

## **Hobbesian Slavery**

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ABSTRACT: Although Thomas Hobbes's critics have often accused him of espousing a form of extreme subjection that differs only in name from outright slavery, Hobbes's own striking views about slavery have attracted little notice. For Hobbes repeatedly insists that slaves, uniquely among the populace, maintain an unlimited right of resistance by force. But how seriously should we take this doctrine, particularly in the context of the rapidly expanding Atlantic slave trade of Hobbes's time? While there are several reasons to doubt whether Hobbes's arguments here should be taken at face value, the most serious stems from the highly restricted definition that he gives to the term "slave," one that would seem to make his acceptance of slave resistance entirely hollow in practice. Yet a closer examination of Hobbes's theory indicates that his understanding of slavery is less narrow than it might initially appear—and thus that his argument carries a genuine political bite.

1.

"This man deserves to be a perpetual slave," the clergyman George Lawson wrote of his contemporary Thomas Hobbes: "his intention is to make men believe that the kings of England were absolute monarchs, their subjects slaves, without propriety of goods or liberty of person, the parliaments of England merely nothing but shadows."<sup>1</sup> If Lawson's words were notably vehement, the underlying sentiment was not uncommon, either in his day or ours. Hobbes is remembered as the most notorious authoritarian in the history of political thought, his commonwealth built around a form of extreme political subjection that differs only in name from outright bondage. No doubt many readers have closed *Leviathan* with a verdict similar to Lawson's: "the great monstrous animal hath been examined and viewed: and is found to consist

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<sup>1</sup> George Lawson, *An examination of the political part of Mr. Hobbs his Leviathan* (London, 1657), 37. I have modernized the spelling, capitalization, and punctuation of seventeenth-century texts throughout.

of an absolute power, and absolute slavery.”<sup>2</sup> Hobbes aims to reconcile subjects to this kind of slavery, however much he might shy away from saying the word outright.

But Hobbes does, in fact, refer to slavery repeatedly in his writings, and his treatment of the subject is not what this picture might lead us to expect. For Hobbes always maintains that genuine slaves—and the question of who counts as a “genuine” slave is one to which we will return—are free of all political obligation, whether to the sovereign or to their masters.

Accordingly, and in stark contrast to the rest of the populace, slaves maintain a full and unfettered right to resist their predicament, whether by flight or by outright violence. This basic doctrine is maintained with striking consistency throughout Hobbes’s major political works. In the *Elements of Law*, he writes that the slave retains “a right of delivering himself, if he can, by what means soever.”<sup>3</sup> In *De Cive*, he argues that “if they run away, or kill their master, they are not acting against the natural laws.”<sup>4</sup> And *Leviathan* states outright that slaves “have no obligation at all, but may break their bonds or the prison, and kill or carry away captive their master, justly.”<sup>5</sup>

We might seem, therefore, to have an explicit argument for the slave’s right of rebellion, proposed—at a moment of rapid expansion in the Atlantic slave trade—by (of all people) the

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<sup>2</sup> Lawson, *An examination*, 118. While Hobbes is typically viewed as the archetypal authoritarian, it is true that other interpreters have emphasized the proto-liberal elements of his thought. Yet the two views need not be contradictory, for even those who see Hobbes as laying important intellectual foundations for liberalism tend to concede that these foundations do not affect the authoritarianism of his practical political doctrines.

<sup>3</sup> *The Elements of Law*, ed. Ferdinand Tönnies (London, 1969), 2.3.3. I cite all of Hobbes’s works by chapter and section number.

<sup>4</sup> *On the Citizen [De Cive]*, ed. Richard Tuck and Michael Silverthorne (Cambridge, 1998), 8.4. As outlined in greater detail below, I have sometimes modified this translation with reference to *De Cive: The Latin Version*, ed. Howard Warrender (Oxford, 1984).

<sup>5</sup> *Leviathan*, ed. Noel Malcolm, 3 vols (Oxford, 2012), 20.10. Although most editions of *Leviathan* do not include section numbers, for ease of reference I have included the paragraph numbers from Edwin Curley’s Hackett edition (Indianapolis, 1994).

most famously authoritarian of political theorists. (It is appropriate to speak not merely of individual resistance but of collective rebellion, for Hobbes maintains that any individuals who separately have the right to resist also have the right to band together to improve their chances of success.<sup>6</sup>) But could this possibly be right? We will see that some of Hobbes's earliest critics attacked him for his arguments on this score, which suggests (if nothing else) that it is not anachronistic to take seriously this part of his theory. Yet the disconnect between our familiar image of Hobbes and the apparent political implication of his argument is great enough that we might reasonably suspect that the latter is not what it seems. This may help explain the fact that for all the scholarly attention devoted to Hobbes as a theorist of liberty,<sup>7</sup> his account of slavery has attracted only sparse and generally hostile treatment.<sup>8</sup>

In fact, there are three broad sets of concerns that might lead us to doubt whether Hobbes's claims should be taken at face value. The first would stress the political limitations of Hobbes's argument: his insistence on the slave's right of resistance is by no means a call for the

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<sup>6</sup> Confusion on this point stems from the fact that Hobbes forbids outside assistance by those who lack a right of resistance themselves. But all those who can justifiably resist can also justifiably "join together, and assist, and defend one another" (*Leviathan* 21.17). For more on the scope of justified rebellion in Hobbes's theory, see Susanne Sreedhar, *Hobbes on Resistance* (Cambridge, 2010), 136-43.

<sup>7</sup> Among the many discussions of Hobbes on liberty, see, *inter alia*, J. Roland Pennock, "Hobbes's Confusing 'Clarity'—The Case of 'Liberty'," *American Political Science Review* 54.2 (1960); F.C. Hood, "The Change in Hobbes's Definition of Liberty," *The Philosophical Quarterly* 17.67 (1967); Richard Tuck, *Natural Rights Theories* (Cambridge, 1979), 119-42; Annabel Brett, *Liberty, Right, and Nature* (Cambridge, 1997), 205-35; Quentin Skinner, "Hobbes on the proper signification of liberty," in *Visions of Politics, Vol. III: Hobbes and Civil Science* (Cambridge, 2002); Quentin Skinner, *Hobbes and Republican Liberty* (Cambridge, 2008); Robin Douglass, "Hobbes's Changing Account of Liberty and Challenge to Republicanism," *History of Political Thought* 36.2 (2015). Such treatments rarely devote much attention to Hobbes's discussions of slavery (and those that do, particularly Skinner's, generally suggest that Hobbes aims to empty the term of any practical political significance). Likewise, Sreedhar's *Hobbes on Resistance* mentions slavery only once and in passing (68n34), although much of what she has to say about Hobbes's understanding of permissible resistance will prove relevant to our subject.

