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Abstract

David Van Mill recently argued in this journal that Hobbes's theory of freedom in *Leviathan* is fundamentally confused. Van Mill finds that this confusion arises from the supposed inconsistency between Hobbes's initial account of liberty as “the absence of external impediments” in Chapter 14 and subsequent uses of the term in contexts where he must necessarily have held a different concept. (This occurs most notably in Chapter 21, where he discusses the “liberty of subjects.”) According to Van Mill, the consequence of this confusion is nothing less than the *disintegration* of Hobbes's whole system. Against this account, I argue that Hobbes presents a consistent, if somewhat flawed, account of freedom sufficient to save him from the dire conclusions drawn by Van Mill and others.

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Liberty, Rights, and Will in Hobbes: A Response to David Van Mill

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David Van Mill recently argued in this journal that Hobbes's theory of freedom in *Leviathan* is fundamentally confused. Van Mill finds that this confusion arises from the supposed inconsistency between Hobbes's initial account of liberty as "the absence of external impediments" in Chapter 14 and subsequent uses of the term in contexts where he must necessarily have held a different concept. (This occurs most notably in Chapter 21, where he discusses the "liberty of subjects.") According to Van Mill, the consequence of this confusion is nothing less than the *disintegration* of Hobbes's whole system. Against this account, I argue that Hobbes presents a consistent, if somewhat flawed, account of freedom sufficient to save him from the dire conclusions drawn by Van Mill and others.

I

Hobbes's *Leviathan* has prompted criticism almost from the moment of its publication.¹ Indeed, as the history of this criticism makes clear, *Leviathan* has been far more influential as a negative example and a stimulus to rebuttal than as a source of positive inspiration. Despite such criticism, however, *Leviathan* is still regarded as one of the founding documents of "modern" political thought. In part, this is because in it Hobbes lays the groundwork for many of his successors through his definition of and reliance upon concepts characteristic of modern liberalism. Among the most important of these is the concept of Liberty, or Freedom.

Hobbes's use and understanding of this concept have been subjected to vigorous critical scrutiny,² most recently from David Van Mill, who charges that the purported inconsistencies he has discovered in *Leviathan* lead to serious problems for Hobbes's whole project:

Hobbes has to make subtle changes in his theory of freedom because he has to demonstrate that in civil society we are less free than in the state of nature, but much better off because our freedom is limited. But he cannot demonstrate this if he continues to maintain that the only things which limit freedom are external objects. Hence Hobbes is forced into a duality in

¹For historical accounts of the critical response to Hobbes, beginning in the seventeenth century, see Bowles 1969; Mintz 1962; and Rogow 1986.

²See, for example, Pennock 1965; Peters 1967, 203–13; Raphael 1984, 27–38; Ross 1974, 42–60; and Wernham 1965, 117–39, esp. 120–1, 123–4. Skinner (1990, 121–51) provides a masterful response to these earlier critics, albeit in somewhat different terms than I develop here.

which freedom means something different in society from what it does in nature. As Hobbes's main concern is with society rather than the state of nature, it means that we have to take the extended theory of freedom as his primary thoughts on the subject and not, as has been the case thus far, his theory of pure negative freedom. *Once we do this however, we find that Hobbes's system of thought begins to disintegrate.* (Van Mill 1995, 458, emphasis added)

Van Mill arrives at this conclusion in a way typical of several other critics.³ Thus, in tracing his path we can deal with problems that have led others to equally serious conclusions about Hobbes's program and appreciate how a consistent definition of freedom on Hobbes's part can save him.

Van Mill begins by citing the discussion in Chapter 6 of *Leviathan* where Hobbes lays out his mechanistic account of human movement. According to Van Mill:

. . . this immediately introduces a potential problem for Hobbes, who wants to argue that the universe is causally determined and yet also wishes to discuss freedom of action in a meaningful way. Somehow, Hobbes has to make freedom and determinism compatible. (1995, 444)

To solve this problem he argues that Hobbes developed a definition of freedom in "negative" terms,⁴ organized around a mechanistic account of the will, as simply the last motion in a causal chain that originates outside the person, moves through the body, stirring the imagination as it proceeds to stimulate movement in the limbs. This account of the will thus "internalizes" the forces that move inanimate (or animate) bodies.

Van Mill, however, detects the beginnings of an inconsistency in Hobbes's account of the connection between will and freedom. Noting that he locates the origin of motion in "endeavor," and that this in turn "directs us towards some object of desire or appetite, or away from something we dislike . . ." (1995, 446). Van Mill then claims that this ultimately subverts Hobbes's "pure" negative theory of freedom.

