

Locke contra Hobbes on Opinion: A Social-Theoretic Defect of *Leviathan*?

International Hobbes Association, Eastern APA

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New York, Tuesday, January 16, 2024

1. Introduction

- *Task*: Reconstruct Locke’s immanent critique of Hobbes’s theory of sovereignty in Locke’s *Essay* (“Of other Relations”).
 - Locke identifies a sui generis social (cum political) force: the “law of opinion” or “law of fashion” that compels our actions by subjecting their evaluation as good or bad to the censure of the private judgment of our “Company” or “Familiars.” Human beings “govern themselves chiefly, if not solely, by this Law of Fashion” (§12).
 - Because sovereign power cannot prevent private censure, it cannot control behavior in accordance with the requirements of sovereignty (*Leviathan*, Ch. 18).
- *Upshot*: Impersonal social forces as threat to political sovereignty (or freedom).
 - *Hobbes as diagnostic tool*. Assume Hobbes’s account of political sovereignty is correct. Then impersonal social forces characteristic of modern societies (opinion, economics) threaten sovereignty. Without adequate means of controlling these social forces, sovereignty (peace, political self-determination) is unstable, as observed. So, Hobbes helps us explain the political instability of modern societies caused by impersonal forces.
- Three premises:
 - i. *Openness of opinion*: opinion is open to being influenced ‘bottom up’ by the private judgements of others, even if this censure is not directly expressed in any particular external action.
 - ii. *Importance of opinion*: opinion functions not as a mere epiphenomenon in social life but bears upon the stability of the state as such, capable in extreme cases of toppling it all together.
 - iii. *Uncontrollability of opinion*: opinion cannot be fixed by an authority ‘top down’ in any long-lasting way, and so remains inherently liable to modification by non-political forces.
- If opinion is *open*, *important*, and *uncontrollable*, then absolutist sovereignty is *in itself* unrealizable.
- Social-theoretic, not normative or metaphysical.
- Inspiration: Carl Schmitt (1938) & Reinhart Koselleck (1954).
 - Carl Schmitt (1996, 53–65): Hobbes is the founder of liberalism because he separates inner (*foro interno*, conscience, morality) and outer (*foro externo*, politics). Koselleck develops Schmitt’s analysis as a historical unfolding. I want to give an argumentative reconstruction (Cf. Slomp 2010; Tralau 2011; Norberg, chs. 4–5).
- A. *Hobbes separates inner and outer*. Koselleck 1988, 37–39: “Hobbes’s man is fractured, split into private and public halves: his actions are totally subject to the law of the land while his mind remains free, ‘in secret free.’ [...] Later, the mind’s inner space would be gradually expanded by the Enlightenment, but any claim to the public domain remained inevitably shrouded in a veil of secrecy. [...] In so far as a subject did his duty and obeyed, his private life did not interest the sovereign. [...] The State created a new order, but then in—genuinely historical fashion—fell prey to that order. As evident in Hobbes, the moral inner space that had been excised from the State and reserved for man as human being meant [...] a source of the unrest that was originally exclusive to the Absolutist system. The authority of conscience remained an unconquered remnant of the state of nature, protruding into the formally perfected State.”
- B. *Locke politicizes inner and outer*. Koselleck 1988, 58: “By his interpretation of [the law of fashion] Locke gave a political charge to the interior of the human conscience which Hobbes had subordinated to State policy. Public actions were now [in Locke] not merely subject to the authority of the State but at the same time to the moral authority of the citizens. What Locke had thus put into words was the decisive breach in the Absolutist order, the order expressed in the relationship of protection and obedience. Morality was no longer a formal matter of obedience, was not subordinated to the politics of Absolutism, by confronted the confronted the laws of the State.”
- C. *Opinion as indirect force*. Koselleck 1988, 59f: “The laws of the State work directly, backed as they are by the State’s coercive power; moral law-making works within the same State, but

indirectly and thus all the more strongly. Civic morality becomes a public power, one that works only intellectually but which has political effects, forcing the citizen to adapt his actions not just to State law but simultaneously, and principally, to the law of public opinion.”

