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November 15, 2018

Thomas Hobbes: The Political Theorist of Equality

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An abstract of
a thesis submitted to the Faculty of Emory College of Arts and Sciences
of Emory University in partial fulfillment
of the requirements of the degree of
Bachelor of Arts with Honors

Department of Philosophy

2018

Abstract

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The goal of this thesis is to represent the work of Thomas Hobbes in a light of equality contrary to the polemics and criticisms of tyranny he has hitherto endured. In this thesis I provide a close re-examination of the legal and political-philosophical theory of Hobbes from this lens of equality. While *Leviathan* is the main work examined in this thesis, I also delve into Hobbes' other works such as *De Cive*, *A Dialogue between a Philosopher and a Student*, *of the Common Laws of England*, and *The English Works of Thomas Hobbes of Malmesbury*. This thesis is comprised of three main chapters. In the first chapter, I investigate the natural equality between human beings, as presented by Hobbes, in the natural state. I also discuss the natural laws and Hobbes' novelty and ingenuity by juxtaposing his theory against former and contemporary theories such as those of Plato, Aristotle, Phillippe Duplessis-Mornay, among others. In the second chapter, I transition from the natural to the political state and discuss the most pivotal factor in demonstrating an equality in Hobbes' political theory — the sovereign power. I also demonstrate that, while one may expect the equality between men to dissipate because of artificial inequalities, this is not so for the equality remains, albeit in a different form. Instead of presenting the sovereign as a tyrannical despot, I present Hobbes' sovereign as the impetus for maintaining such an equality between men in the political state. Similarly to the first chapter, this chapter also utilizes comparisons between Hobbes and former and contemporary theorists in order to demonstrate his unique approach to sovereign power as a means to political and legal equality. Finally, after the foundation has been set, I discuss court practices and the civil laws in Hobbes' political for this is where the interaction between sovereign and subject is most intense. This is all done with the aim to present Hobbes as a theorist of natural, political, and legal equality — in other words, as a political theorist of total equality.

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Acknowledgements

To my family, the inspiration for my passions and industry; to my friends, whose company returns me from the deep;

to the professors and mentors at and beyond Emory who have changed my life;

and to Virginia Shoucair, without whom this life and these aspirations could never be possible.

Table of Contents

Introduction.....	2
Chapter 1: A State of Natural Equality.....	13
I. Chapter Introduction.....	13
II. Human Nature.....	17
III. The Natural Laws.....	25
IV. Hobbes' Novelty in Comparison with Former and Contemporary Theories.....	35
Chapter 2: A Political State of Equality.....	49
I. Chapter Introduction.....	49
II. The Generation of the Political State.....	49
III. The Sovereign Power — The Guarantor of Equality.....	59
IV. The Different Forms of the Commonwealth.....	77
V. The Rights and Liberties of Subjects.....	87
Chapter 3: The Laws and Their Execution.....	93
I. Chapter Introduction.....	93
II. Civil Laws.....	94
III. Good Laws.....	95
IV. Natural and Civil Laws.....	102
V. Inequality of Court Practices and the Execution of Laws.....	105
Conclusion.....	112
Bibliography.....	117

Thomas Hobbes: The Political Theorist of Equality

Introduction:

To this day, especially in western academic institutions and circles, it is common knowledge that Thomas Hobbes' works (especially *Leviathan*), from the advent of their publication, were not well received. Whether it be due to allegations of atheism, impiety, tyranny, a disregard of human liberties, or a general loss of touch with the real world, Hobbes faced much backlash both during his own life and after his death for holding controversial opinions. For example, his views of human beings as selfish and driven by the passions gained him exclusion from the Royal Society while his opinions on the absolute nature of sovereignty (which, as it will be shown, is necessary for equality in the political state), were not received well by those of the wealthy and noble class and acquired him the reputation as a proponent of tyranny.

His contemporary, Sir Robert Filmer (1588-1653), an English political theorist, called Hobbes' *Leviathan* a behemoth and a monster and argued that Hobbes' state was one of tyranny combined with anarchy.¹ He famously stated: "Hobbes' arguments could only lead to monarchy- hereby any rogue or villain may murder his sovereign. Hobbes' society would combine tyranny with anarchy – [but] only by a patriarchal authority², sanctioned by an unchanging moral order,

¹ Bowle, John. (1951). *Hobbes and his critics, a study in 17th century constitutionalism*, London: J. Cape. Print. p. 60.

² For Filmer, sovereign power was not covenanted and willed by a multitude but based on natural right. This, as it will be explained, contrasts heavily with Hobbes' view.

can sovereign power be justified, for it is in nature arbitrary.”³ By this argument, Filmer expresses his concern and disagreement with Hobbes’ desire to put absolute power in ‘one man’ because such power would be ‘arbitrary’. However, as it will be shown, such an argument is evidence of Filmer’s misunderstanding of Hobbes. Nevertheless, as one can understand, with such polemics against Hobbes gaining fame, it does not come as a surprise that Hobbes’ absolutism and natural equality caused him to suffer social and political backlash.⁴

Another example of this common diatribe can be found in John Whitehall’s — another contemporary of Hobbes — indictment [1679] of him who argues that Hobbes’ sovereign does not allow for private property in the political state and is, thereby, tyrannical and oppressive.⁵ Whitehall goes so far as to argue that Hobbes, as a result of his conception of an absolute political state and law, “is trying to destroy the foundations of society — [since] the common law is the bulwark of liberty. For ’tis by the common law that most men enjoy their estates, either real or personal. Hobbes will destroy his country’s law and make way for *arbitrary* power.”⁶ From this we see why Hobbes’ Sovereign bothers Whitehall (a man of wealth, power, and noble class) — it ‘aims to take control of law and property’. Finally, Whitehall famously attacks one of Hobbes’ foundational legal principles (which will be explained and carved out later on) — equity

³ Bowle, John. (1951). *Hobbes and his critics, a study in 17th century constitutionalism*, London: J. Cape. Print. p. 61.

⁴ *Ibid.*, p. 57-60. Filmer disagreed that the state of nature was one of war and where men were often ruled by their passions. He argued “there is no absolute necessity of warre in a state of pure nature.” As a result of Hobbes’ divergent views on human reason and equality, he was heavily criticized. However, as it will be seen, these popular criticisms divulge and highlight the equality and democracy found so abundantly in Hobbes’ theory and show his modern thinking.

⁵ *Ibid.*, pp. 176-177.

⁶ *Ibid.*, p. 179. [my emphasis- DS]

and the submission of *private* reason to the public for which he accuses him of heresy.⁷ Such an argument is similar to those arguments against Hobbes made by Sir Edward Coke (1552-1634). He asserted that private reason was necessary because: 1) only a select few — lawyers — could understand and interpret the law and 2) power should be placed in the hands of parliament and not the sovereign for this would be giving too much power to one man. As it is shown throughout this essay, Hobbes' aversion against such an aristocratic conception of reason is well warranted and works in tandem with his desire for an absolute, institutional sovereign power. I would like to point out that these patterns of the criticism towards Hobbes — his alleged placing absolute power in 'one man' thereby allowing for arbitrary power and his taking the power from the estates and private circles, as I show in this essay, are misinterpretations. Not only does he not espouse monarchy as the only suitable form of rule, he also presents the commonwealth and the absolute sovereign as an institution, not a natural individual person.

It is important to mention that these criticisms and accusations of tyranny, oppression etc. are not limited to Hobbes' time but can be found even in our modern era. Evidence of this can be found in Antonio Negri's (1933-present) *The Savage Anomaly* (1991). When comparing Hobbes' theory to that of Benedict De Spinoza (1632-1677), Negri argues: "In Hobbes the category of associative (collective) appropriation is translated, in a manner as paradoxical as it is efficacious, into the authoritarian submission to the sovereign."⁸ From this we see Negri presenting Hobbes' conception of absolute rule as one of subjugation, tyranny, and oppression. Negri also argues that Hobbes' conception of absolute power and his political theory as a whole are incompatible with

⁷ Ibid., p. 182.

⁸ Negri, Antonio. *The Savage Anomaly: the Power of Spinoza's Metaphysics and Politics*. Translated by Michael Hardt, University of Minnesota Press, 1991. Print. p. 139.

democracy, and presents him as anti-democratic when compared to Spinoza: “Or even, in the political line, one could reconstruct the laborious origins of the public right of the Modern State: Hobbesian contractualism, which was generally hegemonic and which later was aided by its encounter with the force of the Rousseauian metaphysical inversion, still never succeeds in destroying or canceling the constitutive power of the exigency of sociality, of that constitutive and constitutional moment, of that antiabsolutist resistance that Spinoza’s thought so violently vindicates. It is as if seventeenth-century philosophy had a dark border, maintained to hide its original sin: the recognition of appropriation as a betrayed foundation of Modern philosophy—revealed by a continual *lapsus*.”⁹ From this it should be clear that these allegations of tyranny, oppression and authoritarianism against Hobbes and his political theory still strongly persist. Whether it be due to a misunderstanding of Hobbes’ absolute sovereign, the belief that he espouses only monarchy as a functioning state form (while spurning democracy and aristocracy), or a general distaste for his political theory, one can see that, from the outset and to this very day, these misinterpretations of his theory and polemics against him still occur.