The problem is that in his discussion of deliberation and endeavor, Hobbes sometimes links movement (and hence freedom) to aversions which are internal to the actor. As we have seen, endeavor moves us either toward or away from some external objects. . . . In the case of something we desire, there does not seem to be a problem in Hobbes's formulation; we desire something, we move toward it, and we are either successful or not in attaining the desire, depending upon whether something external to us gets in our way.

But what of things we are averse to? In this case, what prevents motion is not an external obstacle, but our own passions. It is true that what sparks the passion is external to us, but it does not prevent motion in the same way as a straightjacket or a brick wall. What prevents motion is deliberation on the passions; this in turn results in an aversion that limits motion

³Watkins (1965, 85–96), for example, analyzes and critiques Hobbes's conception of liberty largely in terms of the mechanistic account of human nature. Benn (1972), Pennock (1965), Ross (1974), and Wernham (1965) all argue that Hobbes's materialist determinism is fundamentally inconsistent with his definition of freedom.

⁴For the distinctions between "positive" and negative" freedom see Berlin 1967 and MacCallum 1967.

because of a fear of the likely consequences of the action. Hence, the external object cannot itself be the thing that stops motion because the motion itself never takes place. (1995, 447)

According to Van Mill, the flaw exists because Hobbes has an “internal passion” *stopping motion* in the case of aversion, while in the case of attraction, any interference comes from “external” obstacles.

Van Mill argues that this inconsistency is deepened when it comes to the relationship between law and freedom. After noting that in *De Cive* Hobbes saw no interference with liberty from laws, he claims that Hobbes changed dramatically in *Leviathan*, where Hobbes argued that laws limit the subject’s liberty.

And, crucially, they limit his liberty not because they are physical externalities (as he says, they are only “artificial chains”), but because of the fear of punishment. . . .

This is not to suggest that laws are not in some sense external to the agent, but Hobbes does not count them as external impediments in the same sense as, for example, handcuffs. They are different because they cannot stop motion in any way other than by affecting the psychological nature of the individual. For example, a law or an obligation cannot stop the motion of an animal or a falling rock. . . . (1995, 447)

Van Mill thus discovers what he thinks is a profound inconsistency between *natural liberty* and the *liberty of subjects* in Hobbes.

. . . . There is no difference in principle between the sovereign’s sword and the highwayman’s gun, yet Hobbes wishes to say that fear of the one leaves us free [the highwayman’s gun] and [fear of] the other does not. It is now states of mind (internal properties of the agent) which affect liberty as well as external obstacles, and consequently fear is no longer compatible with freedom. Hobbes must try to conceal this change of position, otherwise the whole idea of contract through fear loses legitimacy; as he says repeatedly, an involuntary contract is not valid. (1995, 450)

Is Hobbes guilty of such flagrant intellectual sleight-of-hand? A more careful reading of what Hobbes actually says in *Leviathan* suggests that he is not. Indeed, his account of liberty remains, I will argue, remarkably consistent throughout.

II

In order to see where Van Mill and others have misunderstood Hobbes, we must return to his account in Chapter 6, “Of the Interior Beginnings of Voluntary Motions, Commonly Called Passions. . . .” As Van Mill correctly notes, Hobbes identifies “endeavors” as the beginning of *all* voluntary motions.⁵ These endeavors, in turn, he divides into two categories—*appetites* and *aversions*. After defining the terms, he discusses the origin of these notions within humans. At section 10 he says,

This motion which is called appetite, and for the appearance of it *delight* and *pleasure*, seemeth to be a corroboration of vital motion, and a help thereunto; and therefore such things as caused

⁵For an instructive discussion of the significance of Hobbes’s theories of physical motion, consult Spragens 1973.

delight were not improperly called *jucunda* (*a juvando*, from helping or fortifying); and the contrary, *molesta*, *offensive*, from hindering and troubling the motion vital. (1994, 29)

Clearly Hobbes thought both motions originated in the interaction between the movements engendered by external stimulæ and “the motion vital.” Those stimulæ-induced motions “corroborating” this vital motion resulted in appetitive motion (motion towards the object). Those “hindering or troubling” this vital motion created aversive motion (motion *away from* the object).