<sup>8</sup> For a view of Hobbes as apologist for the Atlantic slave trade and predecessor to Locke's justifications of slavery, see Mary Nyquist, "Hobbes, Slavery, and Despotical Rule," *Representations* 106.1 (2009). Something like this view seems to be shared by most other scholars who mention the subject, although Nyquist's account (which provides an instructive contrast to my own) is unusual in arguing for it explicitly and in depth. For a rare treatment that does take Hobbes's arguments about slave resistance seriously, see Tommy L. Lott, "Early Enlightenment Conceptions of the Rights of Slaves," in Tommy L. Lott (ed.), *Subjugation and Bondage* (Lanham, MD, 1998); see also the interesting but passing reference in Hannah Arendt, *The Origins of Totalitarianism* (New York, 1968), 140.

abolition of slavery as an institution; it is not even, strictly speaking, a claim that the institution is unjust. The second would stress the historical limitations of Hobbes's argument: whatever it might seem to imply for the burgeoning Atlantic slave trade, these political implications were surely not what he had in mind in writing it.

These objections, I will suggest, are both correct as far as they go. Yet at the same time they are not decisive. For although Hobbes may not be arguing for the injustice of slavery as such, this is largely due to his own highly particular understanding of justice, and his broader account nonetheless destabilizes the most common justifications for the institution. And although he was almost certainly not writing with New World slavery chiefly in mind, the relevant question is whether the Hobbesian theory would apply in these circumstances, not whether the historical Thomas Hobbes did so apply it.

The third set of concerns is conceptual, and internal to Hobbes's theory: it suggests that his definition of slavery as literal bondage is so narrow as to deprive the term of any real referent. On this view, "slave" for Hobbes is merely a kind of residual category in a theory whose real purpose is to show that almost no one actually qualifies as one, and Hobbes's notional justification of slave resistance turns out in practice to be entirely hollow. This objection, I will suggest, poses more serious difficulties. But it is not ultimately convincing, for Hobbes's conception of slavery is in fact significantly broader than it might appear. This is partly because of aspects of Hobbes's theory that the objection tends to neglect. But it is also partly, and perhaps more interestingly, because when discussing slavery Hobbes proves uncharacteristically reluctant to follow his premises to their furthest conclusions. Regardless of what his other arguments

might seem to imply, he envisions slavery as a real, widespread, and durable institution—and thus his insistence on the slave’s inalienable right of resistance carries a genuine political bite.

2.

The first thing to say about Hobbes’s justification of slave resistance is that it is not a condemnation of the *injustice* of slavery, much less a call for its abolition. And the reasons why it is not go beyond the familiar fact that abolitionism is a relatively recent historical phenomenon, more recent than Hobbes himself.<sup>9</sup> For Hobbes’s treatment of slavery reflects some of the peculiarities of his broader system of thought, and particularly his understanding of rights.

These peculiarities become evident by way of contrast with a more familiar understanding of rights. We are used to thinking of the rights inhering in one’s person, the sorts of rights that slavery might be understood to violate, as entailing corresponding obligations upon others. On this view, to postulate a right is to settle some set of potential moral arguments, to set limits on parties other than the right-holder. And this sort of view underlies the typical ways in which both slavery’s opponents and its defenders have understood the moral issues surrounding it, with the result that the legitimacy or illegitimacy of slave resistance comes to serve as a proxy for the corresponding legitimacy or illegitimacy of slavery as an institution. To say that slaves have a right to resist their masters is to say that the masters had no right to keep them subjugated in the first place (that is, had an obligation not to keep them subjugated). Likewise, if one were to

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<sup>9</sup> On the late arrival of anything recognizable as abolitionism, see David Brion Davis, *The Problem of Slavery in Western Culture* (Oxford, 1966); Thomas L. Haskell, “Capitalism and the Origins of the Humanitarian Sensibility,” *American Historical Review* 90.2 and 90.3 (1985).

say that the masters *did* have a right to subjugate them, this would imply that the slaves had no right to resist (that is, had an obligation not to resist).

But this is not how Hobbes understands rights. Or at least it is not how he understands *natural* rights, the rights that exist in the state of nature. For in the Hobbesian state of nature—and slavery, for him, is essentially the state of nature carried over into civil life—each party possesses a sweeping set of rights, but these rights do not entail any corresponding set of obligations on others. When he remarks that “law and right differ as much as obligation and liberty,” he is not merely claiming (as he is commonly understood) that rights alone impose no obligations on the right-holder; he is claiming that rights alone impose no obligations on *anyone*.<sup>10</sup> The result is a situation in which rights are overlapping rather than interlocking, the conflicts between them resolvable only by force: “in such a condition,” Hobbes tells us, “every man has a right to every thing, even to one another’s body.”<sup>11</sup> The right of self-defense against an aggressor does not imply that the aggressor had any obligation to act otherwise, nor does the right of aggression imply that the target had done anything to forfeit their right of self-defense. Slavery, for Hobbes, obeys the same logic, so that the slave’s continued right of violent resistance does not imply that the master had acted unjustly in subjugating them. For master and slave inhabit a world without justice—not, that is, an *unjust* world, but rather one in which the “notions of right and wrong, justice and injustice have there no place.”<sup>12</sup>

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<sup>10</sup> *Leviathan* 14.3. In the language of the later Hohfeldian typology of rights, Hobbes’s state of nature involves a sweeping set of “liberty-rights” coexisting with a complete absence of “claim-rights.” This does not, however, imply that he sees claim-rights as likewise absent from civil society. For the view that his theory has no place for claim-rights in any context, see Jean Hampton, *Hobbes and the Social Contract Tradition* (Cambridge, 1986), 51-57; for a rebuttal, see Eleanor Curran, “Lost in Translation: Some Problems with a Hohfeldian Analysis of Hobbesian Rights,” *Hobbes Studies* 19.1 (2006).

<sup>11</sup> *Leviathan* 14.4.

<sup>12</sup> *Leviathan* 13.13.

The case of the slave, for Hobbes, is analogous to the better-known case of the criminal who, “though justly condemned,” maintains a right to resist the sovereign’s agents sent to punish him.<sup>13</sup> Criminals find themselves back in the state of nature only temporarily and contingently, by virtue of the punishment awaiting them, whereas slaves live in it permanently and constitutively, by virtue of their very status. Yet in both cases, the right to resist does not depend on the justice or injustice of the power being resisted. The right to resist justified punishment has long been one of the most striking and controversial points in Hobbes’s theory; Clarendon, in insisting that “no man can legally take his life from him who may lawfully defend it,” was perhaps the first to reply with the commonsensical claim that the rights to punish and to resist punishment are mutually exclusive.<sup>14</sup> But regardless of how we feel about Hobbes’s view, I would suggest that the seeming paradox here is not an isolated chink in the armor of his theory; it is merely one manifestation of his broader and idiosyncratic understanding of rights.<sup>15</sup>

In any case, we can see that Hobbes’s insistence on the slave’s right of resistance does not represent any kind of moral protest against slavery, for Hobbesian natural rights have only a minimal moral content. But neither should we take Hobbes to be offering a justification of the institution, at least if *justification* is taken to require some notion of *justice*. Indeed, Hobbes’s account undercuts many of the traditional justifications of slavery, which shared the

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<sup>13</sup> *Leviathan* 21.12.