However, it is precisely as a result of these harsh specific and general criticisms that I wish to read Hobbes more closely and to see his work in a different, more equitable light. The intent of this essay then is to allow for a fresh interpretation of Hobbes’ work as seen in *Leviathan*, *De Cive*, *A Dialogue between a Philosopher and a Student*, *of the Common Laws of England*, among others. My reason for undertaking this project is my suspicion of the arguments made against Hobbes. Having closely read Hobbes’ arguments, and seeing this equality stem from his natural state, I found it difficult to accept that from this natural equality, which was the

⁹ Ibid.

basis of his entire political philosophy, tyranny and oppression would result. This suspicion provided me with the impetus to re-read Hobbes and to understand what truly follows from this original equality. To do this, I will constantly focus on the equality found throughout his works that allow for democratic and modern qualities. This pervasiveness of equality in Hobbes has been too often ignored or misinterpreted.

This essay is comprised of three chapters, each with numerous sections and subsections. It will become apparent that, in each chapter throughout this essay, I make use of comparisons between Hobbes and his forerunners and contemporaries. I use this as a methodological tool in order to contrast Hobbes' modernity with former and then-current views. In chapter one, I investigate the significance of the natural equality among human beings in Hobbes' state of nature whereby I will focus on the natural laws. Again, equality is the starting principle of his political theory and it is from this natural equality that the political state is created. I will discuss Hobbes' novelty by comparing his views to former and contemporary theories such as Plato, Aristotle, Thomas Aquinas, Philippe Duplessis-Mornay, and Johannes Althusius.

In chapter two, I discuss what is arguably the most important factor in Hobbes' political theory in terms of contributing to an equality in the political state — the sovereign power. Throughout this chapter, discussion centers around the artificial enforcing of the natural equalities found in the state of nature. I first explore the process of the generation of the political state (e.g. the process of covenanting). I will then look at the different forms of functioning commonwealths to see how they all exercise absolute sovereign power. The concept of sovereignty with its indivisibility of power will then be explained in light of its significance for the equality of the subjects as well as the security of their rights and liberties in the political state.

As mentioned above, I will compare Hobbes's views to those of his forerunners and contemporaries in order to sharply contrast his views with those. This will allow me to demonstrate the democratic tendencies that spring from the prevailing equality in his theory. I will look here at Marsilius of Padua, Philippe Duplessis-Mornay, and John Locke. Although one might expect the equality found throughout Hobbes' natural state to completely dissipate in the political state, this is not the case. As it is shown, the equality of the natural state remains in the political state, albeit in a slightly different form. It is also important to mention that, throughout this chapter — and this essay — I will stress the institutional nature of the sovereign power as a means to further explicate the equality found throughout Hobbes' political state.

In the shorter chapter three, the discussion is centered around the civil laws and their execution as well as court practices, both before and during Hobbes' time. After having discussed both the natural and political state (as well as the sovereign as the guarantor of equality), it is only fitting to discuss this field where the relation between subject and sovereign is most intense — the civil law and its execution. This chapter focuses on the equality of all subjects before the law. I will also discuss what are good laws and explain the relations between civil laws and natural laws. Finally, Hobbes' conceptions of civil law, court practices and executions of the law are compared with conceptions of other major figures such as Sir Edward Coke in order to highlight Hobbes' insistence on the equality of all subjects before the sovereign, throughout legal procedures.

Before beginning, however, I want to underline two things. Firstly, it is important to reiterate that, throughout this essay, I thoroughly explore Hobbes's emphasis on equality found throughout his political theory because it is often dismissed by his critics and hardly seen in any

pertinent secondary literature. I found all this to be strange even though it was a demand of the English Civil War of 1642 and is such a major concept of political society today. Furthermore, I find it important to acknowledge that holding Hobbes as a political theorist of equality is an uncommon view. However, upon reading Hobbes closely, this prevalent modernity and equality seemed both strange and interesting to me. Resultantly, I want to challenge the common view because of this sheer abundance of equality I found throughout his political theory. As I see it, equality is the very foundation of his theory.

Finally, I find quite some evidence for my project in the frontispiece of *Leviathan* which, in itself, offers a succinct and vivid visual epitome of the ideas that I will be expounding. Before commenting, however, it is important to mention that I will only briefly explore the frontispiece because an entirely separate work would be needed to do justice to this subject. There are three main points found in the frontispiece that are pertinent to the work of this essay. Firstly, the frontispiece demonstrates the power of both the church and the political state being put into the hands of the sovereign power via the sovereign holding both the sword of justice and a crosier and via the placement of the two columns displaying political and religious symbols. Secondly, it demonstrates the relations of all subjects to the sovereign power by portraying the subjects as literally constituting the body of the sovereign and walking towards it, as if they were converging to covenant. The final point is the quote in the upper corner of the frontispiece from the book of Job, which reads: “Non Est potestas Super Terram quae Comparetur ei Job. 41. 24.”. This, I argue, points to the need for an absolute sovereign.

First to be discussed are the symbols of political and religious power coming together. This can be found by examining the sovereign power holding the sword of justice (which is to

the left and over the column displaying symbols of man-made, political power — a castle, a crown, a cannon, muskets and a battle fought by men) and the crosier (which is to the right and over the column displaying symbols of religious power — a place of worship, a mitre, Jove's thunderbolts, tridents, and a clerical discussion). This is significant because it demonstrates that the sovereign qua sovereign holds the highest power and can appoint both priests and judges. There may be numerous religious sects but they are all under the power of the sovereign. While in private spaces everyone is free to worship their preferred religion, in the public space everyone must obey official religious service. If one examines the town in the frontispiece, one will be able to see numerous smaller churches. However, there is one church larger than them all. This is done to represent the church of the sovereign, in other words, the official house of worship that is under the sovereign power — the 'Castle of Christ's Truth.'¹⁰ Hobbes combines castle and church into one symbol. This is important to point out along with the fact that the sovereign is also the representative of God on earth because this emphasizes what will be discussed in the quote from Job. Before moving on, it is important to mention that the frontispiece also reads, in between these aforementioned columns: "Leviathan Or The Matter, Forme, and Power of A Commonwealth Ecclesiasticall and Civil." This reiterates what has been discussed — that this commonwealth is not only civil or ecclesiastical, but both and that both these elements are under control of the sovereign power for it is absolute.

Next to be discussed are the relations of all subjects to the sovereign power. By

¹⁰ Champion, Justin. "Decoding the Leviathan: Doing the History of Ideas through Images, 1651–1714." *Printed Images in Early Modern Britain*. Ashgate, 2010. pp. 255-275. warwick.ac.uk/fac/arts/ren/projects/archive/newberry/collaborativeprogramme/ren-earlymoderncommunities/britishandamericanhistories/summerworkshop/18july/justin_champion022_chapter2013_hunter.pdf. [Accessed 15. Sept. 2018].

examining the sovereign figure in the frontispiece, Hobbes explicitly makes clear that the subjects make up the sovereign power. In the frontispiece itself, the subjects are portrayed as, quite literally, the body of the sovereign/commonwealth. If they fall, the sovereign power, and thereby the commonwealth, also falls. Furthermore, this image also illustrates the subjects facing the sovereign in awe and coming together as if they were meeting in a common area, marketplace etc. It is important to note that these subjects are dressed differently — some wear coats or more affluent garments while others are not so affluently clad. This should be taken to represent all the different subjects coming together, covenanting and submitting their power to the power of the sovereign. As it is shown, the act of covenanting is the most democratic act in Hobbes' theory, is strangely modern and demonstrates the equality found throughout his political theory. While the portrayal of all these subjects facing one human figure could be misconstrued as the sovereign being one natural man or an actual monarch, this is not so. Instead, this image is just to be taken as a representation of the sovereign institution. I argue this because Hobbes is one of the first, if not the first, political theorist to explicitly declare all three state forms — monarchy, aristocracy, and democracy — as viable and functioning options for a political state. Furthermore, given that all these subjects compose the commonwealth, we see already an aspect of equality in the frontispiece in that: 1) every individual subject is equal before the sovereign and the law, and 2) every subject can contribute to the wellbeing of the commonwealth. Even though some may be dressed more affluently (and thus represent some inequality in the political state in terms of wealth), they are equal qua subjects. Such thinking is extremely democratic and modern for Hobbes' time and points towards our modern practices. It is for this reason that, throughout this essay, I espouse Hobbes as the political theorist of equality and find it necessary

to contrast his thought with the polemics made against him.

Finally, and most importantly, is the quote from the book of Job found at the very top of the frontispiece. As previously mentioned, the quote reads: “Non Est potestas Super Terram quae Comparetur ei Job. 41. 24.” Translated into English, this quote means: “There is no power on earth which can be compared to him.” There is much significance to this quote. Firstly, the quote dictates that, in the case of the sovereign, it must be so powerful and absolute that not even the mightiest could overthrow it. This already contrasts with the previously mentioned quote by Filmer that argues that Hobbes’ sovereign could be slain. Furthermore, this is important because the sovereign, being so absolute, does not take away from the liberties of the subjects but does the exact opposite. It is precisely because the sovereign is so strong that the rights and liberties are able to be guaranteed to the subjects in the political state. This quote also enforces the idea that the sovereign is simply the artificial representative of God and it is only the latter that is more absolute than it.