This endeavor, when it is toward something which causes it, is called *Appetite* or *Desire*, the latter being the general name, and the other oftentimes restrained to signify the desire of food, namely *hunger* and *thirst*. And when the endeavor is fromward something, it is generally called *Aversion*. (1994, 28)

Hobbes then goes on in the rest of the chapter to develop the whole catalogue of appetitive and aversive passions from these definitions. What is significant here, of course, is that contrary to Van Mill’s assumption, aversion for Hobbes does not involve *stopping* any motion. It is, instead, quite simply a *motion away from an object*. Thus, when Van Mill asks rhetorically, “But what of things we are averse to?” Hobbes would respond, not that deliberation on passions stops our motion toward threatening objects, but rather that our natural motion with regard to such objects is flight. Thus fear and voluntary action are consistent for Hobbes. Since voluntary action is simply action preceded by will, and the motion involved is “flight” from the object of aversion, there is no “interference,” internal or external, no “hindering” that for Hobbes would constitute an infringement of freedom. Hence, fear and freedom are consistent. This dissolves one of the alleged inconsistencies that leads Van Mill to argue for a theory of freedom at work other than Hobbes’s “negative theory.”

The other inconsistency that Van Mill identifies is based, as we have seen, on the idea that law “limits” liberty. To understand Hobbes clearly here, we must delve a bit more deeply into his theories about will, rights, and authorization.

III

The crux of Van Mill’s argument is that Hobbes’s notion of laws and freedom as inconsistent must entail some “internal” impediments that Hobbes has failed to provide for in his definitions of freedom. To properly assess this claim, we must carefully examine the connections Hobbes draws between the concepts of freedom, will, and rights.

Hobbes begins Chapter 14 considering freedom, but in the context of a discussion of Rights in the state of nature.

The Right of Nature, which writers commonly call *jus naturale*, is the liberty each man hath to use his own power, *as he will himself*, for the preservation of his own nature, that is to say, of his own life, and consequently of doing anything which, in his own judgement and reason, he shall conceive to be the aptest means thereunto.

By Liberty is understood, according to the proper signification of the word, the absence of external impediments, which impediments may oft take away part of a man's power to do what he would, but cannot hinder him from using the power left him, according as his judgement and reason shall dictate to him. (Hobbes 1994, 79, emphasis added)

Taking the definition together with the preceding paragraph, it is clear that Hobbes connects the exercise of will with liberty.⁶ This connection is extensively reemphasized in Chapter 21, when Hobbes again turns to the subject of Liberty. After restating the definition from Chapter 14, he adds at section 2,

And according to this proper and generally received meaning of the word, a Free-man is *he that in those things which by his strength and wit he is able to do he is not hindered to do what he has a will to*. . . . Lastly, from the use of the word *free-will* no liberty can be inferred of the will, desire, or inclination, but the liberty of the man, which consisteth in this: that he finds no stop in doing what he has the will, desire, or inclination to do. (136, emphasis in original)

This connection between will and freedom is immediately reinforced in his (in)famous discussion of “Free-will vs. Necessity” in the next paragraphs:

Fear and liberty are consistent, as when a man throweth his goods into the sea for *fear* the ship should sink, he doth it nevertheless very willingly, and may refuse to do it if he will; it is therefore the actions of a man that was *free*. . . .

Liberty and *necessity* are consistent: as in the water, that hath not only *liberty*, but a *necessity* of descending by the channel, so likewise in the actions which men voluntarily do, which, because they proceed from their will, proceed from *liberty*, and yet, because every act of man's will and every desire and inclination proceedeth from some cause, and that from another cause in a continual chain (whose first link is in the hand of God the first of all causes), they proceed from *necessity*. So that to him that could see the connexion of those causes, the *necessity* of all men's voluntary actions would appear manifest. (136–137, emphasis in original)

Thus, for Hobbes, the exercise of freedom is inseparably tied to the exercise of will. In man, when there is no will, there can be no freedom; the question of freedom does not arise.

If this connection is accurate, then the conjunction between the discussions of rights and liberty in Chapter 14 suggests that there is also an intimate connection between will and rights. There, it will be recalled, Hobbes asserts, “The Right of Nature . . . is the liberty each man hath to use his own power, as he will himself, for the preservation of his own nature. . . .” Since restriction of liberty according to this definition is equivalent to restriction of right, and liberty is willful action toward or away from some object, right likewise must involve willful action toward or away from some object. Exercise of right must thus be, in other words, “exercise of will,” (within the peculiarly Hobbesian meaning of such a phrase, given his mechanistic conception of will). Thus, right, liberty, and the exercise of will are coextensive. Restriction of one entails restriction of the

⁶Patrick Riley (1982, 26–60) offers a detailed and insightful account of this connection. My own reading, while it follows Riley's in some particulars, differs substantially in others, especially in the connection between will and rights and the transfer of will I discern as a result in Hobbes's notion of representation.

rest. But if this is true, then the creation of society has dramatic consequences as far as the rights, will, and, finally, the liberty of the subjects is concerned.

