from obligation. As an example, he states that when Hobbes talks of a right to all things he does not mean that men are entitled to everything, but that they cannot be obliged to renounce anything.<sup>4</sup> Warrender laments the fact that Hobbes' usage of the term right with the unusual meaning of freedom from obligation has been too often dismissed as a mistake on the grounds that rights, properly understood, always imply duties to abstain on the part of other people and insists rather that it should be viewed as a novel contribution to political philosophy. Now I have argued that there is always a necessary connection between a person's rights and other people's duties or obligations and Hobbes, if Warrender's interpretation is correct, is here asserting that there can be a right which does not imply a

3. Leviathan, E.W. Vol.III, p.322.

4. The Political Philosophy of Hobbes, Oxford 1957, p.20.



duty on the part of other people. If, as I have argued, a right, to be at all intelligible, must be conceived of as a triadic relation, then the 'right to all things' must indeed be dismissed as blatantly failing to meet the conditions under which talk about rights is intelligible. Thus it would seem that anyone who attempts to break philosophically new ground in this direction is liable to find himself not on any new terrain but on the familiar quicksands that we surveyed in the previous chapter. However a closer analysis of what Hobbes has to say about rights reveals that he does not entertain the indefensible view that each man has a natural right to self-preservation and to all things which serve in his estimation to realize that goal, but has at the same time no duty to either recognize or respect this right in others. I shall argue that what is unique in Hobbes' political theory is not so much his doctrine of rights as his conception of the state of nature.

(2) The Right to all Things.

Hobbes defined the right of nature in Chapter XIV of Leviathan as follows:

The Right of Nature, which writers commonly call Jus Naturale, is the liberty each man hath, to use all his own power, as he will himself, for the preservation of his own nature; that is to say, of his own life; and consequently, of doing anything, which in his own Judgment and Reason, he shall conceive to be the aptest means thereunto.<sup>5</sup>

However we are first introduced to the concept of natural right in Chapter XIII of Leviathan when Hobbes is explaining why anticipatory violence is justified in the state of nature. He argues that men attempt to subdue each other for the end of 'their own conservation and sometimes their delectation only' and that an atmosphere of distrust pervades the natural condition.

5. Leviathan, E.W. Vol.III, p.116.

He continues:

And from this diffidence of one another, there is no way for any man to secure himself, so reasonable, as ANTICIPATION: that is, by force, or wiles, to master the persons of all men he can, so long, till he see no other power great enough to endanger him. And this is no more than his own conservation requireth, and is generally allowed. And also because there be some that taking pleasure in contemplating their own power in the acts of conquest, which they pursue farther than their security requires; if others, that would be glad to be at ease within modest bounds, should not by invasion increase their power, they would not be able, long time, by standing only on their own defence, to subsist. And by consequence, such augmentation of dominion over men, being necessary to a man's conservation, it ought to be allowed him.<sup>6</sup> (Emphasis added)

Hobbes then does not simply talk of our right to all things as our liberty to pursue our own preservation as we see fit but as a liberty which ought to be allowed by our fellows. By this Hobbes does not mean that if a person attempts to preserve himself by right of nature, others have a corresponding duty to make clear his path. Hobbes' position seems rather to be that each man has a duty to recognise that others have this right but because of the chaotic conditions prevailing in the state of nature, no-one is obliged to respect it. Normally we think of respect as following upon recognition of a right but we can easily conceive of situations in which this is not the case. In war-time many people who recognise that there is a human right to life nonetheless feel that, under the circumstances, the rights of the enemy in this regard cannot be respected. Another situation which is perhaps more analogous to Hobbes' state of nature is where law and order in a society have broken down and looting is rife. How are we to view the property 'rights' of a shopkeeper in a situation like this? Let us stipulate further that in this situation most people, whilst recognizing in principle that the shopkeeper has this right, nevertheless refuse to respect it in practice because they feel that under the circumstances they must look first and foremost to their own interests and the welfare of their families. In this situation, does the shopkeeper have or merely claim

6. Leviathan, E.W. Vol.III, p.116.

property rights? This is a difficult, borderline case and judgments are bound to differ. We have seen, in the previous chapter, that even under the most auspicious circumstances, having rights is to some extent a precarious business but in this case the precarious element is so much greater. Any judgment concerning whether the shopkeeper has or claims property rights in this kind of situation will depend upon whether one thinks that recognition alone or recognition plus the general respect of others is sufficient to establish a right. The original cause of the ambivalence resides in the third term of 'right' understood as a triadic relation for when it is said that a person's liberty in some respect is facilitated by the duties or obligations of others, this could mean either that men in general must recognise that they are obliged or that they must, in addition, normally act upon their duties or obligations. Hobbes would no doubt assert that general recognition is a necessary condition of our having rights but that general respect is not and that therefore the unfortunate shop owner does have property rights. His position is that when inauspicious circumstances undermine respect for a right, it nevertheless exists. I do not myself feel impelled to take a stand on this issue, one way or the other, since normally, as I mentioned earlier, respect follows upon recognition of a right as a matter of course. But the conditions prevailing in Hobbes' state of nature were anything but normal.

Whatever one may think of the plausibility of Hobbes' argument concerning the conditions that would prevail in a hypothetical state of nature, what Hobbes has to say about the right of nature meets all the requirements of intelligibility since he construes this right as a triadic relation involving an agent (or agents), his (or their) liberty and other people's duties. Let us attempt a construction of Hobbes' rights of nature along the lines suggested in the previous chapter.

X's right of nature = X's liberty, facilitated by the duties of others, to seek his own preservation as he sees fit.

Now admittedly this seems rather odd, for according to Hobbes other people have no duty to respect X's liberty. We cannot say then that X's liberty is facilitated by a duty upon others to make clear his path. He makes clear his own path in so far as he is able. But what these duties of recognition do make possible is the description of X's liberty as a right: they legitimise X's liberty to seek preservation as he sees fit. The actual exercise of X's liberty then is not made possible (facilitated) by these duties of recognition but its legitimate exercise is and therein lies the uniqueness of Hobbes' doctrine of natural right; he has made it a condition for the existence of this right that the legitimate exercise of X's liberty must be recognised as such and has dispensed with the condition of general respect. Admittedly Hobbes is a little unclear as to the instrument of legitimation. It certainly seems that it is the general duty of recognition but it might well be argued that it is the laws of nature and Hobbes does not say enough to remove any lingering doubts on the matter. What is of importance however is that Hobbes recognises that the liberty to preserve ourselves requires legitimation by reference to general duties if we are to be able to talk sensibly about natural rights.

### (3) Facts and Rights: An Impropriety.

Our narrow concern with the intelligibility of Hobbes' doctrine of rights in the previous section must now be corrected by an appraisal of how Hobbes' theory of rights fits into his wider political theory. We must not forget that Hobbes in Leviathan was attempting to produce a logically rigorous argument and thought that he had succeeded in doing so.

And as to the whole doctrine. I see not yet, but the principles of it are true and proper; and the ratiocination solid. For I ground the civil right of sovereigns, and both the duty and liberty of subjects, upon the known natural inclinations of mankind, and upon the articles of the laws of nature.<sup>7</sup>

This claim has led commentators to investigate the logical propriety of Hobbes' is-ought derivation and has drawn the fire of critics away from a much more vulnerable part of his argument. Hobbes' parallel attempt to deduce rights from his empirical psychology has gone practically unnoticed and I shall argue that it is certainly not logically unassailable.

In Chapter XIII of Leviathan Hobbes points out that men attempt to subdue each other, principally for 'their own conservation and sometimes their delectation only'. Both these ends are dictated by natural passion and Hobbes does not argue at this point for the propriety of seeking one rather than the other. However from this apparently neutral analysis of ends imposed by nature (or natural passion) he then goes on in the following passage to say that anticipatory violence is no more than a man's conservation requires and is generally allowed. Now Hobbes offers no justification for the latter deduction and it is not at all clear that it is possible for Hobbes to provide any sort of justification, given the purely naturalistic premises from which he begins. Why should anticipatory violence in the interests of preservation be allowed and aggressive violence, say for love of power or 'delectation', be disallowed? Hobbes may at this point be appealing to what he takes to be the common moral opinions of his readers, who would probably accept as axiomatic that the former is right, the latter wrong but if so we should have to judge that he had abandoned his project of basing 'rights' upon the known, natural inclinations of man.

7. Leviathan, E.W. Vol.III, p.710.

The difficulties faced by Hobbes are enormous and, in my view, insurmountable, though we must engage in some rather bizarre speculation to make this clear. I would surmise for example that those who have a penchant for delectation might be prepared to concede to their fellows a right to self-preservation provided that their right to indulge their own desire (delectation) also received general recognition. They might suggest as a compromise formula that everyone has a 'right' to pursue his own predominant appetite. After all, since both ends (conservation and delectation) are imposed by nature, why should not nature equally approve of both? I do not see how Hobbes could give a satisfactory reply to this last question and at the same time remain true to his intention of progressing by a carefully studied argument from purely naturalistic premises. As far as I know, and Hobbes has not demonstrated otherwise, there is no principle somehow inherent in nature which would enable us to discriminate between the passions for preservation and delectation and to say that one appetite is pursued by right, the other not.

A defence of Hobbes' derivation of a right from a cardinal feature of human nature is presented by Spragens in The Politics of Motion: The World of Hobbes.

This nexus between natural right and the universal natural tendency of all created things to preserve themselves is the nexus between 'is' and 'ought' in Hobbes' political theory which has been alleged since Hume to be a logical impropriety. Hobbes' defence against this charge of impropriety would, I think, be essentially as follows: 'I did not confer the status of right upon natural tendency', he might say, 'Nature herself did that'. It is natural right that is in question, after all, not legal right or my personal preference. Only mad men moralize in a vacuum, and once nature instilled in all men a given, inevitable desire, it was not in my power to declare the desire illegitimate any more than one could hurl imprecations against the rising of the tides or the falling of heavy bodies. Authority confers right, and nature is the author of man's innate drive for self-preservation. Hence nature (or God, as the author of nature, if you wish) has made this a natural right, and to begin political theory at this fixed point is only an act of acquiescence in what nature has given us; it is an act of sanity and of science, not the promulgation of a moral dictate.<sup>8</sup>

8. T.A. Spragens, Jr. The Politics of Motion, London 1973, pp.179-180.

However if Hobbes did adopt a defence of this kind, it would be a very poor one indeed because he could then be accused of either deliberate deception or ambivalence and ambiguity concerning the activities which are legitimated by natural right. In his writings, he asserts a natural right to the pursuit of the self-preserving urge. In his defence, when challenged, he confers the status of right upon natural tendency without any such specification and asserts, furthermore, that this right is conferred by the 'authority' of nature, which is of course inconsistent with the account of authority in his writings (i.e. authority is the right one person has over another, arising from their mutual agreement). And in any case, even if we were to turn a blind eye to these contradictions and to concede that nature did possess some such mystical power of conferring authority, we are still left without an explanation as to why the other passions, besides self-preservation, should not also be enveloped within its legitimating cloak. As Spragens points out, the self-preserving urge, as a universal tendency of nature, is not properly subject to praise or blame. But if this passion is incapable of generating praise or blame, it is equally incapable, by its own unaided natural power, of generating or accruing to itself exclusively the status of natural right.

However Spragens also makes the vitally important point that logic, in general, is not an abstract form of reasoning which, when lucidly presented can be grasped by all men, in all times, whatever their circumstances or convictions. Rather he stresses that when a deduction is described as logical within a specific philosophic argument, it only has logical force for those who adhere to or at least fully understand, the philosophic system as a whole. Logic does not exist in a vacuum; it usually takes for granted certain important background assumptions. Thus for example since Hume we generally regard it as axiomatic that no moral 'ought' can be deduced from an 'is'; but as Spragens observes:

this limitation derives its force from an ontology which denies the presence of tension between potentiality and actuality within the realm of 'is'. It was for this reason that Hume's 'logical' rule was not 'discovered' until his time.<sup>9</sup>

Establishing a direct chain of connection between facts of human nature and a subsequent 'ought' or 'right' may not involve a logical faux pas, given a different understanding of nature. Thus we have the suggestion that what appears as an instance of logical impropriety, in this case Hobbes' deduction of a right from a fact, may indeed be no more than an illusion produced by a tendency to universalize our own philosophic premises or our own unarticulated assumptions. Our problem then is to try to discover whether or not, in attributing a logical error to Hobbes, we have failed to properly appreciate his premises because we ourselves are so firmly entrenched in a particular world-view.

