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Susanne Sreedhar

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Introduction

Many of the philosophical problems that were raised by Thomas Hobbes in the founding moments of modern political theory remain alive today; however, his solutions to these problems have been universally rejected. Because it is almost always characterized as an endorsement for overarching state power and a prescription for virtually unconditional obedience to the will of the great Leviathan, Hobbes's project appears to have little to offer to those interested in the limits of governmental authority and individual rights – the hallmark tenets of contemporary political theory. Thus, Hobbes's philosophy has been largely dismissed as lacking relevance in the current intellectual and political climate; and with few exceptions, his views have been relegated to the status of historical artifact – Hobbes is not seen as potential ally or even interlocutor.

In spite of its prevalence, this dismissal of Hobbes is much too hasty. It is based, at least in part, on the widely accepted but deeply mistaken view that Hobbes makes no interesting contributions to the debates concerning the limits of a person's obligation to obey the law. On the question of political resistance, the exclusion of a Hobbesian perspective is particularly acute: he is not taken seriously even as a potential opponent of those seeking to defend resistance to state power. Yet, a careful examination of his corpus reveals that Hobbes has an innovative and intriguing account of the instances in which resistance is justified. He argues that some resistance rights are inalienable and that there are some situations in which people are not obligated to obey the laws of their political community. This book is a comprehensive investigation of this largely neglected aspect of Hobbes's work.

Hobbes's insistence that subjects retain some rights to resist the sovereign appears to stand in stark contrast to his commitment to the necessity and desirability of absolute sovereignty. The idea that defying the Leviathan state could be legitimate seems self-contradictory. I argue that this apparent inconsistency yields a pair of interpretive puzzles that must be addressed when considering Hobbesian political theory. As it

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turns out, the Leviathan is constructed to withstand subjects who would defy it.

The first puzzle derives from the fact that Hobbes's account of the range of resistance rights that are retained by subjects, including his defense of the underlying principles from which these rights are derived, is unclear at best, and downright baffling at worst. Hobbes claims that subjects in a commonwealth retain a right of self-defense. However, his conception of the right to disobey – or resist – the sovereign goes far beyond the oft-recognized right to defend oneself against an imminent, deadly threat. Hobbes argues that subjects have the right to resist arrest and to avoid being drafted into the military; and, perhaps more surprisingly, he argues that subjects retain the right to disobey the dictates of the sovereign even when neither their lives nor their security are threatened. He extends a right against self-incrimination to allow for the protection of anyone whom the subject loves or upon whom the subject depends; and he allows subjects to disobey some commands they find simply dishonorable. These facts force consideration of two interrelated questions: on what grounds is the narrow right of self-defense predicated; and how can this far broader set of resistance rights be derived, *as Hobbes claims they are*, from the narrow right of self-defense? It seems that there is an obvious gap between the justification of the right to resist an immediate attack on one's person and the justification of the right to protect others or to protect one's reputation. This apparent gap is the first interpretive puzzle that I tackle in this book.

This puzzle arises because Hobbes's argument for the right of self-defense is dubious and he then simply asserts an entailment between the right of self-defense and the corollary set of retained rights. Much worse, he devotes very little time to explaining or defending many of the broader resistance rights that he posits. So, in the first half of this book, I attempt to shed light on those issues where Hobbes appears to have left only darkness. I demonstrate that, despite the apparent confusion, a coherent narrative can be recovered by a careful analysis of the texts. I demonstrate that a plausible interpretation – one that eliminates these ambiguities – can be defended, and I argue that Hobbes should thus be seen as advancing a *theory of resistance rights*.

This brings us to the second interpretive puzzle, which concerns the relationship between Hobbes's theory of resistance rights and the fundamental philosophical and practical goals of his political theory, namely, the justification of political absolutism and the prevention of rebellion. How can Hobbesian subjects be understood to authorize any adequate sovereign, let alone one with unlimited and undivided power, if they

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always retain the right to act against that sovereign when they judge necessary? How can Hobbes purport to maintain a staunch prohibition on rebellion when he gives subjects the right to join with others against the sovereign to protect themselves?

