

A critical analysis of hobbes' law of justice

Law, Justice



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Hobbes' 19 laws of nature, the first three, which add consecutively up to his concept of justice, are by far the most influential and important, with the ultimate goal being an escape from the state of nature. The first law states that we should seek peace, and if we cannot attain it, to use the full force of war. Directly building off of the first law's mandate to seek peace is the second law that states that we should lay down our rights of nature and form social contracts, if others are willing to as well. From this springs forth the concept of the covenant, in which men can transfer their rights of nature between each other and which forms the basis of moral obligation. With the enactment of each of these laws, which act as impediments towards the full use of an individual's right of nature, an individual will trade a piece of their right of nature in order to promote cooperation between others. According to Hobbes, these two are not enough to keep human kind from betraying one another. There needs to be another layer of control. This is where the third law comes in to fully form the concept of justice. The third law simply states that men need to perform their valid covenants, which becomes Hobbes' definition of justice. From this, injustice is defined as not performing your valid covenants. As can be seen by this, with one law building off of another, it is quite clear that Hobbes put great effort into creating a full representation of the world in order to support his political doctrine. Thus, in order to understand Hobbes' reasoning for his concept of justice, this paper will elaborate on how Hobbes' laws of nature are rules that every human being should follow in order to give them the best chance of living well as

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well as investigating the full requirements of justice and Hobbes' claim that there is neither injustice nor justice in a state of nature. Finally, while Hobbes wove his concepts of the state of nature, the laws of nature and justice into an extremely tight web through the Euclidean method, I argue that his account for justice is too weak to account for social atrocities such as slavery, religious discrimination, animal cruelty, genocide and murder and thus it is my intent to show that his account of justice is inadequate. For civil society to have sprung forth from this state of nature, where there is a constant war of all against all, there must have been some sort of catalyst that helped guide humans away from their anarchistic lifestyles to where codependence and interpersonal development were necessary. This catalyst, for Hobbes, took the form of the laws of nature. A law of nature is "a precept or general rule, found out by reason, by which a man is forbidden to do that which is destructive to his life, or taketh away the means of preserving the same" (p. 69, Chpt. XIV). From this it is apparent that a law of nature needs to be a general rule that can be discovered simply through reason. Rules like this propagate human self-preservation and frown upon acts that are destructive towards humanity. There is one great difference between this kind of natural law and a civil law though, and it is that civil laws need to be written down and advertised while a natural law can be realized solely by the innate powers that spring forth from our reason. They also tend to be of the form, do unto others, which you would do upon yourself, embracing common morality and driving towards creating harmony between people. In this, these laws tend to be of the kind that every man should follow, in that they are naturally obvious and following them reliably leads towards man's

greatest urge, the urge to live and live well. For without these laws, Hobbes tells us that all would have to withstand the horrors of the state of nature, in which fear reigns supreme. But within these laws that should be innately followed, life can be preserved and peace can be approached. From these laws, spring Thomas Hobbes' concept of justice. Justice is defined by Hobbes as keeping your valid covenants, or more simply, keep your promises. Obviously, such a narrow basis for such a complex concept has certain requirements that focus the concept of covenants into a valid system of justice. For Hobbes, without covenants, there could be no justice because the covenant is justice's root itself. One of the first requirements of the covenant is that there can be no contract if there is reasonable cause for either side of the covenant to believe the other party will not hold up their end of the bargain. For if there was, the covenant would be automatically void and the basis of justice would be removed. Another major requirement is that there be some sovereign above to oversee the covenants and dispense punishments if they are not fulfilled. Without some fear of punishment, it would be impossible to contain man's tendency towards betrayal, which is inherent in his ultimate drive towards living and living well. Along with this, there are multiple other requirements for the law of justice. According to Hobbes, it is impossible for anyone to give up their right to defend their life. This portion of the right of nature can never be covenanted due to Hobbes' belief in the psychological egotism of humankind. Beyond this, covenants made with those that cannot understand speech is invalid, as are covenants made between man and God. After all this, once a valid covenant is made between individuals who do not have reasonable cause to believe that the

