

Articles of Peace: Rereading *Leviathan*, XIII-XV

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[Note: The present text has been prepared for discussion at the 2023 Radical Re-Readings workshop, assembling material (much of it newly-drafted) intended for a more comprehensive study of Hobbes’s Leviathan. The first section (1) provides a summary statement of my major interpretative and theoretical contentions. The next three, detailed examination of arguments of Leviathan XIII-XV: (2) the problem of war, as framed in XIII, and the implications of that framing for its eventual resolution; (3) in XIV, the deduction of the “rule of reason” named the Fundamental Law of Nature, as a crucial first step toward resolving that problem, and the contribution of the further Laws of Nature (so-called) to that end; (4) the validation of these rules as the basis of moral evaluation (irrespective of their status as laws), in the next-to-last paragraph of XV. (Each of these sections is somewhat truncated, especially the one on the condition of war in XIII, but I hope sufficient to convey the gist of where I’m heading with the material.) The final section (5) offers a more synoptic sketch of the bearing of the preceding on the political doctrine expounded in Leviathan’s Second Part. In the interest of keeping the text to a (somewhat) manageable length, I have included only glancing attention to prevailing critical debates, and omitted all discussion of three important issues: (a) Leviathan’s divergence from the corresponding arguments in Hobbes’s earlier writings, with respect to both the framing of the problem, and its resolution; (b) the much-quoted passage in chapter XV concerning “the Fool,” and its bearing on the chapter’s larger argument; and (c) the question of the Laws of Nature considered as Laws of God, broached at the close of XV. (I would be glad to address any of these at the workshop.) I have also refrained from including any comment on the bearing of my reading on Matthew Hoye’s, or his on my own, in the interest of leaving that open for discussion among workshop participants. -RT]

1. A Proposal

Reason suggesteth convenient articles of peace, upon which men may be drawn to agreement. These articles are they, which otherwise are called the Laws of Nature, whereof I shall speak more particularly, in the two following chapters.

Leviathan (xiii.14:63)¹

In the closing lines of *Leviathan*'s Second Part, Hobbes boasts of having achieved what “neither Plato, nor any philosopher hitherto” had been able to do – “set into order, and sufficiently or probably proved, all the theorems of moral doctrine” that are needful for the instruction of citizens and their rulers (xxxi.41:193). He goes so far as to wager the practical value of his political teachings on the clarity and cogency of those proofs of his moral doctrine. What can he have had in mind? The ‘theorems of moral doctrine’ to which he refers are plainly the nineteen moral rules which he names Laws of Nature, the exposition of which he devotes a two-chapter sequence near the end of the book’s First Part. (A ‘theorem’ for Hobbes is a rule [v.6:20].) What can he have thought he had *proved*, of these rules?

There has been no end of commentary on *Leviathan*, or Hobbes’s doctrine of the Laws of Nature. But it seems to me that there hasn’t been much attempt to take *this* question seriously— what might Hobbes have meant, in vaunting his unique success where all prior philosophers have failed, in having not only set into order, but proved (sufficiently, or even probably) of the Laws of Nature? It is easy enough to discount his opinion of his success in getting his proofs across, when he goes on to express the belief that “this writing of mine... is short, and I think clear” (xxxi.41.193). But I’d like to suggest that much of the difficulty lies in a misunderstanding of what he was trying to prove, and faulty presumptions concerning the burdens of his argument. To get right down to it: I believe we’ve misunderstood what’s

¹ Parenthetical citations of the text are to *Leviathan*, according to this convention: first chapter, then the paragraph number (provided in some, but not all modern editions); last, after colon, the corresponding page in the 1651 edition. Spelling and punctuation is modernized throughout, with some exceptions in the interest of clarity. Original capitalization is retained chiefly for nouns that are used by Hobbes as terms of art: i.e., Law of Nature, Right of Nature, and specific virtues (Justice, Equity, etc.) when referring specifically to the corresponding Law of Nature’s prescriptions. My base text is the Clarendon edition edited by Noel Malcolm (Oxford: 2012).

at stake for him in the twofold problem he sets for himself—the predicament of war, and the attainment of peace—and we’ve misunderstood what the Laws of Nature have to do with it. My aim in the following is to clarify Hobbes’s own framing of that problem, and the sense in which his exposition of the Laws of Nature contributes toward its resolution.

My procedure is to attend as closely as possible to Hobbes’s own procedure of argumentation, in the chapters of *Leviathan* that are the focus of my concern: chapter XIII, where the problem of war is initially framed; chapter XIV, where the first steps toward resolving the problem is taken, with the formulation of the Fundamental Law of Nature, and the (subsequent) introduction of the concept of obligation; and chapter XV, in which Hobbes completes his exposition of the Laws of Nature—and, at the culmination of which, he provides a further argument to explain why his exposition of these rules is sufficient to validate their moral salience. (In the closing section I take a more synoptic approach, surveying some implications of these arguments for Hobbes’s larger project in *Leviathan*). In the interest of clarifying the sequential structure of Hobbes’s project, I cleave to the sequence of its exposition, although focusing selectively on the portions of these chapters that are most pertinent to my thematic concerns. Throughout, I adhere to a few interpretative strictures. First: I refrain, on principle, from glossing these chapters of *Leviathan* with reference to Hobbes’s treatments of the same issues in earlier works. There is a well-established practice among scholars to consult Hobbes’s prior *De Cive* on the subject of the Laws of Nature, some even claiming it to be the more authoritative or reliable statement of Hobbes’s thinking on the subject; many others, who might not go that far, freely draw on *De Cive*’s corresponding chapters where *Leviathan*’s arguments seem obscure.² My own view is that Hobbes’s thinking underwent a major philosophical reorientation between the two books, with respect to his understanding of the Laws of Nature; if *De Cive* seems more clear, or more cogent, that’s only because it answers to our long-received notions about Hobbes’s views in these matters.³ My second interpretative

² Cf. Schuhmann (2004); Tuck (1989), Murphy (2000a), Gert (2001).

³ See Ludwig (2008), LeBuffe (2019).

stricture is to resist the temptation to interpret Hobbes's arguments in these chapters from Part 1 of *Leviathan*, "Of Man," as tailor-made to suit the distinctive doctrine of sovereignty elaborated in Part 2, "Of Commonwealth, or any political agenda connected with it. I do not, of course, deny the pertinence of his account of the Laws of Nature to his doctrine of sovereignty, and I do aim to offer some perspective on their fit. The temptation to be resisted is presuming that his arguments in Part 1 are politically motivated, or answering to political purposes, before getting clear on what those arguments are, or attempting to make sense of them, on their own stated terms.

My third interpretative stricture is a caution against reading too much into Hobbes's formulations, as regards their intended conceptual determinacy. As I hope to show, the appearance of vagueness or riddling ambiguity in his formulations—as if he were merely alluding to something else, more specific, expecting the reader to guess, from the drift—is often better understood as deliberate indeterminacy, introduced for the purpose of indicating an aspect of the problem. Thus, for instance: in chapter XIII Hobbes introduces the difference between war and peace by way of bare stipulations, but their point is not to assert dogmatic theses, but to identify the problem that it is the task of his moral philosophy to resolve.⁴ At the end of chapter XV, his demonstration of his doctrine's moral salience takes the form of showing how the manners of conduct prescribed by the Laws of Nature are properly counted moral *virtues*— but we do well to resist the mere mention of 'virtue' as connoting a philosophical conception of virtue most familiar from other philosophers (i.e., Aristotle), for to do so would render his argument unintelligible. And the same, I contend, is the case with the term of his that would seem the most philosophically-pregnant of all: *Law of Nature*. It is on this point, especially, that my reading is intended as a corrective to the prevailing approach to these chapters of *Leviathan*: namely, the presumption that his adoption of the term— in the absence of any clear explanation of his reason for doing so— betokens a more-or-less

⁴My characterization of Hobbes's procedure is suggested by Korsgaard's account of constructivist moral theory, which I have found to be apt in making sense of the arguments I discuss. (See Korsgaard [2008]). For the purposes of the present paper, however, I make no claims as to the relation of Hobbes's theory to the versions of constructivism (Kantian in inspiration) that Korsgaard discusses.

familiar concept of natural law, unusual only in the apparent peculiarities of the specific conception. I argue that this is mistaken, and stands in the way of our making sense of the arguments he has on offer on behalf of his Laws of Nature, so-called—and also his reasons for offering them, that is, the nature of the problem for which the exposition of the Laws of Nature are offered in answer.

I propose, instead, to take bearings from Hobbes's way of broaching that exposition, in the closing line of chapter XIII – in which he suggestively indicates the sense in which it constitutes reason's contribution toward getting out of the “ill condition” – *war* – “which man by mere nature is actually placed in” (xiii.13:63):

Reason suggesteth convenient articles of peace, upon which men may be drawn to agreement. These articles are they, which otherwise are called the Laws of Nature, whereof I shall speak more particularly, in the two following chapters. (xiii.14:63)

This statement is unique to *Leviathan* (in that there is nothing like it in the corresponding chapters of Hobbes's previous books), and it constitutes Hobbes's framing of his inquiry in the chapters to come. As it comes without gloss or explanation, the statement itself is merely suggestive—but that is to say, it might be seen as reflexively performative: suggesting, as if on reason's behalf, that which it is reason's role to suggest. There is another way, too, in which the statement involves an interesting reflexivity, in that the role consists in proposing articles of *peace*, upon which men may be drawn to *agreement*—that is to say, peace. Notice, too, that although it was “man” (in the singular) whom Hobbes says is “by nature... actually placed in” the condition of war, the way out of that “ill condition” is suggested to involve the drawing together of *men* in the plural, on the basis of “articles” offered by reason expressly for that purpose. It is of such “articles” that Hobbes announces the intention to speak in the following two chapters. “Laws of Nature” is merely what these articles “otherwise are *called*.”

Allow me to suggest, then, on the basis of Hobbes's own suggestion: we do well to notice that, when first broaching his account of the Laws of Nature, he indicates that their bearing on the human

predicament is in offering the terms through which peace may be realized, in that men may *come* to peace *upon* these rules. It's not obvious, from this framing what their being Laws of Nature has to do with this, and it's not obvious whether that matters. That they are *called* Laws of Nature turns out to be a matter of interest to Hobbes's ensuing account of these "articles," because—so it turns out—reason's articulation of the terms upon which peace is (hypothetically) possible involves the formulation of prescriptive rules, which indeed (again, so it turns out) are enough *like* laws (in form, and function), for their being called such (*counted* as such) to be a useful convenience (i.e., convention), for the purpose of their exposition. And eventually—for these very reasons—this very exercise will yield an account of the (formal) conditions by which law is possible, in showing how rules such as these (along with other rules, consistent with these) are the proper basis for distinguishing between actions and attitudes consistent with peace, and those obnoxious to it. To put it another way: reason's contribution toward the attainment of peace yields a (moral) *theory* of peace, and also (eventually, after a further stage of argumentation) a (normative) theory of *law*. In the course of elaborating the conditions under which law is intelligible, it will emerge that Hobbes has his reasons for speaking of the Laws of Nature *as if* they were laws, but that he also has his reasons (the *same* reasons) for *not* wanting to posit their actual standing as such, from the outset. The reasons for this are complicated—at any rate, they lie too deep in the heart of his project to be fully explicable on first approach. But in order to get there—we need first to shake free of the plausible, but mistaken idea that the "Laws of Nature" are supposed to be "natural laws" in any familiar, traditional sense.