These questions arose naturally for Hobbes's original audience, and, indeed, assumed special importance given the uncertain and tumultuous political climate of the times. The seventeenth century witnessed a series of challenges to monarchical rule, and notions of inalienable rights and self-defense against tyranny were often invoked in the defenses of rebellion that proliferated throughout Europe during this period. In the debates surrounding the English Civil War, the parliamentarians and their followers used this rhetoric to justify deposing and executing King Charles I. Hobbes's endorsement of absolute monarchy and his forceful arguments against rebellion meant that he tended to be unpopular in this camp. On the other side, those committed to the royalist cause opposed any attempt to accuse or punish the king. Monarchs, many argued, were accountable only to God; and absolutism was taken to be incompatible with allowing for *any* rights that could be enforced against a sitting ruler. Hobbes's royalist contemporaries, thus, charged him with unwittingly undermining his antirevolutionary goals by incorporating inalienable rights – traditionally the tools of those trying to limit state power – into his broader philosophical project. Indeed, in 1658, Bishop Bramhall famously accused *Leviathan* of being nothing more than a “*Rebells catechism*.”¹ It is no surprise, then, that Hobbes is typically seen as advancing a view that was not appealing to anyone in the debate.

More recent philosophical analyses of Hobbes's philosophy have typically ignored his complicated views on the right to disobey the sovereign; furthermore, in those instances where this issue has been addressed in any detail, Hobbes's views tend to be disparaged or criticized. For example, in one of the strongest critiques, Jean Hampton famously argues that Hobbes's articulation of resistance rights is the Achilles heel of his political theory because resistance rights directly contradict his account of absolute sovereignty.²

In the second half of this book I demonstrate that Hobbes's theory of resistance rights is not only *compatible with* his justification for absolute

¹ John Bramhall, “The Catching of Leviathan, Or the Great Whale” in *Leviathan, Contemporary Responses to the Political Theory of Thomas Hobbes*, ed. G. A. J. Rogers (Bristol: Thoemmes Press, 1995), 145.

² Jean Hampton, *Hobbes and the Social Contract Tradition* (Cambridge University Press, 1986), 197–207. Also see Hampton's “The Failure of Hobbes's Social Contract Argument” in *The Social*

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sovereignty, but, in fact, *required by* that justification. Yet, Hobbes might have had compelling reasons for not providing a more clearly developed defense of his theory of resistance rights. Insofar as *Leviathan* was intended to serve as a pedagogical tool, providing instruction to subjects regarding the duties of obedience, a full elaboration of the theory of resistance rights might have been either superfluous or outright dangerous. Nevertheless, to the extent that he justifies obedience by appealing to people's rational self-interest, some discussion of the limits of obligation was required. Ultimately, Hobbes manages to co-opt and quarantine the idea of inalienable rights in a way that both acknowledges these rights and prevents them from being used as a rhetorical foundation for rebellion in a stable political regime. Thus, it will become clear that Hobbes's views on the rights of subjects are far more interesting and complicated than has been recognized. Revisiting the Hobbesian project in light of this fact seems to call for a thorough reassessment of his work and, ultimately, its legacy for modern political philosophy.

In Chapter 1 I discuss the starting point of Hobbes's account of political resistance – his description of, and arguments for, the existence of an inalienable right of self-defense. I begin by laying out the central features of Hobbes's notion of self-defense and his general theory of rights. I then present the “standard interpretation” of his arguments for this right, according to which Hobbes grounds the right of self-defense in two arguments, which I call the “conceptual impossibility” and the “psychological impossibility” arguments. Both arguments are unavoidably problematic for reasons that are discussed, making it necessary to look for other Hobbesian resources to establish the right of self-defense. My strategy