<sup>14</sup> Edward Hyde, Earl of Clarendon, *A Brief View and Survey of the Dangerous and Pernicious Errors to Church and State in Mr. Hobbes’s Book, Entitled Leviathan* (London, 1676), 87. For a more recent argument along these lines, see Thomas S. Schrock, “The Rights to Punish and Resist Punishment in Hobbes’s *Leviathan*,” *Western Political Quarterly* 44.4 (1991).

<sup>15</sup> The criminal’s right to resist punishment has struck many commentators as an empty concession that does not ultimately change the authoritarian tenor of Hobbes’s theory: the mere right to “kick and scream on the way to the gallows,” as James Martel puts it (“The Radical Promise of Thomas Hobbes,” *Theory and Event* 4 [2000], 34). But recognizing the parallel between criminal and slave might make this right seem rather more consequential.

commonplace notion (even if only implicitly) that the relevant rights at stake entailed corresponding obligations, and therefore that slavery established in a morally permissible fashion would rule out any right of resistance to it. Theories of voluntary slavery, for instance, imagined the institution originating in the right to sell oneself into bondage, and suggested that if the contract to do so was legitimate, the slave had no subsequent right to resist.<sup>16</sup> Other theories offered a morally sanitized version of the historically ubiquitous reality of war slavery: faced with prisoners who had forfeited their lives through unjust aggression, the victor was within his rights to spare them on condition of servitude.<sup>17</sup>

What all such theories had in common was a focus on the justice of slavery's origins: if there were conditions in which slavery was permissible, and if the original enslavement met these conditions—if the contract was valid, or the war of conquest just—then the institution itself was justified and resistance to it correspondingly forbidden. (Of course, this focus on notional origins was perfectly compatible in practice with an utter lack of interest in the actual conditions of slave capture. At least logically, however, the conceit was that slaves would have the right to resist if their enslavement did not meet these conditions.) The slave may have been abject, but this abject status remained internal to the broader network of juridical obligations: slaves might lack rights but they did not lack duties, above all the duties of obedience and non-resistance.

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<sup>16</sup> On the development of such theories by Molina and Suárez, see Tuck, *Natural Rights Theories*, 50-57.

<sup>17</sup> A famous example of this doctrine can be found in Locke's *Second Treatise*, which rejects the possibility of selling oneself into slavery, but accepts the justice of slavery "between a lawful conqueror and a captive." Locke does invoke the possibility of resistance to argue that the slave is better off than he would have been if the conqueror had killed him—for "if he finds the hardship of his slavery outweigh the value of his life, 'tis in his power, by resisting the will of his master, to draw on himself the death he desires." But this seems to envision resistance as simply a form of suicide; there is no suggestion that the slave would be justified in successfully escaping or killing the master, at least so long as the initial conquest came in a just war. (Those captured in unjust wars retain full rights of resistance, reinforcing the point that the initial conditions of enslavement bear a moral weight for Locke that they do not for Hobbes.) See John Locke, *Second Treatise of Government*, §23-24, in *Two Treatises of Government*, ed. Peter Laslett (Cambridge, 1988), 284-85.

Their rightlessness was a sign that they occupied the bottom rung of the juridical order, not that they stood outside of it altogether.

This general impulse to integrate slavery into a broader moral and juridical order can be detected even in a critic of the institution like Bodin, whom Deborah Baumgold has rightly identified as in some respects a precursor to Hobbes.<sup>18</sup> It is true that Bodin emphasizes the prisoner of war's lack of obligation to his captor, and that he expresses deep qualms about slavery as "a thing most pernicious and dangerous" to a commonwealth.<sup>19</sup> Yet Bodin's ultimate argument is not that slavery is inconsistent with a valid social order; what he calls for is an amelioration of slaves' condition within this order. The baser parts of human anatomy "are still called parts of the whole body," he notes, so "why shall we not by the same reason suffer slaves...to be called and accounted members of the same city" with the other citizens? These slaves should not "be more hardly used than the state and conditions of man requires, and might also have their certain place and order in the city." And so, Bodin concludes, "let the order of slaves be of all orders the lowest in degree in the city"—but nonetheless distinctly part of it.<sup>20</sup>

Hobbes's account bears surface resemblances to various of these theories (particularly, as we will see, to theories of war slavery). Yet the differences are significant. For Hobbes has no interest in slavery's justice or injustice, and hence nothing of consequence turns for him on its origins. True slavery (and again, we will have to examine this term more carefully) is defined by present conditions rather than origins, and when these conditions exist, questions of justice or

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<sup>18</sup> Deborah Baumgold, "Slavery Discourse Before the Restoration: The Barbary Coast, Justinian's Digest, and Hobbes's Political Theory," *History of European Ideas* 36.4 (2010), 418. Annabel Brett likewise points to Vázquez and Lycklama as precursors to Hobbes's position (*Liberty, Right, and Nature*, 195-96, 208-9, 227-28).

<sup>19</sup> Jean Bodin, *The Six Bookes of a Commonweale*, trans. Richard Knolles (London, 1606), V.6, 627 (on the prisoner of war); I.5, 44 (on the danger of slavery).

<sup>20</sup> Bodin, *Six Bookes*, III.8, 387-88.

injustice are irrelevant: we are back in the state of nature, where both master and slave have a right to all things, by violence if necessary. Hobbesian slaves do not occupy the lowest place within a juridical order of obligations; they simply live outside of it altogether. As a result they retain their full right of nature; what they lack are the duties and obligations that come with the entrance into civil society.

Hobbes's position here might suggest a broader conclusion concerning the typical ideological justifications for slavery. At least at the level of official doctrine, these views may have taken slavery to be a kind of "social death," in Orlando Patterson's famous phrase. But we should not therefore imagine (as Patterson himself certainly did not) that they considered slavery an entirely lawless condition existing outside the juridical order entirely.<sup>21</sup> On the contrary, justifications for slavery tended to have a definite conceptual structure, one that assigned duties to slaves even if it did not assign them rights. And here the contrast with Hobbes is instructive. For Hobbes really does envision slavery as basically lawless and outside the juridical order—but precisely for that reason, the institution enjoys no legitimacy in his eyes that would preclude resistance to it. By taking the concept of justice to be altogether irrelevant for understanding slavery, Hobbes's position helps bring to light, and destabilize, an underpinning for more traditional views that might otherwise remain only implicit.

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<sup>21</sup> See Orlando Patterson, *Slavery and Social Death* (Cambridge, MA, 1982). Patterson's notion is best taken as a description of the institutions and ideologies of slave societies, not the lived experiences of slaves within them; on the dangers of conflating the two, see Vincent Brown, "Social Death and Political Life in the Study of Slavery," *American Historical Review* 114.5 (2009).

The second objection that we must consider is historical in nature. For a present-day reader, after all, it is almost impossible to read early modern European theorizations of slavery except through the lens of the Atlantic slave trade. Indeed, much of the reason that Hobbes's argument might seem startling is because of its apparent implications for England's burgeoning New World empire. Yet there are good historical reasons to doubt that these implications were central to Hobbes's own thinking when he formulated it.