Hobbes treats the concept of right in ways both familiar and unfamiliar to modern thought. Anticipating Hart's (1970) celebrated discussion in "Are There Any Natural Rights?"⁷ he says in Chapter 14,

To lay down a man's right to anything is to divest himself of the liberty of hindering another for the benefit of his own right to the same. For he that renounceth or passeth away his right giveth not to any other man a right which he had not before (because there is nothing to which every man had not a right by nature), but only standeth out of his way, that he may enjoy his own natural right without hinderence from him, not without hinderence from another. So that the effect which redoundeth to one man by another man's defect of right is but so much diminution of impediments to the use of his own right original. (Hobbes 1994, 81, emphasis in original)

Right is thus a kind of license to interfere with the liberty of another, the surrender or transfer of which deprives the person transferring it of that liberty, and increases the liberty (absence of impediments) of those who likewise had a right to the object. Such natural rights are evidently, in Hobbes's view, capable of being enjoyed and held by more than one person at a time.

But there is a somewhat *unfamiliar* treatment of the concept in Hobbes as well. When he elaborates on covenants later on, he notes at section 28:

A former covenant makes void a later. For a man that hath passed away his right to one man today, hath it not to pass tomorrow to another; and therefore the later promise passeth no right, but is null. (Hobbes 1994, 86)

In other words, rather than a license, authorization, or permission—a sort of moral category, Hobbes here treats a right as a *tangible object* which can be passed from one person to another, alienated from the original holder, such that physical possession by one necessarily precludes physical possession by another. In contrast to the earlier notion, it seems that more than one person *cannot* possess this sort of right. I have elsewhere (Harman 1983) termed this notion a "commodity" conception of right and suggested that it derives from the idea of rights associated with property.⁸

It may seem that this "commodity" conception of rights is fundamentally at odds with the connection between rights and will that Hobbes stressed. For the implication follows that if a right is an object, and the right is coextensive with

⁷Hart defines a *moral right* at one point early in the essay in the following terms:

... the concept of a right belongs to that branch of morality which is specifically concerned to determine when one person's freedom may be limited by another's and so to determine what actions may appropriately be made the subject of coercive legal rules. (1990, 63)

⁸Tuck (1979, Ch. 4–6), has largely confirmed this derivation through his careful analysis of the connection between the idea of natural right and the notion of property via the notion of *dominium* in Hobbes's predecessors and contemporaries. Locke, of course, is (in)famous for his identification of natural rights and freedom with property in *The Second Treatise*, as at the end of section 123 in Chapter 9.

a person's will toward some object, then a person's *will* could be "objectified" and transferred, alienated to someone else, thus depriving the original possessor of it.

Although at first blush it may appear an odd formulation, on examination, this notion of an "objectified will" has at least one familiar application. For the notion of a "last will and testament" suggests exactly this sort of "objectification" of a living person's will. Such an objectified will survives the demise of its original possessor and is realized in the actions of the "executor" who distributes the objects identified in the document to those the testator names. Indeed many of the problems surrounding probate turn in large part on whether a physical "will" exists and is connected to the genuine desires of the deceased.⁹ Thus Hobbes's conception of an objectified will, bound up in a commodity conception of right (modeled on property rights), resembles in significant ways fairly commonplace legal usages.

The analysis to this point suggests the following:

- (a) Freedom and the unobstructed exercise of will are synonymous.
- (b) Rights and freedom are synonymous;
- (c) thus, rights and the unobstructed exercise of will are synonymous.
- (d) Rights are alienable commodities;
- (e) thus, the unobstructed exercise of will, indeed, for all intents and purposes, the will itself, is alienable.

This finds striking confirmation in Chapter 16, "Of Persons, Authors, and Things Personated," where Hobbes elaborates his theory of authorization.