Contract Theorists: Critical Essays on Hobbes, Locke, and Rousseau, ed. Christopher Morris (Lanham, MD: Rowman & Littlefield, 1999), 41–58. It should not be surprising that this issue has received very little attention in contemporary Hobbes scholarship, especially in comparison to other aspects of his work. Most studies of Hobbes's philosophy mention that Hobbes makes an exception in his account of political obligation for the right of self-defense; but they do not concern themselves either with the details of his arguments for that right or with the broader account of resistance that he derives from it. The oversight is understandable; Hobbes spends relatively little time on the subject, and many of his remarks – at least on the surface – are so odd and quirky that they appear to discourage further investigation. Indeed, in some cases, authors will pause to express puzzlement or skepticism at Hobbes's strange views before they move on. Finally, those who attempt a thoroughgoing analysis of this issue almost always conclude that Hobbes's account – either in part or in whole – simply does not work. For another staunch critique of this particular aspect of Hobbes's thought, see Gregory S. Kavka, *Hobbesian Moral and Political Theory* (Princeton University Press, 1986), especially chapters 8 and 11; and George Kateb, “Hobbes and the Irrationality of Politics,” *Political Theory* 17, no. 3 (1989), 384–387. There are, of course, complications and exceptions to these trends, many of which will be discussed in the proceeding discussion.

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of analysis is twofold. First, I distinguish the social contract from other contracts. Second, I uncover and articulate three Hobbesian principles of covenanting that make it the case that the right of self-defense cannot be alienated in the social contract. I call these principles the “reasonable expectations principle,” the “fidelity principle,” and the “necessity principle.” These principles provide conditions that, Hobbes insists, must be met in order for a putative covenant to be valid – in other words, to succeed in actually imposing obligations on the parties to the covenant. On my interpretation, subjects in a commonwealth retain the right of self-defense because they cannot make a valid covenant to transfer that right when they enter into the social contract; any such covenant would violate all three principles.

In Chapter 2 I continue this analysis with a careful examination of Hobbes’s corollaries to the right of self-defense – what he calls the “true liberties of subjects” – which are comprised of various resistance rights, including the right to resist arrest, corporal punishment, and imprisonment; the right to refuse to give incriminating testimony against oneself or certain other people; and the general right to refuse “dangerous or dishonorable commands,” including the right to resist a military draft. The details of Hobbes’s discussion at first seem disconnected from one another and from the rest of his theory; however, I show that when correctly understood they form a unified whole. I also illustrate how the framework presented in Chapter 1 (defined by the reasonable expectations principle, the fidelity principle, and the necessity principle) is implicit in Hobbes’s discussion of the true liberties of subjects. Taken together, then, the first two chapters provide a strong case for the existence of a coherent theory of resistance rights in Hobbes’s philosophy.

The second half of the book locates this newly articulated theory of resistance rights within Hobbes’s larger project. In Chapter 3 I address the question of whether his seemingly broad set of resistance rights is consistent with his insistence that the political sovereign enjoy absolute authority. My strategy is to revisit Hobbes’s notion of political authority by employing the conceptual framework of the contemporary philosopher Joseph Raz. Raz’s analysis of authority is particularly helpful in clarifying Hobbes’s picture, and the Razian concept of “exclusionary reasons” provides a new way of understanding and framing Hobbesian resistance rights. Additionally, it helps to answer the most well-known and well-articulated objection to Hobbes on this point, namely, Hampton’s accusation that Hobbes’s resistance rights bring about the downfall of his entire justification for sovereignty.

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In Chapter 4 I take up the issue of the right of rebellion in particular. I argue that given Hobbes's general position on the right to resist, there must be, in some sense, a Hobbesian right to rebel. However, this right – correctly understood – is consistent with Hobbes's various prohibitions on rebellion. A close look at his views on rebellion reveals that he was only concerned to prohibit certain *kinds* of rebellions, what I call, "ideological rebellions." He can, and indeed he must, allow subjects to organize against their political rulers under certain conditions of necessity. Thus, what at first seems to be an especially anti-Hobbesian conclusion turns out to be compatible with the central tenets of his political theory – including his conception of the purpose of sovereign authority and his diagnosis of the causes of political conflict. Ultimately, Hobbes's recipe for preventing rebellion should be understood to include as much, if not more, guidance for the sovereign on preventing rebellion as guidance for the subjects not to rebel.

