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# PARADOXES OF HOBBESIAN SOVEREIGNTY

## Abstract

In the lifetime of Hobbes, it was Pascal who focused most on the paradoxes of human reason, and on the tension between civil laws and universal moral law. A framework for examining Hobbes's political philosophy can be established through a reading of Pascal' thought, before a detailed discussion of De Cive and Leviathan takes place. The comparison of the two texts by Hobbes will aid the task of detecting whether Hobbes himself was aware of some of the problems in his theory, and revised the text of De Cive in order to either resolve these problems or draw attention away from them.

**Key words:** Hobbes, Pascal, Sovereignty, Law, Justice, Paradox, Natural, Civil, Divine, Force

Hobbes can be situated in relation to Pascal, not with regard to considerations of influence, but in seeking illumination through the similarities in their thought and what Pascal makes of similar problems. Pascal, like Hobbes, notes the difficulty in basing civil law on natural law. Natural law is what we try to find in justice, but there are three possible sources: the legislator's authority, the sovereign's interest, present custom.

> Doubtless there are natural laws; but good reason once corrupted has corrupted all. [...] The result of this confusion is that one says the essence of justice is to be the authority of the legislator, another the interest of the sovereign; another, present custom, and this is the most sure. Nothing, according to reason alone, is just itself, all changes with time. Custom creates the whole of equity, for the simple reason that it is accepted. It is the mystical foundation of its authority; whoever takes it back to its principle destroys it. (*Pensées* V 294, Brunschwig edition, translated by W.F. Trotter)

Pascal puts custom above the interest of the sovereign and the authority of the legislator which might seem to distinguish him from Hobbes, whose central task is to explain and justify the 'artificial man' who

is the sovereign and legislator, and who has the power to enforce sovereignty and its laws (Copp 1980; Skinner 1999). Hobbes rejects the idea that law could be founded on custom rather than the power of the sovereign. However, the difference is not so great, because, as becomes apparent in fragment 298, Pascal believes that the only source of justice, as we can know it in society, is force. What he means by custom is the legitimacy laws acquire for citizens over time as they become used to laws and the body which creates and enforces them. The ellipsis I left in the quotation from fragment 294 above is where Pascal quotes Cicero, Seneca and Tacitus on the lack of justice in law. Hobbes regards Cicero, Seneca and other ancient thinkers, as threatening the overthrow of the sovereign from the point of view of natural law. Pascal quotes from them to support the argument that in the absence of natural law, of pure justice, we can only obey the sovereign as the source of those laws we have. That is the basis of social existence and we must obey if we are to avoid the great evil Pascal identifies in fragment 320 as civil war.

> *Justice, force*. – It is right that what is just should be obeyed; it is necessary that what is strongest should be obeyed. Justice without force is helpless; force without justice is tyrannical. Justice without force is contradicted, because there are always offenders; force without justice is condemned. We must then combine justice and force and, for this end, make what is just strong, or what is strong just.
> Justice is subject to dispute; force is easily recognised and is not disputed. So we cannot give force to justice, because force has contradicted justice and has declared that is she herself who is just. And thus, being unable to make what is just strong, we have made what is strong just (*Pensées* V 298, Brunschwig edition, translation by W.F. Trotter, slightly modified)

Force is what ends the disputes about what is just, so that pure justice loses out to 'tyranny' (Derrida 2002). The only justice we can have in practice is that enforced by the sovereign. The removal of that force would lead to clashes about what justice, or natural law is, before even considering questions of conflicting interests. As Pascal notes, the sovereign has an interest which may motivate the civil laws we have, but however impure the motives are, this justice of the force of the sovereign is preferable to civil war and social breakdown.