The theory of authorization and representation that Hobbes develops here has also received a fair amount of attention in recent years,¹⁰ most of it to Hobbes's discredit. Robert Hanna's analysis is perhaps typical (1983, 177–92). Focusing on Hobbes's allusion to stage-acting in this discussion, Hanna discerns a number of problems with his attempt to derive any political authority from this notion of "personation"—among them how far the authorization "permeates" the actor (182); that the stage-actor example Hobbes uses does not ordinarily lead to any notion of authorization (183); that it is difficult to make sense of why idols cannot be "actors" as Hobbes claims they cannot (185–86); and that the asymmetry between many men empowering one actor (which Hobbes describes) and one man personating many others is entirely mysterious and absurd (187).

While this is not the place for a detailed critique, it should be obvious how the notion that a surrender of rights, and with it the alienation of the wills of those giving up their rights, to a sovereign solves many of the difficulties that Hanna describes. Authorization involves the exercise of the author's will, indeed,

⁹The comfortable fit between Hobbes's conceptions and some familiar legal concepts incidentally suggests the truth of Grover's (1980, 177–94) claims of Hobbes's indebtedness to the legal writings of his day.

¹⁰Beginning at least with Hanna Pitkin 1964.

all of the wills of those surrendering them. It does not “permeate” the “artificial person”—the exercising of such wills is the artificial person. Since there is no surrender of rights, nor alienation of wills in the example of a stage actor, it is clear that he does not “act for another” in the same way as does the sovereign, who possesses such rights. Since inanimate objects cannot possess a will in any sense, it is clear why they cannot be actors or become “authorized,” and since the will is bound up in a commodity conception of right, it is clear as well why one man may possess the rights of many others but cannot surrender the same right to many men.

If this account is accurate, a correct understanding of Hobbes’s remarks with respect to the “law-limited” liberty of subjects need have no reference to a “different” sort of liberty. All liberty involves “willful” action—action preceded by the exercise (or appearance) of will. Alienation of the will deprives any actions with respect to the referenced objects of their “willful,” hence “free,” character. As the sovereign embodies the wills of the subjects, liberty can *only* be exercised with respect to those things upon which the sovereign has *not* legislated (the things “he hath praetermitted” in Hobbes’s words). Laws simply remove the objects of their restrictions from the possible list of objects upon which the subjects can independently will.

Since this relationship does *not* involve the “imposition” of any “external” barrier on the will of the subjects, Hobbes has not, as Van Mill claims, surreptitiously imported another conception of freedom into the discussion. His conception of freedom thus remains as “purely negative” at the end of Chapter 21 as it was at the beginning of Chapter 14. Thus, neither the idea that aversion creates a different sort of impediment than Hobbes has defined nor the notion that law limits liberty sustains the case that Van Mill and others argue concerning the consistency of Hobbes’s theory of freedom.

IV

It may be charged against this interpretation that it does not ultimately square with some other features of Hobbes’s discussion, particularly the idea that upon the dissolution of the sovereign, either by conquest or by the simple failure of the sovereign to provide for the physical safety of the subject (as in the case of punishment, where the sovereign threatens the life of the criminal subject), rights return to the subject. Hobbes throughout Chapter 14 emphasizes the notion of contract, which involves an “exchange of rights.” But contracts do not typically involve residual attachments to rights, such that the original possessor retains some connection which allows him to reclaim the right. After all, as the passage noted above suggests, once rights have been given away, the original possessor no longer has them to dispense again to another.

Two points may be made in response. First, it is often the case that contracts retain clauses concerning failure of one of the parties to perform, usually

requiring return of the “property” involved in the transaction to the original possessor (foreclosure on a home loan, for example). Such contracts make sense where one party performs first and depends on subsequent performance of another. Second, it is not unusual for contracts to be written in such a way that the original owner retains an “interest” in the property—certainly a lingering sort of connection that accompanies an exchange of rights.

Hobbes clearly points to the first sort of consideration at the end of his discussion of “authorization” in Chapter 16.

Of authors there be two sorts. The first simply so called, which I have before defined to be him that owneth the action of another simply. The second is he that owneth an action or covenant of another conditionally (that is to say, he undertaketh to do it, even if the other doth it not at, or before, a certain time). And these authors conditional are generally called Sureties . . . (1994, 105)

Further, we retain an “interest” in the rights which we surrender to the sovereign. For the object of those rights is not a “thing” which passes into our possession, but rather the *continued* security of our person. The realization of the benefit for which we surrender the rights is a continuous process. Where that benefit is interrupted, we retain that physical security as our object. Where the sovereign fails to exercise our wills to protect that object, his failure creates fear to which we must respond; and our will toward that object reemerges, and with it our rights and freedom.

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