Hobbes actually uses this quoted passage from Job directly in *Leviathan*, in a more extended version. He states: “Hitherto I have set forth the nature of Man, (whose Pride and other Passions have compelled him to submit himselfe to Government;) together with the great power of his Governour, whom I compared to Leviathan, taking that comparison out of the two last verses of the one and fortieth of Job; where God having set forth the great power of Leviathan, called him King of the Proud. ‘There is nothing,’ saith he, ‘on earth, to be compared with him. He is made so as not be afraid. Hee seeth every high thing below him; and is King of all the children of pride.’ But because he is mortall, and subject to decay, as all other Earthly creatures are; and because there is that in heaven, (though not on earth) that he should stand in fear of, and

whose Lawes he ought to obey; I shall in the next following Chapters speak of his Diseases, and the causes of his Mortality; and of what Lawes of Nature he is bound to obey.”¹¹ From this we are able to see, directly from Hobbes, that the institution of the sovereign is the mortal representative of the immortal God, who is the only entity more powerful than the Leviathan. This only reiterates what has been previously stated — that the sovereign, in order to retain these artificial equalities and to artificially enforce the natural equalities of the natural laws, must be so powerful and so absolute that not even the mightiest can overthrow it. The sovereign does not oppress or strip the subjects of their rights and liberties but, only if absolute, is the very entity that is powerful enough to guarantee them. Nevertheless, the sovereign is not God but a mortal, artificial power dependent on the covenanting of the subjects. This, along with the aforementioned, is discussed and explored thoroughly throughout this essay and offers much evidence against the criticisms suffered by Hobbes.

¹¹ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 209.

Chapter 1: A State of Natural Equality

I. Section: Chapter Introduction

Hobbes is widely known for his theory of the natural state as nasty, brutish, and short; there do not exist ideas of justice and sin, leading to a constant state of war, to an extent that the individuals are forced to think of how to escape. His conception of this state differed greatly from other theorists around him. In the conceptions of Jean Jacques-Rousseau, John Locke, or other more popular conceptions of the natural state, this state is seen, for the most part, as one of peace and pre-civilization. For Locke, for example, the state of nature simply lacked the protection of property. In his state, it was the few exceptions that one had to be wary of and, because of those few mad-men or idiots, there needed to be a sovereign to keep them in awe. In Rousseau, the state of nature was not one characterized by animosity towards each other but was one where people act only according to their basic urges or instincts (not passions)¹² such as hunger or even compassion.¹³ Most importantly, individuals in this state are portrayed by these thinkers as solely choosing to leave, rather than being inevitably forced to (both these elements contribute to escaping the state of nature in Hobbes' theory). The conditions in the natural state, as presented in these conceptions, are nowhere described as cruel and gruesome as in Hobbes'

¹² Hunger is not a passion for it is even more primitive. Some examples of passions are fear, envy, pride, etc.

¹³ Munro, Andre. "State Of Nature. Definition & Examples." *Encyclopedia Britannica*, 2018, <https://www.britannica.com/topic/state-of-nature-political-theory>. [Accessed 20. Aug 2018.].

theory and for this very reason, Hobbes' conception is often berated. It would be pointless to ask whose conception is more accurate for there is no historical record of there ever being such an actual state. What can be argued in favor of Hobbes' conception is, however, what he already stated himself: given the present national relations, his view of the natural state is somewhat correct. However, even more importantly, it also emphasizes something often missed or ignored in the other conceptions of the natural state — the significance of human equality that we hold today as a natural assumption. This assumption of equality between human beings, as it will be shown, was not common in Hobbes' time and demonstrates Hobbes' ingenuity and modernity of thinking.

Hobbes is famous for starting his political philosophy with the natural state which is, again, infamously “nasty, brutish, and short.”¹⁴ Although it is often interpreted as if it had been a historical period before the foundation of the state, for Hobbes, such a natural state had never existed between particular men historically.¹⁵ Rather, Hobbes uses the natural state as a thought experiment to understand men's existence prior to the formation of the political state. This state, as Hobbes sees it, comes about by stripping humans — men and women — from all socially earned bonds and hierarchical status. This is his method of creating the idea of the natural state. He argues: “every thing is best understood by its constitutive causes; for as in a watch, or some small such engine, the matter, figure, and motion of the wheelles, cannot well be known, except it

¹⁴ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 76.

¹⁵ *Ibid.*, p. 78.

to be taken in sunder, and viewed in parts.”¹⁶ As a result of his method, he actually begins to demonstrate the natural equality of human beings which will prove to be pivotal for the goal of this essay — to demonstrate Hobbes as an overall political theorist of equality.¹⁷

In this natural state, there are no social classes, subjects, possessions or anything else to socially or politically distinguish individuals from one another. Thus, when Hobbes speaks of individuals or men as equal, this is to be understood as to include every individual person regardless of gender or any other distinguishing factor. It is essential to specify that Hobbes does not argue that men or women are all identical but that no one individual is so much more apt in body or mind as to be naturally superior to another, or in other words, naturally designed to rule others.¹⁸

Finally, as a result of the equality of all men, the state of nature is characterized by Hobbes as “nothing else but a meere warre of all against all; and in that warre all men have equall right unto all things.”¹⁹ It is important though to mention that, in this state, there may not always be war going on; rather, there is no guarantee to the contrary — peace. From this, one can

¹⁶ Hobbes, Thomas. *De Cive. The English Version. Entitled in the First Edition Philosophical Rudiments Concerning Government and Society*. Edited by Howard Warrender, vol. 3, Clarendon Press, 1983. Print. p. 32.

¹⁷ Throughout this essay the term ‘men’, when used in the context of Hobbes, should be understood as regarding both males and females.

¹⁸ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 74. “Though there be found one man sometimes manifestly stronger in body or of quicker mind than another-the difference between man and man is not so considerable as that one man can thereupon claim to himself any benefit to which another may not pretend as well as he.”

¹⁹ Hobbes, Thomas. *De Cive. The English Version. Entitled in the First Edition Philosophical Rudiments Concerning Government and Society*. Edited by Howard Warrender, vol. 3, Clarendon Press, 1983. Print. p. 34.

see that Hobbes' state of nature is characterized by equality, the uncertainty of peace and a constant distrust between men. I am not arguing that equality in the state of nature is a bad thing. Rather, I argue that this equality is the starting point in Hobbes' political philosophy. Not only is it largely responsible for men's struggling against one another, it also points out a problem of modern political philosophy that Hobbes acknowledges: if nobody is naturally superior, then how do we create a common power to "keep them all in awe"?²⁰ Finally, had it not been for this equality between individuals in Hobbes' natural state, then there would not be this interminable struggling against one another to force men to escape this state in order to preserve their lives and prosper according to the natural laws (these will be expounded upon later).

As mentioned above, this natural state for Hobbes never existed historically. Nevertheless, he argues that civil wars come close to such a natural state. Also, a state of nature very much currently exists between political states because of their independency and diffidence towards one another.²¹ This should come as no surprise as all one needs to do, in order to envision such a state, is to take notice of the diffidence and distrust between certain political states, e.g. the United States and North Korea. While these two states are not in constant war with one another, the state of peace currently enjoyed is liable to change at any instant.

²⁰ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 76.

²¹ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 78.

II. Section: Human Nature

If all human beings are equal the question arises: What is the human nature? This term is defined as “the general psychological characteristics, feelings, and behavioral traits of humankind, regarded as shared by all humans.”²² Hobbes begins his discussion of equality by appealing to the numerous equalities of men.²³ When Hobbes speaks of natural equality, he is not arguing that this is how things ought to be but how they actually are. Furthermore, it is important to specify that, in the context of Hobbes, such an equality applies equally to both sexes although it does not presume sameness. Instead, Hobbes argues that we as humans are equal in our bodily strength and mental capacity. This is evident to such an extent that: 1) in the natural state, no one is that much stronger or wiser to fend off the rest, 2) all individuals are equally capable to attain prudence, learn from past experience, and rationally pursue their goals, and 3) from the previous two equalities comes a third: an equality of hope in attaining our ends.²⁴ Simply put, the faculties of human nature can be listed as: bodily strength, experience, reason and passion.²⁵ I will argue that these faculties, because they are equally bestowed upon all individuals in Hobbes’ state of

²² “English Dictionary, Thesaurus, & Grammar Help.” *Oxford Dictionaries*. en.oxforddictionaries.com/ [Accessed 18. April. 2018].

²³ Hobbes, Thomas. *De Cive. The English Version. Entitled in the First Edition Philosophical Rudiments Concerning Government and Society*. Edited by Howard Warrender, vol. 3, Clarendon Press, 1983. Print. p. 45. “All men therefore among themselves are by nature equal; the inequality we now discern, hath its spring from the Civil Law.”

²⁴ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 75.

²⁵ Hobbes, Thomas. *De Cive. The English Version. Entitled in the First Edition Philosophical Rudiments Concerning Government and Society*. Edited by Howard Warrender, vol. 3, Clarendon Press, 1983. Print. p. 41.

nature, contribute not only to a state of natural equality but also to the desperation to escape such a state.

In the case of bodily strength, Hobbes argues “the weakest has strength enough to kill the strongest, either by secret machination or by confederacy.”²⁶ Thus, in the natural state, this equality dictates that no one man can, through strength and force, rule over the rest. An even greater equality amongst men is found in the case of mental capacity whereby Hobbes distinguishes between empirical and rational knowledge, e.g. between prudence and wisdom.