Certainly one can agree with Spragens' suggestion that the challenge posed by the 17th century scientific revolution to the impressive Aristotelian conception of the universe, characterised as it was by the omnipresence of tension between actuality and potentiality in nature and in man as part of nature, was probably a prerequisite for the emergence of Hume's 'logical rule'. But the explicit formulation of that rule was obviously the high water mark of centuries of philosophic practice, of attempts to think systematically and in fundamental coherence with the new world-order revealed by Galileo and his companions. One might expect that the main difficulty in this transitional phase for those who enthusiastically acclaimed the arrival of modern natural science, would lie in finally discarding all remnants of the old 'world-view' and fully accepting the new. However Hobbes' writings produce no evidence that he experienced any difficulty of this kind. The world he saw did not bear the scars of ontological tension. Moreover the absence of

9. Ibid., p.115.



such tension in Hobbes' ontology enabled him to distinguish very clearly between hypothetical and moral obligation in a way that was not open to the earlier tradition. In classical ontology, 'being' referred to an existence permeated by tension between potential and actual, between origin and completion, so that the laws of nature were, accordingly, dictates which flowed from the need to achieve human fulfilment. But how then are we to categorize the duties imposed by natural law - as moral, in consideration of their end (telos) which is social existence or as hypothetical and prudential, in consideration of the means by which man's tendency (horme) toward communal living becomes actualised? With Hobbes, there is no difficulty of this kind. Prudential or hypothetical rules are those necessary for the realization of any end (good, bad or indifferent), whereas moral rules can originate only in authoritative command.

If we are fairly to appraise the logical efforts of others, especially those from whom we are separated by the enormous distance of time and outlook, it is always a useful exercise to fully uncover the layer of presuppositions which shape their notions of what constitutes 'logical propriety', whilst keeping a careful eye on our own. Yet in Hobbes' case such a thorough investigation is hardly called for, because his whole conception of reality was essentially modern and very few of his assumptions remained unarticulated. He denied the presence of tension between potentiality and actuality. Hobbes' facts were not morally charged, nor were his moral 'oughts' factually charged. His insistence that moral obligations can stem only from authoritative command is implicitly a denial that they can arise from any other source (such as an 'is'). This means surely that we may, in all fairness, herald Hobbes as a forerunner of Hume and that indeed Hume's 'logical rule' may be viewed as no more than the conscious formalization of unwritten rules or embryonic codes of conduct in philosophic practice which go back at least as far as Hobbes.<sup>10</sup>

10. J.W.N. Watkins' observation that already in The Elements of Law Hobbes emphasised the point, usually associated with Hume, that there can be no valid inference from 'Every observed A has been B' to 'Every A is B' or to 'The next A will be B'. (Hobbes' Systems of Ideas, London, 1965, p.37) is perhaps worth noting in this respect.

(4) Natural Right and Liberty.

Hobbes points out that right 'consisteth in liberty to do or to forbear'<sup>11</sup> but in the case of the right of nature it is not immediately obvious what this means, since we always have liberty in respect of some object or form of activity. Hobbes for example would not have regarded human life as a proper object of liberty, to be disposed of as we wish; nor would he have viewed the activity of preserving ourselves as one in which we can engage (or not engage) as we see fit. He thought that those who committed suicide were simply insane i.e. not properly speaking, agents at all. The 'liberty to do or forbear' of which Hobbes speaks is thus liberty in respect of the means we adopt to secure our preservation. There is then liberty under the right of nature to do or forbear according as we see fit in the interests of our preservation. This proviso is important. One is free to make unnumerable choices within the framework imposed by the right of nature. In the state of nature a person may, for example, choose to attack his neighbour and take his property or refrain from doing so as he himself sees fit in the interests of his preservation. The right of nature then allows a freedom of choice as to the manner of pursuit of preservation but does not allow the choice of one's pursuit. The liberty to do or forbear, in Hobbes' writings, is what we might call an instrumental freedom since it is restricted to the choice of means; the goal, self-preservation, is arbitrarily determined by Hobbes himself. This freedom then, which Hobbes graciously allows his fellow men, is somewhat illusory and certainly less than it seems for it is operative only within a framework defined by one specific human desire.

Often commentators characterize Hobbes' natural right as a 'right to do all things' but this is strictly inaccurate. John Plamenatz for example remarks:

11. Leviathan, E.W. Vol.III, p.117.

If Hobbes really meant that the laws of nature, even before the establishment of civil society, are more than mere maxims of prudence, being the commands of a God we are bound to obey, he ought not to have said that, in the state of nature, men have a right to all things. But he did say it, and in saying it was inconsistent.<sup>12</sup>

It is simply not correct to state that Hobbes asserted the existence of such an all-embracing, open-ended right. In an important passage from Chapter XIII of Leviathan, quoted in full at the beginning of Section (2) of this Chapter, Hobbes expresses his disapproval of the man who in the state of nature engages in anticipatory violence 'more than his conservation requireth' and of those who pursue conquest 'farther than their security requires'. Hobbes then never asserted a simple, unqualified right to all things but a right to all things which in the bona fide estimation of the agent conduced to his self-preservation.

(5) Corporal Liberty.

Hobbes has two main senses of the term liberty; firstly there is the liberty of subjects, which is no different from what we would describe as civil rights, and secondly, there is the sense of liberty derived from his metaphysical materialism. Now Hobbes' account of the former, as I shall attempt to demonstrate, is reasonably straightforward, raising no major problems of interpretation. But his account of the latter is puzzling in several respects.

Hobbes defined corporal liberty, liberty in the 'proper' sense, as the absence of external impediments to bodily motion and one can easily grasp how this definition of liberty derives from Hobbes' basic materialist assumptions. Everything that exists is body and the events of the universe are to be wholly explained in terms of the motion of matter. All movement takes place as a result of the free interplay of minute bodies. However the term free has a

12. 'Mr. Warrender's Hobbes' in K. Brown (ed.) Hobbes Studies, p.85.

special application to rational, deliberating beings who have wills and yet are often prevented by external impediments from acting upon them. One would expect then that, whereas the terms free and determined apply to all forms of bodily motion in the inanimate world, and even to the deliberation which precedes human decision making, it is only with regard to agents who 'will' that the term unfree has any proper application. But Hobbes does not pursue this line of argument. He insists that the term unfree properly applies to inanimate objects.

For whatsoever is so tyed or environed, as it cannot move, but within a certain space, which space is determined by the opposition of some external body, we say it hath not liberty to go further. And so of all living creatures, whilst they are imprisoned or restrained, with walls, or chaynes; and of the water whilst it is kept in by banks, or vessels, that otherwise would spread itself into a larger space, we use to say, they are not at liberty, to move in such manner, as without those external impediments they would.<sup>13</sup>

What Hobbes failed to realise is that the notion of an external impediment is an essentially human concept. It may have some application in the animal kingdom but has no application whatsoever to purely physical objects. Put crudely, water cannot be conscious of being limited. Since in the inanimate world it is impossible to decipher what is and is not an external impediment, Hobbes' suggestion as to how we should understand the term 'liberty' is not particularly helpful. If the sides of a vessel constitute external impediments to the liberty of water, may we not view a sea shore or a continental shelf or a sunken ship as similarly constituting such impediments? Indeed on Hobbes' curious understanding of the term, practically everything and everybody can be seen as unfree because externally limited in some way or other. This is not to say that we do not sometimes regard dam walls as 'impeding' the flow of a river but if we go so far as to say that the walls of the dam constitute external impediments to the liberty of the water, we usually recognise at the

13. Leviathan, E.W. Vol.III, p.196.

same time that we are succumbing to an inveterate anthropomorphic tendency. Hobbes' account, as it stands, is unimpressive and unhelpful and would be improved if the term unfree was restricted to human acts. Nor, as far as I can see, would such a restriction be in any way inconsistent with his materialist premises.

One other feature of Hobbes' account of corporal liberty is distinctive and deserves a brief mention. Hobbes insists that the term free, when applied to rational creatures, can refer only to the will, i.e. to the absence of impediments in the exercise of the will. There is only freedom to do but no freedom of choice, since the term free can properly apply only to bodies and only metaporphically to anything else.<sup>14</sup> Hobbes describes the type of thinking activity which takes place prior to the making of any particular choice as the process of deliberation. Hence what we normally refer to as exercising a freedom of choice Hobbes describes as putting an end to deliberation, for 'there are no impediments but to the action, whilst we are endeavouring to do it, which is not till we have done deliberating.'<sup>15</sup> But as A.G. Wernham observes, this is unsatisfactory.<sup>16</sup> The deliberative process, which Hobbes describes as free because not subject to external impediments, itself encompasses and describes another type of freedom, i.e. to do or forbear, and Hobbes' original definition clearly cannot cover both these senses of the term liberty. Deliberation, itself free, is at the same time 'a putting an end to the liberty we had of doing, or omitting, according to our own appetite or aversion'. The only way out of the impasse would be for Hobbes to insist that there is no liberty to do or forbear but that men simply do deliberate on available options; or, to put it another way, for Hobbes to argue that the term free applies to the process of deliberation but not to the choice which it

14. See Leviathan, E.W. Vol.III, p.197.

15. Liberty, Necessity and Chance, E.W. Vol.V, p.366-367.

16. "Liberty and Obligation in Hobbes", in K.Brown(ed.) Hobbes Studies, p.119.

implies, for a person's choice, viewed on Hobbes' materialist premises, is no more than the consequence of the interplay of reason and appetite or aversion or both. That men choose does not necessarily imply freedom of choice. But, had he argued in this way, Hobbes, the materialist, might have cut himself off altogether from the normal ways of thinking of his contemporaries for whom it was axiomatic that men did have a freedom of choice. Hence while Hobbes does describe deliberation in a manner consistent with his materialist definition of liberty, he does at the same time allow for a liberty to do or forbear which is clearly not consistent with that definition.

(6) Civil Liberty.

After pointing out that the civil laws are the artificial bonds which bind man's own artifact, the Commonwealth, Hobbes goes on to argue that the liberty of subjects consists in liberty from covenants.

In relation to those Bonds only it is, that I am to speak now, of the Liberty of Subjects. For seeing there is no Commonwealth in the world, wherein there be rules enough sat down, for the regulating of all the actions, and words of men (as being a thing impossible) it followeth necessarily, that in all kinds of actions, by the laws praetermitted, men have the liberty, of doing what their own reasons shall suggest, for the most profitable to themselves.<sup>17</sup>

Hobbes here introduces the notion of liberty or freedom from obligation. Now liberty in the proper sense can apply only to men as bodies. But liberty, understood as freedom from obligation, can have no such application and thus can only apply to men conceived of in some other way. Hence when Hobbes talks of civil liberty, we must enquire into his precise understanding of the agent whose freedom is under discussion. The task is not difficult. Hobbes makes it clear that civil liberty, as its name suggests, applies only to men who have covenanted to obey the civil laws of the Commonwealth; it applies to men as subjects, not as bodies. He is quite insistent that this is not liberty

17. Leviathan, E.W. Vol.III, p.198-199.

in the proper sense, a sense derived from his materialist principles.

For if we take liberty in the proper sense, for corporal liberty; that is to say freedom from chains, and prison, it were very absurd for men to clamour as they do, for the liberty they so manifestly enjoy. Again, if we take liberty, for an exemption from Laws, it is not less absurd, for men to demand as they do, that liberty by which all other men may be masters of their lives.<sup>18</sup>

Liberty in the proper sense is the unrestricted exercise of potentia according as men shall will. Civil liberty is potestas or civil right, i.e. right, granted by the sovereign to his subjects to exercise certain powers but not others. This civil right, which embraces the whole range of rights which the sovereign has decided his subjects may safely enjoy, is very different from natural right, for whereas the latter does not entail corresponding obligations, such rights as the sovereign bestows do create such obligations. Thus my natural right to buy and sell, to choose my own abode, diet, trade of life, etc. does not imply that I must at the same time respect the right of others to do the same but my civil right to do these things does entail such corresponding obligations. Civil rights define those powers which a person exercises legitimately, what he may do (potestas) and not what he can do (potentia).