One such reason is biographical. Although Hobbes rose to notoriety in the middle of the seventeenth century, when England's colonial interests and activities were beginning to expand rapidly, he was by that time an old man, one whose intellectual formation had occurred long before and who was centrally preoccupied with political turmoil at home. Decades earlier, he had had a brief but close involvement in colonial affairs as a voting member of the Virginia Company, given a single share by his patron Cavendish in 1622 and attending meetings until the company's dissolution in 1624. Yet in the words of Noel Malcolm, whose research opened up this chapter of Hobbes's career, "the striking thing is that Hobbes's involvement in the Virginia Company should have left, as it seems to have done, so few traces on his later life."<sup>22</sup> There is little in Hobbes's later works to suggest any particular interest in colonial issues (perhaps understandably, given the disastrous end of the Virginia Company itself); the few passing discussions of them in his political writings, all found in *Leviathan*, combined together take up barely a page.<sup>23</sup>

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<sup>22</sup> Noel Malcolm, "Hobbes, Sandys, and the Virginia Company," in *Aspects of Hobbes* (Oxford, 2002), 75.

<sup>23</sup> The only passage where Hobbes seems to register a positive view of colonization, occasionally invoked as evidence of his imperialist sympathies, is a single sentence at *Leviathan* 30.19, which must be set against his warnings elsewhere against "the insatiable appetite, or bulimia, of enlarging dominion" (29.22). More neutral mentions of issues related to colonies can be found at 22.16 and 24.14.

Biography aside, there are deeper reasons to suspect that New World slavery was not much on Hobbes's mind when he invoked the slave's right of resistance, and could not have been even had he been more attentive to colonial affairs. For "New World slavery," at least in the English colonies, had not yet become a single coherent institution that could serve as an object of analysis. While there had been African laborers in the English colonies since the early seventeenth century, their status remained only confusedly differentiated from that of white indentured servants, who made up most of the colonial labor force, until much later.<sup>24</sup> It was only in the decades after Hobbes's major political works were written, the second half of the seventeenth century, that slave labor became a central pillar of the English colonial economy, and accordingly it was only then that the legal institutions of racial slavery acquired a clear shape.<sup>25</sup> Whereas thinkers a generation or two younger than Hobbes might be compelled to grapple—whether in a critical or an apologetic mode—with the political questions posed by the new system, such questions remained more theoretical than practical for him. And when he discusses

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<sup>24</sup> The relevant point here is that there was no clearly distinguished legal status of "slave" in the English colonies during the era when Hobbes was writing. For present purposes there is no need to take a position in the long-running debates concerning the extent of racial discrimination prior to the introduction of formal slavery; for an overview of these debates, see Alden T. Vaughan, "The Origins Debate," in *Roots of American Racism* (Oxford, 1995). In any case, given how undeveloped the concept of race was in Hobbes's day, there is a certain anachronism to modern-day readings that make it a central category for his thought. When Charles Mills, for instance, suggests that Hobbes "remains enough of a racial egalitarian" to maintain "that the absolutist government appropriate for nonwhites could also be appropriate for whites" (*The Racial Contract* [Ithaca, 1997], 66), it seems more accurate to say that Hobbes lacks any clear concept of race, and thus could be neither a racial egalitarian nor a racial inegalitarian.

<sup>25</sup> For an overview of the chronological development of slavery in the English colonies, see Robin Blackburn, *The Making of New World Slavery* (London, 1997), 217-76. As Blackburn outlines, slavery developed earlier and more fully in Barbados than on the mainland. If Hobbes had any awareness of these processes, however, I have been unable to find evidence of it.

concrete instances of slavery, the examples that he has in mind seem to be overwhelmingly classical and biblical rather than contemporary.<sup>26</sup>

Insofar as Hobbes's arguments about slavery had an immediate polemical force, it was directed primarily against his domestic opponents, those republicans who were apt to refer to *themselves* as slaves.<sup>27</sup> Those who have read the "books of policy and histories of ancient Greeks and Romans," Hobbes complains, "conceive an opinion that the subjects in a popular commonwealth enjoy liberty, but that in a monarchy they are all slaves."<sup>28</sup> Nor was this rhetoric limited to outright republicans, for a range of constitutionalists deployed it to suggest that absolute monarchy was tantamount to the enslavement of freeborn Englishmen. Hobbes's own minimal definition of slavery as physical bondage (which we will soon investigate more fully) aims to undercut this polemical use of the term: if we understand liberty in what Hobbes takes to be its proper sense, as "freedom from chains, and prison," it comes to seem "very absurd for men to clamor as they do for the liberty they so manifestly enjoy."<sup>29</sup> This misuse of the language of slavery, he suggests, is really a bid for power: "what they are demanding in the name of liberty is not liberty but dominion," and the reason they call themselves slaves is merely their failure to be honored as much as those "whom they think they excel in virtue and ability to govern."<sup>30</sup> (A present-day reader—aware of how often the claims of such freeborn Englishmen presupposed unfettered power over their wives, children, servants, and sometimes literal slaves—might think

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<sup>26</sup> Baumgold has suggested (in "Slavery Discourse Before the Restoration") that the most direct contemporary referent that Hobbes had in mind was likely Barbary rather than New World slavery—and thus that the emblematic contemporary slaves for him would have been mostly European rather than African.

<sup>27</sup> For Hobbes's attacks on republican doctrines, see Skinner, *Hobbes and Republican Liberty*.

<sup>28</sup> *Leviathan* 29.14.

<sup>29</sup> *Leviathan* 21.6.

<sup>30</sup> *De Cive* 10.8; *Elements* 2.8.3.

that Hobbes is not entirely off the mark.) Understood in this sense, the immediate point of Hobbes's discussion is not to demonstrate to slaves that they have a right to resist, but to demonstrate to everyone else that they are not slaves and therefore lack such a right.<sup>31</sup>

Let us therefore accept that there are good historical reasons to deny that Hobbes was setting out to justify rebellion among the slaves of the New World. Yet it nonetheless remains a live question whether his theory could be used, without serious misinterpretation, to do so. For although Hobbes is determined to undercut the attempts of his domestic opponents to claim the language of slavery, he recognizes that not all uses of the term are polemical misuses; there are others whom we “ordinarily and without passion” call slaves, and whom the term correctly describes.<sup>32</sup> And for these true slaves, one is tempted to suggest that his theory simply says what it says. Theories inevitably take shape in particular historical contexts and with particular cases in mind, but even a committed contextualist must allow that the range of cases to which a theory is meant to apply typically go beyond those that originally prompted it. Hobbes is explicit about his aim of formulating abstract categories that can be applied to a sweeping variety of cases, past and future.<sup>33</sup> Slavery is such a category, and so the relevant question is whether New World slavery is an instance of it, not whether Hobbes formulated the category with the New World in mind. Of course, it is possible that Hobbes would balk at the implications of his theory when applied to any particular historical case, and revise it accordingly. But that is a speculative claim about the psychology of the historical Thomas Hobbes, not an analysis of the Hobbesian theory

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<sup>31</sup> I am grateful to one of the anonymous reviewers for suggesting this formulation to me.