All that separates one’s experience and prudence from that of another, however, is the amount of time during which one gathered experience in some particular area. Hobbes argues: “For prudence is but experience, which equal time equally bestows on all men in those things they equally apply themselves unto.”²⁷ What exactly leads to prudence? For Hobbes: fancy, imagination, memory, and experience can all lead to prudence. Fancy, Hobbes explains, is the difference in quickness caused by men’s succession of thoughts in terms of how things “be like one another, or in what they be unlike, or what they serve for, or how they serve to such a purpose. Those that observe these similitudes are said to have a good fancy.”²⁸ Similarly, those that discern differences quickly are said to have a good judgement. These things, together with direction, contribute to a “rarity of invention” and an intellectual ability. Imagination, Hobbes states, is a decaying of sense. Simply put, simple imagination is the recalling of previously experienced things while compound imagination is the imagining of things never experienced

²⁶ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 74.

²⁷ *Ibid.*, p. 75.

²⁸ *Ibid.*, p. 38.

together (but experienced separately) such as a dog with a bird's wings. The act of engaging in simple imagination is called memory. The recalling of such things by conception is the act of understanding which is common to all men.²⁹ Finally, experience leads to all those things being possible which are shared by all human beings equally.

But how exactly do all these things together lead to prudence and what is their significance? It is precisely through a combination of imagination, memory, understanding (which come from experience) and direction that will lead to prudence. As Hobbes importantly points out: "When the thoughts of a man, that has a designe in hand, running over a multitude of things, observes how they conduce to that designe; or what designe they may conduce into; if his observations be such as are not easie, or usuall, This wit of his is called PRUDENCE; and dependeth on much Experience, and Memory of the like things, and their consequences heretofore. Because the Experience of men equall in age, is not much unequall, as to the quantity; but lyes in different occasions; every one having his private designes. To govern well a family, and a kingdome, are not different degrees of Prudence; but different sorts of businesse."³⁰ Thus, prudence differs not so much in quantity obtained, for all men experience equally, but rather in what men apply themselves to. This is also precisely how prudence causes men to differ. Nevertheless, while these men may differ in the fields they apply themselves to, they equally have the ability to improve.

²⁹ Ibid., p. 11. "That Understanding which is peculiar to man, is the Understanding not onely his will; but his conceptions and thoughts, by the sequell and contexture of the names of things into Affirmations, Negations, and other formes of Speech"

³⁰ Ibid., p. 40.

Furthermore, reason is based on language and is a result of industry. Regarding language, specifically speech, Hobbes argues that it is the source of understanding one another and, since speech is particular to man, then so is understanding.³¹ Moreover, reason is the “reckoning of the consequences of general names agreed upon for marking and signifying, when we demonstrate or approve our reckonings to other men.”³² Given that reason is contingent on agreed names, understanding, and approval, we can see that it is based and dependent on language. Reason is also the result of industry in a certain field. As Hobbes states: “And the most part of men, though they have the use of Reasoning a little way, as in numbering to some degree; yet it serves them to little use in common life; in which they govern themselves, some better, some worse, according to their differences of experience, quicknesse of memory, and inclinations to severall ends.”³³ Thus, one should be able to see a causal connection here: prudence, which is the result of factors such as imagination, fancy, memory and experience, is necessary for language (something also dependent on memory) which is necessary for reason. Therefore, one can see how prudence and experience are necessary for reason. Given that all men may equally attain a kind of prudence and experience, as long as they make equal efforts, and since all men acquire language, it must be true that all men can equally attain reason, although to different degrees. It is precisely as a result of this equality, in terms of the capacity to improve, that men are actually able to differ.

The natural equal capability to reason is most important because without it there could be

³¹ Ibid., p. 21. “When a man upon the hearing of any Speech, hath those thoughts which the words of that Speech, and their connexion, were ordained and constituted to signifie; Then he is said to understand it; Understanding being nothing els, but conception caused by Speech.”

³² Ibid., p. 23.

³³ Ibid., p. 26.

no political state and no following of the natural or civil laws because a natural law is “a percept or general rule, found out by reason, by which a man is forbidden to do that which is destructive of his life or taketh away the means of preserving the same.”³⁴ Thus, without this equality of reasoning among men and our ability to equally know these natural laws, we would be unable to covenant, follow the natural laws and, as a result, be unable to preserve our lives, persevere, and escape the state of nature.

Equality, in men’s striving to persevere as well as in their capacity of experience and reasoning, results in a very important insight: that we are susceptible to the same dangers as everyone else in this natural state when we desire the same things. Our passions — of hope and fear, of envy and compassion, pride and shame etc. — lead us to fight with others. Pride will lead human beings to strive for glory and to appear superior to others which they are not. Since we cannot have the same thing together, there will be competition for it. Thus, competition and diffidence will result from this natural equality between men and actually lead to preemptive attacks. If you believe others will attack you because of such competition for commonly desired things you will, via prudence and anticipation, attempt to destroy your enemy before they destroy you.³⁵ If this equality was not evident, then you would have no fear of your enemy being able to destroy you and such diffidence would not exist.³⁶

³⁴ Ibid., p. 79.

³⁵ Ibid., p. 75.

³⁶ Ibid., p. 75. “And from this diffidence of one another, there is no way for any man to secure himselfe, so reasonable, as Anticipation; that is, by force, or wiles, to master the persons of all men he can, so long, till he see no other power great enough to endanger him.”

Hobbes then illustrates the pervasiveness of fear³⁷ by pointing out that everybody who takes a journey arms himself or seeks companions in order to ensure their safety.³⁸ Perhaps his strongest argument to illustrate the pervasiveness of fear is that, even when we are in our own houses, we lock our chests and possessions away.³⁹ If there was no fear, resulting from this widespread equality and diffidence, why would we feel the need to do any of these things? If we did not feel threatened by such equal forces, why would we lock ourselves away from nature? While such an equality in human nature leads to competition, a constant struggle, and the uncertainty of peace in the state of nature, all human beings also possess the capacity for the most important tool — reason, which allows to find a way out of the state of nature.

All human beings necessarily strive to persevere and have a right to do so by nature, just as other animals do. That is the one fundamental natural right according to Hobbes. This right of nature is a liberty — meaning the absence of external impediments — of each person to use their own power for the preservation of their own nature.⁴⁰ In other words, every individual has equally the right to use their own power as they see fit in order to preserve their life and to best persevere. They also have the duty to strive to persevere and to avoid harm or death. Given that every individual has a right to everything in the state of nature, so far as their power may afford them, and that individuals are equal in their power, this equality of right leads to the condition of

³⁷ Hobbes, Thomas. *De Cive. The English Version. Entitled in the First Edition Philosophical Rudiments Concerning Government and Society*. Edited by Howard Warrender, vol. 3, Clarendon Press, 1983. Print. p. 42.

³⁸ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 76.

³⁹ *Ibid.*, p. 77.

⁴⁰ *Ibid.*, p. 79.

war of all against all thereby limiting their liberty or natural right. This creates an environment where human life is solitary, poor, nasty, brutish, and short. There can be no industry, art, culture, education, justice etc.

For example, if there was only one apple available to two equal individuals, the result would be endless fighting over this apple. Had these individuals not been equal in the aforementioned qualities of human nature there would be no state of war as one would quickly triumph over the other. This equality and equal right results in the fundamental law of nature, the other laws of nature and the condition of war which all create the desperation to escape the state of nature.

Penultimately, equality in human nature is evident in terms of all humans succumbing to their passions. Hobbes argues that all men placed in the state of nature have “a possibility to come out of it, consisting partly in the passions, partly in his reason.”⁴¹ While the equality of reason is important for the aforementioned reasons of survival and preservation, I argue that the equality of passions among men is equally, albeit indirectly, important for mens’ survival. Hobbes states: “The passions that incline men to peace are fear of death, desire of such things as are necessary to commodious living, and a hope by their industry to obtain them. And reason suggesteth convenient articles of peace, upon which men may be drawn to agreement.”⁴² Thus, while reason may be responsible for facilitating such a peace, one could argue that the common desperation to escape the state of nature would not have existed had all men not equally had these passions of fear, desire etc. From this one can see the two necessary requisites that, had

⁴¹ Ibid., p. 78.

⁴² Ibid.

they not been equally distributed among men in the natural state, could have made the formation of the political state and preservation of man impossible.