It would be absurd for Hobbes to argue that civil laws constitute external (physical) impediments to liberty and he never does this but he does stress that the civil laws do resemble such impediments because they are the artificial chains which bind the artificial man, the commonwealth. He is careful not to push the resemblance too far. Although the political covenant creates potestas it does not abolish potentia. Man retains in civil society his corporal liberty to do as he would and indeed, as Hobbes points out, his

18. Loc.cit.

natural passions are such that he very often would disregard the civil laws but for his fear of the sovereign's punishments.

Hobbes then clearly distinguishes corporal liberty from the liberty of subjects so that he can quite properly deny any charge of inconsistency. But the major charge of a breakdown in his deductive chain has so far been overlooked and must now be examined. Given his own commitment to the method of arguing in strict deductive fashion from premises whose truth cannot be denied, is it then permissible to say that liberty, properly speaking, is one thing but that there is another definition of liberty which comes to life in a particular context - at least without a more careful elaboration of the necessary steps involved? Corporal liberty man enjoys with the animals and even with inanimate objects but liberty as absence of obligations is a liberty peculiar to man. He alone deliberately assumes the role of a subject. Whilst corporal liberty belongs to men as bodies, civil liberty is an attribute of men as conscious beings who understand what is involved in covenant-keeping, who somehow grasp that promises ought to be kept whatever the benefit to be gained by breaking them. Since there is no explanation of how the definition of civil liberty follows from or is even implied in his definition of corporal liberty, does not the logical chain which Hobbes attempted to establish break down at this point? He may have argued that his deductive chain was not of this kind and that there were in fact several logical links between his two senses of liberty. Hobbes' definition of corporal liberty derives from his materialist principles but starting from these principles and his conception of human nature, he travelled quite some distance via the natural condition, the laws of nature, the political covenant and civil laws, before arriving at the liberty of the subject. But it seems to me very unlikely that Hobbes would have argued in this way; firstly, because he defined corporal liberty as liberty in the proper sense, which seems to give it



a continuing relevance rather than one restricted to a particular stage of his argument and secondly, because he does so immediately prior to his definition of civil liberty. Rather, it seems to me that the more plausible argument available to Hobbes is to point out that the thread which firmly unites the two senses of liberty is his doctrine of materialistic determinism. In the particular variety of this doctrine espoused by Hobbes, the distinction between man as body and man as subject or moral agent does not dissolve but the two are conceived of as being connected by a causal chain. Sound ethical thinking, a full appreciation of what is involved in covenant-keeping, as well as the lack of these fine qualities are deemed by Hobbes to be the necessary concomitants of particular kinds of personalities, more specifically of the just and the unjust respectively. When man as subject is conceived of as a function of man as material entity of a particular type, the need to bridge the gap between the two senses of liberty obviously evaporates. Hence it is to Hobbes' view of justice and to his differential theory of human nature that we must turn our attention in the following chapters.

CHAPTER SEVEN

HOBBS AND JUSTICE

(1) INTRODUCTION

As I pointed out in the introductory Chapter, this last major part of the thesis is concerned with an exegesis of Hobbes' views on justice. Here we turn to consider the second of the two great tributaries that flow together to form the mainstream of Hobbes' thought. If so far we have been mainly concerned with the laws of nature as maxims of prudence, we must now attend to the laws of nature as the authoritative commands of God. As I suggested earlier, the union is not entirely harmonious. The main area of turbulence produced by this convergence lies in the region of justice. Hobbes makes an elementary distinction between the justice of actions and the justice of persons. It is clearly the former sense of justice which he has in mind when he defines justice as covenant - keeping, as he does in Leviathan and the latter sense, when he describes justice as a 'constant will of giving to every man his due'.<sup>1</sup> A key passage where Hobbes explains the diverse significations of the terms just, unjust, justice and injustice, reads as follows:

Justice and Injustice, when they be attributed to actions, signify the same thing with no injury and injury and denominate the action just or unjust but not the man so. For they denominate him guilty or not guilty. But when justice or injustice are attributed to men, they signify proneness and affection and inclination of nature, that is to say, passions of the mind apt to produce just and unjust actions. So that when a man is said to be just or unjust, not the action but the passion and aptitude to do such actions is considered.<sup>2</sup>

Following Hobbes, I will distinguish between the justice of actions (justice in sense one) and the justice of persons (justice in sense two).

1. De Cive, E.W., Vol.II, p.301
2. The Elements of Law, E.W. Vol.IV, p.97.

PART THREE

'CAN' AND 'OUGHT'; JUSTICE AND GOD'S LAW

(2) Justice, Covenant-Keeping and Natural Law.

The justice of actions is briefly defined by Hobbes as the keeping of valid covenants. In Leviathan, he says that injustice is 'no other than the not keeping of valid covenants',<sup>3</sup> and later he states explicitly that 'the nature of justice consisteth in the keeping of valid covenants'.<sup>4</sup> Hobbes would deem a covenant invalid if, for example, its terms required one of the parties 'to promise that which is known to be impossible'<sup>5</sup> or to remove the right to defend oneself against force by force.<sup>6</sup> Such invalidating conditions are reassuringly simple and straitforward and Hobbes' further stipulation that 'the validity of covenants begins not but with the constitution of a civil power, sufficient to compel man to keep them'<sup>7</sup> has at first glance an equally appealing directions and uncomplicated character. Hobbes, it would seem, is simply stating the obvious. The inauspicious conditions prevailing in the state of nature are simply not conducive to the practice of making and keeping covenants. A contract, which Hobbes describes as a 'mutual transferring of rights'<sup>8</sup> may be entered into in the state of nature since it involves only a minimal element of trust; the relevant business is transacted on the spot 'as in buying and selling with ready money, or exchange of goods or lands'<sup>9</sup>. However entering into covenants, which involve trust first and foremost, is an inappropriate form of activity in the atmosphere of distrust, hostility and general insecurity which prevails in the natural condition. If actually entered into, such covenants would be void ab initio. Hobbes points out that in such a case the first performer 'does but betray himself to his enemy'<sup>10</sup>. Here Hobbes

3. Leviathan, E.W. Vol.III, p.131.

4. loc,cit.

5. Ibid, p.126.

6. Ibid, p.127.

7. Ibid, p.131.

8. Ibid, p.120.

9. Ibid, p.120-121.

10. Ibid, p.124-125.

seems to be adopting the position of an independent arbiter, fully equipped with the tools of right reasoning, who confidently states, as a matter of fact and not of opinion, that covenants in the state of nature are void ab initio. However he may actually be pleading a case, or at least to be commending a more informed and considered judgement on the part of would-be first performers in the state of nature. Through human frailty or foolishness, some men do misjudge the extent of their insecurity or fail to fully appreciate the dangers of their situation and they proceed to enter into covenants which are valid precisely because of their lack of discernment. Hobbes allows that the decision as to the degree of risk involved must rest with the would-be first performer. If, because of some defect in his understanding of the situation, he does not fully appreciate the dangers of his position and enters into a covenant, he is obliged by its terms and he is not freed from his obligation unless he subsequently becomes aware of 'some new fact or other sign of the will (i.e. of the other party) not to perform'.<sup>11</sup> When Hobbes appears in his role as independent arbiter, justice as covenant-keeping is peremptorily excluded from the natural condition. However when he assumes the guise of a benign adviser who nevertheless allows to would-be first performers the liberty to make their own assessment of the risks involved, justice as covenant keeping is a distinct possibility in the state of nature. The categorical conclusion of the independent arbiter is diluted into the hypothetical and sadly reflective conclusion of the helpful friend, that all covenants entered into before the advent of civil society would indeed be void if men were sufficiently rational and discerning.

At times then Hobbes denies, whilst at other times he admits, the possibility of valid covenants and hence of justice in the state of nature.

11. Ibid, p.125.

Our difficulty concerning justice in sense one in the natural condition is further compounded when we note Hobbes' equation of justice with obedience to the laws of nature. On several occasions Hobbes refers to an infringement of the laws of nature as being 'unjust'. In Leviathan for example he writes:

And therefore they that vow anything contrary to any law of nature vow in vain, as being a thing unjust to pay such a vow.

It seems clear from this that justice, in sense one, means obedience to the laws of nature - an equation which seems strangely at odds with justice as the keeping of valid covenants. In fact, since justice in the sense of covenant-keeping is itself enjoined by the third law of nature, it is difficult to see how obedience to natural law as a whole can be termed 'justice'. In my view, the most plausible explanation of these conflicting definitions of justice in sense one, i.e. the keeping of covenants and obedience to natural law, is that they are each a direct consequence of his different ways of regarding the laws of nature.

Now it is true that, whether the laws of nature are conceived of as God's laws or as rational maxims, their content is more or less the same. Yet the manner of conception does have important consequences with regard to Hobbes' notion of justice. Viewed merely as rational maxims, justice is itself enjoined by the third law of nature and obedience to the laws of nature in their entirety therefore cannot be termed 'justice'. Justice, in sense one, is covenant-keeping, pure and simple. As such, since 'the validity of covenants begins not but with the constitution of a civil power', it is in general absent from the state of nature, though in so far as Hobbes allows would-be first performers to evaluate the risks involved in covenant-keeping, there are a few exceptions and thus a few instances of justice. However when

Natural Law is conceived of as God's Law, then justice denotes obedience to the laws of nature as a whole and the institution of the Commonwealth becomes much less important as the facilitator or midwife of just actions. Hobbes tells us that the just man is one who tries to ensure that his actions correspond to the precepts of nature<sup>12</sup>. He points out that it is well-nigh impossible to pinpoint specific instances of just and unjust actions, particularly in the state of nature but this is only because it is the agent himself who is in a position to pass judgment upon the justice or injustice of his actions.

Briefly, in the state of nature, what is just and unjust, is not to be esteemed by the actions but by the counsel and conscience of the actor. That which is done out of necessity, out of endeavour for peace, for the preservation of ourselves, is done with right, otherwise every damage done to a man would be a breach of the natural law, and an injury against God.<sup>13</sup>

Hobbes' dual conception of Natural Law thus leads him into serious difficulties. He gives two separate and contradictory answers to the question 'What conditions are necessary for just actions to take place?' Sometimes the establishment of a sovereign power appears to be a necessary precondition; at other times the setting up of the Commonwealth seems totally irrelevant. Justice is simply obedience to the law, natural or civil.

If Hobbes really meant what he said about God and religion, as I believe he did,<sup>14</sup> then we can be sure that in his own mind he equated justice in sense one with obedience to Divine Law. He insisted that theology and philosophy (faith and reason) ought to be kept clearly distinct but the distinction was not always easy to maintain in practice. If it is true that Hobbes thought of the universe in essentially religious terms, then it is hardly surprising that this personal view impinged at times upon an argument based exclusively - or so

12. De Cive, E.W. Vol.II, p.47.

13. Ibid, p.46. (Footnote)

14. See Chapter Two, Section (4).

it was intended - upon naturalistic premises. Faith, and the 'knowledge' which it bestowed on the believer, could not be laid aside with quite such ease. Unfortunately, he could not prevent himself from making use of that 'knowledge' in his argument from the principles of nature and in doing so, he expressly contradicted the definition of justice derived from those very principles.

What are we to conclude from the foregoing analysis - that Hobbes was hopelessly inconsistent because he was incapable of abiding by his own rubric of separating faith and reason or, somewhat more kindly, that he attempted a very delicate and complex balancing act on two stools that almost but didn't quite come off? Certainly Hobbes' own manner of speaking - his claim to have established once and for all the basis for a true, demonstrable, science of humanity, his curt and very broad dismissal of much of what had passed for political writing in the past, his particular castigation of Aristotle as a philosopher who was prone to all sorts of absurdities, his blithe confidence that in his work the 'ratiocination is solid' and that the 'whole' doctrine is 'inexpugnable' - all these things invite harsh criticism on our part. Hobbes seems to be interested only in being awarded the first prize. Nothing less will do. He requests either the laurels of total victory, due to a work of such sublime systematic character, of such impressive unity and coherence or the humiliation of total defeat, the fate that he believed himself to have inflicted on Aristotle. However, we are under no obligation to employ, to the exclusion of all others, the extreme and harsh categories of judgment that Hobbes himself seemed to deem appropriate in criticizing political thinkers. Just as a human instinct leads us to say, not only that an also-ran in a long-distance race performed well but also that merely to have replenished his body with salt at a crucial moment would have been enough to secure a noble victory,



so too we cannot but feel that if Hobbes had said that the conditions prevailing in the state of nature militate strongly against the justice of actions as enjoined by the third law of nature but do not prevent, indeed positively encourage, the justice of actions as obedience to the laws of nature as a whole, the seeking of opportunities for peaceful co-operation, he would have considerably strengthened his defences against critical assaults. No doubt it is precisely because Hobbes was so near to an unassailable consistency that such inconsistencies as do exist loom all the larger in our eyes. Perhaps it is not so much by 'fruitful errors' as by 'fruitful near-successes' that significant advances in our knowledge take place. If so, a 'lenient' attitude towards the inconsistencies noted is not an instance of pushing kindness to a point where justice and propriety are offended but rather a way of not losing sight of the qualities in Hobbes' work, its systematic character and general impression of coherence, which attracted our attention and admiration in the first place.