I am hardly the first to observe this. Decades ago, Michael Oakeshott suggested that Hobbes's Laws of Nature are not, in themselves, "genuine laws capable of imposing obligations," but rules which indicated the necessary conditions of peaceful association, and, for that reason, amount to "an analytic breakdown of the intrinsic character of law."⁵ Oakeshott's suggestion has found a vigorous champion in

⁵ Oakeshott, (198), 172-3.

the legal philosopher David Dyzenhaus, in a series of publications leading up to his 2022 treatise, *The Long Arc of Legality*.⁶ Dyzenhaus has done a great service in explaining how such an understanding of the Laws of Nature is implied by Hobbes's account of a positive legal system—how it is that Hobbes's very conception of civil law requires that a legal enactment must not only be issued upon sovereign authority, but also congruent with the Laws of Nature, in order to be valid; the latter requirement is not simply aspirational, but a condition for law's intelligibility as such. As Dyzenhaus puts it, "The function of the Laws of Nature is to condition the content of the sovereign's laws in a way which makes it possible for legal subjects to understand its rule as matter of right rather than unmediated coercive force."⁷ Dyzenhaus has shown with admirable precision how this conception informs Hobbes's account of the official duties of those charged with interpreting and applying a commonwealth's civil law, or discharging other offices under a civil sovereign's authority. As will be apparent from the following, I believe this is exactly correct. My reading can be taken as an attempt to corroborate it, by removing the stumbling-block that has stood in the way of its gaining wider acceptance.⁸

The obstacle to approaching *Leviathan's* Laws of Nature in the manner suggested by Oakeshott, and elaborated by Dyzenhaus, is plain enough: Hobbes's very definition of a Law of Nature, set forth at the head of chapter XIV, seems to announce a conception of natural law which proceeds from entirely different premises. No less an authority than Ian Malcolm, the dean of scrupulous textualists, has dismissed Oakeshott's proposal out of hand: "Hobbes derived his natural laws not from an analysis of the intrinsic character of law, but from studying and systematizing the means to self-preservation."⁹ Oakeshott himself had effectively conceded as much, claiming no more than that Hobbes's identification of the specific Laws of Nature in his canon involved considerations foreign to their ostensible rationale,

⁶ See Dyzenhaus (2001), Dyzenhaus (2010), Dyzenhaus (2022). See also Finkestein (2006).

⁷ Dyzenhaus (2022), 101.

⁸ See also Ludwig (1998).

⁹ Malcolm (2012), 28.

grounded in the right of self-preservation.¹⁰ Malcolm's view of the Laws of Nature has long been more or less the mainstream one among scholars (or at any rate, a leading variant, among the cluster of closely-related views that differ only in points not relevant to the present issue). In recent years, it has met vigorous challenges from revisionists-- who insist that the substance of Hobbes's doctrine cannot be sustained on the basis of self-interested considerations—and who accordingly surmise that his doctrine must rely on some other, more robust theory of moral motivation. This means that all sides of the interpretative debates tend to take it for granted that Hobbes must intend for these rules to be somehow *compelling*, in principle, for any properly rational agent— sufficient (at least in principle) to override any contrary inclination or disposition, at least in principle. The mainstream interpretation has long been that Hobbes believes he has met this demand by validating his precepts on the grounds of their serviceability toward obtaining what everyone naturally wants (or, on some interpretations: what they would want, if they knew their best interest). Those who have questioned this line of interpretation have taxed themselves with explaining—on Hobbes's behalf, as it were—some other way which the Laws of Nature are supposed to be, in the words of S.A. Lloyd, “normative in the right way, that is, how they make potentially motivationally efficacious ought-claims that are universal and inescapable for Hobbesian agents (weakness of will notwithstanding).”¹¹ Common to all such proposals – whether of the rational-egoist persuasion, or the alternatives— is the fixed idea that Hobbes's moral philosophy is staked on the Laws of Nature being found practically compelling-- conclusively normative-- from the first-person, deliberative standpoint of any competent rational agent.

Hobbes never claims this, however. He does say many things that would be consistent with his entertaining such a conception – but I suggest that the interpretative problem isn't of the kind to be settled by counting up proof-texts, for and against. It's undoubtedly true that he *calls* these rules Laws of Nature,

¹⁰ Dyzenhaus, too, seems to have felt the pressure to make a comparable concession, to judge from in his earlier publications on the topic. See, e.g. Dyzenhaus (2001), 464-8. This is notably absent from his most recent work, in which he passes over the seeming textual problem in silence.

¹¹ Lloyd (2009), 151-2.

and freely avails himself of the corresponding conceptual idiom (which for him includes the notion of ‘obligation’). He does so throughout chapters XIV and XV, without ever explaining the sense in which a “Law of Nature” might be counted a law, or the conditions in which laws are possible. (Whereas, in chapter XIII— at the end, on the page just before broaching his account of the Laws of Nature—he had declared in no uncertain terms that “where there is no common power, there is no law; where no law, no injustice” xxx.13:63). In the absence of any clear explanation, it’s understandable that readers would seize on his definition of a Law of Nature, as if it were meant as a dogmatic statement. I propose, however, that this is reading more into it than intended, and that there’s a good reason (indicated, albeit obliquely, in the text) why he would want to defer until later the question of how law is possible (i.e., possibly *binding*, as law), and yet also would want to be able to refer to his “Articles of Peace” *as if* they were laws, hypothetically—pending pending his subsequent articulation of the concepts involved. Ironically, what has stood in the way of a clear apprehension of this is our very alacrity in ascribing to him a dogma establishing these rules’ naturally conclusive normativity (or, in some versions: the more or less effective approximation of such, as regards their claim on a rational agent’s attention). He has no use for any such thing in his concept of law, and no need for it in his understanding of his theorems’ moral validity. The latter is sufficiently established by way of his exposition of these precepts’ normative (law-*like*) content, together with his demonstration of their normative function (the second, on the strength of the first). Neither of these requires an antecedent (“natural”) ground of obligation— as we’ll see, neither *allows* for any such notion. What’s needed, instead, is just this: the rules’ exposition, articulating the practical requirements for peaceable social intercourse, together with demonstration that these same rules yield the proper basis for moral evaluation.

The mistaken presumption about Hobbes’s notion of natural law is just one of several ways in which, I have come to believe, *Leviathan* has suffered rough treatment at the hands of his commentators, including those most disposed to take Hobbes seriously. All too often, scholars who undertake burnish or defend Hobbes’s stature as a philosopher have made it their task to supply him with arguments he must

have wanted to make, though somehow neglecting to do so, or those that he would have made, had he better known his business. There's a curious pattern in the results, despite the variety of competing interpretations over the years. Somehow it always ends up that Hobbes's controversial doctrines hinge on obviously controversial premises (whether political, or moral, or metaphysical) that he somehow never saw the need to justify, or defend—*begging the question*, and leaving it commentators to do his work for him. I suggest—and in the following attempt to show-- that more often than not, the begged questions aren't Hobbes's, but the commentators. Hobbes deserves some of the blame, in failing to make himself clear. But it seems to me that his lack of clarity, characteristically, is of a different sort. The trouble is not that Hobbes was careless with his arguments, presuming too much on his readers' granting his controversial premises. His characteristic failing, as a writer, lay in his presuming too much on his readers' undivided attention, from beginning to end. He presumes on our keeping up with his stipulations, as well as his inferences, from one chapter to the next. Moreover, he presumes on our patience, in not jumping ahead to conclusions. I'd like to suggest, moreover, that the root of the problem is partly was simply that he lacked (through no fault of his own) a sufficiently capacious conceptual vocabulary, to make fully explicit his reasons for adopting a procedure of argumentation that was radically innovative, as the only one suited to his understanding of the twofold problem at the heart of his enterprise: the *moral* predicament that is war, and the moral possibility of peace.

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2. “*War of Every Man Against Every Man*”

περὶ τίνος δὲ δὴ διενεχθέντες καὶ ἐπὶ τίνα κρίσιν οὐ δυνάμενοι ἀφικέσθαι ἐχθροὶ γε ἂν ἀλλήλοις εἶμεν καὶ ὀργιζοίμεθα; ...σκόπει εἰ τάδε ἐστὶ τό τε δίκαιον καὶ τὸ ἄδικον καὶ καλὸν καὶ αἰσχρὸν καὶ ἀγαθὸν καὶ κακόν. Ἄρα οὐ ταῦτά ἐστιν περὶ ὧν διενεχθέντες καὶ οὐ δυνάμενοι ἐπὶ ἰκανὴν κρίσιν αὐτῶν ἐλθεῖν ἐχθροὶ ἀλλήλοις γιγνώμεθα, ὅταν γινώμεθα, καὶ ἐγὼ καὶ σὺ καὶ οἱ ἄλλοι ἄνθρωποι πάντες;

Disputing over what matters would make us angry and hostile toward each other, if we were unable to come to a decision? ...Consider whether these matters are the just and unjust, the beautiful and the ugly, the good and the bad. When we are unable to come to a satisfactory decision, is it not in disputing these that you and I — and all other men — become hostile toward each other, whenever we do?

Euthyphro, 7c-d

When presenting his argument on behalf of the Fundamental Law of Nature, near the outset of Chapter XIV, Hobbes begins by reminding the reader of the preceding chapter’s declaration that “the condition of man... is a condition of war of every one against every one” (xiv.4:64). What we make of this argument depends on what we make of that proposition. What is the problem, for which the exposition of the Laws of Nature contribute toward its resolution? On what grounds— and in what sense— does Hobbes posit “war of every man against every man” as the “ill condition, which man by mere nature is *actually* placed in” (xiii.13.63, emphasis added)? This is clearly not intended as a straightforwardly factual claim, as he readily acknowledges that it might be doubted that there was ever “such a time, nor condition of war as this”— and freely concedes that it was never generally so, all over the world” (xiii.11:94). His famously grandiose comment on the deprivations to be suffered in this condition— “no culture of the earth, no navigation,... no commodious building, no knowledge of the face of the earth, no account of time, no arts, no letters and society” — serves to emphasize its remoteness from familiar experience. He evidently would have it understood that we have (always?) already availed ourselves of the “possibility to come out of” this condition to which he adverts at the close of the chapter (of which reason’s contribution is those “convenient articles of peace,” a.k.a. the Laws of Nature). But

why posit a war of *each* against *everyone* as the natural default? In default of *what*, exactly, does Hobbes offer this as a pithy summation of the human condition?

Hobbes's presentation of the claim, in Chapter XIII, yields the (seemingly) obvious answer: it is only in default of *government* that the war of each against all corresponds to the human condition. This is plain enough from how he responds to the doubt he acknowledges, as to whether the condition ever existed. He (notoriously) claims that "the savage people in many places of America... have no government at all," "except the government of small families, the concord of which dependeth on natural lusts" (xiii.11:63). He alludes to the "manner of life, which men that have formerly lived under peaceful government, use to degenerate into, in a civil war." And he insists that even if "there been any time, wherein particular men, were ever in a condition of war against one another," the proposition finds validation enough in the fact that Kings, and persons of sovereign authority, because of their independence, are in continual jealousies, and in the state and of posture of gladiators, having their weapons pointing, and their eyes fixed on one another; that is, their forts, garrisons, and guns, upon the frontiers of their kingdoms, and continual spies upon their neighbors, which is a posture of war" (xiii.12:63). We might wonder why kings' defending their borders, or even spying on their neighbors, should be taken as sufficient grounds to count their condition *vis à vis* one another as *war*. (I'll be coming back to this.) We might even wonder why this should be seen as a problem, as Hobbes himself notes that "because they uphold thereby, the industry of their subjects, there does not follow from it that misery, which accompanies the liberty of particular men." That aside, it's clear that the bearing of the example on the proposition is the rulers' presumed independence *vis à vis* one another, none being sovereign over its counterparts. And all of this fits neatly with Hobbes's initial formulation of the claim, a bit earlier in the chapter: "during the time that men live without a common power to keep them all in awe, they are in that condition which is called war; and such a war as is of every man against every man" (xiii.8:62).

And yet, is this really so obvious? Yes, Hobbes correlates the natural condition- war of each against all- with the absence of a government; yes, he believes that it is only by submitting to government that people get out of that condition. But what is it that the presence of government uniquely supplies, such that its absence leaves human beings in war- every man for himself- by default? Many readers have come away from the book with the impression that Hobbes simply takes it for granted that government is needful to keep war at bay, simply in deterring men from acting on violent tendencies to which they are naturally given, or to which they are driven in defending themselves against others' aggression. But it's one thing to say that people who live under settled government are generally safer from assault from those who lack that protection, or that government discharges its functions more successfully the more that safety is assured. It's something else to claim that the latter condition is inherently a war of every man against every other.