While Hobbes' state of nature is often portrayed as one of total pessimism and chaos, this is not justified precisely because of the roles that equality and reason play. While this equality may contribute to the diffidence and competition that result in the state of war, it still means that we are all equally bestowed with reason and passions. Thus, we will, because of our hope to survive and equal fear of one another, want to use our reason, which is equally bestowed upon us, to seek peace and persevere our lives the best we can. Before moving on, it is important to mention that, in these cases, there are always outliers and that, in Hobbes' state of nature, a great deal of individuals succumb to their passions and avoid any effort to improve their reason. As a result, Hobbes does distinguish between human beings who use their reason to understand and know with certainty, and those who follow their passions and abandon reason but they are all still equally capable to reason.⁴³

Finally, such an equality of human beings is not seen in pre-Hobbesian thought (which will be discussed later on). The issue is, given that all individuals — meaning males and females — are naturally equal, there is no one individual or group of individuals naturally suited to rule. It is precisely for this reason that Hobbes' political state must be artificial — made by men — and not natural. Had a state been natural then there would be individuals chosen from birth, presumably by God or some other superior being, to be most apt to rule and others most apt to be ruled. In fact, Hobbes is fully conscious of such existing views and discusses them when

⁴³ Ibid., pp. 190-210. While Hobbes does not explicitly distinguish between these men in a single sentence, throughout this chapter he does this while distinguishing different crimes, the different passions that men succumb to, for what reason they succumb to these passions, etc.

comparing mankind to the naturally hierarchical ‘societies’ of bees and ants. Because men are equal in their faculties, including reason and the passions, he argues “that these [other] creatures, having not (as man) the use of reason, do not see, nor think they see any fault, in the administration of their common businesse: whereas amongst men, there are very many, that thinke themselves wiser, and abler to govern the Publique, better than the rest; and these strive to reforme and innovate, one this way, another that way; and thereby bring it into Distraction and Civill warre.”⁴⁴ Thus, it is precisely a result of our equality in reason and passions that we, as individual human beings, all think ourselves best to rule. When we all think ourselves best to rule, we ironically exhibit that there is no one naturally suited to rule. Unlike these creatures — bees and ants — we are not *naturally* able to live together. Therefore, we must use our equally bestowed reason to best determine how we could live together. Again, it is because of this that the political state is artificial and not natural. Consequently, Hobbes causes a theoretical revolution by posing the question: if all men are equal, then how do we know who should rule?

III. Section: The Natural Laws

In the state of nature, there are no positive (man-made) laws or an artificial sovereign. Nevertheless, there exist a natural right, natural laws and a supreme power — God — to enforce these laws (solely in *foro interno*, that is, in the mind of every human being). What is a natural law and why is equality evident in Hobbes’ portrayal of them? As previously said, these laws are rules known to us by reason. Unlike the natural right which consists in the liberty to do or

⁴⁴ Ibid., p. 108.

forbear from something, these natural laws actually forbid us to do anything counterproductive to our preserving our lives.⁴⁵ These laws of nature are by no means agreements of men but mere dictates of reason as each of them can be figured out by human beings who use their reason. Given that these natural laws exist independently of men's passions, they dictate this equality. In the natural state, they are not yet limited by the inequalities found in the civil state.⁴⁶ Throughout his work, Hobbes makes explicitly known nineteen natural laws. In this section, I will carve out the equality present in each of these natural laws wherever possible in order to further exhibit Hobbes as a political theorist of natural equality. For the purposes of this chapter, I will, however, delve only into those natural laws which demonstrate an equality in the natural state.

The first and fundamental natural law is that "every man ought to endeavor peace, as far as he has hope of obtaining it, and when he cannot obtain it, that he may seek and use all helps and advantages of war."⁴⁷ It follows directly from the striving to persevere of each human being and the equality of them all. Firstly, given that there is an aforementioned equality of hope in attaining our ends, and that our end is to persevere, which cannot be reached in a constant state of war, it follows that all men who use their reason will equally strive to attain peace. This is crucial to escape the state of nature for if men did not equally strive to attain peace, then the result could be endless war and mankind would be unable to persevere or, perhaps, even exist. In

⁴⁵ Ibid., pp. 79-80.

⁴⁶ Hobbes, Thomas. *De Cive. The English Version. Entitled in the First Edition Philosophical Rudiments Concerning Government and Society*. Edited by Howard Warrender, vol. 3, Clarendon Press, 1983. Print. p. 42. "For if by nature one man should love another as man, there could be no reason why every man should not equally love every man, as being equally man, or why he should rather frequent those whose society affords him Honor or Profit."

⁴⁷ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 80.

that case, men cannot obtain this peace and will remain in the condition of war and continue to live under the previously mentioned factors of fear, diffidence, etc. (due to the equality of the passions).

The second law of nature is even more obvious in its exhibition of equality. This law dictates that “a man be willing, when others are so too, as far-forth, as for peace and defense of himself he shall think it necessary, to lay down his right to all things, and be contented with so much liberty against other men, as he would allow other men against himself.”⁴⁸ Since all men must seek peace and avoid war whenever possible, it follows that when others lay down their natural rights, you must do the same. This law of nature, in combination with the first, applies equally to every man and dictates that all men must lay down their natural right which they all possess equally and must do themselves: “Whatsoever you require that others should do to you, that do ye to them.”⁴⁹ The equality is evident here because all men must lay down their natural rights in accordance with others for, if this were not the case, nobody would do so and there would irrefutably be no escape from the natural state and its condition of war.

The third natural law is that of justice. This law works in tandem with the second law of nature as it dictates that men, once they have covenanted, must uphold this covenant (this will be expounded upon later). Thus, similarly to the second natural law that dictates equally to all men that they must lay down their right whenever they have hope of thereby attaining peace, Hobbes himself argues that this third natural law dictates that this laying down of the right to everything must be equally honored by all parties. This explicitly displays justice as a kind of equality: “it

⁴⁸ Ibid., pp. 80-81.

⁴⁹ Ibid., p. 18.

cannot be denied but that justice is a certain equality, as consisting in this only; that since we are all equal by nature, one should not arrogate more right to himself than he grants to another, unless he have fairly gotten it by compact.”⁵⁰ Briefly put, this law asks every human being to not claim for more rights or privileges than they grant all the other individuals because that would destroy their equality. Thus, this law of justice, which equally deters all men from breaking their covenant once made (inside the political state), helps to ensure the preservation of all inside the political state and also helps to ensure that these individuals remain outside of the natural state.

It is important to mention that, although for Hobbes there can be no injustice or justice in the state of nature since there is no covenant yet enforced, he still argues that covenants must be held, according to the second natural law: “Covenants entered into by fear, in the condition of mere nature, are obligatory.”⁵¹ It is important to mention that this is more so true in reason than reality. Therefore, Hobbes argues that without a coercive power to compel men equally to the performance of these covenants, the words of justice and injustice are invalid even to those who do not ignore reason. However, as an aside, is it not possible that the right of nature could be the coercive power to prevent men from breaking their covenants in the state of nature? In other words, could the right of nature not force men to use their power to best persevere?⁵² I raise this

⁵⁰ Hobbes, Thomas. *The English Works of Thomas Hobbes of Malmesbury* . Edited by William Molesworth , vol. 2, London: John Bohn , 1841. Print. p. 34.

⁵¹ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 86.

⁵² Hobbes, Thomas. *The English Works of Thomas Hobbes of Malmesbury* . Edited by William Molesworth , vol. 2, London: John Bohn , 1841. Print. p. 30. “Because therefore to stand to our covenants, or to keep faith, is a thing necessary for the obtaining of peace; it will prove to be a precept of the natural law-For he that contracts, denies that action be in vain; and it is against reason for a knowing man to do a thing in vain.”

question because in the state of nature, where all men are equal and must work together in order to persevere, if one man failed to uphold his trust or if he betrayed the others, he would certainly be cast away from them, thus reducing his chances to survive. Resultantly, this law of nature (justice), as it applies equally to all individuals, further indicates that Hobbes' state of nature is one of equality. It encourages every individual to uphold their covenant lest they decrease their ability to preserve their lives and persevere. Just as Hobbes states: "in the natural condition, where each one is an enemy to each one, no one can live securely without the aid of allies."⁵³ Thus, the law of nature dictates that an individual in the state of nature will either uphold the covenant or "be cast out and perish."⁵⁴ As it will be shown, this natural law works in tandem with the thirteenth natural law of equity. However, before moving on, it must be said that this argument depends on the assumption that everyone has equal access to reason and understanding and that they utilize such reason and understanding to the best of their power. More specifically, this argument only applies if all these individuals used their reason to understand the consequences of their actions (e.g. betrayal). However, as Hobbes himself admits, this is not guaranteed to always be the case.

The fourth natural law, gratitude, also emphasizes this natural equality for it dictates "that a man which receiveth benefit from another of mere grace endeavor that he which giveth it have no reasonable cause to repent him of his good will."⁵⁵ This law dictates that all men must equally display gratitude to one another whenever there has been shown a sign of goodwill. If this is not

⁵³ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 92.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*, p. 95.

done then there will be no benevolence, trust, or mutual help from one man to another and “neither would there be mutuall assistance among them, nor any commencement of gaining grace and favour; by reason whereof the state of Warre would necessarily remain.”⁵⁶ This law follows from the first which dictates that men must seek peace wherever possible.

From this follows the fifth natural law which dictates mutual accommodation or complaisance. This law dictates that, since every man must endeavor for peace whenever possible, it follows that every man must strive to accommodate himself to the rest lest he risks reverting to the condition of war.⁵⁷ According to this law of reason, all men must equally respect the rights of others and accommodate to others wherever possible.

The sixth natural law, the request to everybody of facilitating pardon, works similarly to the fifth as a pardon is nothing but a granting of peace for caution in the future.⁵⁸ This law also follows directly from the first natural law in that it dictates that all men must seek peace. Granting of a pardon, whenever possible, secures future peace while not granting a pardon where possible would cause new war in the future and thus contradict the first natural law of reason, which all men are equally capable of. For example, because all men are equal in their natural capabilities and reason, it follows that it would be mutually understood that it is better to pardon small offenses than to engage in war.