One final point must be made. The methodology employed in developing the arguments of this book is a method of *interpretation*, not of *reconstruction*. Hobbesian arguments, grounded in rational reconstructions that attempt to make Hobbes's views more amenable to contemporary philosophers, have played a prominent role in a certain segment of Hobbes scholarship.³ In contrast to this trend, the goal of this book is to construct the most plausible and most accurate interpretation – i.e., closest to the text – of Hobbes's views on political resistance. Thus, although I argue that Hobbes's political philosophy should be understood to include a theory of resistance rights, I do not provide an independent defense of that theory. To put the point another way, I provide a defense of the theory on Hobbesian grounds, but I do not defend those grounds themselves. Nevertheless, recognizing the nuances of Hobbes's approach has significant implications for how we locate him both in relation to his philosophical and political contemporaries, and also in the context of current debates over state sovereignty, individual rights, and political resistance. In my analysis, it becomes clear that Hobbes's theory is rich in resources for those working on issues of political obligation – even if, to many, it most usefully serves as a challenge to be answered.

³ Though others have followed suit, Kavka is likely the original and the most well-known example of this kind of scholarship; see his *Hobbesian Moral and Political Theory*. For a more recent example of the rational reconstruction approach, see Peter Vanderschraaf, "War or Peace?: A Dynamical Analysis of Anarchy," *Economics and Philosophy* 22, no. 2 (2006), 243–279.

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CHAPTER I

Hobbes's right of self-defense

Questions about the nature, origin, and limits of political obligation are brought to bear in a particularly poignant way in the story of the death of Socrates. In the famous dialogue, *Crito*, Socrates wrestles with the question of whether his obligation to obey the laws of his government extends to an obligation to inflict a death sentence upon himself. Socrates concludes that he *is* obligated to obey, and so he refuses to escape when given the chance, and willingly drinks the hemlock the next morning.¹ The philosophical case was not closed with Socrates' death, however, and the question of his putative obligation has been a subject of much subsequent debate in political philosophy.

Although we would not characterize it as such today, Socrates' case falls squarely within the realm of Hobbes's conception of the right of self-defense, in which Hobbes insists that subjects never have an obligation to obey a command to commit suicide. The goal of this chapter is to defend a particular interpretation of Hobbes's *arguments* for the existence of the right of self-defense. I begin by laying out the central features of this right, as Hobbes conceives it, and highlighting the uniqueness of Hobbes's theory of rights in general.

DEFINING HOBBS'S RIGHT OF SELF-DEFENSE

Hobbes never gives a precise definition of the right of self-defense, but one can be inferred from the various examples he gives of its exercise. Hobbes

¹ Other commentators have used the example of Socrates in the *Crito* as a way of introducing or illustrating Hobbes's account of justified disobedience to the law. See, for example, Larry May, "Hobbes on Fidelity to Law" in *Hobbes on Law*, ed. Claire Finkelstein (Burlington, VT: Ashgate, 2005), 397–409; and Alice Ristroph, "Respect and Resistance in Punishment Theory," *California Law Review* 97 (2009), 601–632. For those interested in this aspect of Hobbes's political philosophy, the choice of text is not surprising. The *Crito* explores the nature and scope of political obligation, framed in terms of consent, and it does so in the specific context of the condemned man's obligation to submit to – and even inflict – his own death sentence. It thus serves as a natural foil to Hobbes's discussion.