Why should quarrels arising from competition, or pre-emptive caution, be thought so metastatic as to preclude cooperation or strategic action? Hobbes's account of these, as causes of quarrels, gives no indication why that might be so. Of the first, where the motive is "gain," Hobbes apparently takes for granted that this *isn't* the case: men's relative equality of strength exposes them to potential depredations of others who come "with forces united" against them. Hobbes's characterization of the second cause of quarrel, undertaken "for safety," is explicitly presented as the attempt to answer that danger by marshaling greater *collective* power against it: "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" (xiii.4.61). Readers who are partial to the view that Hobbes conceives the problem of war in terms of strategic insecurity, are tempted to attribute to Hobbes the further thought that security by such means is ultimately unfeasible, making for a volatile disequilibrium as rivals vye for dominion, with new contenders ever on the horizon. But Hobbes doesn't actually say this. And in any case- it's not so clear how that's even relevant. Strategic disequilibrium is one thing; a war of each against all is something else.

A plausibly Hobbesian-sounding sense of the problem might be: universal hostility is simply a natural fact, on account of human beings' naturally antagonistic passions, never far from the surface of any interaction. Or, alternatively (as that sounds a bit much): even if not all human beings are naturally disposed to hostility, you never can tell who you're dealing with. There's a reason why all this sounds plausibly Hobbesian: the first of these is roughly how Hobbes had presented the problem in *De Cive*, in that book's *first* edition; the second is how he amended it (apparently conceding the first version's implausibility) in *De Cive*'s revised edition. It's often been thought that the latter of these, more or less, must be how he understood the problem in *Leviathan*, too. But he says nothing of the sort in chapter XIII.¹² Unlike in *De Cive*, here Hobbes claims neither that hostility is ubiquitous, nor that we lack the means to tell apart potential friends from dangerous enemies. Are we to assume that he merely took it for granted? Is he merely *begging the question*, when asserting that “during the time that men live without a common power to keep them all in awe, they are in that condition which is called war”? If so, that would be no small blunder: for it would mean that *Leviathan*'s entire argument is likewise egregiously question-begging.

I propose, on the contrary, that the stumbling-block lies in our having mistaken the question—in neglecting how Hobbes defines *war*, and its bearing on this vexing assertion that such is the default human condition. That definition comes immediately after the proposition, as its gloss:

WAR consistent not in battle only, or the act of fighting, but in a tract of time, wherein the will to contend by battle is sufficiently known... For as the nature of foul weather lieth not in a shower or two of rain, but in an inclination thereto of many days together, so the nature of war consisteth not in actual fighting, but in the known disposition thereto, during all the time there is no assurance to the contrary. All other time is PEACE. (xiii.8:62)

¹² Even rhetorically, Hobbes's handling of the topic is widely different from what it had been in *De Cive*. In the earlier book, Hobbes makes his case for the undercurrent of hostility and mistrust in all social gatherings, by appealing to worldly experience (implying that none but naifs would gainsay this truth). In *Leviathan*, he goes out of his way to stress the remoteness of the condition he has in mind from his readers' familiar experience. [Yes, I am aware he does make a passing allusion to an experience with which his contemporaries were familiar, “the manner of life, which men... use to degenerate into, in a civil war” (xiii.11:63). What somehow never gets pointed out is how bland this allusion would surely have seemed, to have anyone who had actually lived through a civil war.]

So long as they are known to be *ready* to fight— whether for their safety, or anything else— and so long as they *rely* on this being known— that alone is enough, for Hobbes’s purposes, to *count* it a condition of war. This explains how Hobbes can think it apparent that neighboring kingdoms are indeed always in a condition of war with each other, simply in virtue of their maintaining a “posture of war” toward each other (setting aside, for now, the grounds for ascribing that posture to them, or to anyone). He needn’t suppose that neighboring kingdoms’ “continual jealousies,” as he puts it, are such as to make for outright violence— whether imminently, or eventually. He needn’t suppose that people without government are helpless to deter assault or invasion. He no more need believe this, than he need imagine that kings are incapable of defending their borders, in the absence of a common ruler over them. All of that might be true— and it might still count as war, by his definition. This is his consistent position, throughout *Leviathan*: as he puts it in a later chapter, a state of affairs in which men desist from fighting merely on account of fear is not to be counted as peace, but smoldering war - “they live as it were, in the procincts of battle continually” (xviii.9:91).¹³

This has far-reaching implications for Hobbes’s constructive enterprise, in the chapters to come. In the immediate context, the important thing to see that Hobbes *defines* the condition of war— and, likewise, that of peace— in a manner that in principle resists an analysis in terms of strategic equilibrium. That is, it suggests that the *problem* of war— as a theoretical problem, no less than as a practical one— is not reducible to the problem of violence; nor the problem of peace to the problem of security. If war is defined as a condition of *belligerence*, then the presence or absence of deterrents to violence could hardly be the decisive factor in getting out of that condition: it would just be more war, by other means.

I propose, moreover, that this opens up a fresh possibility, for making sense of the problem of war, as posed in Chapter XIII. As I’ve noted, Hobbes ventures his definition of war as a gloss to his

¹³ As Noel Malcolm notes in the Clarendon edition of *Leviathan* (vol. 2, p. 155 note g.), the now-obsolete word ‘procinct’ denotes the condition of readiness, as for battle, corresponding to the Latin expression *in procinctu*.

proposition correlating the state of war of each against all with the absence of a common power keeping everyone in awe. For reasons too obvious to belabor, we tend to take his word “awe” (which he offers no gloss) to refer to a power to instill fear, sufficient to deter trouble. This is doubtless an element of what Hobbes means by awe, but the statement’s conjunction with the definition of war suggests that it’s not the decisive one, for making sense of his point. With this in mind, we can look with fresh eyes at the way Hobbes first introduces the notion of over-awing power as an antidote to strife:

Again, men have no pleasure (but on the contrary a great deal of grief) in keeping company where there is no power able to over-awe them all. For every man looketh that his companion should value him at the same rate he sets upon himself, and upon all signs of contempt or undervaluing, naturally endeavors, as far as he dares (which amongst them that have no common power to keep them in quiet is far enough to make them destroy each other), to extort a greater value from his contemnners, by damage; and from others, by example. (xiii.5:61)

The passage is hardly unnoticed; the first sentence may rank among the most oft-quoted lines in a much-quoted chapter. But it is usually thought that the point being made in that sentence is sufficiently glossed in Hobbes’s parenthetical comment in the midst of the next one: that the *grief* at issue in the situation described corresponds to the tendency of even the pettiest quarrels to devolve to self-destructive violence, “amongst them that have no common power to keep them in *quiet*” (emphasis added). I propose that Hobbes’s parenthetical comment is no more than that-- an aside, not an explanation. (If no more than an aside, that comment is not even so remarkable, when it is remembered that Hobbes lived in the heyday of dueling.) The potential for violence is merely incidental to his main point, and likewise the quiet enjoyed in its suppression. It’s in the rest of the sentence, outside the parenthesis, that offers the clue to the *grief* Hobbes associates with the situation described: it’s ‘grief’, as in *aggrieved*— the bearing of *grievances*. His way of describing the nature of these grievances is curiously detached, abstracted from the feelings of the parties involved. The dynamic described omits any reference, by name, to the passions by which men are moved to seek redress for their grievances.¹⁴ The word for that is *resentment*. (Hobbes’s era

¹⁴ “Endeavor” is Hobbes’s term of art for “the small beginnings of motion, within the body of man, before they appear in... visible actions”—the impetus for action, hence the most generic term for all manner of passions,

might have used a different word, but the point is that Hobbes opts to use none.) And likewise the manner of redress that is sought is described in a manner that is almost unrecognizably clinical. “Extort a greater value from [one’s] contemnners” means: *get revenge*. And for what? “Signs of contempt or undervaluing”: Hold onto that, for a moment-- mindful of the pattern of abstract under-specification that marks the rest of the statement.

In any case, why should contention of this sort be connected with the absence of an over-awe-inducing power? It might seem paradoxical that that resentment at belittlement (to leave it at that) would find relief in the presence of a superior. I take it that this is the clue for what Hobbes means by *awe*: the capacity to inspire the others’ spontaneous acknowledgment of their relative inferiority, so as to elicit their *unbegrudged* deference.¹⁵ Hobbes offers no further specification concerning the nature or character of said “power,” or the grounds on which the requisite awe might be generated-- and we’d do well to notice this indeterminacy, and resist the temptation to fill in the blanks prematurely. It’s meant as an analytic truth, albeit a hypothetical one: nothing less than this, could be an antidote to the resentment of those who might otherwise be made to feel put-upon. This implies the corollary: any superior power unable to elicit awe, could be expected to arouse resentment. But— given the indeterminacy of the formula—this is nothing more than to say, begrudged power is resented. Which isn’t adding any new information— just pointing to a problem. Hold onto that, too.

The passage just quoted is Hobbes’s account of third of what he afterwards names as the “three principal causes of quarrel” to be found “in the nature of man” (xiii.6.61): the one he calls “glory,” which “maketh men invade... for reputation” (xii.7:61-2). If readers often give it less weight in Hobbes’s analysis than the other two (for which the objects are gain, or safety), the reason may simply be because

appetites, affects” (vi.1:23). So, when he says here, at xiii.5:61, that every man “naturally endeavors...” it translates, roughly, ‘...is moved to’.

¹⁵ Cf. Barker (2017)

Hobbes's summation of the three makes the last one sound merely trifling, by comparison— its objects being “trifles, as a word, a smile, a different opinion, and any sign of undervalue.” But I would like to suggest that this is a misleading index of its importance to his argument. The seeming triviality is no more than an artifact of Hobbes's attempt to characterize this cause of quarrels in a manner that highlights its incommensurability with the other two, while leaving under-specified (for now) the irreducibly *moral* dimension of the type of contention at issue. Read it again: “For every man looketh that his companion should value him at the same rate he sets upon himself, and upon all signs of contempt or undervaluing, naturally endeavors, as far as he dares... to extort a greater value from his contemners, by damage; and from others, by example” (xiii.5:61). To say that men endeavor (albeit only so far as they dare) to repulse “signs of contempt or undervaluing” might be a way of saying, this: they resent the indignity of getting less than their due, demand better treatment than humiliation— and hunger for justice. Not in so many words, obviously. It suffices for now to notice that it might be about that, much as Hobbes's way of putting it makes it impossible to tell whether it is in fact (legitimately) about that.

With a few exceptions, most commentators attach little weight to this third cause of quarrel, in Hobbes's reasons for positing war as the human default condition— and those who have seen more importance in it, have generally supposed that importance to consist in interjecting a further element of strategic volatility.¹⁶ In other words, their readings have remained within the hold of the tenacious assumption that the ultimate problem is the pervasive insecurity and caused by some men's covetousness, and others' anticipatory measures to protect themselves against it. In his remarks on the latter, Hobbes comments that those who seek to assure themselves of safety through “dominion over men” “ought to be allowed” to augment that dominion beyond what would otherwise content them, to ward off the danger of others “taking pleasure in contemplating their own power in the acts of conquest” (xiii.4.61). As I've already noted, Hobbes does not actually say that this makes for strategic volatility—he just says, “it ought

¹⁶ See Slomp (2007), Abizadeh (2011), Field (2014).

to be allowed,” and leaves it at that. Be that as it may. The detail to notice is something else he doesn’t spell out, but puts right in front of the reader. The attempt to seek and gain dominion is presented as a reasonable response to strategic exigency, with no other proviso than the allowance that the pursuit might have to go beyond “modest” bounds, to fend off vainglorious competitors. But Hobbes makes it clear, in his description, that there are other lots of other people involved in this story too—the strategic measure at issue is nothing other than the use of “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 (xiii.4:61). The paragraph ends without any remark as to how the situation might look, from the standpoint of them, the men impressed into service or servitude by their newly powerful master. But it’s the very next paragraph that he brings up that other, incommensurable grounds for contention: the one about men’s natural resentment when treated as less than they think they’re worth.

This, I propose, is the crux of the problem—the predicament implicit in Hobbes’s proposition concerning the natural condition. The war of each against each is not the situation of helpless, atomized individuals, paralyzed by suspicion. And it’s not the situation of strategic disequilibrium either. It’s the situation created by the fact that some men— call them princes—invariably, and not unreasonably, undertake to make themselves masters, simply to make themselves safe (and perhaps others too); if all they have at their disposal is force and fraud—the “cardinal virtues” of war-- they arouse the hostility from those they would master. This carries no implication of danger to themselves, as no reason has been given to think that force, together with wiles (the lion, with the fox) might not be sufficient, for the purpose of making oneself safe. The point of Hobbes’s definition of war is to make that irrelevant to the problem: it’s war, even if it’s all quiet....