<sup>32</sup> *Elements* 2.3.3.

<sup>33</sup> See especially the programmatic statement in the “Epistle Dedicatory” to *Leviathan*: “I speak not of the men”—the particular, historical men, we might say—“but (in the abstract) of the seat of power.” If we downplay Hobbes's deliberately ahistorical presentation, we ignore one of the key features of what he was “doing,” historically speaking.

as he did in fact formulate it. It therefore seems that the Hobbesian justification of slave rebellion would apply to the New World as much as anywhere else—at least, so long as we have understood the theory itself correctly. But have we?

4.

The more serious problem for this reading of Hobbes is theoretical rather than historical, and it requires us to examine his account of freedom and slavery in more depth. Hobbes's view of freedom is famously minimal: understood properly, he argues, liberty simply means the absence of "external impediments of motion," and therefore a free man can only mean someone who "finds no stop in doing what he has the will, desire, or inclination to do."<sup>34</sup> In his early writings, Hobbes seems to think that the urge for self-preservation can be just as inexorable as any physical obstacle, and thus in *De Cive* he briefly suggests that fear and other mental states can serve as "discretionary" (*arbitraria*) restrictions on our liberty.<sup>35</sup> But such a notion sits uneasily with other elements of his political theory, and in *Leviathan* he abandons it, instead stating that only external—that is, physical—obstacles count as genuine impediments.<sup>36</sup> The upshot (which he now makes clear) is that "fear and liberty are consistent," and this helps justify the view (which he had always maintained) that "covenants extorted by fear are valid."<sup>37</sup>

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<sup>34</sup> *Leviathan* 21.1-2. This, at least, is the proper definition of *natural* liberty; there is another dimension, what Hobbes calls "the liberty of subjects" and we would call *civil* liberty, which consists in the absence of obligation rather than impediment. Slaves are a striking illustration of this distinction because, as we will see, their complete absence of obligation stems precisely from their lack of natural liberty.

<sup>35</sup> *De Cive* 9.9.

<sup>36</sup> On Hobbes's abandonment of the notion of discretionary impediments, see Hood, "The Change in Hobbes's Definition of Liberty"; Skinner, *Hobbes and Republican Liberty*, 127f.

<sup>37</sup> *Leviathan* 21.3, 14.27.

This conception of freedom has stark implications for Hobbes's understanding of slavery. For if the only true restrictions on freedom are physical impediments, this implies that the only truly unfree people are those who are "imprisoned or restrained with walls and chains."<sup>38</sup> And in fact, this kind of literal, physical bondage is the central criterion that Hobbes always uses to demarcate true slaves from the rest of the population.<sup>39</sup> Yet what about those who are not physically restrained, but rather coerced into obedience through threats of violence? Such people, Hobbes seems to suggest, are not slaves at all, but what in the *Elements* and *Leviathan* he calls "servants" (in their relation to an individual master) or "subjects" (in their relation to the sovereign). In the Latin works, he must alter this terminology, for "the Romans had no such distinct name [of slave], but comprehended all under the name of *servus*."<sup>40</sup> Thus in *De Cive* he alternately distinguishes normal *servi* from *ergastuli* (translated "prison" or "workhouse slaves") and from "*servi* of the sort who are held in workhouses, prisons, or bonds"; in the Latin version of *Leviathan*, while translating "servant" as *servus*, he does not attempt to translate "slave" at all, instead simply referring to the bound or imprisoned "captive" (*captus*).<sup>41</sup> But the basic distinction is identical throughout the English and Latin works: the *servus* corresponds to the servant, while the *ergastulum* (or the bound *servus* or *captus*) corresponds to the slave. Servants/*servi* possess a certain amount of natural liberty, but also have a corresponding obligation to obey

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<sup>38</sup> *Leviathan* 21.1; cf. *De Cive* 9.9.

<sup>39</sup> See *Elements* 2.3.3, *De Cive* 8.3, *Leviathan* 20.10.

<sup>40</sup> *Elements* 2.3.3. Hobbes does note, however, that the Greek word *doulos* refers specifically to slaves rather than to servants (*Leviathan* 45.13).

<sup>41</sup> *De Cive* 8.2 and 8.4; *Leviathan* (Latin) 20.10. Tuck and Silverthorne render *servus* as "slave," the usual present-day translation of the term. Yet Hobbes specifically suggests that the equivalent term for *servus* is "servant," and given the importance that the servant/slave distinction plays in his theory, we should be hesitant to override this choice. (It is also worth noting that translators in Hobbes's time were more prone to render *servus* as "servant" than present-day ones.) For that reason I have modified the translation of *De Cive* to render *servus* as "servant," or simply left it untranslated in contexts where the meaning is ambiguous.

their masters; slaves/*ergastuli* lack natural liberty, but equally lack any form of obligation and retain a right of resistance.<sup>42</sup>

What distinguishes servants from slaves is not merely that they enjoy physical liberty. Freedom from bondage is simply a mark of the more basic criterion: that servants have *covenanted* with the master, whether expressly or tacitly, pledging obedience in exchange for the sparing of their life. Conquest in war is the scenario that Hobbes has in mind, and the passage in which he lays out this logic (some of which we have already seen) is worth quoting at greater length:

Dominion acquired by conquest, or victory in war, is that which some writers call DESPOTICAL...and is the dominion of the master over his servant. And this dominion is then acquired to the victor when the vanquished, to avoid the present stroke of death, covenanteth either in express words, or by other sufficient signs of the will, that so long as his life and the liberty of his body is allowed him, the victor shall have the use thereof at his pleasure. And after such covenant made, the vanquished is a SERVANT, and not before: for by the word servant...is not meant a captive, which is kept in prison or bonds til the owner of him that took him, or bought him of one that did, shall consider what to do with him (for such men, commonly called slaves, have no obligation at all, but may break their bonds or the prison, and kill or carry away captive their master, justly), but one that being taken, hath corporal liberty allowed him, and upon promise not to run away nor to do violence to his master, is trusted by him.<sup>43</sup>

Physical liberty is simply a sign of the trust between master and servant resulting from their covenant, and it is this covenant that explains why the servant has obligations toward the master but the slave does not.

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<sup>42</sup> It is important to bear this distinction in mind when reading the Latin works in light of the issues discussed in the previous note. For much of what Hobbes says about *servi* must refer specifically to (covenanted) servants and not to (non-covenanted) slaves, and we will be misled if we follow the standard translation of *servus* as “slave.” For instance, when Hobbes states that “I find no reason for a *servus* to complain on the ground that he lacks liberty” (*De Cive* 9.9), Skinner glosses this as Hobbes arguing “that even slaves are scarcely less free than subjects” (*Hobbes and Republican Liberty*, 122). But Hobbes’s explanation in this passage of why the *servus* has no reason to complain (for he gets “to keep [his] life...on the condition of being ruled”) makes clear that he is referring to a servant who has covenanted. Nowhere in his writings does Hobbes ever claim that true slaves or *ergastuli* enjoy liberty, nor that they have any reason to submit to their predicament.