⁵⁶ Hobbes, Thomas. *De Cive. The English Version. Entitled in the First Edition Philosophical Rudiments Concerning Government and Society*. Edited by Howard Warrender, vol. 3, Clarendon Press, 1983. Print. p. 66.

⁵⁷ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. pp. 95-96.

⁵⁸ *Ibid.*

The eighth natural law, against contumely (insulting language or treatment of one individual to another), dictates that no individual should display signs of hatred or contempt “by deed, word, countenance, or gesture”⁵⁹ to another nor provoke fights with another. Simply put, this law works in tandem with the ninth natural law, against pride, in that it discourages any discord amongst individuals via arrogance or pride, that is to think of oneself as greater than others and thus unequal. Similarly, it relies also on the fourth natural law that asks for gratitude. The law against contumely dictates that all individuals must treat others equally as they would like to be treated themselves.

The ninth natural law, against pride, is one of the most important natural laws in demonstrating the equality present in Hobbes’ political theory. Hobbes argues that “the question whether of two men be the more worth, belongs not to the natural, but civil state.”⁶⁰ This law of nature, namely the law against pride, explicitly demonstrates equality in the natural state as it dictates that no man may think of himself or present himself as superior to another. This argument shows how groundbreaking Hobbes’ political theory of equality is and how well aware he is of that as he argues explicitly against previous conceptions of human beings as naturally unequal. Above all, Hobbes turns directly against Aristotle by stating: “I know that Aristotle in the first booke of his Politiques, maketh men by Nature, some more worthy to Command, meaning the wiser sort (such as he thought himselfe to be for his Philosophy;) others to Serve, (meaning those that had strong bodies, but were not Philosophers as he;) as if Master and Servant were not introduced by consent of men, but by difference of Wit [aptness]; which is not only

⁵⁹ Ibid.

⁶⁰ Hobbes, Thomas. *The English Works of Thomas Hobbes of Malmesbury*. Edited by William Molesworth, vol. 2, London: John Bohn, 1841. Print. p. 38.

against reason; but also against experience. For there are very few so foolish, that had not rather governe themselves, than be governed by others.”⁶¹

The eleventh natural law, namely equity, is one of the most important laws of nature in displaying equality in Hobbes’ state of nature for it works in tandem with so many other natural laws such as the third, twelfth, sixteenth, seventeenth and eighteenth laws. This natural law dictates that “If a man be trusted to judge between man and man”, it is a precept of the Law of Nature, “that he deale Equally between them.”⁶² This law dictates that men must be judged equally, according to the same standards, and be equally subjected to the law. This, as previously shown, was not the common thought regarding men. Rather, different classes of individuals would be dealt with differently when it came to juridical procedures (as in Duplessis-Mornay). For Hobbes, however, because men are no more than equal individuals, they must be dealt with equally if one wants to avoid war or the state of nature. More specifically, equity is somewhat similar to a distributive justice and dictates what justice should be. This can be seen when Hobbes argues, “distributive justice is the justice of an arbitrator, that is to say, the act of *defining* what is just. Wherein if he perform his trust, he is said to distribute to every man his own; this is indeed just distribution.”⁶³ Thus, this law of nature dictates that justice must be distributed equally and that all men must be equally subject to the law. This, to the furthest extent possible, contributes to the equality found throughout Hobbes’ laws of nature that can be known equally by all human beings.

⁶¹ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 96.

⁶² *Ibid.*, p. 97.

⁶³ *Ibid.*, p. 95 [my emphasis- DS]

From this natural law of equity follows the twelfth natural law, the equal use of things common, which is an obvious proponent of equality in the state of nature. This law dictates: “That such things as cannot be divided, be enjoyed in Common, if it can be; and if the quantity of the thing permit, without Stint; otherwise Proportionably to the number of them that have Right. For otherwise the distribution is Unequall, and contrary to equity.”⁶⁴ Simply put, this natural law commands that the distribution of things common must be an equal one for the unequal distribution of things to equal men would be contrary to reason and equity. The thirteenth and fourteenth laws, of lot and of primogeniture or first seizing, find ways to equally distribute things that cannot be equally divided by consistently distributing them to whoever possesses the thing first, or has the right to it such as the first born. Thus, even when perfect equality cannot be attained, these laws of nature come asymptotically close via instituting a law of consistent distribution (similarly to a just distribution as in equity).

The fifteenth, sixteenth, seventeenth, eighteenth and nineteenth laws all work in tandem with equity. The fifteenth law of nature, of mediators, dictates that all men that mediate peace must be allowed safe conduct. This law enables men to follow the first law of nature which dictates that men must seek peace whenever possible. The sixteenth law, of submission to an arbiter, dictates that those in controversy submit their right to the judgement of an arbitrator. The seventeenth law forbids one to be one’s own arbitrator for this would go against equity. Hobbes states that “ every man is presumed to seek what is good for himself naturally, and what is just, only for *Peaces* sake, and accidentally; and therefore cannot observe that same equality

⁶⁴ Ibid., p. 97.

commanded by the *Law of nature* so exactly as a third man would do.”⁶⁵ The eighteenth law states that no man can be judge who has in him a cause for partiality leading to unequal judgment, which is similarly to the seventeenth and forbids anything that would go against equity and an equal distribution of justice. Finally, the nineteenth natural law dictates that, if there is dispute in a case of adjudication, then a judge must give equal weight to the testimonies of both parties being judged. If there is still not adequate evidence then the judge must pass the verdict to the testimonies of other witnesses in order to further maintain this equality of judgement. These laws together follow from the natural equality of all men for they dictate an equal mediation and arbitrament between these equal individuals. These laws also promote the fundamental law of nature for they allow men to seek peace and settle disputes peacefully whenever possible, thus helping to prevent a condition of war.

The equality of human beings in the state of nature as well as the necessity to treat humans equally presupposed for all these laws is evident. If the natural laws would not apply to all men equally, it would be a cause to war and there could be no escaping the natural state. These natural laws follow necessarily if the equality of all human beings, and their equal striving to persevere or exercising of their equal natural right, are presupposed.

⁶⁵ Hobbes, Thomas. *De Cive. The English Version. Entitled in the First Edition Philosophical Rudiments Concerning Government and Society*. Edited by Howard Warrender, vol. 3, Clarendon Press, 1983. Print. pp. 70-71.

IV. Section: Hobbes' Novelty in Comparison with Former and Contemporary Theories

It is important to reiterate that these laws are precepts or general rules known to us by reason.⁶⁶ Given that, and recalling that reason is equally bestowed upon men, it follows that men are equally capable to know these laws of nature although it requires effort. As a result of this, the natural laws apply equally to every individual and no individual is in a position of superiority to another. Hobbes' conception of the natural laws as knowable to all individuals, in light of their equal capacity to reason, sharply contrasts with the past conceptions of natural law. In order to better understand the novelty found in Hobbes' political philosophy I will compare his approach to former and contemporary theories.

IV.I.I. Ancient Philosophers: Plato

I will first point to the classic thinkers of ancient philosophy, Plato and Aristotle. One can see the presence of natural inequality among men in Plato's *The Republic*, more specifically, in the myth of metals. Throughout Book III, Plato speaks of what he calls 'the myth of metals'. He uses this example in order to demonstrate the natural inequalities, capabilities and values of different human beings. Plato argues "When god made you, he used a mixture of gold in the creation of

⁶⁶ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 79.

those of you who were fit to be rulers, which is why they are the most valuable. He used silver for those who were to be auxiliaries, and iron and bronze for the farmers and the rest of the skilled workers.”⁶⁷ Not only are people in Plato’s example naturally suited for certain things, but they also have different capabilities and even different values associated with them depending on their souls. It is important to note that the capabilities and values assigned to such people are assigned from the very outset of their creation. The inequality present in this example clearly contrasts with Hobbes’ idea of men as naturally equal individuals in every aspect.

However, this idea is not simply an aside in Plato’s *The Republic* but is actually expounded upon throughout the entirety of the text. Throughout Plato’s *The Republic*, from Book I to Book X, Plato spends a great deal of time on how one could build the ideal city arguing that, from birth, people are born unequal and are thus to have different positions in life. While he is inclusive of women in his city, this idea of souls and inequalities from birth presents Plato as a theorist of natural inequality. Towards the end of *The Republic*, the ideal city is presented. Plato reaches the conclusion that the philosophers are the ideal and destined rulers of this city while those who do not have these special qualities cannot rule. This can be explicitly seen when he states: “We should give them a definition of these philosophers, and tell them who these people are we have the nerve to say ought to be rulers. This portrait of them will make possible a defense which demonstrates that some people are naturally equipped both to grasp philosophy and to be leaders in a city, whereas other people are not equipped to grasp it. For them it is better to follow a leader.”⁶⁸ He also argues that justice is found when people follow only the

⁶⁷ Plato. *The Republic*. Edited by G. R. F. Ferrari and Tom Griffith, Cambridge University Press, 2000. Print. p. 108.

⁶⁸ *Ibid.*, p. 176.

occupations they are naturally suited to do and do not meddle into the business of anything else.⁶⁹ Thus, through Plato's illustration of the ideal city, we can see a natural inequality amongst men that does not exist in Hobbes' natural state. Not only are people born with different capabilities and values, but even the concept of justice is, for Plato, defined by inequality. While people should do their own business that they are suited to, they are also ought not to meddle into the business of others. Resultantly, one with a bronze soul (a common person), should not meddle in the business (i.e. politics) of those with gold souls (philosophers). Such an argument is oddly similar to those that remained widely accepted throughout medieval and even early modern times e.g. the argument of Duplessis-Mornay that asserted that the 'many-headed monster' (i.e. the common people), should not participate in the business of the magistrates or estates (this will be further expounded upon later). Thus, this theme of inequality can be seen to dominate many centuries of philosophical thought from the ancients to the monarchomachs.