It should be evident that there are parallels between Pascal and Hobbes, with regard to need for a sovereign with a monopoly of force for

there to be justice of any kind. A major difference in their philosophical approach is Pascal's belief in the inevitability of contradiction in philosophy (Stocker 2000), which leads him to strongly emphasise the idea of a contradiction between civil law and natural law, force and justice. Hobbes argues that natural law leads us to obey civil law, and his method relies on smoothing away the appearance of contradiction between: justice, or natural law, and what is defined as just by force. A major concern of Hobbes in *De Homine/De Cive* (in *Man and Citizen* [appears in references as MC], Hobbes 1991) and *Leviathan* ([appears in references as L] Hobbes 1996) is to show a progress from a state of nature to civil government in which the power of civil government follows by a natural process historically, and in accordance with natural law from the juridical point of view. The most obvious change between the earlier and later texts is that there is much more historical, legal and political argument in the move from a general philosophy of man to the 'artificial man', the sovereign of civil government. Pascal's emphasis on necessary contradiction between civil law and natural law, between force and justice, creates a highly useful interpretative point of view in reading Hobbes, and that is what will guide the reading presented here.

Hobbes is deeply concerned with the beginning of civil government, and of sovereignty. They are completely entwined, or so Hobbes seems to be arguing most of the time. However, his account of the beginning does not give us a clear movement from natural existence, the state of nature to the formation of sovereignty. Sovereignty, in the formation of an 'artificial man' is a moment that follows on from civil existence.

The natural human condition before civil society is partly characterised by fear in the mind of other individuals, but it is a mistake to think of the natural condition as in the mind in either of two senses which are sometimes suggested:

1. The natural condition in general is an imaginative construct
2. The state of war, which characterises the natural condition, is primarily that of fear of the violence of other individuals in the imagination.

It may be a good thing to approach what Hobbes says in this way in a spirit of rational reconstruction, in the sense of building the most rational theory we can think of out of Hobbes, but there is a danger of confusing that rational reconstruction with the best construction of what is in Hobbes' text. Pettit is in danger of making this confusion in *Made with Words* (Pettit 2008), where Hobbes begins to sound like a thinker between Rawls (Ivison

1997; Owen 2005) and Habermas, losing the importance of the force of the particular sovereign at the heart of Hobbes' political thought.

The natural state of war in Hobbes is partly a condition of imagination, fearing the violence of others, but in both *De Cive* and *Leviathan*, Hobbes refers to the 'real' example of Native Americans (as imagined by Hobbes), also used by Locke, Montesquieu and Rousseau (spelling in this quotation and all quotations from Hobbes has been modernised):

> They of America are examples hereof, even in this present age: other nations have been in former ages; which now indeed are become civil and flourishing, but were then few, fierce, short lived, poor, nasty, and deprived of all that pleasure and beauty of life, which peace and society are wont to bring with them. (MC 118)

Hobbes' concern is to show what we had to do historically to escape from that condition. That requires a reconstruction of history, a pragmatic argument about how to avoid relapsing into such a condition, and a normative account of why we need to accept the authority of laws from the body which prevents a return to nature.

The beginning of that body, the 'artificial man' of sovereignty has various possibilities. Looking at *De Cive* V 'Of the Causes and First Beginning of Civil Government', we see that in 4, Hobbes considers a group which comes together to protect natural law, but has no sovereign:

> [T]he consent of many (which consists in this only, as we have already defined in the foregoing section, that they direct all their actions to the same end and the common good), that is to say, that the society proceeding from mutual help only, yields not that security which they seek for, who meet and agree in the exercise of the above-named laws of nature.... (MC 167)

This introduces a discussion, paralleled in *Leviathan,* of Aristotle's idea of a *polis* (Buchell 1999), which is criticised with reference to the kind of animals invoked by Aristotle, as social or political: ants and bees. Hobbes' view, as expressed in the dedication to William Earl of Devonshire, which opens *De Cive*, is that 'man to man is an arrant wolf' (MC 89). The role of animals in political philosophy is itself an important issue in Cicero, Machiavelli, Pufendorf, amongst others as well as Aristotle and Hobbes (Derrida 2009 & 2011). Moving on from the non-human animals to the

transcendental, Hobbes also says that 'man to man is a kind of God', but clearly we need civil government to make the transition from wolf to God in man. Hobbes' remark seems in the spirit of Pascal's suggestion in *Pensées* 140 that 'a man [...] is neither angel nor beast but man'.