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3. “*Seek Peace, And Follow It*”

Remember that we sometimes demand definitions for the sake not of their content, but of their form. Our requirement is an architectural one; the definition a kind of ornamental coping that supports nothing.

—*Philosophical Investigations*, I, no. 217 (85e)

Chapter XIV opens abruptly, with a salvo of definitions. First, without any preamble, the Right of Nature:

“The RIGHT OF NATURE... is the liberty which each man hath, to use his own power, as he will himself, for the preservation of his own nature, that is to say, his own life; and consequently, of doing any thing, which in his own judgment, and reason, he shall conceive to be the aptest means. thereunto” (xiv.1:64).

This is followed by the barest of glosses, indicating that “LIBERTY, in the proper signification of the word, is the absence of external impediments” — leaving unstated what manner of impediments these might be, and hinting that their absence might be relative, or a matter of degree (xiv.2:64). Next, a Law of Nature:

A LAW OF NATURE... is a precept or general rule, found by reason, by which a man is forbidden to do, that, which is destructive of his own life, or taketh away the means of preserving the same; and to omit, that which he thinketh it may be best preserved.” (xiv.3:64).

Unlike the first, this one is followed by not even the barest of glosses on the proper signification of its principal terms in the *definiens*. Instead, Hobbes simply sees fit to note how law (in general) differs from right: “because RIGHT, consisteth in liberty to do, or forbear, whereas LAW, determineth, and bindeth to one of them [i.e., the doing or the forbearing]: so that Law and Right, differ so much, as Obligation and Liberty.”

So- we are left to surmise— a Law of Nature is an obligation, of the sort specified in the definition of one, as the Right of Nature is the liberty specified in *its* definition? (But- why doesn't Hobbes *say* so, or indicate this in the definition, as he'd done with the other?) It would make sense for it to be an obligation, if it's a law, and in that case, Hobbes must intend for it to be understood that a Law of Nature (if it's a law, if there are any such) impedes or restricts the Right of Nature. But what is a *law*, and how is it that a Law of Nature is one? Up to this very moment, the diligent reader of the previous thirteen chapters has been told exactly one thing about law, on the preceding page: "Where there is no common power, there is no law: where no law, no injustice" (13.13:63). It's all very puzzling, really— and curiously elliptical. A Law of Nature is a general rule that is (somehow) discovered by reason, prohibiting acts which are self-destructive, or neglectful of one's safety. Nothing is said about the procedure of reasoning by which such a rule might be discovered, nor the force of its prohibitions. Neither in the statement itself, nor the surrounding passage, does Hobbes explain the sense in which a rule such as this might be counted a species of *law*, nor the grounds for counting it one.

It's not hard to see why these puzzles seldom give readers pause. We see it's a "Law of Nature" being defined, and we take our bearings from that. The term "natural law" has usually been thought to connote a moral rule which has the standing of law universally. which any rational agent has sufficient reason to accept as an authoritative practical norm. With that in mind, the definition is read as the compressed statement of an anterior theory, the details of which commentators then take it upon themselves to work out.¹⁷ From thence, the inference seems only natural, that Hobbes must see these rules' validation to prudential considerations alone— considerations of a kind that might be found

¹⁷ Alternatively, one might read the statement not as a (generic) definition of a law of nature (identified as a rule of the character stated), but the bald declaration of one— announcing the existence of a specific law of nature (perhaps one among others, or maybe just the only one there is), the effect of which is to forbid and enjoin the behavior as stated. I take it that this cannot be correct, for reasons that I hope will be apparent enough from my discussion of the reading I am calling the standard construal.

rationally compelling to a deliberating agent whose sole concern were his own well-being. If one assumes that the purpose of the definition is to supply revisionist content to a more-or-less traditional concept of natural law, then this follows as a matter of course.¹⁸

This construal presumes not only that Hobbes adopted the traditional conception, but that he literally took it for granted—and counted on his readers to do so. This, after all, is a writer who, in this very book, warns against the confusion that comes of passing on, or relying upon, the currency of received ideas—singling out the Scholastic tradition for rebuke and derision in this regard. (iv.13:15). And in any case, the question is not whether Hobbes might have entertained such a notion, but also whether his purpose in this particular statement is to indicate the (sole) grounds for such rules standing as such—the basis of their practical normativity. The statement itself says nothing explicit regarding that matter, just as it leaves unexplained what manner of reasoning is involved in these rules' discovery. The standard construal just assumes that such rules' normativity must be accounted for in the feature picked out in the definition—their concern with things to be done to assure one's survival and safety.

There's no denying that this gives the definition a legibility it would otherwise lack, and it's plausibly corroborated by one or two statements elsewhere (though less decisively so, I believe, than is often supposed. The trouble is that this gain in legibility comes at a cost, the moment we pass from the definition to Hobbes's exposition of the Laws of Nature—starting with the very first one, in the very next paragraph - the rule which he calls the Fundamental Law of Nature.

Consider the argument—the reasoning actually offered, on behalf of that Fundamental Law. Hobbes begins by reminding his reader of the preceding chapter's thesis that the default situation of man is all-out, anarchic war, a situation he now (re-)describes as as one in which “every man has a right to

¹⁸ See, e.g., 119; Barry (1968), 128; Martinich (1992); Murphy (1994), 292; Murphy (200a), 263; Sorell (2007), Irwin (2008), 126-8; Zagorin (2009), 47.

every thing; even to one another's body." He observes that so long as this situation persists, nobody could ever be safe to live out their natural lifespan. He then *immediately* draws this conclusion:

“And consequently it is a precept, or general rule of reason, *That every man ought to endeavor peace, as far as he has hope of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps, and advantages of war.*”

With no further argument, he then declares that “the first branch of [this] rule, containeth the First, and Fundamental Law of Nature; which is, *“To Seek Peace, and Follow it”*; the second, “the sum of the Right of Nature, which is, *By all means we can, to defend ourselves*” (xiv.4.63).

That's it— the whole argument. There are just these three steps: setting forth the problem, announcing this two-branched “general rule of reason”— as if this were plainly inferable from the problem just stated, and then naming one part of this rule— and *only* one part— as the Fundamental Law of Nature. Why so? Why should *this* two-branched rule be inferred from the problem, and why should only the first of its clauses be named as the Fundamental Law? Of the two clauses, only the first is prescriptive (“every man *ought* to endeavor peace”); the latter by contrast is merely permissive, and moreover, residual— pertaining to the case in which the endeavor prescribed in the prior clause is foredoomed, or at any rate hopeless.

Hobbes's differentiation of the two — with respect to their *naming*, at least — is partly explained by a terminological stipulation that had accompanied his preceding definition of a Law of Nature:

RIGHT consisteth in the liberty to do or forbear; whereas LAW determineth, and bindeth to one of them [i.e., either the doing, or the forbearing] (xiv.3:63).

Right is discretionary; law, a stricture, removing discretion. As only the first of the general rule's two clauses is prescriptive, that's the only part that's even eligible to be counted a law. And if that part counts as a law, it makes sense for the other part to be counted the “sum of the Right of Nature.” The Right of Nature — again, by Hobbes's preceding stipulation— is “the liberty each man hath, to use his

own power, as he will himself, for the preservation of his own nature, that is to say, his own life.” The discretion allowed in the general rule’s latter clause is this very liberty — what’s left of it, its *remainder*, when the former clause’s requirement falls into abeyance. In naming the first clause the Fundamental Law of Nature, Hobbes must expect the reader to see- and to grant— that it satisfies the terms of the definition he’s just given of a Law of Nature, much as the latter clause matches the corresponding definition. It’s a general rule the content of which prescribes the avoidance of a situation which, *ex hypothesi*, “there can be no security to any man (how strong or wise soever he be) of living out the time, which Nature ordinarily alloweth men to live” (xiv.4:64). But the question remains: why *this* rule, and not some other?

Why are there no other options? If one’s guiding concern were just to reduce one’s own exposure to violence, why not first focus on how to do *that*, strategically? Granted, no one is strong or cunning enough to neutralize every possible menace, acting alone. But why should it not be the counsel of reason to make oneself safe by altering the situation, by way of shifting the balance of power in one’s favor? To get right down to it: instead of “*Seek peace*,” why not, “*Seek power*?” Why not make it one’s first order of business to “seek all helps, and advantages of war,” as least for as long as there’s hope in *that*? In chapter XIII, he states in no uncertain terms that “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” (xiii.3:61). If he had credited it as the height of reason in chapter XIII, why is it now not even up for consideration, a few pages later? True, a strategy of securing oneself through anticipatory domination would seldom be a realistic option— for most people, most of the time, in that the game of compounding power is ultimately zero-sum (as Hobbes does seem to think). But then why is it not the counsel of reason that one ought to dominate others when it’s feasible, and accede to their domination— make oneself useful to them— when it’s not? (If not “*Seek power*” then why not, at least, “*Seek protection from the powerful*”?)

There's no need to suspect a lurking begged question. The impression of one is only an artifact of mistaking the nature of the problem posed. Hobbes never claims to be reasoning from the standpoint of singular agents, each with no consideration in view but providing for their safety. That merely seems implied, from the definition of a Law of Nature preceding it. It's worth noticing that, although this argument comes close on the heels of that definition, Hobbes makes no reference to it, when posing the problem itself. That is, he *doesn't* say— 'a Law of Nature being a rule of this sort, which are the rules that satisfy the terms of the definition?' He simply re-introduces the preceding chapter's proposition that the natural condition of man is a war of each against all. And even that, as I've argued, is best understood as setting up a problem. So long as every man is governed by his own reason, dominion over others is in principle impossible— because attaining dominion consists in getting other people to be governed not by their reason, but yours. What the argument shows is no more than spell out what was already stated in the previous chapter: In the pure state of war, there would be "no propriety, no dominion, no *mine* and *thine* distinct" (xiii.12.63). This is not a strategic conundrum, but a theoretical aporia— an impasse built into the premise on which the problem was framed. (On a different premise, this particular impasse needn't arise. If one were to start from the premise that rule is the natural, and exclusive prerogative of the nobly born, then perhaps only bar to their maintaining dominion would be their ability to impress their inferiors, whether by force or by wiles.)

How does then does this aporia yield the First Law of Nature? What is the problem, for which "Seek Peace and Follow it" is the solution? The problem is the same as in the preceding chapter: not the insecurity of war (from the standpoint of a single agent) but the problem of war itself, in which- ex hypothesi- the concepts of right and wrong have no purchase. If there is to be a way to get out of this condition (never mind why doing so might be felt desirable), it is one in which there is *some* limiting condition to what people may rightfully do, in pursuit of their safety— or else it's senseless to speak of right at all, it's just war. The only way out of that impasse, is through the introduction of that (hypothetical) limiting condition: that "every man ought to endeavor peace." Not *should*, but *ought*: a

requirement, in relation to which conduct might be judged sufficient or wanting. At this stage in the argument, it's not yet apparent what this requirement might involve, because the concept of peace still lacks determinate content.

What is newly given with the formulation of the Fundamental Law is not the seeking of *peace* (as the means to obtain something else), but the *seeking* of peace (as a requirement for peace's attainment). The priority of peace stands in need of validation; it is given in the preceding chapter's framing of the problem. For there to be any way out of the war of each against all, there must be *some* condition set on the scope of action (and judgment) that people are allowed, and the general form of that condition is that their conduct be consistent with pursuing and following peace, whenever the occasion presents itself. The further Laws of Nature give content to this requirement. But that isn't to say they're directly deduced— as might be expected, were they merely prescribing techniques for obtaining an independently-specifiable object. The derivation of the enumerated Laws of Nature proceed from further reflection on the problem of war, as defined at the preceding chapter.

But this doesn't yet answer the question: why — in what sense — are these rules to be counted *laws*? Can Hobbes have supposed that reasoning of *this* sort can yield conclusively normative practical principles, on that basis alone? Are we to attribute to him the view that rules of peaceable interaction are somehow binding on rational agents? Is *this* what he means, when defining a Law of Nature as a rule “general rule[s], found out by reason”? Some recent revisionist commentators have suggested as much.¹⁹ But we needn't resort to any such notion. Hobbes never claims that these rules' standing as law is explicable on the basis of the features picked out in that initial definition. Oddly enough, he was content to introduce the term “Law of Nature,” without making any attempt to indicate what good reason there

¹⁹ Thus Parietti (2017), in attempting to reconcile the definition of a Law of Nature at xiv.3 with S.A. Lloyd's revisionist interpretation of the Laws of Nature as grounded in considerations of reciprocity. As Parietti notes, Lloyd's own preferred approach to the xiv.3 definition is to ignore it altogether. (It must be said that Lloyd is consistent in her disregard for this portion of the text: she also ignores the Fundamental Law of Nature, taking her bearings instead from Hobbes's account of the Second Law.)

might be for counting these rules as a species of law. Even odder (though the oddities cancel out, on reflection): it turns out that he doesn't *have* a good reason, and is mindful of this, from the start.