CHAPTER EIGHT

VIRTUE AND ALLEGIANCE

(1) Introduction

It has become virtually a commonplace in moral philosophy that 'ought' presupposes 'can' but in Hobbes' case, the latter term is both ambiguous and problematical. This is because he believed that the world was inhabited by a just minority and an unjust majority, each possessing radically different capacities in the moral sphere, whilst at the same time maintaining that the laws of nature were universally obligatory. Hence in the case of the just, as we shall see, the term 'can' refers to their ability to meet the requirements of the 'ought' in question by their own, unaided natural resources, whereas in the case of the unjust, this term refers to the possibility of creating a political situation in which they will have no option but to do what they ought to do. In their case, 'ought' more accurately implies 'can be made to'.

Most of Hobbes' commentators have drawn attention to the numerous inconsistencies to be found in his works but Michael Oakeshott has taken an important step further and pointed out, I think correctly, that there is a core of discrepancy in Hobbes' writings of such a character as to require a general explanation.<sup>1</sup> In this chapter an attempt is made to provide just such an explanation. I propose firstly to examine Hobbes' conception of virtue and the manner of its distribution among men in general

1. See Rationalism in Politics, London, 1962, p. 288.

and then to illustrate how his ideas concerning the distribution of human virtue radically affected his solution to the problem of political allegiance.

(2) Virtue

In one of Hobbes' earlier works, the Elements of Law, we find that he reserves his approbation for two special virtues which he regards as fundamental - fortitude and sociableness. He states that 'the sum of virtue is to be sociable to those that will be sociable and formidable to them that will not'.<sup>2</sup> The balance, however, is somewhat uneasy. Hobbes frequently gives the impression that the truly virtuous man is essentially a sociable, peace-loving character. He is really a reluctant hero in that heroic deeds are forced upon him by circumstances which are not of his own making and which he would have wished otherwise. Hobbes came to the conclusion that the type of person who is heroic, in the sense that he deliberately seeks out opportunities to display his valour, is not truly virtuous. In fact, he regarded a 'disposition of the mind to war' as an infringement of the laws of nature. From the outset therefore there is a tendency in Hobbes' thought to attach considerably more importance to social virtues, such as charity and justice, than to virtues which are strictly personal, such as fortitude and temperance.

This becomes even more apparent in Hobbes' later works. In Leviathan he comes very close to recognising magnanimity as the origin of all virtue. Now this concept is defined in the Elements of Law merely as 'glory well grounded upon certain experience of a power sufficient to attain his end in open manner'.<sup>3</sup> This summary definition is extended in Leviathan where magnanimity is described as 'contempt of little helps and hindrances'<sup>4</sup>

2. E.W. Vol. IV, p. 110.

3. Elements of Law, E.W. Vol. IV, p. 52.

4. Leviathan, E.W. Vol. III, p. 44

and where liberality, and more important, fortitude are actually defined as aspects of the wider concept of magnanimity.<sup>5</sup> Furthermore magnanimity is itself equated with the specifically social virtue of justice, for later in Leviathan Hobbes defines magnanimity not just as 'contempt of little helps and hindrances' but also as 'contempt of unjust or dishonest helps'.<sup>6</sup> The earlier definition in the Elements of Law has thus been elaborated upon in a significant way, for we can now see that by 'in open manner', Hobbes clearly meant 'in a just and honest manner'. There can be little doubt that this is the case. The just, whom Hobbes always held in such high regard, are characterised first and foremost by their just self-estimation. Fully conscious of their own capacities, they have no need to resort to underhand means to achieve their ends. They choose to realise their objectives in an 'open manner' and hence regard such expedients as fraud and bad faith as crude and beneath their dignity.

Of course Hobbes does not explicitly identify magnanimity with the sum of virtue, even in Leviathan, and it may therefore be an unwarranted presumption to push this association too far. Yet the fact remains that fortitude is defined as an aspect of magnanimity and that magnanimous persons and just persons share the same set of definitive characteristics. It would certainly appear then that the two virtues for which Hobbes reserved his special praise in the Elements of Law, i.e. fortitude and sociableness, can now be summed up in the single all-embracing virtue of magnanimity since in Leviathan fortitude - as distinct from its corresponding perversion, reckless courage - is clearly deemed by Hobbes to have its origins in the just or magnanimous attitude. This is significant because it underscores the fundamental importance of the 'social' virtues in Hobbes' system and the derivative character of the strictly personal virtue of courage.

5. loc. cit.

6. Ibid, p. 60.

The emergence in Hobbes' later works of the distinction between moral and non-moral virtues further underlines the special importance which he attached to the 'social' virtues. In the Elements of Law Hobbes does not even mention any distinction of this type. He simply states what is virtuous and leaves it at that.

...the habit of doing according to these and other laws of nature, that tend to our preservation is that we call virtue; and the habit of doing the contrary vice. As for example, justice is that habit by which we stand to covenants, injustice the contrary vice; equity that habit by which we allow equality of nature, arrogancy the contrary vice; gratitude the habit whereby we require the benefit and trust of others, ingratitude the contrary vice; temperance the habit by which we abstain from all things that tend to our destruction, intemperance the contrary vice; prudence the same with virtue in general.<sup>7</sup>

By contrast in De Cive Hobbes uses the term 'moral' to denote those virtues which lead directly to peace.

The law therefore, in the means to peace, commands also good manners or the practice of virtue; and therefore is called moral.<sup>8</sup>

With regard to those virtues which are merely conducive to the well-being of the individual, Hobbes regards them as commendable but refrains from calling them 'moral'. As Bernard Gert has observed,<sup>9</sup> it is only in De Homine that Hobbes first explicitly distinguishes between the two types of virtue.

7. Elements of Law, E.W. Vol. IV, p. 110. Precisely what Hobbes means when he says that prudence is 'the same with virtue in general' is not at all clear. Presumably what he means is that the prudent man, a man who draws the proper lessons from his varied experiences, will necessarily possess all the virtues. This however, comes dangerously close to saying that experience is the cause of virtue in general which seems opposed to Hobbes' typical position, namely that virtues and indeed vices are determinants of our reaction to experience, the neural mechanisms which mediate and 'accommodate' the inflow of messages transmitted to us through our senses from the outside world.
8. De Cive, E.W., Vol. II, p. 48.
9. 'Hobbes and Psychological Egoism', in B.H. Baumrind (Ed.) Hobbes' Leviathan, California, 1969, p. 116.

That moral virtue, moreover, which we can measure by civil laws, which are diverse in diverse communities, is only justice and equity; that virtue moreover, which we measure purely through natural laws, is only charity. And in these two is contained all of moral virtue. However, the other three virtues besides justice, which people call the cardinal virtues, courage, prudence and temperance, are not the virtues of citizens as citizens but of citizens as men.<sup>10</sup>

The fact that Hobbes finally relegates courage, prudence and temperance to the status of non-moral virtues does not mean that he ceased to esteem these virtues highly, especially in his own private thought. His definition of magnanimity in Leviathan illustrates particularly well that the moral and non-moral virtues are inextricably linked in practice, that is, in the actual human situation and that it is those endowed with heroic virtue who are also most eminently virtuous in the moral sense. We need only glance at Hobbes' description of Sidney Godolphin, who epitomized his ideal of magnanimity, to realize that this is so.

I have known clearness of judgement, and largeness of fancy; strength of reason and graceful elocution; a courage for the war and a fear for the laws, and all eminently in one man; and that was my most noble and honoured friend, Mr. Sidney Godolphin.<sup>11</sup>

This tendency to intimately connect all the virtues is in fact a constantly recurring feature of Hobbes' account of virtue. We have already seen how liberality and fortitude are defined as aspects of magnanimity, which is itself then identified with justice. In De Cive too, we find a remarkable series of equivalences.

But by obedience in this place is signified not the fact but the will and desire wherewith we purpose, and endeavour as much as we can, to obey for the future. In which sense, the word obedience is equivalent to repentance. ... But because they who love God cannot but desire to obey the divine law, and they who love their neighbours cannot but desire to obey the moral law ... therefore also love, or charity is equivalent to the word obedience. Justice, also which is a constant will of giving to every man his due, is equivalent with it.<sup>12</sup>

10. De Homine, Latin Works Vol. II, p. 117.

11. Leviathan, E.W. Vol. III, pp. 202 - 3.

12. De Cive, E.W. Vol. II, pp. 300-1.

This assimilation of obedience with charity and justice, at first sight, might seem rather peculiar, even absurd. The virtue of justice, Hobbes tells us, relates to covenants and laws, and the rights and duties derived therefrom; whereas the virtue of charity is, quite simply, the desire to do good unto others.<sup>13</sup> It would appear then that there is no way in which the two virtues can be meaningfully related, let alone assimilated. Yet Hobbes vigorously insists that the dividing line between the virtues is not quite so clear-cut, for those who love their neighbours cannot but obey the moral law and hence they cannot keep faith, which is enjoined by the moral law. Now we are obliged under this law to behave in a certain way towards men in general but not towards any particular man. However, a valid covenant, once entered into, has the effect of particularizing our general obligation under the moral law to keep faith. Specific obligations are assumed by the parties to the covenant and justice is no more than the virtue of those disposed to fulfil obligations of this type. Hobbes was not blind to the obvious differences which existed between justice and charity. But what he wished to impress upon his readers was his conviction that those virtues were no more than different aspects of the same virtue, namely a willingness to obey the moral law. The difference really concerns the practical application of this single virtue. For example, it is known as justice, when it takes the form of keeping covenants, and as charity, when it assumes the guise of preparedness to help others, when there is no specific obligation to do so. A willingness to obey moral law is then the firm foundation of both virtues. Hobbes regarded injury as being immoral and uncharitable as well as unjust. He simply could not conceive of a just man who was not also charitable, nor of a charitable man who was not also just.

13. See Leviathan, E.W. Vol. III, p. 43.

The profound significance of this identification of justice with charity for Hobbes' theory of political obligation has, I believe, been missed by some of his commentators. J.H. Warrender for example suggests that Hobbes would not have viewed unfavourably a person whose motive for obedience of the civil law was fear of God's wrath and can find no reason why Hobbes would not have denominated such a man just. Whilst it may indeed be true that 'Hobbes makes no statement which definitely implies that regard for divine sanctions would not be a perfectly proper motive for the just man',<sup>14</sup> it is equally true that Hobbes never at any time suggested or even remotely implied that his definition of the Justice of Persons as an inclination of nature or passion of the mind apt to produce just actions<sup>15</sup> required any further explanation. In Hobbes' thought Justice was not the manifestation of such a fear but a human quality in its own right. On the interpretation presented by J.H. Warrender, the Justice of Persons becomes less like a virtue which is identifiable with charity, and more like a shrewd, calculating capacity to decipher the proper means towards the achieving of an ultimate goal, salvation. In short, it is unlikely that Hobbes would have regarded fear of divine sanctions as a proper motive for the just man's obedience of the civil law. He implies as much when he points out that the will of the unjust person '... is not framed by the justice but by the apparent benefit of what he is to do'.<sup>16</sup> Presumably then the just person is characterised by an indifference or carelessness as to the beneficial consequences of his actions, and by his contempt for this kind of cold calculation in matters of morality.