2. **Locke on Opinion**

- Text: “Of other Relations” (Bk. 2, Ch. 28, §§1–20 of Locke’s *Essay*).
- Four kinds of relations (§§1–4): proportional (‘bigger than,’ ‘equal to’); natural (‘Father-Son,’ ‘Brothers’), instituted or voluntary (‘General-Army,’ ‘Citizen-Right’); moral (‘Action-Rule’)
 - Role of ch. 28 in the architectonic: Non-exhaustive treatment of the “most considerable” sorts of relations, for the purpose of showing us “whence we get our *Ideas* of Relations, and wherein they are founded” (§17/360).
- D. Moral relations. §4/350: “There is another sort of Relation, which is the Conformity, or Disagreement, Men’s voluntary Actions have to a Rule, to which they are referred, and by which they are judged of: which, I think, may be called *Moral Relation*; as being that, which denominates our Moral Actions, and deserves well to be examined, there being no part of Knowledge wherein we should be more careful to get determined *Ideas*, and avoid, as much as may be, Obscurity and Confusion. [...] Thus supposing Gratitude to be a readiness to acknowledge and return Kindness received; Polygamy to be the having more Wives than one at once: when we frame these Notions thus in our Minds, we have there so many determined *Ideas* of mixed Modes. But this is not all that concerns our Actions; it is not enough to have determined *Ideas* of them, and to know what Names belong to such and such Combinations of *Ideas*. We have a farther and greater Concernment, and that is, to know whether such Actions so made up are morally good, or bad”
- E. Rules are laws: “And thus much for the Relation of humane Actions to a Law, which therefore I call *Moral Relations*” (§17/360); “*Moral Rules*, or Laws” (§6/351).
- Moral laws: two features (§§5–7)
 - No law without *enforcement*.
- F. §6/351f: “For since it would be utterly in vain, to suppose a Rule set to the free Actions of Man, without annexing to it some

Enforcement of Good and Evil, to determine his Will, we must, where-ever we suppose a Law, suppose also some Reward or Punishment annexed to that Law. It would be in vain for one intelligent Being, to set a Rule to the Actions of another, if he had it not in his Power, to reward the compliance with, and punish deviation from his Rule, by some Good and Evil, that is not the natural product and consequence of the Action it self. For that being a natural Convenience, or Inconvenience, would operate of it self without a Law. This [...] is the true nature of all Law, properly so called.”

- Good and evil determined in *reference* to a law; law’s authority derives from lawmaker.
- G. §5/351: “Morally Good and Evil, then, is only the Conformity or Disagreement of our voluntary Actions to some Law, whereby Good or Evil is drawn on us, from the Will and Power of the Law-maker; which Good and Evil, Pleasure or Pain, attending our observance, or breach of the Law, by the Decree of the Law-maker, is that we call *Reward* and *Punishment*.”
- Three kinds of laws, distinguished by their enforcement (§§6–7, 13).
 - *Divine law*, law of God (action judged as sin or duty); enforced by God.
 - *Civil law*, law of political societies (action judged as criminal or innocent); enforced by the state.
 - *Law of opinion*, law of reputation, law of fashion (action judged as virtuous or vice); enforced by [?].
- H. §6/351: [T]here seem to me to be three sorts [of laws], with their three difference Enforcements, or Rewards and Punishments”; §8/352: “[God] has Power to enforce [his Laws] by Rewards and Punishments, of infinite weight and duration, in another Life”; §9/352: “[Civil] Law no body over-looks: the Rewards and Punishments, that enforce it, being ready at hand, and suitable to the Power that makes it: which is the force of the Commonwealth.”
- Law of opinion enforced by private individuals (§10).
- I. Private individuals. §10/353: “But yet, whatever is pretended, this is visible, that these Names, *Vertue* and *Vice*, in the particular instances of their application, through the several Nations and Societies of Men in the World, are constantly attributed only to such actions, as in each Country and Society