IV.I.II. Aristotle

Aristotle, who is directly attacked by Hobbes in his *Leviathan*, is an even stronger proponent of natural inequality than Plato. In *The Politics*, Aristotle argues for the inherent rightness of slavery and states: "Is there anyone thus intended by nature to be a slave? — There is no difficulty in answering this question, on grounds both of reason and of fact. For that some should rule and others be ruled is a thing not only necessary, but expedient; from the hour of their birth,

⁶⁹ Ibid., p. 127. "Each individual should follow the one for which his natural character best fitted him — doing one's own job, and not trying to do other people's jobs for them, is justice."

some are marked out for subjection, others for rule.”⁷⁰ Thus, one can see Aristotle, similarly to Plato, argue that some people are ‘marked’ or destined from birth to hold certain positions in society.

This idea of natural inequality can be further seen in *The Politics* where Aristotle argues that the very existence of slaves and women is for the benefit of the free male citizens.⁷¹ He not only argues that women shall not take an active part in the ruling of the ideal city, as they are not citizens but, moreover, that they are not to receive the same education as men.⁷² Rather, he argues that in light of the female being ruled by the male, the former should only partake in education to the degree required for the fulfillment of their natural function — to obey.⁷³ Obviously, the presence of a natural hierarchy in Aristotelean thought is clearly seen through his presentation of the differing natural qualities of the male, female, and slave.

Hobbes, however, dedicates some critical thought to Aristotle in *Leviathan* for such views which shows that he is fully conscious of his deviating from the norm in terms of his conception of a natural equality of men. That does not mean he ignored existing social inequalities of men in human societies. Rather, he insists on their natural equality and sees all existing inequality as a

⁷⁰ Aristotle. *the Politics, and the Constitution of Athens*. Edited by Stephen Everson, Cambridge University Press, 1996. Print. p. 16.

⁷¹ Ibid., pp. 28-29. “A question may indeed be raised, whether there is any excellence at all in a slave beyond those of an instrument and of a servant-A similar question may be raised about women and children.”

⁷² Ibid., p. 29. “The excellence of character belongs to all of them; but the temperance of a man and of a woman, or the courage and justice of a man and of a woman, are not, as Socrates maintained, the same.”

⁷³ Ibid. “The male is by nature fitter to command than the female-the courage of a man is shown in commanding, of a woman in obeying.”

result of societal developments. Remember, any of these natural inequalities are far too insufficient, Hobbes argues, to give superiority to any one man over another. These differences that lead to the ruling of some and obeying of others are possible only in society. For example, in the case of master and servant, Hobbes argues that their relation has not been created by nature, i.e. by distinctions of natural wit, but only by contract or by pure voluntary consent. In addition, he states that slaves never agreed to contract and thus are still in the state of nature and can do whatever it takes to free themselves. Unlike Aristotle, who argues that some people are marked from birth to occupy certain positions in society, Hobbes insists that, because all human beings have reason and are equal, they would rather govern themselves than be subjected to another — except by equally covenanting and submitting voluntarily all together to a sovereign that secures the covenant. Thus, the only explanation for master and servant (an example that presents differing societal positions) is consent. Such views, even in Hobbes' time, were largely atypical, unprecedented, and strangely modern. It is important to mention that I am not insinuating that those in lower societal positions happily allowed these disparities to occur. Rather, I am arguing that these differing societal positions, in the case of Hobbes, did not result from a natural inequality between men.

Finally, Aristotle, in Book I of *The Politics*, argues that “the state is a creation of nature, and that man is *by nature* a political animal.”⁷⁴ This is in sharp contrast to Hobbes who argues that the state is completely artificial (man-made). Aristotle's argument that the state is a creation of nature implies that the social inequalities in the political state originated from nature and cannot be changed. Thus, who is by nature most suited to rule, to be a guardian, a noble, a

⁷⁴ Ibid., p. 13 [my emphasis – DS].

peasant etc. shall do it. Aristotle's state, since he conceived leadership as natural, already has these embedded inequalities that Hobbes' state repels. It is, for Hobbes, precisely because there is no one man most suited to rule with all being naturally equal and because it is only through the consensual covenanting of equal men (in the state of nature) that they deem who is to rule, that the political must be artificial, that is, has to be made by men. From what has been presented, the contrast of the Hobbesian view with those of these famous ancient thinkers, regarding the natural equality or inequality of men and women, should now be clearly understood.

IV.I.III. Saint Thomas Aquinas

Furthermore, the natural law, as presented by Saint Thomas Aquinas, (an immensely influential scholastic philosopher, theologian and jurist) contrasts even further with Hobbes' conception of the natural law. While Aquinas does argue, in his concept of *jus gentium*, that the natural law determines a model for civil law much like an architect's model determines the building of a house (this sounds similar to Hobbes' argument), he, nevertheless, argues that "Natural Law is common to all animals."⁷⁵ This conception sharply contrasts with that of Hobbes because it does not argue that we follow them because of our reason. Aquinas recognizes that there are rational and non-rational animals but maintains that natural laws are common to all animals nonetheless.

This shows that, for Aquinas, reason is not necessary to be subject to these natural laws (as is the

⁷⁵ Aquinas, Thomas. *Summa theologiae*. Latin text and english translation, introductions, notes, appendices, and glossaries. Cambridge: Cambridge University Press, 1966. Print. p. 116. "Ad primum ergo dicendum quod ius gentium est quidem aliquo modo naturali homini, secundum quod est rationalis, in quantum derivatur a lege naturali (...). Distinguitur tamen a lege naturali, maxime ab eo quod est omnibus animalibus commune."

case in Hobbes).⁷⁶ It is precisely because we share the capacity to reason equally that Hobbes argues that the natural laws bind us and can be known to us all equally.

One can further contrast Aquinas with Hobbes' equal distribution of reason when he states: "As to the proper conclusions of the speculative reason, the truth is the same for all, but is not equally known to all: thus it is true for all that the three angles of a triangle are together equal to two right angles, although it is not known to all. But as to the proper conclusions of the practical reason, neither is the truth or rectitude the same for all, nor, where it is the same, is it equally known by all."⁷⁷ Thus, Aquinas, unlike Hobbes, argues that the natural law is common to men and beasts but that they are not all equally known, and *cannot* all be equally known to men as they do not and cannot equally possess the faculty of reason. While all men can know these laws, it seems that, for Aquinas, they can only be known to different extents. He argues: "general principles, is the same for all, both as to rectitude and as to knowledge. But as to certain matters of detail, which are conclusions, as it were, of those general principles, it is the same for all in the majority of cases, both as to rectitude and as to knowledge; and yet in some few cases it may fail ..."⁷⁸ Thus, one can see, even more importantly, that Aquinas, unlike Hobbes, does not argue

⁷⁶ Ibid., p. 113.

⁷⁷ Fathers of the English Dominican Province. *Aquinas: Basic Account of Natural Law*. [online] Available at: <http://web.mnstate.edu/gracyk/courses/web%20publishing/aquinas-Natural-Law.htm> [Accessed 28. Mar. 2018].

⁷⁸ Ibid.

that all men may improve their reason in the fields that they apply themselves to.⁷⁹ Nevertheless, Hobbes, as previously explained, does distinguish between human beings who use reason to know with certainty and those who abandon reason and succumb to the passions. However, he still defends the idea that all humans have the *capability* to equally improve and possess the faculty of reason.

Furthermore, Aquinas argues that “nothing hinders the natural law from being changed” and also that they are “for the benefit of human life.”⁸⁰ The final contrast is evident here in that Hobbes perceives the natural laws as unchangeable and independent of men while Aquinas argues the opposite.⁸¹ This is important because, for Aquinas, the natural laws can be changed, for example, by God, while for Hobbes they cannot. For Hobbes, once one accepts the equality of human beings and their natural right to persevere as premises then the natural laws are deduced by reason. The only way to change these natural laws would be to change the premises (e.g. the equality between men), which, as it has been shown throughout this essay, are sound. Finally, Aquinas associates reason with christianity while Hobbes does not. Specifically, Aquinas argues that, while we may be able to obtain certain, incomplete truths without faith

⁷⁹ Ibid. “Accordingly then in speculative matters truth is the same in all men, both as to principles and as to conclusions: although the truth is not known to all as regards the conclusions, but only as regards the principles which are called common notions. But in matters of action, truth or practical rectitude is not the same for all, as to matters of detail, but only as to the general principles: and where there is the same rectitude in matters of detail, it is not equally known to all.”

⁸⁰ Ibid.

⁸¹ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 99.

(Christianity), the latter is necessary to obtain complete truth.⁸² This is important because, while Aquinas limits those who can attain certain truth to those who hold a certain faith, Hobbes does not and thereby shows himself as a theorist of equality between all individuals beyond Christianity. From this, Hobbes' conscious divergence from previous and popular conceptions of the natural law should be made lucid.