It's not until the end of chapter XV— in the very last lines of his two-chapter-long treatment of the topic— that he states this explicitly:

These dictates of reason, men use to call by the name of laws, but improperly... whereas law, properly, is the word of him that by right hath command over others. (xv.40:80).

Commentators have long recognized that his denial of that the Laws of Nature are *properly* laws has primarily to do with his specific conception of law as (rightful) command, elaborated in the chapter on civil law, in *Leviathan's* Second Part— where he will again deny that the Laws of Nature are properly laws, except when commanded by a sovereign. What hasn't been sufficiently noticed, however, is that that this explicit denial, abrupt as it seems, at the end of Chapter XV— is not the first time that Hobbes has indicated that the rules which he chooses to *call* Laws of Nature (*nominally*, such) are at best hypothetical laws, in the only sense of 'law' that ever matters to him. He may well have thought this was sufficiently clear, from those puzzling statements in which his definition was embedded. (It may not have occurred to him that readers would read so much into the definition— such was his assurance in his hold on our undivided attention.) Consider them, again: (1) Liberty “is understood, according to the proper signification of the word, the absence of external impediment, which impediments may [however] oft take away part of a man's power to do as he would...” (xiv.2:64).²⁰ (2) A Law is antithetical to a Right: whereas right is a liberty, allowing discretion; law is a restraint, limiting that discretion (xiv.3:64). So it must be that Hobbes would have readers understand *law* is to be understood as an *external*

²⁰ It's important to see that Hobbes's initial definition of the Right of Nature is a purely formal stipulation, involving no claim whatever as to the scope or priority of the “liberty” at issue. The reason this is not obvious is only that Hobbes waits until the next sentence to mention that the possibility of its being conditioned by external impediments. It's as if one were broaching a discussion of vehicular traffic by first defining “the right of way,” and only afterwards noting that it is subject to as-yet-unspecified limitations. (As in: ‘The RIGHT OF WAY is the liberty each automobile driver hath, to proceed in the direction he might be driving, that is to say his WAY... By LIBERTY is meant, the absence of any traffic regulation to the contrary....’).

impediment in the relevant sense.²¹ The definition of a Law of Nature mentions the limiting effect (in forbidding actions of the specified sort), but gives no information at all as to any sense in which that imposition might be thought *external* to the person subjected to it. (The prevailing construals of the definition give no help here, as it's exceedingly difficult to see how Hobbes could have thought a man's own reasoning, or still less his own desires, to be *external* to himself.) In short: the definition of a Law of Nature leaves unanswered how it is that a rule of the sort described might be understood a species of *law*, in the sense of 'law' that Hobbes brings to the reader's attention at the very moment the definition is given.

The same statement in which Hobbes introduces the antithesis between Law and Right does hint at what form he supposes the pertinent sort of external impediment to take: "Law, and Right, differ as much, as Obligation and Liberty." Yet he conspicuously declines, at this point, to say what an obligation is, or how one might arise. This shouldn't be surprising, in the context: it is precisely this that needs to be elucidated, in resolving the problem he's only just framed. Hobbes knows that these issues are to be addressed in the course of his argument. He will soon enough be clarifying what he means by *obligation*, but he won't be in a position to deal with the rest of it until a later stage of his argument. It will not be until Part 2 that he will be in a position to explain how it is that *laws* might be understood to be obligatory (i.e., how it is that obligations can come in the form of laws), and only then will be in a position to address the as-yet-unspecified conditions under which the Laws of Nature qualify as actual laws. His account will by that point have explained the sense in which the Laws of Nature are *like* laws, even apart from those conditions. He knows he has a long way to go, but he wants to be able to avail himself of the

²¹ This sense of "impediment" would have been familiar to Hobbes's readers, not least from its use in the marriage rite prescribed in the English Book of Common Prayer, in which both parties, as well as those in attendance, are charged with confessing any impediment to the marriage. The accompanying rubric it plain that the sort of "impediment" at issue are ones imposed "by God's law, or the laws of the realm." (Both the rite and the rubric date from the Elizabethan prayer book of 1559; the language was retained unaltered in the revision of 1661.) *Book of Common Prayer* [1559], ed. Boothby (1976), p. 291.

terminology, in advance. So he simply stipulates a place-holder definition of a Law of Nature, purely descriptive in nature— serviceable for the immediate purpose, but deliberately opaque.²²

As I say, the first step toward addressing these issues comes soon enough: just a few paragraphs later in this same chapter, Hobbes clarifies what is meant by obligation, and states how they arise:

“When a man hath... abandoned, or granted away his right; then he is said to be OBLIGED, or BOUND, not to hinder those, to whom such right is granted or abandoned, for the benefit of it” (xiv.7:65).

It’s important to see how this definition differs from those at the start of the chapter: unlike those, it is not merely a terminological stipulation, but a proposition contributing toward the *further* resolution of the problem (i.e., beyond the step which identified the general rule containing the Fundamental Law). Much confusion over Hobbes’s concept of obligation in *Leviathan* can be avoided simply by noting that Hobbes’s interest lies solely in clarifying when it may properly be *said* of anyone, that they are *bound* to do or forbear to do something— that is, deprived any say of their own in the matter. Hobbes takes it for granted that the word ‘obligation’ literally just means to be *tied to* something, as in Latin; and he takes for granted, too, that the word has a valid employment. By Hobbes’s way of thinking, there needn’t be any absurdity in saying that a person’s freedom of action is (truly) restricted by a (true) obligation, just as there needn’t be any absurdity in saying that a fish is not free when caught on a line, or a river no longer free-flowing when dammed.²³ Hobbes’s concept of obligation belongs to a social ontology: The bonds of

²² It’s a bit like Plato’s definition of man as a featherless biped: peculiar only because we tend to expect something more informative from a philosopher, and objectionable only if thought to identify the essence of the definiendum. If the point is just to tell the men from the birds, it does the job well enough. (Cf. *Statesman*, 266e)

²³ Some prominent commentators (notably Quentin Skinner) have been under the impression that Hobbes’s very definition of liberty (“the absence of external impediment”) is reductively physicalist, implying that liberty is unimpeded wherever unstopped by physical barriers or obstructions. This is plainly belied by Hobbes’s own illustrations. This would make nonsense of own illustrations. For instance: “And when we say a gift is free, there is not meant any liberty of the gift, but of the giver, that was not bound by any law, or covenant to give it.” “So when we speak freely, it is not the liberty of voice, or pronunciation, but of the man, whom no law hath obliged to speak otherwise than he did.” (21.2:324). Hobbes requires only that the sense be true to the basic grammar which governs the concept— namely, that the entity at issue be distinguishable as a body (for which movement- an alteration of position, over time- might be predicable). The nature or manner of the body’s constitution or composition is irrelevant; we might- and Hobbes does - speak of a body of water. Correspondingly, the restraint or confinement which counts as a limitation of freedom must come from without— not a matter of the entity’s disposition or constitution. An entity’s freedom, or lack thereof, is a condition of its present situation, vis à vis other persons or

obligation affect one's standing vis à vis others— from *their* point of view (or that of third-party observers).²⁴ But that's not to say it's merely up to them, either, or a matter of customary usages. (If it were so, expectations of deference might be culturally prescribed by tradition: a person might be placed in a condition of unfreedom by another person's say-so.) So the question is, *when* may you say this of people— that is, when you *may* say it of them, consistent with solving the problem as framed, so as not merely to replicate, or exacerbate, the problem as framed. Hobbes's principle here is simple: "there [is] no obligation on any man, arising not from an act of his own" (xxi.10:111). (This statement comes from Part 2, but it merely makes explicit the principle informing his prior introduction of the idea, in chapter XIV.)

Obligations, then, are intelligible only on the condition that they are self-incurred, through engagements— covenants— consistent with the (as-yet indeterminate) requirements of the Fundamental Law. Hobbes introduces this element to his argument with his formulation of the rule that he names as the Second Law of Nature:

That a man be willing, when others are so too, as far-forth, as for Peace, and defence of himself he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himself" (xiv.5:64-5).

The most important thing to understand about this Second Law is that it comes only after the Fundamental Law, as a prescription which specifies part of what it means to endeavor peace.

Commentators have sometimes been tempted to make too much of it— as if it were the essence of Hobbes's recipe, for getting out of the state of war. This impression may be due to the Second Law's

things— irrespective of its potential capacity to alter that situation (e.g., to escape confinement, or otherwise obtain release). In the same sense that a person who is under arrest, legally, is not free to depart from the police station, even if the door is wide open, so too, a person who is subject to the laws of the land is not free to violate legal ordinance

²⁴ Among Hobbes's recent commentators, Arash Abizadeh has done the most to clarify that that Hobbes's concept of obligation is intelligible not from the standard of the singular deliberating agent, but in the expectations created for the party to whom the debt is incurred. Abizadeh (2018), *passim*. Where I depart from Abizadeh has to do with fit between Hobbes's operative concept of obligation and his doctrine of the Laws of Nature. Because Abizadeh interprets the latter on traditional lines, his insight into Hobbes's concept of obligation has the effect of severing the two.

reference to the laying down of the “right of all things”, which might be thought to imply that the situation remains as it was at the outset. Not so. The Fundamental Law would not deprive anyone of the right to any *thing*; it just sets a formal condition on *how* one comports oneself— i.e., in a manner consistent with the seeking and following peace. Nothing has yet been said about what implications this might have for the use of *things* (including “one another’s bodies,” xiv.4:64), so it still makes sense for Hobbes to suppose that the right to all things still remains, in the absence of covenants. But that isn’t to say that it is only with the formulation of the Second Law that the problem as framed at the chapter’s outset (and the preceding chapter) begins to get solved, nor that it’s only *through* the Second Law, alone, that the problem gets solved, for it alone can account s neither for the First, nor the next Seventeen Laws of Nature, all which are derived from the First.²⁵

This bears some emphasis, to dispel a frequent confusion. Hobbes obviously does see the practice of covenanting as key to the problem’s ultimate, complete solution. But it’s crucial to see that the solution *isn’t* encompassed within the formulation of the Second Law’s prescription. The requirement spelled out in the Second Law would be fully satisfied by the readiness to enter a *truce*, when met with others likewise ready to do so. A truce comes with no guarantees — it lasts exactly so long as the parties choose to honor its terms, which simply expire on the suspicion of a violation. Among would-be parties to peace, a truce is simply a step toward alleviating mutual fear and limitless recrimination. Honoring the requirements of the Second Law does not make anyone any safer, except in the sense it formulates a norm whereby men of good will are not necessarily doomed to remain forever at odds. Nothing is said about any mechanism to deter any party’s breach of such an agreement, nor of any authority with power to adjudicate and punish alleged violations. Nor is anything said of any provision for concerted collective

²⁵ To be sure, the Third Law of Nature is occasioned by the Second, in that it prescribes the keeping of covenants — on the grounds that otherwise “covenants are in vain, and but empty words... and we are still in the state of war” (XV.1:71). My point is just that this, like the Second Law itself, is a step toward giving determinate content to the Fundamental Law, not from the Second Law alone. Tempting though it might be, it would be senseless to say that the reason why promises in general are to be kept is that people made a promise to keep them; Hobbes is not guilty of doing this. (Cf. Rawls (1971), 350, for discussion of this confusion in relation to H.A. Prichard.)

action of any kind among the parties concerned. Those omissions are no unintended oversights on Hobbes's part. The Second Law is far more complex and elaborate than the corresponding rule in his earlier books, and some care must have gone into its formulation. He *wants* to leave the question of government out of the picture, at this stage of his argument.