14. H. Warrender, The Political Philosophy of Hobbes, Oxford, 1957, p. 290.

15. See The Elements of Law, E.W., Vol. IV, p. 97.

16. Leviathan, .E.W., Vol. III, p. 136.



But who then are the virtuous and what proportion of the population do they account for? Hobbes states unequivocally that they constitute only a small minority of men in general, since 'unjust is the name of the far greater part of men'<sup>17</sup> and that in the context of civil society at any rate, 'the wills of most men are governed only by fear'.<sup>18</sup> It is only the just whose wills are not so governed for their actions are flavoured with the relish of justice which requires 'a certain nobleness or gallantness of courage, rarely found, by which a man scorns to be beholden for the contentment of his life, to fraud, or breach of promise'.<sup>19</sup> Hobbes stresses that such virtuous souls are 'too rarely found to be presumed upon especially in the pursuers of wealth, command and sensual pleasure; which are the greatest part of mankind', and hence concludes that, from the point of view of the sovereign concerned with the mechanics of law enforcement, 'The passion to be reckoned upon is fear'.<sup>20</sup> At a later stage of Leviathan he repeats this conviction.

Of all the passions, that which inclineth men least to break the laws, is fear. Nay, exception some generous natures, it is the only thing, when there is apparence of profit or pleasure by breaking the laws, that makes men keep them.<sup>21</sup>

Believing as he did that men of virtue were the exception rather than the rule, then the primary political problem for Hobbes was how best to ensure the obedience of men in general to the civil law. It is to this problem that we must now turn our attention.

17. Human Nature, E.W., Vol. IV, p. 24.

18. Elements of Law, E.W., Vol. IV, p. 129.

19. Leviathan, E.W. Vol. III, p. 136.

20. Ibid. pp. 128 - 9.

21. Ibid. p. 285.

(3) Allegiance

At times, as we have seen, Hobbes tells us that the allegiance of most subjects to the sovereign's commands is guaranteed in the main by fear; at other times he is anxious to point out that the power of the sovereign itself depends upon men being willing to obey, quite apart from any sanction which he could bring to bear against them. This may be an example of Hobbesian inconsistency; yet I do not think that this is the case. Rather, I believe that Hobbes was advancing two separate, though complementary, theories as to why men obey the civil law. I use the terms 'vertical' and 'horizontal' to describe these theories of allegiance.

The 'vertical' or 'pyramidal' theory of allegiance is perhaps the more easily explained. Men are deemed to obey the civil law because they have been formerly obliged by their covenant with the sovereign to do so; this in turn they adhere to because of their more general obligation to obey Natural Law. It is upon the solid foundation of Natural Law, therefore, that every other part of the superstructure, so to speak, ultimately depends. In the horizontal theory of allegiance, however, Natural Law is not endowed with quite the same significance. Men obey quite simply because of their fear of the sanctions at the disposal of the sovereign. It is true that, in the terms of this theory, Natural Law plays an indispensable role in the formation of the state. Yet once the Commonwealth has been established, the reasons for its continued existence can be understood without constantly referring back to what has gone before. To explain the phenomenon of obedience, we need look no further than the widespread fear of the sovereign's power. The theory in other words proceeds horizontally rather than vertically, the later stages of the progression depending only remotely on the earlier stages.

The argument in De Cive aptly illustrates this kind of progression. In this work Natural Law, understood as the dictate of rational fear engendered by the insecurity of the state of nature, obviously ceases to play an important part in Hobbes' system after the erection of the Commonwealth. There has been a revolution in the conditions of life; order has replaced anarchy, and Natural Law simply cannot survive so great a transformation. It can now be safely put to one side, having served its purpose, for within the context of political society adherence to these formulae for peaceful co-existence is no longer requisite for security. All that is necessary is obedience to the sovereign's commands, and Hobbes leaves us in no doubt as to how he thinks this can be best achieved.

It is not enough to obtain this security that every one of those now growing up into a city do covenant with the rest, either by words or by writing not to steal, not to kill and to observe the like laws; for the pravity of human disposition is manifest to all and by experience too well known how little (removing the punishment) men are kept to their duty through conscience of their promises. We must therefore provide for our security, not by compacts but by punishments.<sup>22</sup>

It would appear then that the obedience of most men to the state can be satisfactorily explained in terms of their fear of punishments. But what then of Hobbes' vertical theory of allegiance which stipulates that men are capable of obeying the state simply because of their sense of duty and because they regard themselves as having entered into a covenant with the sovereign which must be fulfilled at all costs?

The two theories are not as irreconcilable as it might appear at first sight, for by and large each theory was intended by Hobbes to help explain the political behaviour of a specific group of individuals, and not of men in general. Thus while the vertical theory of allegiance largely served to explain the reasons for the allegiance of the virtuous or just to the civil law, the horizontal was designed by Hobbes mainly to account for the political

22. De Cive, E.W. Vol. II, p. 75.

behaviour of the depraved masses of humanity. A brief examination of each class of person in turn will reveal why this is so.

The just man, we should remember, is a peculiar political animal. Whereas most people, having participated in the covenant which establishes the state, feel obliged to obey the sovereign, yet there remains a discrepancy between what they are obliged to do and what their natural passions incline them to do. However, in the case of the just person, by and large, this kind of discrepancy does not arise, for justice is itself his predominant natural passion. Hobbes states this most clearly and succinctly when he is explaining the diverse significations of the terms just, unjust, justice and injustice.

Justice and Injustice, when they be attributed to actions, signify the same thing with no injury and injury ...But when justice or injustice are attributed to men, they signify proneness and affection and inclination of nature, that is to say passions of the mind apt to produce just and unjust actions.<sup>23</sup>

The just person does not have to regiment or discipline his passions in order to realise a moral ideal, for his adherence to the standards set by that ideal flows automatically from his inherent disposition. His will is so framed that, by and large, he cannot but choose to act righteously. In a very real sense, therefore, it is true to say that the reason why a just man obeys the civil law is because he ought i.e. because he has previously covenanted to do so. Whereas the sense of obligation of the unjust scarcely modifies the overriding power of their passions, Hobbes gives the impression that in the case of the just it constitutes the main motive force of their actions in the political sphere.

By contrast, the unjust person is, as a general rule, capable of no higher motive for obedience of the civil law than fear of the sovereign's sanctions. He is in the unenviable position of being obliged to obey the law (natural and civil) and yet lacking the wherewithal to fulfill such obligations. Hobbes makes it clear that he possesses knowledge of Natural

23. Elements of Law, E.W. Vol. IV, p. 97.

Law for, summed up in the maxim, 'Do not that to another, which thou thinkest unreasonable to be done by another to thyself',<sup>24</sup> it is easily understood by even the least intelligent of mortals. His will, however, is so framed that, his acknowledgement of obligation under the law notwithstanding, he cannot but choose to neglect his obligations and to pursue his short-term interests. Hobbes believed that the unjust were seldom capable of rising above this level because the self-regarding passions almost inevitably marred their rational faculties.

It would, however, be a mistake to conclude either that the unjust person within the Commonwealth is motivated exclusively by fear or that the just person is so scrupulous that he never falters from the path of virtue. Each of them approaches but does not actually reach the extremes of moral perfection on the one hand (the just) and moral depravity on the other (the unjust). On closer scrutiny, the just man is found to have feet of clay,<sup>25</sup> while the unjust person can claim to have some redeeming features. Indeed, it is precisely because the just and unjust to some extent share the same virtues and vices that both Hobbes' theories of allegiance acquire a peculiar kind of universality i.e. they each in their own way serve to explain why men in general obey the sovereign despite the fact that both theories were designed by Hobbes primarily to elucidate the political motivation of specific groups of people. For example although the vertical theory serves first and foremost to explain the political motivation of the just, yet it does in a very real sense help us to understand the political motivation of all men. The unjust, it must be stressed, do not regard the sovereign simply and solely as an object of fear and awe. They know and understand the laws of nature.

24. Leviathan, E.W. Vol. III, p. 258.

25. See Leviathan, E.W. Vol. III, p. 136 where Hobbes says 'a righteous man, does not lose that title, by one, or a few unjust actions, that proceed from sudden passion...;' and in De Cive, E.W. Vol. II, p.33 he tells us that the just man does 'unjust things only by reason of his infirmity'.

...it is true that hope, fear, anger, ambition, covetousness, vainglory, and other perturbations of the mind, do hinder a man so as he cannot attain to a knowledge of these laws whilst those passions prevail in him: but there is no man who is not sometimes in a quiet mind.<sup>26</sup>

Similarly, they understand the rationale of sovereignty for they can appreciate, at least in their cooler moments of deliberation, that the sovereign, in forcing them to obey his commands, is doing something for them which they are incapable of doing for themselves. He is keeping the peace, and in doing so, he is promoting the true, longterm interests of everyone. Hobbes also urges the sovereign to teach his subjects the basis of his power lest they be misinformed but this would quite evidently be a superfluous exercise if the sovereign's power depended entirely on the fear and awe of his subjects. In his enumeration of the duties of the 'Sovereign Representative' in Leviathan, Hobbes states that it is against his duty 'to let the people be misinformed of the grounds and reasons of those his essential Rights' and in Behemoth we are told that 'the power of the mighty hath no foundation but in the opinion and belief of the people'.<sup>27</sup> However important as a motive for the unjust man, fear is in itself insufficient to explain his allegiance to the state. Hobbes tells us that this fear is mingled with a kind of respect, a recognition that the power of the sovereign is legitimately exercised because it rests on the authority of Natural Law.

The horizontal theory similarly applies to man in general, for although designed primarily to explain the political behaviour of the corrupt masses of humanity, yet it does apply to a limited extent to the just as well. Hobbes believed that the just occasionally sin through infirmity. Their occasional intention to sin, however, is only rarely translated into actual

26. De Cive, E.W. Vol. II, p. 44.

27. Behemoth, E.W. Vol. IV, p. 184.

unjust actions within the context of civil society because of their fear of the sovereign's penal power and so, to this limited extent therefore, their motives for obedience coincide with those of the just. It is precisely because the just occasionally sin through infirmity that Hobbes can make the broad statement that fear of the sovereign is the cause of political obedience.

We must therefore provide for our security not by compacts, but by punishments.<sup>28</sup>

The setting up of the Commonwealth has this important consequence, that the citizen has very little option but to obey the civil law. Fear of the sovereign's power then is a sure guarantee of the constant allegiance of all his subjects - including the just. However, even if the sovereign makes use of his powers to ensure that his subjects are law-abiding, it is important not to lose sight of the fact that the just, by and large, obey his commands primarily because of their covenant to do so, even though they are forced to comply in any case.

Hobbes then advanced two separate, though complementary theories of allegiance. It was because these two theories were both universally valid whilst at the same time being designed to elucidate the political motivation of specific groups of people, that Hobbes was in a position to make certain statements (see below) concerning the reasons for political allegiance, which, though they may certainly seem contradictory, are not in fact so. In this first list of statements, Hobbes is stating his vertical theory of allegiance.

...for if men know not their duty, what is there that can force them to obey the laws?<sup>29</sup>

But that sin, which by the law of nature is treason is a transgression of the natural, not the civil law ... For except subjects were before obliged to obedience, that is to say, not to rebel, all law is of no force.<sup>30</sup>

28. De Cive, E.W. Vol. II, p. 75.

29. Behemoth, E.W. Vol. VI, p. 237.

30. De Cive, E.W. Vol. II, pp. 200-201.

...the power of the mighty hath no foundation but in the opinion and belief of the people.<sup>31</sup>

In the following statements Hobbes is expounding his horizontal theory of allegiance.

The passion to be reckoned upon is fear.<sup>32</sup>

...excepting some generous natures, it (fear) is the only thing, when there is apparence of profit or pleasure by breaking the laws, that makes men keep them.<sup>33</sup>

...the wills of most men are governed only by fear.<sup>34</sup>

There is no inconsistency in the above statements because, as we have seen, the just and unjust, who together comprise the whole of humanity, share the same virtues and vices to a limited but significant degree. Thus it is indeed the sovereign's penal power which largely accounts for the obedience of the unjust majority, because their natures are such that this desirable result can only be brought about in this way. At the same time, however, they do acknowledge an obligation to obey the sovereign based upon their covenant with him and even though their depraved natures render them largely incapable of shouldering this burden, their acknowledgement that they are so obliged and their consequent recognition of the lawful authority of the sovereign is neither entirely ineffectual, nor without desirable political consequences, especially if the sovereign's propaganda machine is in good order. The sovereign power also 'compels' the just to obey the civil law, although this kind of compulsion, as applied to the righteous, is merely a kind of safety measure, designed to counteract the occasional lapses to which unfortunately even the just are prone. As a general rule, however, the just can be relied upon to obey the civil law from the best possible motive, namely because of their covenant to render due and proper obedience.