How do we get from wolf to God? The discussion in *De Cive* V seems to allow for a civil association of a kind without the artificial man of sovereignty, as if Aristotle's *polis* could be real, though not in the examples that Aristotle uses. Before we get to the stage of Ancient Athens, Carthage, Sparta and all the other states considered by Aristotle, there may have been this banding together without a sovereign. This must be more than the groups which form in the natural condition, in a transition to civil government, and less than civil government itself. This leaves the way open to a purely contractual understanding of the *polis*, which Hobbes attributes to Aristotle: contractual in the sense of a series of contracts and not in the sense of a basic contract which institutes the *polis*. That transition might give a basis to Pettit's version of Hobbes, which sounds close to discourse ethics in Habermas and justice as fairness in Rawls, and which does establish Pettit's reading as important and necessary, if one sided.

The goal for Hobbes is achieve an entity which can be described as a city, or a civil society, or a civil person. The suggestion that a city (presumably a *polis*, a place which is also a political community) is a 'civil person' is rather strategic, as it allows Hobbes to introduce the idea at the end of *De Cive* V 9 that the city is one person with one will:

> A *city* therefore (that we may define it), is *one person*, whose will, by the compact of many men, is to be received for the will of them all; so as he may use all the power and faculties of each particular person to the maintenance of peace, and for common defence. (MC 170)

Hobbes has made the jump from the agreement between individuals which establishes union to the sovereignty of one person, through the idea of the city as a person (Kateb 1989). Hobbes does also have arguments for the superiority of monarchy over a democratic, or aristocratic assembly, but he has tried to prejudge the issue by suggesting that civil government is in its essence the will of one person. Hobbes's own account of the origin of civil government suggests, in a presentist argument, that its originating moment is also its legitimating moment, and that such a moment must be a democratic moment as we see for example at the very beginning of *Leviathan* XVIII. The persistence of a democratic element in all forms of

government is explained in *De Cive* VIII 11: 'As an aristocracy, so also a monarchy is derived from the power of the people, transferring its right, that is, its authority on one man' (MC 198).

In *De Cive* V 12, Hobbes lays out the essentials of how civil government finally emerges.

> By what has been said, it is sufficiently showed in what manner and by what degrees many natural persons, through desire of preserving themselves and by mutual fear, have grown together into a civil person, whom we have called a *city*. But they who submit themselves to another for fear, either submit to him whom they fear, or some other whom they confide in for protection. They act according to the first manner, who are vanquished in war, that they may not be slain; they according to the second, who are not yet overcome, that they may not be overcome. The first manner receives its beginning from natural power, and may be called the natural beginning of a city; the latter from the constitution of those who meet together, which is a beginning by institution. Hence it is that there are two kinds of cities: the one natural, such as is the paternal and despotical; the other institutive, which may also be called political. In the first, the lord acquires to himself such citizens as he will; in the other the citizens by their own wills appoint a lord over themselves, whether he be one man or one company of men, endued with the command in chief. But we will speak, in the first place, of city political or by institution; and next of a city natural. (MC 171-2)

Hobbes looks at two paths to civil government, in circumstances in which it appears that there is already a civil union. The first path is identified as natural, paternal, despotical and the result of external conquest; the second path is identified as institutive, political. and the result of a decision of the civil union, that is the already existing civil person still functioning as a democracy. This distinction is extraordinary, dividing the basis of sovereignty so that it becomes a paradox, a necessary form with opposing origins. One reason for this extraordinary distinction may be awareness that the English monarchy had origins in conquest, William of Normandy's 1066 conquest, as Foucault suggests in *Society Must be Defended* (Foucault 2003), Lecture V. Foucault points to the role of the Norman Yoke in English democratic discourse, that is the idea that native English liberties had been taken by the Norman Conquest, so that moves towards democracy were treated as an attempted restoration. Norman Yoke discourse seems to have become established at about the same time as *De Cive* appeared. Whether this can be reconciled with Foucault's thesis goes beyond the scope of this

paper, but what is important for this paper is Foucault's insistence that there is something troubling about this double origin of sovereignty.