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primarily conceives of the right of self-defense as a *subjective, permission* right retained by subjects in a commonwealth and exercised in the form of disobedience or resistance to the commands of a sovereign power. One of the examples he uses most often is that of a convicted criminal either resisting the imposition of the death penalty or disobeying a command to commit suicide. He repeatedly insists that, “if I am told to kill myself, I have no obligation to do so.”² In fact, as we shall see in the discussion to follow, by Hobbes’s account, not only was Socrates under no obligation at all to drink the hemlock, he would have been justified in killing his guards if doing so was necessary for his escape. Furthermore, according to Hobbes, one may permissibly defend oneself against attacks from other citizens if the help of the law is unavailable; this is how we usually think of the legal use of self-defense.³

Hobbes makes it clear that the right of self-defense can be exercised even in the absence of a direct attack. One can permissibly break the law in order to procure the necessities of life. In an especially perspicuous passage, Hobbes explains saying,

If a man, by the terror of present death, be compelled to do a fact against the law, he is totally excused, because no law can oblige a man to abandon his own preservation. And supposing such a law were obligatory, yet a man would reason thus: *If I do it not, I die presently; if I do it, I die afterwards; therefore by doing it, there is time of life gained.* Nature therefore compels him to the fact.⁴

If a person needs to do X in order to survive – that is, without doing X, she will die – she has a right to do X. If a subject is starving, she has the right to do whatever she can to alleviate this condition. If she steals food, for example, she has not committed an injustice, even though she broke the law.⁵ In sum, the right of self-defense can best be characterized as the *right to take whatever actions one judges necessary to avoid an immediate threat of death.*

² *De Cive*, 6.13. This claim is reiterated, often verbatim, in a number of other places; see *De Cive*, 21.12, 21.14 and *Leviathan*, 14.29, 21.14–15. Hobbes’s works are cited by chapter and paragraph number using the following editions of his texts: Thomas Hobbes, *The Elements of Law: Natural and Politic*, ed. Ferdinand Tönnies (London: Frank Cass, 1969); Thomas Hobbes, *On the Citizen* [*De Cive*], ed. and trans. Richard Tuck and Michael Silverthorne (Cambridge University Press, 1998); Thomas Hobbes, *Leviathan with Selected Variants from the Latin Edition of 1668*, ed. Edwin Curley (Indianapolis, IN: Hackett, 1994); Thomas Hobbes, *De Homine in Man and Citizen*, ed. Bernard Gert (Indianapolis, IN: Hackett, 1991); and Thomas Hobbes, *Behemoth, Or The Long Parliament*, ed. Ferdinand Tönnies (University of Chicago Press, 1990). I have retained the original spelling, capitalization, punctuation, and italics.

³ *Leviathan*, 27.24. ⁴ *Leviathan*, 27.25.

⁵ Hobbes’s position on this issue was not unusual. This necessity rule, or something like it, was endorsed by most in early modern Europe; see Stephen Buckle, *Natural Law and the Theory of Property: Grotius to Hume* (Oxford: Clarendon Press, 1991). Present-day legal systems also tend to

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Strictly speaking, then, “right of self-defense” is a bit of a misnomer, because the right Hobbes has in mind does not always involve *defense against attack*. Hobbes clearly believes that there is some kind of basic and inalienable right to save oneself from death possessed by subjects in a commonwealth. Although this right is sometimes invoked in cases where the threat of death does not come from a physical attack (e.g., starvation), Hobbes most often conceives of it as a right to defend oneself from attacks by other people. So, for simplicity’s sake (and to follow commentators’ usage), I refer to this right as the right of self-defense, although strictly speaking, it would be more accurate to refer to the “*right to save one’s own life*.”