31. Behemoth, E.W. Vol. VI, p. 184.

32. Leviathan, E.W. Vol. III, p. 129.

33. Ibid, p. 285.

34. Elements of Law, E.W. Vol. IV, p. 129.



Whilst it is true then that if men do not recognise that the power of the sovereign is legitimately exercised, nothing can force their compliance, it is equally true that fear of the sovereign's sanctions is the best guarantee of the allegiance of his subjects. The manner in which Hobbes' two theories of allegiance complement one another in his political system, so that together they constitute a comprehensive explanation of why men obey the civil law, is illustrated in a footnote in De Cive.

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.<sup>35</sup>

35. De Cive, E.W. Vol. II, p. 185.

CHAPTER NINE

OBLIGATION AND FAITH

(1) Hobbes' Materialism

In the previous chapter I deliberately used the term 'allegiance' rather than 'obligation' to describe Hobbes' theory of why men obey the civil law; and the justification for so doing is that Hobbes did not distinguish in the usual fashion between reasons and causes. Given the assumption that 'everything which exists is body' and that the phenomena of the universe can be wholly explained in terms of the motion of matter, then only causes can exist or, perhaps more accurately, reasons are more properly conceived of as themselves being causes of actions. If we carefully analyse why a just man acts justly, the cause and the reason will be found to be virtually identical - his just disposition. This may seem false or contrary to our normal way of thinking. It may be argued that a just man acts justly because he appreciates what is involved in being obliged by a valid covenant. He ascertains 'reasons'. But this is not Hobbes' line of argument. He insists that while we have free will, we do not have the will to will, so that the deliberations of the just man are in a sense predetermined or caused by his just disposition. To be more exact, the very fact that the just man himself alleges certain reasons for his activity (the propriety of keeping covenants etc.), is to be explained in terms of his 'constant will to give each man his due'. This then is the ultimate cause both of the direction of his deliberation and of the action itself. Such an account is no more than a logical application of the principles of metaphysical materialism.

It is important to note that justice was for Hobbes a God-given grace<sup>1</sup> but he is anxious to emphasise that graces, though supernatural in respect of their source, are yet natural in every other respect.

1. See The Questions Concerning Liberty, Necessity and Chance, E.W. Vol.V, p.9.

God disposeth man to Piety, Justice, Mercy, Truth, Faith and all manner of Virtue, both Moral and Intellectual, by doctrine, example and by several occasions, natural and ordinary.<sup>2</sup> (Emphasis added.)

Graces, as conceived by Hobbes, are not gifts which God freely gives to man in order to help him overcome his nature, but are actually installed within and are a part of his physical constitution. Since body alone exists, Hobbes would not agree that there is a distinction between nature and grace. He therefore conceived of graces as natural dispositions in men to be merciful, just etc., and not as something outside man's nature which helps to radically transform it.

Given that this is the case, it follows that Hobbes' argument from the principles of nature is not quite as deficient as has often been suggested. F.C. Hood, for example, in The Divine Politics of Thomas Hobbes,<sup>3</sup> asserts, correctly, that the argument from the principles of nature is limited to the attainment of a natural good which is a possible object of appetite and that being so limited, all voluntary actions can only be the result of deliberation as to natural good. He then goes on to assert that:

The only will of which Hobbes can take account in his argument from nature is last appetite. The will to obedience has to be excluded; it is not a natural appetite in men who are naturally inclined to liberty.<sup>4</sup>

Now it is precisely at this point that the argument fails. Will, in Hobbes' thought, is indeed always last appetite for natural good but the will to justice is, as we have already observed, depicted by Hobbes as a natural inclination or passion. The activities of the just man provide no major difficulties for Hobbes' psychology of deliberation. Curious though it may appear, in endeavouring to act with consideration towards others, in rendering to each his due etc., he is merely acting in accordance with his will, as last

2. Leviathan, E.W. Vol.III, p.420.

3. F.C. Hood, The Divine Politics of Thomas Hobbes, Oxford, pp.30-31.

4. Ibid., p.31.

appetite for natural good. In Christian thought generally, life on this earth is often seen in terms of a constant struggle between two forces - light and darkness; the duty of acting in accordance with God's commands, as revealed in Scripture, is regarded as being in perpetual conflict with the dictates of natural passion - the Christian being of course obliged to subordinate the latter to the former. This notion that men are torn between two rival forces is not entirely absent from Hobbes' thought; he does admit that the just man occasionally sins through infirmity. But by and large his unique naturalist definition of justice enables him to sidestep the problem of resolving this conflict, for certain men obey God's laws by natural impulse, by a kind of necessity imposed by their internal bodily motions.

A serious objection to this interpretation of Hobbes is offered by Richard Peters who contends that 'Hobbes refused to give any terms which describe bodies a dispositional interpretation; all terms refer to actual occurrences'.<sup>5</sup> Now this is quite obviously a mistaken view, since if Hobbes did make an assumption of this kind about explanatory terms, it would have been quite absurd for him to lay such stress on the distinction between the justice of actions and the justice of persons. Hobbes' desire-aversion model does not, as Peters suggests, display a certain inelasticity of approach to the problem of psychological explanation for it does not exclude, but in fact presupposes, dispositions; it is only in terms of the latter that our differing responses to the same external stimuli can be made at all intelligible. Hobbes is merely asserting, what is after all a commonplace, that external stimuli are necessary to translate our proclivities into concrete actions, to 'detonate' our dispositions. As far as I can ascertain, Hobbes is merely drawing an elementary distinction between cause and effect, and attempting to designate those factors which condition the effect of any particular cause.

Metaphysical materialism then provided the conceptual spectacles through

5. R. Peters, Hobbes, London, p.137.

which Hobbes viewed the world. Yet this rather radical vision of reality is somehow at odds with the actual psychological principles derived by Hobbes from it, which are positively trite and ordinary - namely that every effect must have a cause and that we have free will but not the will to will. At the risk of unfairly exaggerating their commonplace character, I would assert that they amount to no more than the insistence that a man's personality is crucial in determining how he reacts to experience.

## (2) Obligation and Faith

As we noted earlier, the main consequence of Hobbes' materialism, for our present purpose, is that the distinction between reasons and causes and hence between theories of obligation and theories of allegiance is necessarily blurred. His naturalistic definition of justice may be perfectly consistent with his materialist assumptions but it serves only to erode this distinction further. Nonetheless the problem of whether or not a coherent account of political obligation can be extracted from Hobbes' writings persists and must now be tackled.

It has been demonstrated that Hobbes espoused two separate but complementary theories of allegiance, based ultimately on the distinction between just and unjust persons. However the parallel enterprise of illustrating that Hobbes also espoused two theories of obligation, similarly based on this distinction, is fraught with considerable difficulties and we must proceed a good deal more tentatively. Oakeshott has unravelled the full extent of the problem facing commentators on Hobbes and insisted, quite correctly, that the core of discrepancy at the heart of Hobbes' writings calls for a general explanation. The series of inconsistencies to which Oakeshott refers<sup>6</sup> can, I believe, be resolved once it is recognised that Hobbes did espouse two separate theories of obligation; that each has a special reference to and relevance for a specific class of persons (the just, in the case of the theory of obligation extracted by Warrender from Hobbes'

6. See Rationalism in Politics, London, Methuen 1962, pp.284-286.

works, which I use the term vertical to describe and the unjust, in the case of Oakeshott's 'horizontal' theory of obligation), and that consequently neither theory should be considered as somehow authentic or as representing what Hobbes 'really' believed.

The vertical theory of obligation which Warrender extracts from Hobbes' writings can be summarised in the following paragraph:

Through the medium of a political covenant ...the citizen takes upon himself an obligation to obey the sovereign, which is underwritten by his fundamental obligation to obey natural law - in the first place, from an indeterminate obligation to 'seek peace' etc., and in the second place, from a more specific obligation to keep the valid covenants which he makes. The power of the sovereign is therefore the reluctance of the subject to break natural law.<sup>7</sup>

The interpretation of Hobbes' moral theory favoured by Oakeshott is as follows:

Since for Hobbes all moral obligation derives from law, there can be no duty where there is no law. Now the conditions prevailing in the state of nature make it highly unlikely that there ever could be a law, in the proper sense, before the establishment of the civitas because law is strictly defined by Hobbes as the command of one person 'addressed to one formerly obliged to obey him'. The laws of nature then are merely rational maxims which have no obligatory force.

In the interpretation we are now considering, then, what causes human beings to enter into the agreement by which the civil sovereign is constituted and authorized is their fear of destruction which has been converted into a rational endeavour for peace; but they have no obligation to do so. Their duty to endeavour peace begins with the appearance of civil law, a law properly so-called and the only one of its kind commanding this endeavour.<sup>8</sup>

7. H. Warrender, 'Hobbes' Conception of Morality', in Baumrin (ed.), Hobbes' Leviathan, Belmont, California 1969.

8. M. Oakeshott, Rationalism in Politics, London, Methuen 1962, p.269.

Now any moral theory, if it is to be of any use at all, must not be too divorced from man's passions, inclinations and abilities. Man as he ought to be must not be a total stranger to man as he is. However in Hobbes' case, as we have seen, there was a radical division among men between the just and unjust and hence his primary task as a moral philosopher was to evolve separate theories of obligation for each group which would take into consideration their different capacities and inclinations. Our first objective then will be to illustrate that he constructed the vertical theory of obligation with the just very much in mind.

Hobbes makes it quite clear that the laws of nature can only be considered as law in the strict sense when they are acknowledged as God's Law. Therefore God rules only over those 'that believe there is a God that governeth the world, and hath given Praecepts, and propounded Rewards and Punishments to Mankind.'<sup>9</sup> But who then are these people? All men through reason may come to know God as a distant First Cause but only those who have faith may know a Providential God, concerned with human conduct. The introduction of the concept of faith is crucially important because Hobbes, as we shall see, regarded the presence of a just disposition in a person as a necessary condition of his having faith.

According to Hobbes, just two virtues were necessary for salvation, faith and obedience, but with regard to the latter he states that:

The Obedience required at our hands by God... is a serious Endeavour to Obey him; and is called also by such names as signify that Endeavour. And therefore Obedience is sometimes called by the names of Charity, and Love, ...and sometimes by the name of Righteousness; for Righteousness is but the will to give to every man his owne, that is to say, the will to obey the Laws; and sometimes in the name of Repentance: because to Repent implyeth a turning away from sinne, which is the same, with the return of the will to Obedience.<sup>10</sup>

9. Leviathan, E.W. Vol.III, p.344.

10. Leviathan, E.W. Vol.III, p.586. See also De Cive, E.W. Vol.II, p.300-1 where Hobbes explicitly equates justice with obedience.

The general trend of the argument in De Cive is that faith is the product of a certain disposition of the human will. Hobbes frequently refers to such biblical quotations as 'the just shall live by faith' and 'Repent ye and believe the Gospel' which seem to carry the suggestion that repentance is a necessary precondition of and is temporally prior to faith. In describing how faith and obedience bring about salvation, he points out that:

Faith and Obedience have diverse parts in accomplishing the salvation of Christians; for this contributes the power or capacity, that the act; and either is said to justify in its kind.<sup>11</sup>

Clearly then Hobbes thought that obedience justified in a much more vital sense than did faith and that, indeed, the very existence of faith in a person largely depended upon the justice of his disposition. There were however, obvious scriptural limitations which he had to respect in propounding such a doctrine. In a rather lengthy footnote<sup>12</sup> Hobbes himself mentions those parts of the Scriptures where we hear of men, such as the good thief, whose faith alone had been sufficient for salvation. For Hobbes, these passages were something of an embarrassment. By and large, the Scriptures supported his interpretation of justice and faith and the interrelationship which he purported to exist between them. Yet he could not simply ignore them. Consequently he had to argue in the end that this relationship existed as a general rule but not necessarily at all times.

In Leviathan however the argument undergoes a subtle transformation which can best be appreciated by examining certain parallel passages in De Cive and Leviathan concerning those excluded from God's Kingdom. In De Cive Hobbes points out that the Kingdom of heaven is closed to none but sinners, that is to say, to those who have not rendered due obedience to the law; 'and not to those neither if they believe the necessary articles of the Christian faith.'<sup>13</sup> Here Hobbes

11. De Cive, E.W. Vol. II, p.314.

12. Ibid, pp.306-7.

13. De Cive, E.W. Vol.III,p.300



has in mind those whose faith alone earned them salvation, without the rest. Yet in Leviathan the anomaly is removed by the presumption on Hobbes' part that a renewed will to justice, expressed in religious terms as repentance, must have preceded the sinner's attainment of faith. He now states that the kingdom of heaven is shut to none but sinners 'nor to them, in case they repent and believe all the articles of Christian Faith necessary to Salvation.'<sup>14</sup> By the simple expedient of presuming repentance on the part of the sinner, Hobbes is able to sidestep the major difficulty that he encountered in De Cive. Faith, he now alleges, presupposes justice in all cases, without exception.