are in reputation or discredit. Nor is it to be thought strange, that Men every where should give the Name of *Vertue* to those actions, which amongst them are judged praise worthy; and call that *Vice*, which they account blamable: Since otherwise they would condemn themselves, if they should think any thing *Right*, to which they allow'd not Commendation; any thing *Wrong*, which they let pass without Blame. Thus the measure of what is every where called and esteemed *Vertue* and *Vice* is this approbation or dislike, praise or blame, which by a secret and tacit consent establishes it self in the several Societies, Tribes, and Clubs of Men in the World: whereby several actions come to find Credit or Disgrace amongst them, according to the Judgment, Maxims, or Fashions of that place.”

J. *Retain power of private censure*. §10/353f: “For though Men uniting into politick Societies, have resigned up to the publick the disposing of all their Force, so that they cannot employ it against any Fellow-Citizen, any farther than the Law of the Country directs: yet they retain still the power of Thinking well or ill; approving or disapproving of the actions of those whom they live amongst, and converse with: And by this approbation and dislike they establish amongst themselves, what they will call *Vertue* and *Vice*.”

- (Recall that for Locke a *power* combines one’s might or capacity to do X and one’s right or authority to do X.)
- Laws and action (§§14–20).
 - In the remainder of the ch., Locke develops his distinction between *action* and *law* (rule, standard, measure, touchstone).
 - For example, dueling is a single action whose evaluation depends on the rule to which it is referred.
- K. *Dueling*. §10/359: “Thus the challenging, and fighting with a Man, as it is a certain positive Mode, or particular sort of Action, by particular *Ideas*, distinguished from all others, is called *Duelling*: which, when considered, in relation to the Law of God, will deserve the name Sin; to the Law of Fashion, in some Countries, Valour and Vertue; and to the municipal Laws of some Governments, a capital Crime.”
- An objection (§12).

- By Locke’s lights, law requires power of enforcement. But private individuals, qua private individuals, seemingly lack this power.

L. *Power?* §12/356: “[One might object that] I have forgot my own Notion of a Law, when I make the Law, whereby Men judge of Vertue and Vice, to be nothing else, but the Consent of private Men, who have not Authority enough to make a Law. Especially wanting that, which is so necessary, and essential to a Law, a Power to inforce it.”

- But this is mere appearance. The law of opinion is, in fact, *stronger* than the divine and civil law.

M. *Opinion’s power*. §12/356f: “I think, I may say, that he who imagines Commendation and Disgrace, not to be strong Motives on Men, to accommodate themselves to the Opinions and Rules of those, with whom they converse, seems little skill’d in the Nature, or History of Mankind: the greatest part whereof he shall find to govern themselves chiefly, if not solely, by this Law of Fashion; and so they do that, which keeps them in Reputation with their Company, little regard the Laws of God, or the Magistrate. [Contrary to divine and civil law, which hold out the possibility of escape through reconciliation and impunity,] no Man escapes the Punishment of their Censure and Dislike, who offends against the Fashion and Opinion of the Company he keeps, and would recommend himself to. Nor is there one of ten thousand, who is stiff and insensible enough, to bear up under the constant Dislike, and Condemnation of his own Club. He must be of a strange, and unusual Constitution, who can content himself, to live in constant Disgrace and Disrepute with his own particular Society. Solitude many Men have sought, and been reconciled to: But no Body, that has the least Thought, or Sense of a Man about him, can live in Society, under the constant Dislike, and ill Opinion of his Familiars, and those he converses with. This is a Burthen too heavy for humane Sufferance.”

- Conclusion: For Locke, opinion is open, important, and uncontrollable.
 - Dovetails with 2nd Treatise? “The people shall be judge” (II.§§240–42).