The second path is the one which most informs the general view of Hobbes, the way he is normally presented as an important figure in political theory, that is as someone who emphasises force over consent and the emergence of the state from the fear that one strong figure can create. The dramatic moments in Hobbes distract from his account of how sovereignty emerges and how it should be exercised, ultimately according to natural law, even if no one has the right to rebel against the sovereign who breaks natural law. The way Pettit emphasises a normative reading of Hobbes, may be a useful though exaggerated corrective to that second path, which certainly prevails in popularised versions of Hobbes..

Hobbes tries to root civil law in natural law, in *De Cive* XIV and *Leviathan* XXVI. The general argument is that civil law is always consistent with natural law. In civil law, we might have difficulty about how to define crimes of natural law, but we know that there are crimes of that type. Natural law leads us to obey the ruler. In *Leviathan* XXVI, he adds that natural law, or equity, persists whatever any judge or prince says, or any accumulation of sentences (L 192). Natural law seems to be what lasts over time. Civil law part of the dictates of nature but law is a command. The intention of law is equity, which is in tension with the idea that law comes from sovereign commands. These arguments occur in a context, the context of an argument with with Edward Coke about judge made ('common') law versus statutory law established by the sovereign. This is the basis of *A Dialogue between A Philosopher and a Student of the Common Laws of England* (Hobbes 1971), which is certainly very compatible with Hobbes' theory, even if, as is possible, it was not written by Hobbes. Hobbes' argument in *Leviathan* XXVI (L 193) against Coke, is that study of law may lead to confirming errors rather than avoiding them. Uncertainty about law can only be ended by reference to the intention of the legislator (L 194).

The significant problem appears in that split between the two paths to sovereignty, both of which contains what is necessary to sovereignty: the despotical and the political; the natural and the institutive. The natural-institutive split turns a temporal distinction between natural communities and civil government into an atemporal split between different ways in which sovereignty emerges. The restriction of the paternal to the first path seems at odds with Hobbes' general tendency to root political sovereignty in paternal authority. In addition he has an account of the master's authority over the servant: *De Cive* 8 'Of the Rights of Lords over their Servants',

(there is a parallel discussion in *Leviathan* Chapter 20, L 141-2) which he uses as a support for the second path to sovereignty, acquisitive sovereignty.

> Furthermore, what has before been demonstrated concerning subjects in an *institutive* government, namely, that he who has the supreme power can do his subject no injury; is true also concerning *servants,* because they have subjected their will to the will of the lord. Wherefore, whatsoever he does, it is done within their wills; but no injury can be done to will it. (MC 208)

Masters are said to have natural rights over servants. Hobbes' argument depends on early modern status of servants as dependents on their masters, and therefore as incapable of holding political rights. It's a largely unspoken assumption of even the most democratic theory right through the Enlightenment that a servant cannot have voting rights. So Hobbes' vision of the contract behind political sovereignty is that of a relationship where one side falls below the level of the most free form of contractual agent.

A discussion of liberty appears in *De Cive*, with reference to the master-servant relation (which is supposed to justify the power of the sovereign). In *Leviathan* the discussion is of liberty in general under a sovereign. The point in both cases is that liberty is liberty of physical action and nothing else. Hobbes builds on and counters Aristotle's view of liberty and acting under constraint, in particular Hobbes refers the famous example of the throwing property off a ship to save it, which Aristotle uses very early in Book III of the *Nicomachean Ethics*. For Aristotle, this is an instance of an action which is not completely involuntary, but because it is taken under the external constraint of danger to life, it is not a purely voluntary act. If it is our property that is lost, we should recognise that the person who threw it overboard cannot be punished for damaging our property, because it was an action under constraint.