We can now appreciate why the vertical theory of obligation is particularly appropriate for the just man. He alone is capable of discerning, with a certainty conferred by faith, that the precepts of nature are in fact God's Law and hence obligatory at all times, even in the state of nature, provided of course that the obligation to 'seek peace' is not invalidated by the presence of inauspicious circumstances. His obligation to obey the sovereign is clearly underwritten by his fundamental obligation to adhere to the precepts of nature. From the point of view of the just, these precepts meet all the conditions necessary to be considered as law and hence as morally obligatory; whereas from the perspective of the unjust, it is by no means apparent that these same precepts should be ascribed the status of a 'system of morality' quite independent of the sovereign's fiat. We can have some sympathy with the situation of the unjust in the state of nature. On the one hand they have a set of merely prudential maxims and on the other, a rational conviction that God exists; but the connecting link between the two, which is necessary to transform God as First Mover into a Providential God and which faith through justice alone provides, is apparently missing.

It is then by no means easy to establish the extent to which the vertical theory of obligation applies to the unjust. However one important point should be

14. Leviathan, E.W. Vol.III, p.586.

noted in this regard. Whilst Hobbes makes a clear-cut distinction between the just and the unjust, there is no correspondingly rigid division between believers and non-believers, for Hobbes talks about those who do not have true faith but merely profess belief.<sup>15</sup> We can say with reasonable certainty that the just are obliged to obey the laws of nature, acknowledged through faith to be God's Law, and that atheists and agnostics are not. As for the rest however, what Hobbes probably took to be the great middle mass of humanity, the degree to which they are obliged cannot be ascertained with any real precision.

Similarly, the horizontal theory of obligation has an obvious relevance for the unjust majority. As we have just seen, it is not altogether clear that they are in fact obliged by the laws of nature, understood as God's commands; yet at least there is no doubt as to their obligation to obey the civil law since they have expressly covenanted to do so. Hobbes was concerned to design a moral theory for the unjust which did not rely on God as the ultimate source of obligation and the horizontal theory suited this purpose admirably. It was because he had little faith in the moral sense of the unjust that he very often appealed to the rationality rather than the righteousness of covenant-keeping. But of course we might add that the just, in their moments of infirmity, were not above being swayed by such appeals.

15. See Leviathan, E.W. Vol.III, p.598 where Hobbes states that....'in Christian Commonwealths all men either believe or at least profess the Scripture to be the word of God.'

CHAPTER TEN

CONCLUSION AND FINAL APPRAISAL: HOBBS TODAY

My interpretation of Hobbes' political theory in the last two chapters may seem to have had the unfortunate effect of rendering Hobbes less interesting and less relevant to the contemporary student of political theory. It is certainly true that few would nowadays regard Hobbes' division of mankind into the virtually exclusive categories of just and unjust as useful or elucidating; it simply does not ring true and offends our humane sentiments. However I would maintain, on the contrary, that the tendency to espouse a dichotomous view of mankind, no less rigid than Hobbes' original dichotomy, persists today among several, and quite diverse, schools of political theory.

Let us recall the central point of Hobbes' theory of allegiance (see Chapter Eight). It was that for a political system to survive, there must be a critical number of citizens, of superior calibre, who are prepared to uphold the sovereign's authority out of a sense of duty. Without their support, the undisciplined masses would be tempted to unleash their wicked and destructive propensities and bring lawful authority to its knees. Since the virtually impotent moral sense of the unjust masses is hardly equal to the task of trammeling their wayward natures and thus assuring the continuance of civilized living, it is mainly the unswerving loyalty of the just minority which prevents a return to the barbarism of the natural condition. Now I do not see that Hobbes' differential theory of allegiance, if I may so call it, is noticeably different in its essentials from that implicit in the modern elite theory of democracy of S.M. Lipset,<sup>1</sup> David Truman,<sup>2</sup> Robert Dahl,<sup>3</sup> and

1. See Lipset's Introduction to Robert Michel's Political Parties, New York, 1962.
2. D. Truman, 'The American System in Crisis' in Political Science Quarterly, December 1959, pp.481 - 497.
3. R. Dahl, Who Governs? New Haven, 1961.

Lester Milbraith.<sup>4</sup> According to this body of theory, there must be a critical number of citizens (the elites), whose commitment to democratic values and the 'rules of the game' is beyond question. Without their support and restraining influence, the undisciplined masses would be tempted to unleash their authoritarian proclivities and bring about the collapse of proper democratic government. Besides the unswerving allegiance of the various influential elites to the political system, it is only the very weak commitment to democratic values and civil liberties of the masses which stands in the way of this fearful holocaust.

Central to both theories is a clear presumption of the average citizen's inadequacies, with the result that the political system must rely on the loyalty and vision of a small but significant minority of citizens and not on the population at large. The elite theorists might claim that whereas Hobbes' dichotomy springs either from his own unbridled imagination or from the influence of Calvinist theology, their own dichotomy (elites, masses) is scientifically based. It is not their own arbitrary invention but an empirical fact. This claim is undoubtedly true; the factual foundations do indeed exist. But at least for Hobbes it can be said that he presents us with some sort of explanation as to why things are as they are (e.g. Divine Providence, grace etc.) and cannot possibly be otherwise, whereas in the case of elite theorists, we often find a remarkably uncritical acceptance of reality as it appears through the prism of the sample survey. Reflecting Hobbes' original intent, they set out to show how we can establish a viable political order, given that men are as they are. But they do not engage in the more difficult but more noble and humanly necessary task of attempting to explain how such crude and disturbing dichotomies are intelligible to the inquiring mind, and how they could have arisen in the first place. This task is not so much consciously avoided as deemed quite superfluous because elite theorists generally assume, as indeed Hobbes

4. L.W. Milbraith. Political Participation, Chicago 1965.

assumed, that the 'facts' accurately reflect a deepseated human reality, what naturally is. The analogy with Hobbes becomes truly striking when we observe their concern to establish group-specific standards of behaviour under the guise of propounding a generalised ideal for homo civicus. As Lester Milbraith puts it,

...It is important to continue moral admonishment for citizens to become active in politics, not because we want or expect great masses of them to become active, but rather because the admonishment helps keep the system open and sustains a belief in the right of all to participate, which is an important norm governing the behaviour of political elites.<sup>5</sup>

In short, then, it is vitally important that the active and informed minority of American citizens must have a firm loyalty to democratic values and procedures. There must be a 'concensus of elites' concerning the rules of the democratic game or else chaos may ensue. Such elites can of course be relied upon to do their democratic duty. By contrast, the generally inert, passive, ill-informed majority are all too easy prey for the irresponsible demagogue. In their cooler moments, they too would subscribe to the central values of American democracy but they are creatures of passion. Prejudice and heated emotion inevitably weaken their sense of commitment and threaten at times to render it wholly ineffectual. Given that these people are as they are, the best that we can possibly hope for is that they remain as they are, i.e. inert and passive, and leave the various elites, who are responsible, to proceed about their business without undue interference. Their duty is the simple ones of obeying the law. To expect from them a more positive contribution to policy-making in its various forms would be to lose touch with reality, to wilfully gloss over those human weaknesses which, in the end, render impractical their sometimes honourable intentions. However willing to be good democrats, their penchant for demogoguery and authoritarian solutions

5. Milbraith, op.cit. p.152.

present permanent obstacles to the realization of that end. They are not entirely culpable. Their failure is rooted in the nature of things.

I have no doubt that Hobbes, had he lived in our times, would have found certain aspects of the contemporary elite theory of democracy highly congenial. I suspect however that he would have especially admired the remarkable openness and honesty of Milbraith's recommendation that the inert majority must be continually encouraged to be good citizens, even though they lack the wherewithal to do so.

In this thesis, I have tried to subject Hobbes' political philosophy to the most rigorous analysis. To the objection that the analysis has perhaps been too rigorous, failing to take account of the fact that Hobbes was, after all, a 17th century thinker, I would reply that this kind of appraisal has only been possible because Hobbes managed to anticipate, even if only in embryo, some of the major conceptual distinctions employed by moral thinkers of later centuries. A notable case in point is Kant's distinction between hypothetical and categorical imperatives. As I argued in Chapter Three, Hobbes repeatedly insists that the laws of nature, when conceived of naturalistically as rational maxims, are not properly describable as moral laws. Unless they are conceived of as God's law or enacted by a civil sovereign, the only type of obligation to which they could give rise is of a hypothetical or prudential kind. Furthermore, Hobbes' terminology is in no fundamental sense inconsistent with or inferior to that employed in our own, post-Kantian era. It makes very little difference whether we regard the laws of nature, viewed naturalistically, as hypothetical imperatives which oblige those men who seek their preservation as an end or, more simply and no less precisely, as 'conclusions, or Theorems concerning what conduceth to the conservation and defence' of men.

I have argued that, once we realize that Hobbes was familiar in his own fashion with the hypothetical - categorical distinction, his theory of political obligation ceases to be as ambitious as is sometimes supposed. He did not attempt to deduce moral obligations from eternal facts of man's nature. Where he states that men ought, rather than simply do, react to their condition in the state of nature in a certain fashion, this 'ought' is used in a purely hypothetical sense. Considered naturalistically, the laws of nature tell men what they would be well-advised to do if they wish to be wise in the pursuit of their interests. By contrast, laws of morality or covenanted commands tell men emphatically and unconditionally what they ought to do.

Whilst I have argued that Hobbes' main argument from the eternal facts of Man's nature is perfectly sound, the same cannot be said for his attempted derivation of a right from nature. Hobbes offers us no reasons for the alleged propriety of anticipatory violence in the state of nature and it is difficult to see how such a justification would be possible, given the naturalistic premises from which he begins. (See Chapter Six, Section (3)). Nor, as Spragens implies, is this defect in Hobbes' argument only apparent, an illusion generated by our tendency to universalize our own philosophical premises and unarticulated assumptions. Hobbes did not stand hesitatingly between the worlds of Galileo and Aristotle. He firmly accepted the former and rejected the latter. Indeed it was precisely because the world he saw did not bear the scars of ontological tension that Hobbes was able to distinguish between prudential and moral obligation in a way that would have been inconceivable for those still under the spell of Aristotle. Hobbes denied the presence of tension between potentiality and actuality. His facts were not morally charged, nor were his moral 'oughts' factually charged. By insisting that moral obligations can stem only from authoritative command, he implicitly denied that they could be inferred from any other source (such as an 'is').

I have argued therefore that we may herald Hobbes as a forerunner of Hume and that Hume's 'logical rule' may be viewed as no more than the conscious formalization of unwritten rules or embryonic codes of conduct in philosophical practice which stretch back at least as far as Hobbes. But if this is true, then it is also true that we cannot view Hobbes' erroneous fact-right derivation (See Chapter Six, Section (3)) indulgently by pointing to the mitigating circumstance that he was, after all, a 17th century thinker. If it is the hallmark of the philosophical masterpiece that it somehow breaks through its inevitable spatio-historical bonds and rings forcefully across the centuries to inform subsequent generations, then we are entitled to appraise the author of such a work as we would a contemporary philosopher.