3. Hobbes on Opinion

- Text: *Leviathan*, esp. Ch. 18.
- I take it to be relatively uncontroversial that Hobbes accepts opinion's (i) *openness* and (ii) *importance* but rejects its (iii) *uncontrollability*.
 - N. *Importance: opinion dictates action*. Ch. 18/124: "For the Actions of men proceed from their Opinions; and in the well governing of Opinions, consisteth the well governing of mens Actions, in order to their Peace, and Concord."
 - O. *Controllability*. Ch. 18/125: "It belongeth therefore to him that hath the Sovereign Power, to be Judge, or constitute all Judges of Opinions and Doctrines, as a thing necessary to Peace."
- What about opinion's *openness*? Hobbes was aware of opinion's influence, e.g., in vain-glory.
 - *Vain-glory*. Ch. 6/42: "Joy, arising from imagination of mans own power and ability, is [...] called *Glorying*; which [...] if grounded on the flattery of others; or onely supposed by himself, for delight in the consequences of it, is called *Vaine-Glory*; Ch. 11/72: "Vain-glorious men, such as estimate their sufficiency by the flattery of other men..."
- Hobbes on the *freedom of thought and conscience*.
 - P. *Worship*. Ch. 31/249: "Again, there is a *Publique*, and a *Private* Worship. Publique, is the Worship that a Common-wealth performeth, as one Person. Private is that which a Private person exhibiteth. Publique, in respect of the whole Common-wealth, is Free; but in respect of Particular men it is not so. Private, is in secret Free; but in the sight of the multitude, it is never without some Restraint, either from the Lawes, or from the Opinion of men; which is contrary to the nature of Liberty."
 - Q. *Miracles*. Ch. 37/306: "For in these times, [...] the question is no more, whether what wee see done, be a Miracle; [...] but in plain terms, whether the report be true, or a lye. In which question we are not every one, to make our own private Reason, or Conscience, but the Publique Reason, that is, the reason of Gods Supreme Lieutenant, Judge; and indeed we have made him Judge already, if wee have given him a Sovereign power, to doe all that is necessary for our peace and defence. A private man has always the liberty, (because thought is free,) to believe, or not believe in his heart, those acts that have been given out for Miracles,

according as he shall see, what benefit can accrew by mens belief, to those that pretend, or countenance them, and thereby conjecture, whether they be Miracles, or Lies. But when it comes to confession of that faith, the Private Reason must submit to the Publique, that is to say, to Gods Lieutenant."

- Similar passages can be found in *Elements of Law, De Cive, and Behemoth, and De Hominie*. E.g., "No human law is intended to oblige the conscience of a man, but the actions only" (*Elements of Law*, II, 6, 3).
 - Conclusion: Hobbes intends opinion to be open, important, but controllable. But given Hobbes's separation of conscience or private judgment from direct political control, opinion is actually uncontrollable. So, sovereignty's realizability is undermined by Hobbes's own lights.
- ### 4. Two Objections: Dissolution & Civic Education
- Objection 1: "So what?"
 - Political bodies are mortal. Indicating a source of possible political instability does undermine Hobbes's theory of sovereignty. Moreover, Hobbes already acknowledges the mortal threat of opinion in Ch. 29.
 - R. *Mortality*. Ch. 29/221: "Though nothing can be immortal, which mortals make; yet, if men had the use of reason they pretend to, their Common-wealths might be secured, at least, from perishing by internall diseases. For by the nature of their Institution, they are designed to live, as long as Mankind, or as the Laws of Nature, or as Justice it selfe, which gives them life." [First among these internal diseases is Want of Absolute Power]
 - S. *Private judgment*. Ch. 29/223: "In the second place, I observe the *Diseases* of a Common-wealth, that proceed from the poison of seditious doctrines; whereof one is, *That every private man is Judge of Good and Evill actions*. [...] [I]t is manifest, that the measure of Good and Evill actions, is the Civill Law; and the Judge the Legislator, who is always the Representative of the Common-wealth. From this false doctrine, men are disposed to debate with themselves, and dispute the commands of the Common-wealth; and afterwards to obey, or disobey them, as in their private judgements they shall think fit. Whereby the Common-wealth is distracted and *Weakened*."