<sup>43</sup> *Leviathan* 20.10; cf. *Elements* 2.3.2-3, *De Cive* 8.1-4.

The sort of covenant that Hobbes has in mind is likely to be tacit more often than explicit, communicated less by “express words” than by “other sufficient signs”; it can be inferred from the continued mercy of the victor and the continued obedience of the vanquished. And the basic logic of this covenant is highly scalable: it applies equally to the relationship between individual servants and their masters and to the relationship between individual subjects and their sovereigns, so that sovereigns enjoy precisely the same kind of power over their subjects (including masters themselves) as masters do over their own servants. In fact, it can apply not just to individual prisoners of war but to entire peoples, as in the case of wholesale conquest, which Hobbes defines as “the acquiring of the right of sovereignty by victory,” a right “acquired in the people’s submission by which they contract with the victor, promising obedience for life and liberty.”<sup>44</sup>

Precisely such a case, according to Hobbes, had just occurred in England, with the victory of Cromwell’s forces over the royalists in the English Civil War. And however individual Englishmen might feel about the rebel victory, each of them who remained in the country had tacitly agreed to the servant’s covenant: “if he live under their protection openly, he is understood to submit himself to the government.”<sup>45</sup> Only months after writing these words (in the “Review and Conclusion” to *Leviathan*), Hobbes himself returned to England and signaled his allegiance to the new Commonwealth—a decision generically similar, on his account, to the captive’s choice to pledge allegiance “to avoid the present stroke of death.” This extraordinarily wide

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<sup>44</sup> *Leviathan* RC.7.

<sup>45</sup> *Leviathan* RC.7. On the precise political implications of these doctrines in the context of the civil war, see Skinner, *Visions*, 238-307; Kinch Hoekstra, “The De Facto Turn in Hobbes’s Political Philosophy,” in Tom Sorrell and Luc Foisneau (eds.), *Leviathan After 350 Years* (Oxford, 2004); Malcolm, “Editorial Introduction” to *Leviathan*, 65-82.

applicability of the category of “despotic dominion” is one sign that we are dealing with something other than a standard theory of war slavery: insofar as every existing society owes its ultimate origins to conquest, every subject can be understood as an explicitly- or tacitly-consenting “servant.” Regardless, the whole theory turns on the basic contention that fear and liberty are consistent: that even the threat of immediate violence leaves people free to choose, and that their choices in such situations can form the basis of binding obligations.

Hobbes’s arguments here have rarely found much favor with subsequent commentators. The notion that the choice between compliance and death is a genuine one tends to be viewed as a *reductio ad absurdum* rather than a position worth taking seriously. I am inclined to think that such dismissal is a mistake: that Hobbes’s position is far stronger than it might initially appear, stronger indeed than the commonsensical liberal alternatives that would subsequently challenge it.<sup>46</sup> But whatever we might think of his position in general, its consequences when applied to slavery in particular are potentially dramatic, and rather perverse. After all, no durable institution of slavery in history has ever been based solely, or even primarily, on literal bondage. It has rather been fear, the constant threat of violence, that has been the main mechanism for generating compliance. Yet on Hobbes’s logic this would seem to imply that nearly everyone whom we would consider a slave is in fact a “servant.” The moment that one is freed from literal shackles and ordered to work on pain of death, compliance would constitute a form of tacit consent, and therefore void one’s right of resistance. A question of enormous political importance seems to rest on a distinction, between outright physical restraint and the “mere” threat of violence, that is far too flimsy to bear it.

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<sup>46</sup> For a fuller argument along these lines, see Daniel Luban, “Pride and Order: A Study of the Emergence of Modern Social Thought” (Ph.D. dissertation, University of Chicago, 2016), Ch. 4.

Such considerations help explain why various commentators have considered Hobbes's entire account of slavery to be a kind of elaborate legal fiction, an alchemy designed to transform slavery into "servitude" while preserving its entire practical substance. On this view, slavery for Hobbes is simply a residual category, and the entire force of his argument is to show that all those whom we might consider slaves are actually servants bound to obedience. David Brion Davis, for instance, describes Hobbes's "model of slave-making" as an empty compact which uses "the word 'servant' to refer to the most absolute slaves," despite the fact that they can be bought, sold, or killed by the master with impunity.<sup>47</sup> Likewise, Carol Pateman suggests that true (bound) slaves would be nearly useless to their masters, and thus that masters would inevitably seek to turn them into "servants" by contract. "Hobbes holds that the contract transforms slavery into servitude," she writes, "but Hobbes's description of the master's power over the servant looks like that of a slave-master."<sup>48</sup> Such a view seems to follow ineluctably from Hobbes's definitions of freedom and slavery. What initially appeared to be a strikingly anti-authoritarian argument now turns out to be precisely the opposite, for slavery itself seems to have vanished from the theory in any practical sense.

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The only way to avoid this conclusion would be to show that Hobbes is not compelled to understand any durable institution of slavery (relying more on coercion than outright restraint) as mere "servitude" in the terms of his theory—or, in other words, that his concept of slavery is

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<sup>47</sup> Davis, *Problem of Slavery*, 117, 246. Davis cites *De Cive* in support of the claim that Hobbes uses "servant" to refer to absolute slaves; as we have seen, however, *De Cive* uses only the ambiguous Latin term *servus* rather than either English term.

<sup>48</sup> Carol Pateman, *The Sexual Contract* (Stanford, 1988), 68.

capable of encompassing the institutions that we know by that name. In what follows I will suggest that this is in fact the case, although not in a completely straightforward or unproblematic way.

Before doing so, let us return to a point that has already been made in passing. One of the noteworthy features of Hobbes's broader theory is its insistence on the basic homology between all forms of interpersonal power. The kind of power wielded by sovereigns over their subjects is precisely the same kind as that wielded by masters over their servants, which in turn is precisely the same kind as that wielded by parents over their children. "In sum, the rights and consequences of both paternal and despotic dominion are the very same with those of a sovereign by institution, and for the same reasons."<sup>49</sup> Like traditional patriarchalism, Hobbes assimilates political and familial power, but in an opposite direction: for if patriarchalists tended to model political power on non-consensual relations of subjection within the family, Hobbes instead models the family itself on ostensibly consensual relations of political power—even to the point of suggesting that the parent's power over the infant depends on the latter's posited consent.<sup>50</sup>

This assimilation of public and private power has its own implications for our subject. For one of the main ideological bulwarks of the institution of slavery has typically been its consignment to the private realm of the household, supposedly beyond the legitimate reach of political power. Indeed, when we examine the anti-absolutist rhetoric of slavery that so irked

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<sup>49</sup> *Leviathan* 20.14.

<sup>50</sup> For the blurriness of the line distinguishing families from commonwealths, see *Elements* 2.4.10, *De Cive* 8.1 and 9.10, *Leviathan* 20.15; for the posited covenant between parent and infant, see *Leviathan* 20.4-5. On seventeenth-century patriarchalism more generally, see R.W.K. Hinton, "Husbands, Fathers, and Conquerors," *Political Studies* 15.3 (1967) and 16.1 (1968); Gordon J. Schochet, *Patriarchalism in Political Thought* (New York, 1975).