Hobbes' uses this example against Aristotle to argue that the person throwing property into the sea has a choice, the choice is made under certain conditions but is no less of a choice for that. This is a free action because it was not taken as the result of physical constraint. Where there is no physical constraint, there is a choice of actions for Hobbes, so there is liberty in the only sense that there can be liberty. Since this is personal physical liberty, the nature of the government is irrelevant and democracy is no more a system of liberty, as Aristotle suggests (*Politics* VI 1317a), than monarchy.

What Hobbes also says in *Leviathan* is really that there is more freedom under monarchy, because a monarch may have subordinate

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assemblies in which the members are judged by the monarch, and not by the assembly with which they may be in conflict (L 158-160). A democracy/aristocracy could not tolerate such complaints because they would threaten the sovereignty of the ruling assembly. A monarchy can better tolerate dissent, and Hobbes takes the example of the Athenian practice of 'ostracism' to expel unpopular citizens by vote, and not as the result of a legal process related to any identified crime (*De Cive* X 7, MC 228). This discussion of assemblies also contains discussions of merchant assemblies, which Hobbes identifies with monopolies (L 161). Hobbes anticipates Adam Smith (Smith 1976, 78-9), by criticising monopoly in its effects on domestic consumers. Nevertheless he seems to expect such bodies under a monarchy, and welcomes their negative effect on foreign competitors, which is not in the spirit of Smith.

The inner tension between nature and institution in Hobbes' theory is also at work in his account of natural law. Hobbes is usually taken as a source, maybe the source of legal positivism, the claim that laws derive from the will of the sovereign; and as the enemy of natural law theory, the claim that laws are based on a natural justice preceding and outside positive laws, and possibly opposed to them. However, Hobbes certainly appeals to natural law, constantly. What he is against is 'natural justice' in the sense of a right to rebel against unjust laws and an unjust sovereign. He greatly condemns antique thinkers for presuming that there is natural justice in that sense. His hall of infamy on this point contains Plato, Aristotle, Cicero, Seneca and Plutarch. Hobbes often seems concerned that knowledge of these texts might lead readers to bad political ideas and actions. Nevertheless, he also builds on them, particularly Aristotle and Cicero, most notably in his discussion of liberty and voluntary action which draws heavily on Aristotle.

Hobbes emphasises in *De Cive* XIV 9 that civil laws are in accordance with natural laws, that natural law leads us to keep contract, and therefore to obey where we have made the kind of contract in which we covenant to obey someone. Natural laws can only come into real existence as the result of the civil laws of the sovereign.

> [T]he law of nature did oblige in the state of nature; where first, because nature had given all things to all men, nothing did properly belong to another, and therefore it was not possible to invade another's right; next where all things were common, and therefore all carnal copulations lawful; thirdly, where was the state of war, and therefore

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lawful to kill; fourthly, where all things were determined by every man's own judgement, and therefore paternal respects also; lastly where there were no public judgements, and therefore no use of bearing witness, either true or false. (278)

There is a similar passage in the penultimate paragraph of *Leviathan* Chapter XIII, On the other hand, in *De Cive*, Hobbes says just before that: 'all subjects do *covenant* to obey his commands who has the supreme power, that is to say, the civil laws, in the very constitution of government, even before it is possible to break them' (277-8).