If it is the mark of the masterpiece in the plastic arts that it affords as a glimpse of perfection, the sure sign of a work of excellence in political philosophy is that it serves to quicken our desire for the same ideal. Every political philosophy is plagued in the end by what Michael Oakeshott calls the 'final triumph of incoherence', by eternal endeavour and eternal failure. It is as if the artist catches an occasional glimpse of the blush of the elusive spirit of truth upon matter and holds it still for our contemplation, whereas the political philosopher looks through the glass darkly from the other end, from the angle of material existence and perceives primarily the refractions of matter, the crudities and disappointments of everyday life. The artist occasionally captures one of the rare moments when the ideal infects the actual, creating perfection and coherence, unity in diversity in his impressions whereas the political philosopher inhabits the realm of practical affairs where the actual infects the ideal, where man's perennial egoism arrogates to itself the spirit of truth through specious self-justifications and generates an unmistakable sense of disunity and diversity. If the artist lives for, indeed almost lives in, perfection, the political philosopher, embedded as he is in concrete and flawed existence, grasps perfection only as



a possibility. The ignobility of everyday life suggests to him a conception of the noble and he sees it as his life's task to attempt to somehow transform the former in accordance with the latter. Just as for Hobbes and Bacon it was a mistake to be unduly obsessed with 'the nature of the good' and to ignore concrete methods whereby the will of men might be subdued to accord with the good, so too for Marx it was hopelessly inadequate to simply interpret the world: it had to be changed to accord with the ideal. In a sense, every political philosopher is an idealist, trying to reconcile the world of man with the vision of the artist and poet, endeavouring to minimize the perpetual discrepancy. However what characterizes Hobbes, and conservative political philosophy in general, is an acute appreciation of the degree of intransigence at the heart of matter, its refractory character. With but a few exceptions, Aristotle's free and noble minded individuals, man is seen to be committed to a view of truth that subserves his needs. Man calls 'good' that which pleases him. Given that man is as he is, generally impervious to the elusive spirit of truth, the 'best' is sacrificed for the 'best possible', paradise for order, visionary ideology for pedestrian practicality. The infection of the ideal by the actual is deemed to be beyond repair, a chronic condition that afflicts the majority of men and the infection of the actual by the ideal is deemed to be a rare phenomenon, a form of life directly experienced by just and holy men and portrayed by artists and poets. The conservative looks both forward and backwards, through the looking glass and down at his own feet of clay. The radical political visionary looks forward, believing like the artist in the sublime attractiveness of his vision and insistent upon the malleability of a human nature liberated from corrupting social institutions. The reactionary political visionary described so well in Sartre's Portrait of an Antisemite personally infuses the actual with ideal qualities but then chooses to regard evil as a parasitical growth upon the good inherent in the actual. His life task is not to transform himself in accordance with any

transcendent ideal but to restore the body politic to its pristine purity, to allow its spirit to breathe freely by removing the insidious alien gesellschaft gnawing at the sacred heart of his beloved gemeinschaft. The triumph of incoherence is assumed either way. Neither type of political visionary can approach the perfection of the artist, because the vision of the first is flawed with wishful thinking, the second with wilful deceit. One believes that the actual, duly transformed, can correspond to the ideal, that flawed personal roots can somehow produce a virtuous social flower; the other is convinced that the flower itself, in the very process of its growth, exudes goodness and perfection spontaneously and effortlessly or at least can do so once it has expelled all alien intruders. At bottom, both lack the attitude of humility and openness of the artist which enables him to grasp the ultimate symmetry of the components of human integrity, the complementariness of every worthwhile human end and quality. They yearn instead to put themselves and their social world, actual or preferred, at the centre of existence, with the spirit as its crowning glory. Both desire, as their final goal, the complete infection of the ideal by the actual, the one by revolutionary means, the other by a process of cleansing. The victory which this total absorption and desecration of the ideal would represent cannot be achieved by the individual but yet can be miraculously and mysteriously grasped, or so it is believed, by the society as a whole.

Because the conservative political philosopher does not pretend to approach the perfection of the artist and opts rather for the best possible world, he cannot but disappoint the perennial hunger in the human heart which the political visionary gladly feeds and for which the conservative recipe of minimizing the ignobility of existence is poor food. Thus the incoherence of a work like Leviathan persists vividly in the minds of its readers, though it comes close to vanishing in the actual work itself. In the end, Hobbes' Leviathan suffers from the same defect that afflicts what passes today for

sound empirical political science; its rootedness in actuality, its very success and undoubted precision in reflecting the world as it is and in designating the conditions of its continued existence, its splendid and systematic sordidness. This is how the political world is and if it is to continue to exist, here is how we must act. 'Ought' is reduced to a virtual appendage of 'is'; it becomes almost an afterthought. It is no accident that Machiavelli and Hobbes had a clear preference for hypothetical imperatives, counsels of skill, maxims of prudence. In a similar fashion 'can' becomes a static limiting quality, a mere fact of existence and ceases to be a pointer to better possibilities for political man. Hobbes' contempt for Aristotle's world of becoming echoes our own disillusionment with Hegel and Marx and eschatological thinking of every hue. 'Can' is no longer the pathway to the heavens, possibility generated by grasping an ideal, potentia drawn into existence by the elusive spirit but a stepping stone to our own backyard. It does not stretch, tease or endeavour to transform the actual world, for it is now defined and limited by that world, just another component of existence. 'Can', now successfully wedged in space and time, has been cut off from the lure of the absolute and made to suffer the same sorry fate as the categorical 'ought'.

History certainly bears testimony to the extent of the human debris left behind by political visionaries. Hobbes would have pointed to the hated ideology of the subversive Puritans but we have our own more recent, more telling and less problematical examples in 20th century political history. It might be said that we have surely seen enough to drive us back to the prudent realism of Hobbes and to justify our allegiance to contemporary political science. Yet if we cultivate as our ideal human type what C.S. Lewis called 'men without chests'<sup>6</sup>, men who can only locate themselves at the centrepoint of existence by becoming thoroughly insensate, no longer drawn by the elusive spirit either because they are confident that they have captured it and put it at the service of their technological society - duly transformed in accordance with their needs into the Goddess of material progress - or because

6. The Abolition of Man, Glasgow 1978, pp. 7-20.

they believe that the logic of positivism and determinism have banished it from view, then surely we must conclude that the long quest of Western man for the meaning of human integrity, and the social and political conditions conducive to its existence, has ended in failure, in a self-absorbed, sated and suffocating humanity. Our quest would reach its end with a race of men who, because of their assumed centrality in existence, find utterly unintelligible Marcel Proust's suggestion in Time Regained that our finest ideas are 'like tunes which, as it were, come back to us although we have never heard them before and which we have to make an effort to hear and transcribe' and that 'the book whose hieroglyphics are patterns not traced by us is the only book that really belongs to us.'<sup>7</sup>

Because the memory of the massacre of the Jews and the Kulaks survives vividly in our minds, we may consciously choose to ignore the political visionaries and to assign them to the dustbin of history, along with the whole realm of becoming. We may decide that it is better to concentrate on the self, its immediate wellbeing and its orderly relations with other selves than on any brave new world that may bring the holocaust in its train. But in so doing we fall into the same trap as the very political visionaries whose influence we hoped to destroy. We allow our actual existence to arrogate the ideal unto itself. Through inadvertance, laziness, or even the commendable intent to avoid a greater evil, the self becomes the sole source of value. Even though consciously rejecting the entire realm of becoming, we in fact become insensate. There is no conscious will at the service of the ideal which, by allowing the ideal to penetrate our actual existence, could forestall this development. We write only our own books and dance and sing to our own tunes. The true counterpoint of political milenarianism is not the prudent realism and conservatism of Hobbes' Leviathan or of contemporary democratic theory but the attitude of openness and receptivity, embodied in the artist and the poet, to the elusive but nonetheless accessible ways of the spirit.

7. Time Regained in Remembrance of Things Past, London 1972, Vol.12, p.238 and 241.

APPENDIX

RIGHT AS "FACILITATED LIBERTY"

My suggestion in the main text that a right should be understood as a 'facilitated' liberty may appear rather odd. But the term 'facilitated' is preferable to such possible substitutes as 'granted' or 'bestowed'. When we talk rather loosely of X granting Y liberty, this is usually a shorthand way of saying that X will remove the impediments which restrain the exercise of Y's liberty in some respect. Liberty then, is not so much granted as facilitated in the sense that obstacles to its achievement are removed or overcome. This applies not only to the mechanistic sense of freedom but also to what Benjamin Barber describes as the psychological intentionalist model of freedom.<sup>1</sup> The difference between the two models of freedom may be summarised as follows.

Barber insists that however diverse the writings of Hobbes, Locke, Hume, Godwin, J.S. Mill, Hobhouse and Sir Isiah Berlin, they are at least similar in understanding freedom in negative terms as the absence of restraints. They assume that 'the relationship between liberty as motion, and coercion as the impeding of motion, is purely mechanistic - a physical problem of vector analysis'.<sup>2</sup> Their model of freedom is obviously mechanistic, emphasising the role of external physical impediments (Hobbes says that freedom 'signifieth properly the absense of opposition; by opposition, I mean external impediments of motion'<sup>3</sup>) and viewing men as indivisible particles (bodies) whose motions must be treated as givens. Hobbes, for example, in his discussion of freedom was only concerned with what men in fact did will and not with the intricacies of the deliberative process which may have preceded any particular human action. As Hobbes puts

1. B.Barber, Superman and Common Man. Harmondsworth 1972, Chapter 2, Passim.
2. Ibid., p.38.
3. Leviathan, E.W. Vol.III, p.146.

it, 'when the words free and liberty, are applied to anything but bodies they are abused; for that which is not subject to motion is not subject to impediment'.<sup>4</sup> The model of freedom we are presently concerned with is also abstract, Barber alleges, because it ignores the obvious and concrete instances of freedom and coercion in human experience in favour of a philosophical generalization which, quoting Hobbes, 'may be applied no less to irrational and inanimate creatures than to rational'.<sup>5</sup> When the term liberty is understood in this mechanistic sense, it obviously raises no major problems for the model of rights (i.e. as a triadic relation) that I have been commending. Indeed it is largely this sense of liberty which the model presupposes.

The mechanistic model of freedom views the agent whose freedom is in question as an indivisible particle or body. Barber talks of the 'integrated atomic personality of the mechanist'. By contrast, the concrete psychological-intentionalist model views the agent whose liberty is under discussion as considerably more complex. Those who view freedom in this way often distinguish the body from an inner psyche and even point to different conflicting elements of the psyche.<sup>6</sup> Mechanists of course may utilise the same sorts of distinctions but they would argue that this aspect of the agent's make-up is not relevant when freedom is at issue. However for the intentionalist there is an important cleavage between man as an actor and man as a re-actor, a man conscious of himself and man as a stimulus-response system. This model identifies freedom with conscious activity, with reflective awareness and intentionality. From the perspective of the intentionalist, to say that there are no external impediments in the path of a person is only a part of what it means to say that he is free. Barber asks us to consider the following case:

4. Ibid, p.197.

5. Ibid, p.196.

6. I have argued that it is necessary to view the agent in this sort of way if we are to be able to understand children's rights. Chapter Five, Section (3).

'...are we to regard the man who kicks on impulse or in a sudden, uncontrollable fit of rage as free in the same sense as a man who intentionally kicks following self-conscious reflections? The mechanist is constrained by his preoccupation with the external and the physical to overlook the difference. The intentionalist model not only accounts for it, but is defined by it. It is only the man who acts intentionally who acts freely; action is distinguished from behaviour by its intentionality.'<sup>7</sup>

What I wish to stress here is that if the agent whose freedom is in question is conceived of in this way as the conscious, reflective or intentional self rather than as the integral atomic personality of the mechanist, then we may regard imperious behavioural impulses as constituting 'external impediments' to the agents will. Hence is so far as one person, X, helps another, Y, to restrain these impulses or at least to transform them by not reacting to them unthinkingly, he may be said to be facilitating intentional action and therefore freedom. In fact when liberty is thought of in the experiential sense that Barber commends, it is much more appropriate to say that X facilitates Y's liberty, for the use of the term 'grant' could only mean that X is capable of actually giving Y or of somehow instilling in Y a conscious, reflective awareness. It is perfectly proper then to talk of a person's liberty, in either of the senses outlined above, being facilitated or made possible by others. The term 'facilitated' conjures up the notion of making clear a person's path and this is precisely what is involved when one person helps another to be free - either literally, when liberty is viewed from the perspective of abstract, physical-mechanism or metaphorically, when freedom is viewed from the intentionalist perspective.

7. Op.cit., p.53.

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The following abbreviations are used:

|            |   |                         |
|------------|---|-------------------------|
| Phil. Q.   | - | Philosophical Quarterly |
| Phil. Rev. | - | Philosophical Review    |
| Pol. Q.    | - | Political Quarterly     |
| Pol. St.   | - | Political Studies       |

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The following abbreviations are used:

- Phil. Rev. - Philosophical Review  
Pr.Ar.Soc. - Proceedings of the Aristotlian Society  
Phil. Q. - Philosophical Quarterly

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