Hobbes, we often find that it expresses not so much an opposition to slavery itself, but rather a fear that the logic properly governing the private relation between *paterfamilias* and household might come to govern the public relation between sovereign and subjects. (George Lawson, for instance, with whom we began, was perfectly willing to countenance “despotal power” within the family; he simply denied that this had anything to do with politics.<sup>51</sup>) Similarly, the defense of slavery rested centrally on the notion that slaves were property and property was sacrosanct, beyond the sovereign’s rights of interference.

Hobbes’s theory sweeps away all these notions, for it makes private masters stand in relation to the sovereign in the same position that their own servants do to them. If a master “becomes a servant [*servus*] or subject [*subditus*] to someone else,” Hobbes writes, “the latter will become master of the other’s servants as well as of his person,” and the “master-in-between can do nothing about them except as the supreme master directs.”<sup>52</sup> (This statement also demonstrates the functional equivalence of the terms “servant” and “subject.”) Private masters cannot claim any natural property rights against the sovereign, and there can be no defense of slavery—or any other form of subordination within the household—on the basis of its putatively private character. This was, indeed, one of the aspects of Hobbes’s theory that his opponents found most threatening; Bishop Bramhall wrote that Hobbes “taketh a pride in removing all

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<sup>51</sup> See especially Lawson, *An examination*, 48, attacking Hobbes’s claim that institution, generation, and conquest confer identical rights of sovereignty: “What have we to do with family-power in a commonwealth? For families... are but a remote material part of politics. In a family there is a threefold power acquired [of husbands over wives, parents over children, and masters over servants]...some servants are slaves, some are free...and the master hath more power over the former sort who are born and bought, than over the latter, who are only hired. So that there is a difference of despotal power even in a family; the one is more absolute, the other more limited.”

<sup>52</sup> *De Cive* 8.8; cf. *Elements* 2.3.6, *Leviathan* 20.13.

ancient landmarks between prince and subject, father and child, husband and wife, master and servant, man and man.”<sup>53</sup>

None of this is to say, of course, that Hobbes has any aim of breaking down all such forms of subordination. He clearly imagines that commonwealths will continue in their individual ways to enforce hierarchies between masters and servants, or husbands and wives; he merely suggests that all such distinctions are conventional rather than natural, and therefore alterable at will by the sovereign. I have only claimed that his theory overturns some of the most traditionally powerful justifications for slavery and other forms of private subordination, not that it aims to overturn these forms of subordination themselves. (Similar, perhaps, to the way in which it overturns many traditional justifications for absolute monarchy while defending the institution itself.) In any case, the point of immediate importance for our discussion is the equivalence between the terms *sovereign* and *master*, and likewise between the terms *subject* and *servant*. For examining the status of “subjects” within his theory can help clarify the status of those whom he calls “servants” and whom others might be inclined to call slaves.

One relevant feature of Hobbes’s treatment of the servant/slave distinction in his early writings is his insistence that these categories are reversible rather than permanent—that the servant’s covenant of obedience can be annulled if he is treated as a slave. Thus in the *Elements* he writes that the “servant that is no longer trusted, but committed to his chains and custody, is thereby discharged of the obligation *in foro interno*, and therefore if he can get loose, may

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<sup>53</sup> John Bramhall, *The catching of Leviathan, or the great whale, in Castigations of Mr. Hobbes his last animadversions, in the case concerning liberty, and universal necessity* (London, 1658), 542. Beyond the master-servant relation, Bramhall was equally concerned that Hobbes’s principles would “destroy the subordination of a wife to her husband” (535).

lawfully go his way.”<sup>54</sup> Likewise in *De Cive*, he states that “a *servus* who is thrown into chains, or is deprived of his physical liberty in any way, is released from the other obligation, the one that depends on agreement.”<sup>55</sup> Indeed, this was another of the aspects of Hobbes’s theory that his critics seized upon, for they noticed how potentially destabilizing it could be for any durable form of subjugation. Bramhall, for instance, drew out this implication: if someone who has “contracted and engaged himself to be a loyal servant, as firmly as may be, shall nevertheless be cast into any bonds by his master, or be restrained of his corporal liberty upon delinquency or just suspicion, he is acquitted of all his pacts and obligations, and as free to run away or cut his master’s throat as if he had never pacted or engaged at all.” For these and similar reasons, Bramhall insisted, Hobbes’s entire theory could be considered a kind of “rebel’s catechism.”<sup>56</sup>

In *Leviathan*, Hobbes no longer states explicitly that the servant’s covenant is reversible. But we should not imagine that this aspect of the theory has changed in any essential way. This, in fact, is the upshot of the basic equivalence between servants and subjects that we have already stressed, for some of the well-known limits that *Leviathan* sets upon the subject’s obligation to the sovereign precisely mirror his earlier statements about the limits of the servant’s obligation to the master. The basis for all such limits is the fact that “there be some rights which no man can be understood by any words or other signs to have abandoned or transferred.” These inalienable rights include “the right of resisting them that assault him by force to take away his life,” but equally of resisting “wounds, or chains, or imprisonment,” and (most sweepingly) of protecting

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<sup>54</sup> *Elements* 2.3.7.

<sup>55</sup> *De Cive* 8.9.

<sup>56</sup> Bramhall, *The catching of Leviathan*, 538, 515. For a similar criticism, see Richard Cumberland, *A treatise of the laws of nature*, trans. John Maxwell (Indianapolis, 2005), §9.11, 725-29.

“the security of a man’s person in his life, and in the means of so preserving life as not to be weary of it.”<sup>57</sup> The implications are potentially wide-ranging, since (as Hobbes recognizes) the subject must make an immediate judgment about when these harms are forthcoming rather than waiting for them to actually come to pass. And once again his critics did not fail to draw out these implications, arguing (as Robert Filmer put it) that “hereby any rogue or villain may murder his sovereign”—or more realistically, we might add, his master—“if the sovereign but offer by force to whip or lay him in the stocks, since whipping may be said to be a wounding, and putting in the stocks an imprisonment.”<sup>58</sup>

The objection that we have been examining holds that Hobbes’s distinction between slavery and servitude is simply an empty legal fiction. This would indeed seem to be the case when we focus only on the circumstances of the servant’s covenant itself, and view this covenant as definitively and irreversibly transforming slavery into servitude. But we can see that the distinction depends not just on the one-time fact of the covenant but on the ongoing conditions of the master-servant relationship. Violence or bondage, or the plausible threat of them, are sufficient to annul the covenant and restore the former servant’s natural right of resistance. And this in turn suggests that Hobbes’s notion of slavery would be perfectly capable of including the institutions which we know by that name, precisely insofar as violence and bondage were ubiquitous threats within them. On a more intuitive level, such a conclusion jibes with Hobbes’s

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<sup>57</sup> *Leviathan* 14.8; cf. 14.29, 21.11-15. Hobbes also reiterates that “if a man be held in prison or bonds, or is not trusted with the liberty of his body, he cannot be understood to be bound by covenant” (21.22), speaking this time of the subject’s allegiance to a sovereign rather than the servant’s allegiance to a master. These passages might seem to stand in tension with his claim elsewhere that if a master should “kill him [the servant], or cast him into bonds, or otherwise punish him for his disobedience, he is himself the author of the same, and cannot accuse him of injury” (*Leviathan* 20.13). But the inconsistency seems less glaring if we recall that the master-slave relationship is one in which neither party can commit injury (that is, injustice) against the other.