The Second Law prescribes only the *readiness* to enter covenants, so far as they deem needful for peace, and their own safety, should they meet with others prepared to do likewise, on the condition that all accept the same limitation. The mention of the parties' interest in their own safety as a factor in this should not be mistaken for a sign that the prescription owes its rationale in prudential, or strategic considerations. Just the opposite is the case: just as with the reasoning leading up to the Fundamental Law, no account is taken of the parties' relative power. The only relevant consideration, in sizing up one's fellows, is their *attitude*. It is thus Hobbes takes a first step toward answering the question implicit in the Fundamental Law: when is there hope for peace, as to to enjoin the seeking of it? The Second Law's contribution toward answering this lies in the prescription itself: the prescription pertains, when met with others who show themselves ready to follow it, too. Other people's readiness to follow the rule is the sole datum for judging its applicability. Or, to put it another way: the rule itself is offered not merely as guidance for how to act peaceably, but as the standard for judging others' peaceableness.

This same pattern runs throughout Hobbes's exposition of the further Laws of Nature. In answer to the question: when is there hope for peace? the Laws of Nature give a consistent answer: the rules are conditional on finding oneself dealing with other potential partners in peace. Thus, for instance, the Sixteenth Law, prescribing recourse to arbitration for settling disputes, envisages a dispute between two parties *both* of whom are amenable to resolving the dispute, and prepared to accept whatever decision is handed down (without consideration of the parties' relative power, or their relative stake in the question, and also without any mechanism for enforcement) (15.30:78). Throughout Hobbes's sole to showing that the conduct enjoined by each of these precepts is conducive to peace, and its opposite

destructive of it. His attention lies chiefly with the latter: in nearly every case, his point is that the breach of the rule tends to undermine peace: either by vitiating some practice essential to it (mutual covenanting, recourse to impartial arbitration), or else simply by inciting others' hostility or mistrust. With none of these rules does Hobbes seem especially concerned to with benefits or harms that might accrue to an agent for adhering or violating. His concern is simply to explain why the misbehavior proscribed is inimical to peace — and is *open to blame* for that reason. The Fifth Law, *Complaisance*, calls for accommodating others (when no vital needs of one's own are at stake); those who fail to this are “guilty of the war that is to follow” (xv.17:76). The Sixth, *Pardon*, calls for forgiving the offenses of those who repent (when safe against future offenses); to refuse, “is sign of aversion to peace” (xv.18:76). The Eleventh, *Equity*, requires those entrusted to arbitrate among disputants are to deal impartially with all parties concerned; to do otherwise is to “deter men from the use of judges, and arbitrators; and consequently (against the fundamental law of nature) is [to be] the cause of war.” (Notice that this is itself a *moral* designation: to be a “cause of war” — a *causa belli* — is to incite others' hostility.)

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4. “All Men Agree on This, That Peace Is Good”

“The absolute philosopher said, or at least thought, of himself — of course, as a thinker and not as a man — *La vérité, c’est moi*, in a way similar to the saying, *L’état, c’est moi* of the absolute monarch, and the saying *L’Être, c’est moi*, of the absolute God. The human philosopher, on the other hand, says: even in thinking and in being a philosopher, I am a man among men.”

-Feuerbach, *Principles of the Philosophy of the Future*²⁶

Chapter XV encompasses Hobbes’s account of the seventeen Laws of Nature that come after the Second. Scholars usually refer to these by the ordinal numbers assigned to them in the accompanying marginal subheads—and there’s no reason not to, as those are Hobbes’s as well, and it matches his language in the main text (although only up to the ninth, after which he stops counting, apart from the marginal subheads). That said, it’s worth noting that Hobbes himself never cites them by number, when referring to them afterward. Instead, he prefers to call them by the particular names he assigns to them: *Justice*, for the third, “*That men perform their covenants made*”;²⁷ *Gratitude*, for the next, “*That a man who receiveth a benefit of mere grace, endeavor that he which giveth it, hath no reasonable cause to repent him of his good will*” (15.16:77); *Modesty* for the tenth,²⁸ “*That at the the entrance into conditions of peace, no man require to reserve to himself any right, which he is not content should be reserved to every one of the rest*” (15.22:77); *Equity*, for the eleventh: “*if a man be trusted to judge between man and*

²⁶ no. 61 (trans. Vogel)

²⁷ For my immediate purposes, I set aside a special complication connected with Hobbes’s use of *Justice* in conjunction with the Third Law. On the one hand, he plainly does identify the term with the rule, in that he defines injustice as “no other than the not performance of covenants,” adding “whatsoever is not unjust, is just” (15.2:71). But then he immediately introduces a restrictive qualification—unique to chapter XV, but consistent with the thesis already set forth in chapter III— that the terms just and unjust have no sense in the absence of coercive power (15.3:71-2). His explanation (drawing on the preceding chapter’s discussion of covenants) seems to imply that he would restrict the term only to covenants of a certain type, i.e., those covenants of mutual trust that cannot be valid in the absence of a coercive power to ensure the other party’s compliance (so that neither party is excused from complying out of reasonable fear that the other would not). This is consistent with his usual use of the terms ‘just’ and ‘unjust’ in part 2, and (as I hope will be clear from my argument in this paper) there are reasons for this. Nonetheless, there are certain contexts in which he uses the word, *Justice*, to stand for the content of the Third Law, more generally.

²⁸ The marginal subhead names this rule negatively, “Against Arrogance.” In the text itself Hobbes writes, “The observers of this law, are those we call Modest; and the breakers, Arrogant men.” He subsequently refers to “Modesty” as one of the Laws of Nature (at xv.40:80).

man, it is a precept of the Law of Nature, *that he deal equally between them*” (15.23:77). And so forth, for the whole series. To be sure, the pattern does not always hold, in the rules’ exposition. For some, he gives a name only for the violation— for instance, *Contumely*, the “breach” of the eighth of his rules, “*That no man by deed, word, countenance, or gesture, declare hatred, or contempt of another*” (15.20:76). There are others, especially near the end, for which no such term is supplied, either way. My point is just to draw attention to the way Hobbes subsequently uses these names to stand for the rules, both specifically, with reference to particular rules, and also illustratively, for the series— as when he speaks, in a key passage at the end of chapter XV, of “*Justice, Gratitude, Modesty, Equity, Mercy, and the rest of the Laws of Nature*” (15.40:80). The locution is characteristic of him, in his subsequent references to the Laws of Nature in *Leviathan*. The statement from which I’ve just quoted is of special interest in that regard, because it’s there that Hobbes first states explicitly what’s at stake for him, in his use of these names. Here’s a bit more (though still not the full statement): “*Justice, Gratitude, Modesty, Equity, Mercy, and the rest of the Laws of Nature are good, that is to say, moral virtues, and their contraries, vices, evil.*” It’s an interesting question, why he waits so long— until the very end of the chapter, after nonchalantly availing himself of these terms from beginning to end— to say this, and even more interesting, what argument he offers in support of the claim. I’ll be coming to that, in a moment. But first, we’d do well to get clear on some more basic issues. What might Hobbes mean, in calling the Laws of Nature *moral virtues* and *vices*? And what importance might it have, in relation to his larger argument?

To start with the latter: there’s a clear reason to suspect its importance, in the immediate context, but a bit hard to know what to make of it. Hobbes ventures this claim (i.e., that the Laws of Nature *are* the moral virtues) as his proximate grounds for a much grander one: that “the true doctrine of the Laws of Nature [i.e., his own], is the true moral philosophy” (15.40:80). (As I say, I’ll get to the rest of the argument, leading up this claim, in a moment.) But then again, it’s not so obvious why this might matter, or whether it adds anything of much weight, coming as it does at the end of his account of the Laws of Nature. It might well seem redundant, or at most ancillary. Isn’t it already enough, to have expounded a

doctrine of the Laws of Nature, the correctness of which Hobbes shows no sign of doubting, for that to count as the true moral philosophy? (Shortly before this, he has declared that “the Laws of Nature are immutable and eternal” [xv.38:79]— that’s not enough, already?) Or, if it isn’t enough, might this be just a little extra, of recondite topical interest?

Such an impression is understandable, perhaps even unavoidable— *if* one comes to this point in the text thinking that Hobbes’s project in these chapters is as (seemingly) advertised, i.e., to expound a doctrine of natural law, of the old-fashioned type (but for the new-fangled tweaks). If we dispense with that, the significance of this passage comes into sharper focus. As we’ve seen his argument throughout chapters 14 and 15 has merely *called* these rules laws, and treated them *as if* they were laws, for the purpose of his exposition of them. He had his reasons for this (much as we may regret his lack of clarity on the point): the problem, as he’s framed it, calls for the clarification of the sense in which living in peace requires the rule of law, but before he can explain how law is possible, he first must explain what it is *like* (formally, but with respect to its *content*). Here, in this passage, he goes further. His argument serves to clarify the *moral* salience of these rules— the sense in which these rules (and rules consistent with these) are the only ones morally possible, as standards for *judging* human conduct (i.e, the conduct of *others*). This has a twofold significance for his project. First, it goes a further step toward elucidating what laws must be like, in order to resolve the problem of war— not only with respect to their content, but now also with respect to their function. Second, it clarifies the sense in which these rules’ moral salience is not dependent on their operation as laws, a fact of great importance to Hobbes’s later political doctrine. It is as *virtues* and *vices* — or, more precisely, the rules by which they are measured—that Hobbes conceives the practical bearing of the Laws of Nature apart from the condition of subjection to law (26.4:138). This is of crucial importance in the construction of Hobbes’s political doctrine (for reasons to be explored in the next section).

Now to the other, elementary question: in what sense, and with what connotations, does Hobbes use the terms *virtue* and *vice*? Just as with his use of the term ‘Law of Nature,’ we need to take care not to read too much into it. Among the few commentators who have given much attention to this, there has been a pronounced tendency to suppose that his usage signals a broadly Aristotelian conception.²⁹ This temptation is understandable, as it’s true enough that Hobbes’s canon of virtues overlaps with Aristotle’s, and the paragraph itself contains at least one allusion to Aristotle’s *Nicomachean Ethics*. And— as in the case with the Law of Nature— this lends his statements a familiarly philosophical legibility. But in this case too, I want to suggest that the legibility comes at a very high cost. It should hardly need pointing out that the word was by no means exclusive to Aristotle, or his disciples. (For one thing, Hobbes is known to have read at least one philosopher who was demonstrably untouched by that tradition, namely Plato.) In *Leviathan*, Hobbes defines the term as follows:

“Virtue generally, in all sorts of subjects, is somewhat [i.e., some quality]³⁰ that is valued for eminence, and consisteth in comparison. For if all things were equally in all men, nothing would be prized” (8.1:32).

This use of the word *virtue* is not unrelated to Aristotle’s *aretê*— it’s the same concept, just as Aristotle’s was the same as Socrates’, and Plato’s: a species (or aspect) of human excellence. There’s no need to interpolate the specific Aristotelian way of conceiving those qualities, their acquisition, or discernment.³¹ Nor should we assume that Hobbes is asking the same questions that Aristotle did, in generating that

²⁹ See, e.g. Boonin-Vail (1994), Rutherford (2015).

³⁰ The word “somewhat” in this statement is used in the now-obsolete original sense still current in Hobbes’s era - denoting an unspecified kind of thing or quality (much as ‘somewhere’ denotes an unspecified place, and ‘somehow’ denotes an unspecified manner.) O.E.D., s.v., n., 1b

³¹ It would be easy enough to show that this generic sense of ‘virtue’ is consistent with ordinary English usage at the time Hobbes wrote. But it’s also worth noting that the generic indeterminacy is entirely in keeping with well-known philosophical precedents, with which Hobbes was conversant: to see this, one need look no further than to the use of ἀρετή in Plato’s “Socratic” dialogues – see, for instance, Apology, 20a-c, Protagoras, 329c, etc. What makes these so-called “Socratic” dialogues especially instructive in this regard, is that in those works it is indisputably the case that the generic meaning of the term – a good human quality - is taken for granted, in the context of (hence, antecedent to) posing the question as to the nature or basis of such qualities, the criteria by which they are known, or the concomitants of their possession. If this is less apparent in Plato’s later works, or in Aristotle’s, that is only because in those works the authors’ particular theory of virtue tends to predominate. One might perhaps say that Hobbes’s concept of virtue is not far from Aristotle’s, but one cannot infer from this any commonality in their respective, (theory-informed) conceptions.

conception. And that's just as well— because, as we'll see, Hobbes's argument militates against all of that, as a matter of principle.