other is plotting against them, there are only two ways to be freed of the covenant; either by performing or being forgiven. Finally, the moral shield that is provided by the covenant between the people and their sovereign is not extended to people who are not included in the contract. This includes those from other societies as well as those who cannot comprehend the contract, such as the senile, insane, comatose, infantile, mentally challenged people and animals. From this, it can be seen why Hobbes states that there can be no justice when in the state of nature. For, " the bonds of words are too weak to bridle men's ambition, avarice, anger and other passions, without the fear of some coercive power" (p. 71, Chpt. XIV). When within a state of nature, where the inhabitants live in constant fear of each other, no covenants can be made. This is due to the fact that any covenant is void if reasonable doubt exists that the other party will not fulfill their end of the deal. And since there is always reasonable doubt in a state of nature, no covenants can be formed and the seeds of justice can not be planted. Also, within a state of nature, Hobbes theorizes men are all equal in power and ability, thus making the creation of a sovereign, or a person with power to force sanctions on people's actions and enforce covenants, impossible. Without a sovereign to threaten people with punishments, no contract could ever be made without reasonable doubt. Also, whenever in the state of nature, every person has right to do and take anything that serves their desires because no covenant has ever been made. Thus, again, no action can be made unjust in a state of nature. Hobbes' concept of justice, made by reckoning smaller conclusions together into a much broader conclusion is very carefully laid out mimicking Euclidean Geometry. While great effort was

placed on his effort, I believe that his concept of justice is inadequate and can be shown to be by examining the concepts illustrated above in conjunction with its inability to properly accommodate how certain grave injustices such as slavery are in fact unjust. One of Hobbes' defining features as a philosopher is that he was a very strong psychological egotist, meaning he believed that men are solely interested in their own good. Specifically, he stated that when presented with other pathways, men will always chose the path that allows them to live and live well and that men will always seek power, forsaking all other things. Since these rules still hold in the presence of a sovereign and covenants, it seems quite difficult to consider acting out of pure selfishness as ever being ethical. This can be seen in the grave injustice, slavery. While it is obviously a grave injustice, Hobbes' version of justice cannot see it as so because the people enchaining the slaves are just working towards satisfying their desire for power and are trying to live and live well, even if it is through the suffering of others. The slave owners had not broken any covenant either, since non-contractors are not included in the moral protection provided by the sovereign. This is because, according to the definition of justice, an unjust act is only one that breaks a covenant between two or more people. The slaves are all from outside of the contract of the society and thus their suffering is not unjust according to Hobbes. This huge oversight for Hobbes and can also be applied to multiple other areas to show gaps in his theory. Religious discrimination cannot be labeled as unjust either by Hobbes due to the fact that other religions are not connected by the same covenant and thus are non-contractors. Also, animal cruelty can be considered another oversight. This is because animals cannot speak nor

enter a contract and are thus not covered under any covenant's moral protection. While, in all these cases, the person or animal being discriminated had not entered a specific covenant with the people of the culture, a supporter of Hobbes might respond that there may be an implicit contract that applies to all life, which allows for recognition of injustice to be seen outside of just the people within a group. This, I point out, is quite unlikely considering Hobbes' past president with presenting his arguments. He is very thorough and proof-like in his philosophy, always addressing each detail he feels is important. If Thomas Hobbes had intended this to be the case, he would have stated so, this making Hobbes' supporter's claim invalid. Another case where Hobbes' version of justice is shown to be quite inadequate is in the case of a government sanctioned evils. In the case of a warmongering government, such as Germany in WWII, the government decided to begin expanding boundaries in an effort to expand the German empire. While this definitely was sanctioned by sovereign of the nation, whom all residents had covenanted to obey; this was not just in any way. The country had no right to invade another's home, but according to the Hobbes' definition of justice, it was perfectly just. It would actually be considered unjust to not support the war efforts, because then you would be breaking a covenant. This is obviously absurd. Also, in the case of the United States in the 1800's, America began the genocide of thousands of otherwise peaceful Native Americans. This, again, was sanctioned by the government, but was also absolutely unjust, showing another hole in Hobbes' definition of justice. Supporters of Hobbes' philosophical doctrine would state that he does actually state that it is not unjust to revolt against a sovereign if the