Hobbes makes an ironic move, undercutting natural law while upholding it. Natural law does not exist in any meaningful way before there is civil law, which raises the question of whether natural law exists at all before the civil union. This move leads Norberto Bobbio to refer to *De Cive* as a dialectical destruction of natural law theory (Bobbio 1993, 137). However, the dialectic here is self-destructive, Hobbes has gone so far that he has undermined the idea of natural law preceding, and justifying, the sovereignty of the artificial man. Again this expresses an inner tension in Hobbes' thought. Hobbes needs to both say that good and evil, legal and non-legal are defined by the artificial man; and that the sovereignty of the artificial man is justified by moral good and by natural law: '(*De Cive XIV* 21) Treason is a sin by natural law and there is no purpose in civil laws against rebellion since there are no laws unless rebellion is forbidden (MC 287)'. Hobbes cannot exclude natural law (or right) from the sovereignty of the artificial man though *De Cive* XIV 22: '[R]ebels, traitors, and all others *convicted of treason*, are punished not by civil, but natural right; that is to say. not as *civil subjects*, but as *enemies to the government*; not by the *right of sovereignty and dominion*, but by the *right of war*' (MC 287). This is part of Hobbes' view of inter-state relations and war, they belong to the condition of nature rather than that of civil laws. That natural force in conflict between states appears in the internal frontier where traitors are found, and it is not pure force but a natural right encoded in civil law. It is remarkable that Hobbes finds it necessary to make such a distinction within the laws of the artificial man, and shows the recurrence of the problem of reconciling the natural and the civic, or institutional, in Hobbes. If the punishment of traitors is an act of war, and not just a legal act, why not all actions of the artificial man against all law breakers?

The tension between natural law and civil law is repeated in the tension between good and evil as names for appetites, or inclinations, and

aversions; and what the artificial man declares to be good or evil. *De Cive* III 31: 'We must know, therefore, that good and evil are names given to things to signify the inclination or aversion of them, by whom they were given. (150)'. *Leviathan* XV '*Good* and *Evil,* are names that signify our Appetites, and Aversions; which in different tempers, customs, and doctrines of men, are different' (110). In both cases, the tension is resolved by suggesting that it is the laws of the artificial man that resolve subjective differences in defining good and evil, but then we have no grounds for arguing that the artificial man is good rather than evil. Peace seems to have taken over as the basic moral justification here, but that leaves the question of why peace is better than war, in addition to why there is natural law reflected in universal aspects of civil law.

Hobbes goes so far as to equate the sovereignty of the artificial man with human domination over animals: (*De Cive* VII 10):

> We get a right over irrational creatures in the same manner that we do over the persons of men; to wit by force and natural strength. For if in the state of nature it is lawful for every one, by reason of that war is of all against all, to subdue and also to kill men as oft as it shall seem to conduce unto their good; much more will the same be lawful against brutes; namely, at their own discretion to reduce those to servitude, which by art may be tamed and fitted for use, and to persecute and destroy the rest by a perpetual war as dangerous and noxious. Our dominion therefore over beasts, has its original from the *right of nature,* not from *divine positive right*. (MC 209)

The rights of the artificial man over subjects, in origin at least, appears to be that of a farmer or shepherd over animals, and the right of the sovereign to oppose enemies, including those who resist the artificial man, is that of humans to destroy wolves, those arrant wolves whose depredations on humans parallel human depredations on each other. This is Hobbes as his own parody, the theorist of, and enthusiast for, the unlimited use of state power. The parody has some basis in reality, as Hobbes puts a brutal aspect on a traditional view of the sovereign as the shepherd of a flock. It also brings out further the tension in Hobbes between: 1. the formation of sovereignty through discussion in the city before it has a sovereign, the institutive political path to sovereignty; 2. the unlimited rights of the sovereign over subjects, the despotic acquisitive path to sovereignty. This mixes two differences: 1. the difference over time between the democratic formation of the sovereign and the fully formed sovereign with unlimited

rights and a superiority of force; 2 the difference between the institutive political road to sovereignty and the despotic acquisitive path to sovereignty. For some purposes, it is useful to mix up these two oppositions so that we can see more clearly a democratic political aspect of Hobbes and the despotic forceful aspect. It is the first aspect which is picked up by Pettit, the second aspect informs the stereotypical view of Hobbes. This is not a stable unity, it results from Hobbes' view that law governed freedom, and associated benefits of growing prosperity and culture, result from undivided sovereignty. Hobbes' view of undivided sovereignty inevitably leads to conflict with the civic values he advocates, but this kind of conflict can never be completely avoided. Rights over animals are the same the same as over men, they come from nature not from divine positive right (*Leviathan* XXVI, Of Civil Laws). The point in both cases is that divine law/right does not add anything to natural law/right.