T. *Erroneous conscience*. Ch. 29/223: “Another doctrine repugnant to Civill Society, is, that *whatsoever a man does against his Conscience, is Sinne*; and it dependeth on the presumption of making himself judge of Good and Evill. For a mans Conscience, and his Judgement is the same thing; and as the Judgment, so also the Conscience may be erroneous. Therefore, though he that is subject to no Civill Law, sinneth in all he does against his Conscience, because he has no other rule to follow but his own reason; yet it is not so with him that lives in a Common-wealth; because the Law is the publique Conscience, by which he hath already undertaken to be guided. Otherwise in such diversity, as there is of private Consciences, which are but private opinions, the Common-wealth must needs be distracted, and no man dare to obey the Sovereign Power, farther than it shall seem good in his own eyes.”

- Response: Distinguish *sources of dissolution* (external – war; internal - infirmities) and *conditions of actuality or realizability*. As Hobbes notes, sovereignty faces feasibility constraints (e.g., our nature). If its realization cannot cohere with these constraints, then that indicates an error in the theory.
 - Objection 2: Civic education (Gais 2021; Bejan 2010; Vaughan 2002)
 - Hobbes is aware of opinion’s importance, openness, and apparent uncontrollability. He proposes civic education to control opinion, which works well enough to satisfy sovereignty’s feasibility constraints.
- U. *Education. A Review and Conclusion*/483: “[T]here has been an argument taken, to inferre an impossibility that any one man should be sufficiently disposed to all sorts of Civill duty. [...] [T]o consider the contrariety of mens Opinions, and Manners in generall, It is they say, impossible to entertain a constant Civill Amity with all those, with whom the Businesse of the world constrains us to converse: Which Businesse, consisteth almost in nothing else but a perpetuall contention for Honor, Riches, and Authority. To which I answer, that these are indeed great difficulties, but not Impossibilities: For by Education, and Discipline, they may bee, and are sometimes reconciled.”

- Response: 1) It is implausible that civic education can tame opinion, if Locke’s social theory is correct; 2) It overlooks a fundamental insight of Hobbes's doctrine of sovereignty for modern political philosophy: without a means of controlling these impersonal social forces at their source—forms of “mute compulsion,” to borrow a phrase from Marx—sovereignty, and so lasting peace and political self-determination, are unlikely, if not impossible, to institute.

Reference List

- Bejan, Teresa M. 2010. “Teaching the Leviathan: Thomas Hobbes on Education.” *Oxford Review of Education* 36 (5): 607–26.
- Gais, Amy. 2021. “Thomas Hobbes and ‘Gently Instilled’ Conscience.” *History of European Ideas* 47 (8): 1211–27.
- Hobbes, Thomas. 1996. *Leviathan*. Edited by Richard Tuck. Cambridge: Cambridge University Press.
- Koselleck, Reinhart. 1973. *Kritik und Krise: Eine Studie Zur Pathogenese der Bürgerlichen Welt*. Frankfurt am Main: Suhrkamp.
- . 1988. *Critique and Crisis: Enlightenment and the Pathogenesis of Modern Society*. Studies in Contemporary German Social Thought. Cambridge: MIT Press.
- Locke, John. 1975. *An Essay Concerning Human Understanding*. Edited by Peter H. Niddich. Oxford: Clarendon Press.
- Norberg, Jakob. 2014. *Sociability and Its Enemies: German Political Theory After 1945*. Evanston, IL: Northwestern University Press.
- Schmitt, Carl. 2008. *The Leviathan in the State Theory of Thomas Hobbes: Meaning and Failure of a Political Symbol*. Translated by George Schwab and Erna Hilfstein. Chicago: University of Chicago Press.
- Slomp, Gabriella. 2010. “The Liberal Slip of Thomas Hobbes’s Authoritarian Pen.” *Critical Review of International Social and Political Philosophy* 13 (2–3): 357–69.
- Tralau, Johan. 2011. “Hobbes Contra Liberty of Conscience.” *Political Theory* 39 (1): 58–84.
- Vaughan, Geoffrey M. 2002. *Behemoth Teaches Leviathan: Thomas Hobbes on Political Education*. Lanham: Lexington Books.