Now to the argument: It begins with a definition of moral philosophy: “nothing else but the science of what is good and evil, in the conversation and society of man-kind” (15.40:79). Hobbes then remarks on the variousness of men's judgments of good and evil, generally, and the basic reason for that variousness: “Good and Evil, are names that signify our appetites, and aversions, which in different tempers, customs, and doctrines of men, are different.” Hobbes then notes that this diversity extends not only to what men find pleasing, but also to what they deem “conformable, or disagreeable to reason, in the actions of common life.” Not only that, but such judgments are as mutable as various - “nay, the same man, in diverse times, differs from himself, and one time praiseth, that is, calleth good, what another time he dispraiseth, calleth evil.”

If we have Aristotle on our minds, we might notice that Hobbes's argument up to this point is indeed curiously reminiscent of Aristotle's approach to the human good, in the *Nicomachean Ethics*— or fragments of it, anyway. An inquiry is opened (albeit implicitly, with the definition of moral philosophy as a science of the specified sort), concerning the good “in the conversation and society of mankind.” Note is made of the fact that the question is answered variously by different people, depending on their tempers and circumstances. After a glancing regard for differences in men's pleasures, the argument homes in on “the actions of common life.” And then comes a curious (and otherwise mysterious) bit about how the bestowal of praise or dispraise is (somehow) sensitive to contingencies of the moment. I won't press to hard on this as a deliberate allusion to Aristotle (if anything, I suspect it's a parody); my point in drawing attention to the echo is just this: if this *were* Aristotle, we could guess what comes next: the task would be to sort through this profusion of variousness, to get on with the inquiry— distinguish the noble from the base, the apt from the incontinent, all that.

Instead, we get this, summing up the situation: “From whence” — i.e., from this endlessly variable, mutable flux of judgments—“arise disputes, controversies, and at last war.” *War*. And then, immediately, an inference is drawn:

And therefore so long a man is in a condition of mere nature (which is a condition of war), as private appetite is the measure of good and evil.

We needn't stumble over the Latinate syntax: the initial “so long” goes not with the clause that immediately follows, but the subsequent one. Recast in modern English word-order, the sentence would read: a man is in the condition of mere nature (which is the condition of war), so long as private appetite is the measure of good and evil.³² The phrase “private appetite” might give pause, but its gist can be gleaned from the way Hobbes ventures the proposition on the strength of the preceding (“And therefore...”). The situation that Hobbes has just been describing—whereby men's judgments are as various as their tempers and situations, whatever these happen to be— is what it would be to take “private appetite” the measure of good and evil; so long as this holds, they cannot but find themselves interminably at odds—the condition of war. And from this— with no further steps— he comes to his conclusion:

And consequently all men agree on this, that peace is good, and therefore also the way, or means of peace, which (as I have showed before) are Justice, Gratitude, Modesty, Equity, Mercy, & the rest of the Laws of Nature, are good; that is to say, *moral virtues*; and their contrary, vices, evil.

Notice: *consequently*. Somehow this *follows*, from the preceding. Point (a): individuals' judgments of good and evil are infinitely various and discordant; thence is war. Point (b): “all men agree on this, that peace is good.” How does Hobbes get from (a) to (b)?

³² In the corresponding passage in the (subsequent) Latin text, the statement reads: “Quamdiu ergo homines privati Boni & Mali mensuram faciunt, tamdiu homines sunt in conditione Belli omnium contra omnes” (243). Noel Malcolm, the Clarendon editor, registers this as a textual variant: “as private men make the measure of good and evil, men are in the condition of war of all against all.” But the Latin is ambiguous: ‘privati’ might go not with ‘homines’ but with ‘Boni & Mali’, in which case the sentence would have much the sense as the English. Malcolm's rendering admittedly sounds congenial with Hobbes's political doctrine, but introduces an element otherwise absent from the passage, obscuring the argument's intended structure.

Commentators addressing this passage typically resolve the seeming disparity by surmising that Hobbes must believe — and would have it understood — that this discordant variety in what men deem good and evil is neither so profound, nor so interminable, as he initially makes it sound.³³ Some have thought that his argument depends on his positing an underlying uniformity to what everyone, after all, truly *prefers*, the discordant variety of their judgments notwithstanding. Thus Jean Hampton’s gloss on the statement: “Peace is, in [Hobbes’s] eyes, a ‘real’ common good insofar as it actually does lead to the furtherance of what people desire most — their self-preservation.”³⁴ Others have suggested that whether or not Hobbes imagines that men’s desires are in fact so uniform as all that, he supposes that peace is what every individual rationally would do well to favor, all things considered, were they to recognize their best interest, and take due stock of their prospects.³⁵ Of these two variants, the latter has the advantage of not so egregiously disregarding Hobbes’s stated emphasis on the sheer diversity in what different men find desirable. But, like the other, it attributes to him the intention to rest his stated conclusion on a complex of claims he has somehow failed even to mention, let alone defend. Neither here, nor elsewhere in *Leviathan*, does he state that in general aversion of war exceeds men’s other appetites and aversions— nor gives any reason why it might, or should.³⁶ He says nothing here of the perils of war, nor the misery suffered therein. He offers no metric for ranking or aggregating desires, nor any calculus for discounting them against the cost or the difficulty of their fulfillment. To suppose his conclusion depends on such things amounts to supposing he neglects to make any argument at all.

³³ One exception is Ludwig (1998), 232-3, and *passim*.

³⁴ Hampton (1986), 46. See also Hampton (1992), 336.

³⁵ e.g., Blau (2016), 212.

³⁶ In a prior chapter, Hobbes had explicitly included the preference for peace as one of the things about which men differ, depending on their tempers and circumstances. “Needy men, and hardy, not contented with their present condition; and also, all men that are ambitious of military command, are inclined to continue the causes of war (xi.4:48). This observation is offered without any suggestion that such persons are mistaken to see their advantage in this. Within chapter XV itself, he remarks that “most men choose rather to hazard their life, than not be revenged” for an insult (xv.20:76); says this without the least indication that such a choice should be discounted as perverse or misguided.

All of these readings presume that when Hobbes says that “all men agree on this, that peace is good,” what he means is that everyone, on balance, *favors* peace— or, at least, would do so if they reckoned the balance correctly. This flies in the face of everything he has just said in the preceding sentences. He has stated in no uncertain terms that there is nothing consistent or uniform in what men deem desirable or repugnant. It’s hard to see how he can have stated this so categorically, while also assuming – and counting upon his reader to assume, with him – its ultimate falsity. It would be no less incongruous for him to be arguing that men (*all men?*) can escape this cacophony, by dint of prudence or temperance. He has just stated in no uncertain terms that so long as men’s judgments of good and evil have no other measure than their own “private appetite,” they can get nowhere than war. He had made a point of including, among the factors making for this impasse, men’s differences over “what is conformable, or disagreeable to reason.” Can he have really counted upon his readers to infer that this impasse is to be overcome through judiciously *weighing* those same appetites, on the basis of their private reasoning?

Hobbes never claims (not in *Leviathan*, anyway) that moral philosophy is a science of desire-satisfaction, nor one of or well-being (taking men singly, or in aggregate). “Moral philosophy is nothing else but the science of what is good, and evil, *in the conversation and society of mankind*” (xv.40:79, emphasis added). The question with which he’s concerned is not, ‘what do all men desire, most of all (or have reason to deem most desirable, duly reckoning their wants and aversions, all told). But rather, this: what is properly “the measure of good and evil,” with respect to - consistent with - the furtherance of human social intercourse. So there’s no need to supply him with unstated lemmas as to the (circumstantial, contingent) reasons as to why men in general might favor peace over strife, on balance. What men *prefer* – individually, or in aggregate – is irrelevant. What matters is simply that war, *as such*, is incompatible with social intercourse— the strict antithesis of “the conversation and society of man-kind.”

Here, as before, the state of war is simply the limit-case of irreconcilable differences, intransigent *disagreement*. Hobbes needn't imagine that disputes such as this invariably come to blows, nor that conflict in general tends to be so calamitous for those involved as always to outweigh the attractiveness (to them) of the things over which they condemn. None of that is at issue. When he says men's differences over what to call good and evil makes for "disputes, controversies, and at last war," his point is that the terminal case *would* be inevitable, *if* we were left to nothing but our individual judgments as to what is fine, or fitting, or rational ("conformable or disagreeable to reason in the actions of common life"). Had we nothing else but this, we would be consigned to perpetual discord, idiotic bickering, with no way to resolve our differences but the sway of the strongest and stubbornmost. But that isn't the case—and Hobbes never said that it was. He takes for granted that "conversation and society" are manifestly within the range of human capacities. So there must be, within human reach, some *other*, alternative principle, beyond the haphazard vagaries of every man's personal judgment, from which to take our "measure of good and evil" — upon which the impasse of disagreement might be escaped. How, then, is agreement in principle in possible? Upon what principle might men *ever* agree — any men, or all, as the case may be? On *this*: "that peace is good."

The point being made has nothing directly to do with peace finding favor with men on the whole, or at large. Whether or not men *prefer* peace to war is irrelevant, as is whether they have reason to find it advantageous. The point is just that living peaceably — the practice of social intercourse, "the conversation and society of man-kind" — is possible only insofar as that practice's constitutive requirements are acknowledged good, by whoever might care to take part.

As a retrospective validation of his exposition of the Laws of Nature, this argument is instructive for what it shows of Hobbes's understanding of his procedure in that exposition. In propounding the various rules, he has freely availed himself of the traditional lexicon of moral praise and blame, stipulating the meaning of these terms with reference to his various specific rules. These assignments are

roughly in line with the terms' traditional senses, but Hobbes makes not attempt to justify the stipulated usage. It's only here, at the completion of the series, that he verifies that the qualities named— thus defined— are indeed moral virtues, on the strength of their correlation with the essential, constitutive norms of peaceable social intercourse. Thus the argument serves not only to validate his conclusions, but to vindicate his method— as the *only* valid procedure for moral philosophy.

The critical edge of the argument becomes explicit- though only briefly- at the paragraph's end, when Hobbes underlines his advance over predecessors. The virtues and vices named in his doctrine are same as the ones “the writers of moral philosophy” acknowledge, yet they fail to see “wherein consisted their goodness; nor that they come to be praised, as the means of peaceable, sociable, and comfortable living.” (In Hobbes's time, the word ‘comfortable’ still carried the primary sense of ‘giving comfort’— the provision of succor or support, *hospitality*.³⁷) Failing that, they “place them [i.e., the virtues] in a mediocrity of passions, as if not the cause, but the degree of daring made fortitude, or not the cause, but the quantity of a gift, made liberality” (15.40:80). The last bit is usually— and, no doubt, correctly— seen as a disparagement of Aristotle's doctrine of the mean. On its face it appears a crude pot-shot, oblivious to Aristotle's nuanced sense of... well, nuance. But it takes on a larger significance, in conjunction with his diagnosis of the more general failure for which he takes the notion of finding virtue in a “mediocrity of passions” to be symptomatic. The point is that Aristotle & co. actually just had no idea what they were talking about, in identifying the virtues. Not seeing the grounds (the “cause”) of virtue, they sought the criteria in what we might call the ‘objective’ features of action— forgetting, to quote Hobbes's pithy formulation from an earlier chapter, that “these words of good and evil, and contemptible, are ever used with relation to the person who useth them, there being nothing simply and absolutely so, nor any common rule of good and evil, to be taken from the nature of the objects of the the

³⁷ According to the Oxford English Dictionary, the word didn't acquire its now-dominant sense of “a state of tranquil enjoyment and content; free from pain and trouble; at ease” until the latter half of the eighteenth century. O.E.D., s.v. I., 7, 10; see also ‘comfort’, n., I., 6. ‘Comfortable’ amplifies ‘sociable,’ as ‘sociable’ amplifies ‘peaceable’, heightening the sense of a spirit of amity.

things themselves”(vi.7:24).³⁸ That statement (from the chapter on “Passions”) is notorious, and often thought to bespeak a radical subjectivism about judgments of value. I propose, however, that this an error- which comes of failing to read it in light of the subsequent argument we’ve been examining (an error compounded by the fact the argument is too often read in light of the presumed implications of the earlier statement). Hobbes doesn’t say that there *can never* be “a common rule of good and evil,”— only that there can’t be one taken “from the objects themselves.” Admittedly, this earlier formulation gives little hint of where else “a common rule of good and evil” might be taken from. But this is because he hasn’t gotten there yet- it’s not until the end of chapter XV that he’s in a position to clarify.³⁹ it’s not that moral judgments are merely subjective; it’s that the pretense of objectivity is no more than that, as a basis for resolving disagreements-- and if you’re not mindful of this, you literally don’t know what you’re talking about, in professing to speak about morals. Not because it’s dumb, or irrelevant: because it’s obnoxious, *offensive*.