There are two other important aspects of the passage quoted above on animals. Firstly it is in tension with remarks Hobbes makes in *Leviathan* XIV about how we cannot make covenants with animals: 'To make Covenants with brute beasts is impossible; because not understanding our speech, they understand not, nor accept of any translation of Right; nor can translate any right to another: and without mutual acceptation, there is no Covenant' (97). A way round this is suggested by Hobbes five paragraphs later:

> Covenants entered into by fear, in the condition of mere Nature, are obligatory. For example, if I covenant to pay a ransom, or service for my life, to an enemy; I am bound by it. For it is a Contract, wherein one receives the benefit of life; the other is to receive money, or service for it; and consequently, where no other Law (as in the condition, of mere Nature) forbids the performance, the Covenant is valid. (97-8)

The coercion of animals in this case might have some relation with the covenant that empowers the artificial man, since the artificial man is a legitimate sovereign even when that sovereignty emerges from a covenant extract from subjects by force. But in that case, we would be left wandering how Hobbes brings animals into his discussion of civil government in *De Cive* at all.

The other notable aspect of the passage on animals is that it refers to the redundant nature of divine law. Hobbes goes to a lot of trouble in *De Cive* and *Leviathan* to authorise his position with reference to the *Bible*.

This becomes self-undermining though because the point is to show that the sovereign has unlimited rights, and that no one has the right to claim to speak for God, no one can personate God. God is only represented to us in the sovereign as leviathan (*Leviathan* XVII): 'This is the Generation of that great LEVIATHAN, or rather (to speak more reverently) of that *Mortal God*, to which we owe the *Immortal God*, our peace and defence' (L 120). The problem here for Hobbes, as with his discussion of natural law, is that he both wants to affirm the continuing role of divine authority and subordinate it to civil government. If divine authority is subordinate to civil government it cannot really provide much justification for civil government. Hobbes is caught in an unacknowledged tension between the natural and the divine on one side; the civil and the artificial on the other side. That is the natural in the sense of universal judgements of morality and natural virtues, which he undermines in his account of the mind and action in *De Homine* and Part One of *Leviathan*. Hobbes appeals to natural law while he had undermined notions of natural law in his accounts of human action as emerging from physical perceptions and pain aversion, rather than habits of virtue, and reflections on virtue (Hampton 1992). Hobbes appeal to religious texts and natural law has an element of the ironic in it. Hobbes' definition of natural law as 'do to others as you wish them to do to you', though it refers to the *Bible* is hardly the natural law as a system of laws. This is the outcome of Hobbes' emphasis on the role of perception and pain aversion in human action, which presses against the space of reflection of laws that appeal to all thinking humans. The irony is destructive though, because it gives expression to a naturalistic deistic perspective which leaves little place for deeply embedded moral principles, or natural or divine law. Pascal was in advance of Hobbes, and makes a sharper distinction between the realm of pure justice and the realm of human societies. Pascal helps us grasp the underlying productive tensions in Hobbes and he considerable influence on political thought is his ow rights as well, including his direct influence on Rousseau (Plamanetz 1962; Mitchell 1993; Maguire 2006) and Tocqueville (Lawler 1993; Maguire 2006; Hinckley 1990). In this context his merit is to suggest that natural law and civil will never be harmonised, once we make the kind of assumptions Hobbes shares with Pascal about the absence of God from the physical universe, and the ways in which human actions and passions cannot be brought into a natural law model. In the move from *De Homine/De Cive* to *Leviathan*, Hobbes confirms the importance of justifying the sovereignty of the 'artificial man', but is interpolating more arguments before we reach that stage, and interpolating more arguments

about the basis of civil law. Inevitably in doing this, Hobbes also puts more stress on the unifying argument by incorporating more material, such as the way in which natural law is preserved in civil law (Boyle 1987; Dyzenhaus 2001). Incorporating more material might bridge a gap in the argument, but in this case it repeats the gaps between natural, or divine, and civil, and draws attention to the underlying tension..

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