government they give is no better than the state of nature he is supposed to be warding off. Thus, if things truly get awful, their covenant with their nation would be void and people would not be obligated to kill for their nation. I, however, argue that no person ever has the right to take another's life and livelihood, no matter what the circumstances are. I also argue that it is a person's obligation to stand up against grave injustices such as these before they bring a state to near anarchy. It should be addressed immediately. Another case against Hobbes, I argue, is that the definition of justice as just keeping one's covenants is far too narrow. There are too many variables within life on Earth for justice to take such a narrow, uncompromising standpoint. If all that justice was about was just keeping one's promises and had nothing to do with higher faculties, why is it that you can sometimes feel guilty even when just doing your job? The lack of the concepts such as human conscious from Hobbes' philosophical doctrine detracts from the adequacy of his concept of justice. This higher faculty of a human mind tends to act as an internal regulator that forces us to examine the consequences of future and past actions. Justice encompasses more than just doing what you are told, and I argue that there is an innate guiding force inside every person. According to Hobbes, if you just were following your covenants, you had done nothing unjust and were guilty of nothing. I do not think this is true. As an example, this is not the case for thousands of people who come back from wars such as the one in Vietnam, where the soldiers were following their contracts to their sovereign perfectly. When they returned, many were ridden with guilt and horror of the things they needed to do, which is not the feelings of a just individual. Such saddening tales of

people following their covenant, but nonetheless being involved in something unjust, is another case of how Hobbes' version of justice is inadequate and incomplete. With such a narrow viewpoint on the concept of justice and the complete negation of higher faculties such as human conscious, Hobbes' account of justice plainly has trouble dealing with a situation like this. After considerable thought, I argue that Hobbes' stance on the nature of justice should be called into question. With his concept of justice showing so many faults in it's interpretations of such grave injustices as slavery, religious discrimination, animal cruelty, genocide and murder, it has become apparent that Hobbes' lacking in his concept of justice might not be isolated to grave injustices, but can be tracked back to some of his very first assumptions. Hobbes seems to assume that the natural position of man is one of chaos where everyone has right to everything and might makes right. It seems to me that this idea is questionable. Can mankind in general ever live in chaotic disunity? Was there ever such a time as when man did not cooperate for continued survival? If not, then it seems rash to conclude that simply breaking a social covenant leads towards a state of nature and concurrently injustice. For example, even when rebels oust a government and institute a new one, they do not do so out of chaos, but out of a new and different order. From this, I believe it points towards the idea that society does not simply require covenants and sovereigns to produce justice, for humans have cooperated naturally since the dawn of man. Justice is a dynamic entity that Hobbes tried valiantly to tame and put in a very logical manner, but the basis he began off of was flawed along with his overly narrow viewpoint, resulting in a brilliant philosophical view that nevertheless

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References: Hobbes, Thomas. Leviathan. 1651. pp. 69-79. Rpt. In Modern Moral and Political Philosophy. London. Mayfield Publishing Company. 1999.

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order to understand Hobbes' reasoning for his concept of justice, this paper will elaborate on how Hobbes' laws of nature are rules that every human being should follow in order to give them the best chance of living well as well as investigating the full requirements of justice and Hobbes' claim that there is neither injustice nor justice in a state of nature. Finally, while Hobbes wove his concepts of the state of nature, the laws of nature and justice into an extremely tight web through the Euclidean method, I argue that his account for justice is too weak to account for social atrocities such as slavery, religious discrimination, animal cruelty, genocide and murder and thus it is my intent to show that his account of justice is inadequate. For civil society to have sprung forth from this state of nature, where there is a constant war of all against all, there must have been some sort of catalyst that helped guide humans away from their anarchistic lifestyles to where codependence and interpersonal development were necessary. This catalyst, for Hobbes, took the form of the laws of nature. A law of nature is "a precept or general rule, found out by reason, by which a man is forbidden to do that which is destructive to his life, or taketh away the means of preserving the same" (p. 69, Chpt. XIV). From this it is apparent that a law of nature needs to be a general rule that can be discovered simply through reason. Rules like this propagate human self-preservation and frown upon acts that are destructive towards humanity. There is one great difference between this kind of natural law and a civil law though, and it is that civil laws need to be written down and advertised while a natural law can be realized solely by the innate powers that spring forth from our reason. They also tend to be of the form, do unto others, which you would do upon yourself, embracing common

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