<sup>58</sup> Robert Filmer, *Observations concerning the originall of government* (London, 1652), 9.

manner of discussing the subject. He mentions slavery (as noted previously) primarily with reference to classical and biblical contexts, and when he does, he tends to mention it matter-of-factly—not as the mere hypothetical or residual category that the objection would make it, but as a widespread and durable institution that did in fact exist and which therefore deserves analysis.<sup>59</sup>

To say that Hobbes accepts the institutional reality of slavery is not, however, to say that he is completely consistent in doing so. In particular, doing so sometimes leads him to back away from his otherwise unqualified insistence that liberty and fear are consistent, and that the threat of violence cannot be considered an impediment on freedom in the way that actual force or imprisonment are. We can glimpse this ambivalence already in *De Cive*, where he writes that *servi* “held in prisons, workhouses, or bonds”—that is, those whom he elsewhere calls *ergastuli* —“are not included in the definition of *servi* given above, because they serve in order to avoid beatings, not on the basis of an agreement.”<sup>60</sup> This formulation seems to suggest that it is because *ergastuli* act from fear (the desire to avoid beatings) rather than because of their physical confinement itself that they are free of any obligation. But on the other hand, as we have already seen, in *De Cive* Hobbes still considers fear to be a kind of discretionary impediment on our freedom, which mitigates the inconsistency.

Yet even in *Leviathan*, after Hobbes has dropped the notion of discretionary impediments and stated that liberty and fear are consistent, he still resists drawing out the full implications of this view in the case of slaves. He writes, for instance—basically restating the passage from *De*

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<sup>59</sup> See, e.g., *Elements* 2.3.3, *Leviathan* 45.13.

<sup>60</sup> *De Cive* 8.4.

*Cive* that we have just seen—that “slaves that work in prisons or fetters” lack obligation because they “do it not of duty, but to avoid the cruelty of their taskmasters.”<sup>61</sup> Such a contrast between acting from genuine duty and acting merely to avoid cruelty does not fit easily with the rest of his theory of obligation, which holds that the latter is just as binding as the former, but here he seems unwilling to let go of the notion that there is some key difference between the two.

In a later digression, Hobbes contrasts “domestic servants,” who covenant with their masters “for hire, or in hope of benefit,” and “to whose service the masters have no further right than is contained in the covenants made betwixt them,” with “slaves taken in war and their issue,” whose “bodies are not in their own power” and who “are bought and sold as beasts.”<sup>62</sup> The basic contrast is familiar, but the particulars are noticeably different: while Hobbes is usually content to view servitude as a matter of mere compliance, often tacit, “to avoid the present stroke of death,” here he seems to portray it, more strongly, as a matter of explicit contracts entered into “for hire, or in hope of benefit.” (Indeed, in insisting here on the contractual limitations upon the master’s power over the servant, Hobbes sounds like no one so much as Locke, who would likewise distinguish servitude from slavery by stressing that “it gives the master but a temporary power...and no greater than what is contained in the contract between ‘em.”<sup>63</sup>) Does this then indicate that those whose relationship with the master is governed by the threat of violence are slaves rather than servants?

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<sup>61</sup> *Leviathan* 20.12.

<sup>62</sup> *Leviathan* 45.13. This passage is admittedly a bit murky, its discussion of slavery and servitude being tangential to a broader argument about religious worship.

<sup>63</sup> Locke, *Second Treatise* §85, 322.

In its depiction of slaves “and their issue” being “bought and sold as beasts,” this last passage also hints at an institutional structure that Hobbes might otherwise be thought to elide: slavery as an inherited status implying commodification and alienability. Strictly speaking, there is no reason why these features should make any difference within the architecture of Hobbes’s theory—the only relevant feature, it would seem, is the presence or absence of physical restraint, and whether or not the servant/slave is treated as chattel has nothing to do with it. (This, again, is precisely why it might seem that Hobbes understands chattel slaves as covenanting “servants.”) Yet in the only passages in *Leviathan* where Hobbes mentions commodification and alienability, he treats them as distinguishing marks of slavery as opposed to servitude.<sup>64</sup>

What all this suggests is that the formal demarcations of servitude and slavery implied by Hobbes’s broader theory seem in practice to give way to an informal demarcation that is closer to our own. The servant’s covenant may ultimately be motivated by an underlying threat of violence—in the same broad way in which fear is for Hobbes the ultimate source of all political obedience—but the immediate threat of violence or bondage is not the dominant motive in their everyday life, which Hobbes describes with terms like “trust,” “duty,” and “hope of benefit.” Likewise, the status of slave seems to describe not just those who are literally shackled or imprisoned, but those who are treated as chattel and whose compliance is motivated by the ubiquitous everyday threat of violence or imprisonment. And all such slaves maintain their full rights of resistance and rebellion.

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<sup>64</sup> These are the already-cited passages at *Leviathan* 20.10 and 45.13. In the earlier works, Hobbes makes clear that paternal and despotical dominion imply alienability, so that one can sell one’s servants (*Elements* 2.3.5, *De Cive* 8.6) as well as one’s own children (*Elements* 2.4.8). It is interesting that such claims no longer appear in the equivalent passages of *Leviathan*, where alienability is only mentioned in connection with the slave rather than the servant.

Would Hobbes therefore have condoned a New World slave insurrection? Such hypotheticals are tempting, but surely unanswerable, and it is probably not useful to pose them retrospectively in the hopes of convicting or acquitting a long-dead thinker of complicity with the crimes of an entire epoch. We have been more concerned with the Hobbesian theory itself, and what our discussion drives home is its ambivalent and Janus-faced character. On the one hand are the well-known authoritarian elements, the insistence on the unfettered rights of sovereigns, Leviathan as the “great monstrous animal” entailing absolute power and absolute subjection. On the other hand are the strangely libertarian or even anarchistic moments, the surprising rights accorded to prisoners, slaves, convicts, fugitives, Leviathan as “rebel’s catechism” and overthrower of “all ancient landmarks” of social order. In the centuries since Hobbes, we have come to regard the first side as primary, the second as a mere concession or curiosity. But the two sides are inextricably linked, and the distinction between servants and slaves itself is as good an example as any of this paradoxical quality: the servants deprived of rights by their own capacity for consent, the slaves made juridically free by their own physical unfreedom. Both elements, the authoritarian and the antinomian, coexist within Hobbes’s theory, and each has a political significance of its own.