Granted, this is more than Hobbes says in this one passing allusion to Aristotle (et al.). Perhaps he didn’t intend to say that much, with that one comment. My point is just that this would be the implication of his own argument, validating his own method of ethics, if taken seriously. Moreover, it dovetails neatly with his one explicit mention of Aristotle in these chapters, when discussing the ninth of his Laws of Nature, “against Pride”:

³⁸ I say forgetting, because the first part of this statement, about the relativity of such judgments to the person making them, corresponds to an observation of Aristotle’s own, *On The Soul*, III.7, 431b1-12. I suspect (though I cannot prove) that this passage in Aristotle may lie in the background to Hobbes’s version.

³⁹ What Hobbes says instead, by way of anticipation, is that “men disagreeing” may consent to “set up, and make his sentence the rule thereof [I.e., good and evil].” The point of this becomes clear only through the exposition of the Laws of Nature, of which the prescription to submit to disputes to arbitrator arbitrator is the sixteenth; its full significance only through the further argument we’ve been examining.... I offer this observation in response to Richard Tuck’s suggestion that the passage reveals skepticism about moral judgments, together with a prudential interest in avoiding troublesome quarrels. Once again— this has the effect of making Hobbes out to be crudely begging the question (again, and again). Why submit to an arbitrator? Why not negotiate, taking the parties’ relative interest in the particular question into account? (Note that the passage comes long before there’s been any mention of war, or competition, or insecurity.)

I know that Aristotle, in the first book of his *Politics*, for a foundation of his doctrine, maketh men by nature, some more worthy to command, meaning the wiser sort (such as he thought himself to be for his philosophy), others to serve (meaning those that had strong bodies, but were not philosophers as he), as if master and servant were not introduced by consent of men, but by difference of wit, which is not only against reason, but against experience. (15.2:76)

The reference is of course to Aristotle's teachings on natural slavery, in the *Politics*; latter-day champions of the *Nicomachean Ethics* might dismiss it as a cheap shot for that reason (on Hobbes's part, or mine). But it's worth noting that Hobbes doesn't make the point specifically about slavery, but *command*, and the criticism is not that Aristotle misapprehended the distribution of the pertinent capacities for ruling among the population at large (say, by mistaking their correlation with physical traits, or confusing his judgment of their manifestation through cultural biases). No: the criticism is that Aristotle presumed to take himself, and men *like* himself, as the standard, when posing the question of worthiness. And the important thing to see here is how deeply this cuts. The principle here is spelled out in statement to which the passage just quoted is a comment: "*The question of who is the better man*, has no place in the condition of mere nature, where (as has been shown before) all are equal" (15.2:76). (What else is Aristotle's ethical project, but the posing of this very question?)

The problem isn't that Aristotle's ethics were marred by his snobbery, but that his mode of inquiry inevitably generates obnoxious answers. How else is one to judge "wit"— call it *phronêsis*— except by presuming the fitness of one's own? There might be no harm in it, were there nothing further at stake in moral judgment than the pursuit of felicity. But for Hobbes – in the world as Hobbes sees it – the stakes are inevitably, and necessarily, higher than that. A standard of good is also a standard of evil, applied in one's judgments of others. A private standard of virtue and vice, thus applied, is a license for treating one's fellows with untoward prejudice, which may in turn be found insulting or offensive by them. Passing judgment on others' character and behavior is in many circumstances a morally relevant act, and it is positively offensive -- obnoxious to social intercourse -- to treat others with contempt or hostility.

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5. “*Properly Laws*”

In his making his case for counting his doctrine the true moral philosophy, at the end of chapter XV, Hobbes’s argument prescind entirely from the question of the standing of Laws of Nature as laws: their designation as such is incidental to the argument. It’s probably no accident, then, that right *after* this argument— in the chapter’s very last lines— that Hobbes ventures to remark on the impropriety in these rules being called laws:

These dictates of reason, men use to call by the name of laws, but improperly: for they are but conclusions, or theorems, concerning what conduceth to the conservation or defense of themselves, whereas Law, properly, is the word of him, that by right hath command over others. (XV.41:80)

It’s a nice touch (‘nice’, in the sense of *hilarious*), for Hobbes to be so nonchalant in mentioning this, as if he himself had not calling them this for the prior two chapters. But it makes sense for him to think he owed the reader a clarification— in light of the preceding, and in preparation of what is to come. (I hope I’ve made it clear, by now, why needn’t read much into his reference to these rules’ concern with “what conduceth to [men’s] conservation or defense.” This is no more intended as an explanation of these rules’ normative basis than his initial definition of a Law of Nature had been. It’s just what’s left of that definition, corresponding to the part that had (nominally) been about *nature*, i.e., life [cf. 14.1:64].).

By this point, at the end of chapter XV, Hobbes has gone a long way toward resolving the problem initially posed, in chapter XIII. He has shown how it is that human beings needn’t be at a loss to tell obnoxious behavior from that which is merely distasteful— hostility, from mere diffidence. For this very reason, he has gone a long way— although only implicitly— toward clarifying what law in general— the *rule* of law— would have to be *like*, if it were to answer to the need for it posited in the

problem's framing. That alone would be enough to bear out one half of his claim— sixteen chapters later, at the end of Part 2— to have “put into order, and sufficiently, or probably proved, all the theorems of moral doctrine, that men may learn thereby, both how to govern, and how to obey” (31.41:193). The *first* half: how to govern. *There's no other way it can be done*— absent this, pretended attempts to uphold social order are *properly* to be seen, by those imposed upon, as no better than acts of hostility.⁴⁰ Thus we see the truth in Michael Oakeshott's perception that the Laws of Nature express “the intrinsic character of law,” and the cogency of David Dyzenhaus's explanation of the grounds for Hobbes's thesis that the Laws of Nature are inherently part of any commonwealth's civil laws- but for this, the administration of law would be indistinguishable from obnoxious impositions.⁴¹

And yet— that isn't to say that the problem as posed in Chapter XIII is resolved, even theoretically, at the end of Chapter XV— for precisely the reason to which Hobbes adverts, in the chapter's last lines: he hasn't yet shown how law is humanly (morally) possible. The Laws of Nature clarify the sense in which living in peace is intelligible only as a form of living together that is normatively constituted — that is to say, with reference to normative expectations, in relation to which people's conduct might properly be found sufficient or wanting. But, on the other hand— those same Laws of Nature make it very hard to see how anyone could ever presume to demand others' deference, even for the purpose of upholding that same form of life. However desirable government may be— even from the standpoint of furthering peace— nobody (whether a single man, or a clique, or a like-minded multitude— is ever in a moral position to require others' to accede to *their* government, or to fault them for failing to do so, merely on the pretense (no matter how nobly intended) that peace would be furthered

⁴⁰ “Act of hostility” (and “hostile act”) is Hobbes's own term for the pretended use of coercive public power, inconsistent with the Laws of Nature (xxviii.5-7:162, 11-13:163, 22:165). See Dyzenhaus (2001), 470; Yates (2014), 248.

⁴¹ Oakeshott (1983), 152; Dyzenhaus (2022), *passim*. See *Leviathan* zzi.8:138.

thereby. Peace *wouldn't* be furthered thereby- just the contrary. It would be the very disease for which it purports to be the cure.

As I've noted, Hobbes has already introduced a key element toward breaking this impasse, namely, the concept of obligation, whereby people might of their own accord confer upon others the right to presume upon them (take liberties, as it were) in ways that would otherwise just be offensive. Late in Part 2, when Hobbes finally gets around to discussing the nature of law, Hobbes builds this into his definition: "Law in general, is not counsel, but 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" (xxvi.2:137). His point in defining law as command, in contradistinction to counsel, is to make the point that its claim on the subject's attention is not conditional on the subject's approval; those under a law's jurisdiction are expected to do as prescribed, irrespective of their opinion of whether it's needful or advantageous to themselves. But in order to operate as a law, it must be addressed to persons *already* obliged to obey; otherwise it's just shouting, which anyone might freely shrug off (and reasonably resent). As there can be no natural grounds for assigning duties of deference to people (at least where deference to other human beings is concerned), the subjects of law must have incurred the obligation themselves— "there [being no obligation on any man, arising not from an act of his own" (xxi.10:111). In short: the problem of peace will find its complete resolution only in Hobbes's account of the institution of a commonwealth, whereby the subjects sign over their right to govern themselves to the commonwealth's sovereign (xvii.13:87).

But that's not enough. It remains for Hobbes to account for the grounds upon which an obligation of this kind might reasonably have been undertaken. We might think of this as the *moral* burden it is incumbent on Hobbes to discharge, in accounting for the possibility of legal obligation. For reasons that I hope I've made clear, the answer cannot lie in citing the achievement of peace that is served under such an arrangement.⁴² If people have incurred the obligations, it has to be for some further reason— some

⁴²Nor can it lie in merely citing the subjects' effective acquiescence. To be sure: acquiescence is sufficient, as

reason of their own, *beyond* what is otherwise reasonable to expect. And there's only one thing that could be, by the terms of the problem Hobbes has framed: their own interest in their safety. (Remember: it is only would-be rulers' acknowledged interest in *their* safety— their own, and the safety of those they call their own— that makes “dominion” both a practical issue, and a moral problem, from the start.) Thus: “The final cause, end, and design of men (who naturally love liberty, and dominion over others) in the instruction of that restraint upon themselves (in which we see them live in commonwealths) is the foresight of their own preservation, and of a more contented life thereby” (XVII.1:85).

Needless to say, this has far-reaching implications for *Leviathan's* political doctrine. My concern in the present context is just to situate that doctrine, as elaborated in the book's Second Part, in relation to the moral philosophy presented in the First. The important thing to see is how Hobbes's theory of political obligation— that is to say, his doctrine of civil sovereignty— presupposes his account of the Laws of Nature, while also involving further considerations. There *can* be no Law of Nature prescribing submission to government— that's *why* Hobbes posits subjects' interest in their self-preservation as the “final cause, end, or design” in relation to which that submission is to be understood (XVII.1:85). Subjects' duty of deference to the sovereign's laws is conditional on the sovereign's ability to protect them, because it's only thus that the obligation is morally intelligible. By the same token, that protection can only take the form of a law-governed civil order, consistent with the Laws of Nature, for the obligation to make any sense.

This, then, is how Hobbes can suppose that the Laws of Nature indeed are properly laws, for anyone belonging to a commonwealth, “as soon as” the commonwealth is settled. For anyone subject to legal jurisdiction of law, the Laws of Nature are actually laws, and there can be no laws inconsistent with

grounds to impute the acknowledgment of an obligation. But this only makes the theoretical problem that much more morally fraught: the obligation must be morally intelligible, both in itself, and also in relation to the conduct taken to betoken its acknowledgment. Just as you can't go around demanding people to do things you have no right to expect, you also can't go around claiming their behavior implies a promise they had no good reason to make— nor one that they had no good reason to think that their conduct implied.

them. The *only* difference this makes is that, as with all law, it means that deference is due to the sovereign—and none but the sovereign—in fully specifying their requirements, and ensuring compliance with them. This makes it possible to resolve allegations of wrongful misconduct, without merely devolving to acrimony. For various reasons internal to Hobbes’s concept of sovereignty Hobbes insists that a sovereign cannot be bound by the laws of the commonwealth. This has often been thought to leave an unaccountable hole in Hobbes’s doctrine, leading readers to wonder what he can mean (or whether he can mean it) when he says that the sovereign is bound by the Laws of Nature as much as anyone else. That’s an interesting question, for a number of reasons. (Foremost among those reasons: the last line of chapter XV, left untouched in my account.) But it’s not clear that it need be a pressing question, philosophically speaking—or practically speaking, either. Whether or not the sovereign is “bound” by the Laws of Nature in any strict sense their moral salience in assessing a sovereign’s conduct is the same.

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