In Hobbes’s theory, the right of self-defense is a remnant of the natural right that people give up when they leave the state of nature and enter civil society. In *Leviathan* Hobbes introduces the right of self-defense in Chapter 14, “Of the First and Second Natural Laws and of Contracts.” The chapter begins with Hobbes’s well-known definitions of the “right of nature” and the “law of nature” followed by a clarification of the difference between a right and a law. He then explains why our natural rights are so extensive and reiterates his claim from the previous chapter that the state of nature is a state of war. After a powerful statement about the imperative of laying down one’s natural rights in order to secure peace, he *immediately* makes the qualification that “Not all rights are alienable,” explaining that “a man cannot lay down the right of resisting them that assault him by force, to take away his life.” Similarly, as soon as Hobbes introduces the conceptual machinery of contracts and covenants (the means by which rights are given up), he insists, “A man’s Covenant not to defend himself is void.”⁶ References to the inalienability of the right of self-defense and the impossibility of valid agreements to give it up are frequent in both *Leviathan* and the earlier work, *De Cive*.⁷

Perhaps the most important feature of the right of self-defense is its status as a *retained* right. As I understand it, Hobbes’s right of self-defense

recognize conditions of necessity as possible excuses or mitigating circumstances for some crimes. Hobbes stands out from among this relative consensus, however, because he often conflates self-defense with conditions of necessity. That is, he did not take the *source* of a threat to one’s preservation to be the defining factor. The danger posed by threats of violence from the state, i.e. state-inflicted punishment, is treated in the same manner as the danger in threats of violence from private individuals, and even the danger posed by lack of food or medicine. In each case, the subject has the *same* right to protect herself from an imminent threat.

⁶ *Leviathan*, 14.8, 14.29.

⁷ In *Leviathan*, 14.18 he alludes to “the right (he can never abandon) of defending his life.” In *De Cive*, 2.18, he says: “No one is obligated by an *agreement* he may have made not to resist someone who is threatening him with death, wounds, or other bodily harm.” These kinds of claims

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is first and foremost a right possessed by a particular group of people in a particular condition, namely, subjects in a commonwealth. Hobbes emphasizes the retention of the right of self-defense in the social contract, the contract in which people undertake their obligations of obedience to a sovereign. Indeed, the majority of Hobbes's descriptions of, or references to, the social contract include the right of self-defense proviso. For example, in *Leviathan* Hobbes says, "In the making of a Commonwealth, every man giveth away the right of defending another; but not of defending himself." Similarly, in *De Cive*, he describes the social contract as a contract in which every person agrees "not to resist the will" of the sovereign "that is, not to withhold the use of his wealth and strength against any other men than himself (for he is understood to retain the right of defending himself against violence)."⁸ This latter passage is an especially good example, because we see Hobbes describe the act of submission to the sovereign as involving an agreement of nonresistance, immediately adding the qualification about the retention of the right of self-defense. Hobbes's right of self-defense is fundamentally a right of *resistance*, although in Hobbes's theory, resistance is understood quite broadly; resistance to the sovereign's will includes simple noncompliance, or the mere refusal to obey, his commands.

Importantly, the right of self-defense is not by any means the *only* right subjects retain in the commonwealth; Hobbes also affords them the right to protect themselves from certain sorts of nondeadly harms. He at times conflates the narrow right of self-defense with these broader rights of self-protection, speaking of them together in one breath. On a number of occasions we find Hobbes referring to the right not only to defend one's life but also to defend one's "limbs," "body," or "liberty" (and sometimes he even adds phrases such as the entirely unclear "means of living").⁹ These broader rights are discussed at length in Chapter 2; indeed, part of the project of this book is to show how all of Hobbes's retained rights are of a piece. For the sake of clarity, and because I intend to discuss each right in detail, I set these additional rights aside for the moment and focus exclusively on the most narrow, and also most fundamental, right: the right to save one's own life in the face of an immediate threat of death.

are ubiquitous with very similar, sometimes verbatim, wording. Though not anywhere close to an exhaustive list, further representative examples can be found at *Leviathan*, 14.8, 14.29, 14.30, 21.11–14, 27.20, 28.2; and at *De Cive*, 2.14, 5.7.

⁸ *Leviathan*, 28.2; *De Cive*, 5.7. Interestingly, Hobbes omits this qualification in the official description of the social contract in *Leviathan*, 17.13.

⁹ See, for example, *Leviathan*, 14.18, 27.24.