IV.II.I. Contemporary authors competing with Hobbes

While such a contrast between Hobbesian thought and ancient and medieval thought may be obvious, it is still important to illustrate this contrast with Hobbes' contemporaries. I believe this must be done in order to demonstrate the extent to which Hobbes' theory was ingenious and groundbreaking. As has been shown, Hobbes' argument for the equality of all individual human beings — meaning men and women — sharply contrasts with the argument of Philippe Duplessis-Mornay, a prominent sixteenth century monarchomachic writer. Mornay, in political society, distinguishes three strata of individuals. Firstly, he distinguishes between the common people, the subjects of lower-level-offices such as lesser magistrates, mayors, senators etc. and the higher magistrates such as the estates.⁸³ Furthermore, Mornay explicitly argues against the view that all human beings as individuals constitute a part of the political community. Rather, it is the

⁸² Swindal, James. "Faith and Reason,." *Internet Encyclopedia of Philosophy*. (2018) [online] Available at: <https://www.iep.utm.edu/faith-re/> [Accessed 8. Aug. 2018].

⁸³ Franklin, Julian H. (Ed.). *Constitutionalism and Resistance in the Sixteenth Century: Three Treatises* [by Hotman, Beza, & Duplessis-Mornay]. New York: Western Publishing Co., Inc., 1969. Print. pp. 108-114.

representants of the towns and landscapes, more specifically, the estates and high magistrates of those towns and landscapes, who have political authority and are involved. The individuals as such, most likely those common people with no political authority, “are not to be regarded as the basic parts of a community any more than planks, nails, and pegs are taken as the parts of a ship; or stones, beams, and mortar as the parts of a house. We are rather speaking of the kingdom in the same way the prow, deck, and rudder are the parts of a ship, or the roof, walls, and foundations are the parts of a house — We are also speaking of the magistrate who is in charge of that province or town.”⁸⁴ Thus, while Hobbes argues for the people as a set of equal individuals with equal political involvement who must all consensually agree to create a society (or even to work together in the state of nature), his contemporary theorists continue to hold traditional ideas of ancient theories of inequality. For such thinkers, it is not the planks, nails or stones (individual pieces) that matter but the prow, deck, and foundations (this could be interpreted as being the differing strata of people or the more powerful ‘people’ such as the estates) that really matter.

Another popular Calvinist jurist, Johannes Althusius, in his *Politica*, discusses the natural laws solely in their relation to the Decalogue and thus, limits the knowledge of these laws to Christianity (and perhaps also Judaism). Furthermore, it was the relation of these natural laws to the Decalogue that, for Althusius, were to make proper law. While this conception of the laws may have been well received in orthodox Calvinist circles, it does not hold the equality present in Hobbes’ natural laws. For Hobbes, these laws are knowable by every single individual simply due to their being equally bestowed reason, rather than their adhering to a certain faith or

⁸⁴ Ibid., p. 149.

learning via scriptural revelation. Just as John Witte Jr., a professor of law at Emory University, presents in his *The Universal Rule Of Natural Law And Written Constitutions In The Thought Of Johannes Althusius*: “Althusius built his system on two main foundations - (1) a ‘demonstrative theory’ of universal natural law that focused on the concordance between Christian and classic, biblical, and rational teachings of law, authority, and rights; and (2) ‘a symbiotic theory of human nature’ that focused on the natural and necessary attachments of the person to God, neighbor, and society, including especially the role of covenantal political associations in maintaining human liberty and community.”⁸⁵

Thus, while it may not be surprising that a Calvinist political philosopher based his conception of natural law on Christian and biblical teachings it, nevertheless, contrasts with Hobbes’ more universal conception of natural law as accessible to every individual by their own reason. Had this not been convincing enough, Althusius himself explicitly argues: “This law is not evidently inscribed equally on the hearts of all. The knowledge of it is communicated more abundantly to some and more sparingly to others, according to the will and judgment of [presumably a Christian] God.”⁸⁶ Thus, the unequal knowledge of these natural laws, in the arguments of Johannes Althusius, should be clearly seen and understood to contrast with the

⁸⁵ Witte, John. “The Universal Rule of Natural and Written Constitutions in the Thought of Johannes Althusius”. *Morality and Responsibility of Rulers: European and Chinese Origins of a Rule of Law as Justice for World Order*. Edited by Anthony Carty and Janne Elisabeth Nijman, Oxford University Press, 2018. p. 169.

⁸⁶ Ibid. “To be sure, Althusius acknowledged, biblical moral law has clearer precepts and higher purposes than any other form of natural law. It provides a more certain knowledge of the will of God for our lives. It sets out a pathway to salvation for those who can abide by its letter and a pathway to sanctification for those who can live by its spirit. But the Bible’s moral law only rewrites more copiously the natural law that is already written cryptically on the hearts of everyone.”

presentation of the natural laws by Hobbes.

As it has been shown, Hobbes' conception of all individuals being equally bound by these equally knowable laws is itself groundbreaking. While Hobbes is often portrayed as anything but a proponent for human rights and liberty, his advocating for equal rights and prospering amongst all individuals can be seen even before the political state in his presentation of the natural laws. Again, these natural laws are binding to all individuals or all people (although in *foro interno* only). Hobbes' conception of 'the people' as resulting from covenanting equal individuals also sharply contrasts with those of his contemporaries. This has been shown in the case of Johannes Althusius but also applies to the Protestant and Catholic monarchomachic writers during the sixteenth and seventeenth centuries. These writers argued that 'the people' are "an inorganic and immortal unity, constituted by the estates and independent of the state."⁸⁷ Unlike Hobbes' state of natural equality where the natural laws are equally binding to all individuals, the law, as presented by these monarchomachs, would clearly not be equally binding upon all individuals. This is because the estates, who were independent of the state, had the right to resist laws that they did not deem favorable while those "common people without any office, who had no right

⁸⁷ Goldenbaum, Ursula. Title: "Sovereignty and Obedience." *The Oxford Handbook of Philosophy in Early Modern Europe*. Edited by Desmond M. Clarke and Catherine Wilson, Oxford University Press, 2011. Print. p. 505. "When it was adopted by Calvinist, Lutheran, and Catholic theologians and lawyers during the sixteenth century, 'the people' meant the estates, considered as a collective unity, or the parliament. Individual citizens and other residents of states and provinces were not considered as political subjects at all."

of resistance” did not have such rights.⁸⁸ One of the most famous and influential monarchomachic theorists, the author of *Vindiciae contra tyrannos* (widely speculated to be Philippe Duplessis-Mornay)⁸⁹, argues explicitly that the common people, whom he refers to as ‘the mob’ or ‘that many-headed monster’ have no business participating in political resistance or settling affairs.⁹⁰ When he speaks of ‘the people’ he means “those who receive authority, that is, the magistrates below the king — we also mean the assembly of the estates.”⁹¹ From this alone, one can see the unequal enforcement of the law in the case of the right to resistance. This contrast will be further developed at a later point in the essay. At this point, it should already be clear that Hobbes’ equal application of the law, even in his state of nature in the case of the natural laws was, at the time, unprecedented and further demonstrates his political theory as one of equality. From this discussion, Hobbes’ ingenuity should be more than clear. Not only does this presentation of men as equal individuals contrast with the ancient thought of Plato and Aristotle but it is also opposed to the thought of his contemporaries such as Philippe Duplessis-Mornay.

⁸⁸ Ibid., p. 505. This right of resistance argument originates from the idea that the ruler had mutually contracted with the people. Hobbes, however, does not embrace this idea but argues, instead, that people covenant only with one another. This mutual contracting between the ruler and the people will be further discussed later on and shown to contrast with the idea’s found in Hobbes’ political state in the following chapter.

⁸⁹ For the purposes of this essay, I will refer to the author of *Vindiciae contra tyrannos* as Duplessis-Mornay. However, it should be reiterated that the author of this work is not officially confirmed but only widely speculated to be the French monarchomachic writer.

⁹⁰ Franklin, Julian H. (Ed.). *Constitutionalism and Resistance in the Sixteenth Century: Three Treatises* [by Hotman, Beza, & Duplessis-Mornay]. New York: Western Publishing Co., Inc., 1969. Print. p. 149.

⁹¹ Ibid.

At this point, the work of Thomas Hobbes regarding the state of nature has been examined from a lens of equality. From what has been discussed, three things should now be clear: 1) how the natural state (in terms of men as individuals, the natural laws, etc.), as presented throughout the works of Thomas Hobbes, contrary to popular opinion, is one of equality, 2) how such an equality starkly contrasts pre-Hobbesian (e.g.. ancient) and even contemporary (16th and 17th century) thought, and 3) that this equality actually contributes to the condition of war and, resultantly, creates the desperate need to escape the state of nature and form an artificial — as opposed to a natural — political state. These aforementioned equalities will be important in contributing to Hobbes' political state as one of an artificial equality and in demonstrating Hobbes as an overall political theorist of equality.

Chapter 2: A Political State of Equality

I. Section: Chapter Introduction

Throughout this chapter, the political state, as presented in Thomas Hobbes' *Leviathan*, will be examined from a lens of equality. Following from the previous chapter, I will aim to show that the equality found in the state of nature remains and is even more present in Hobbes' political state although we will see the origin of some social inequality. It is important to remind the reader at this point that natural equality in the political state very much remains, albeit in a slightly different way. Namely, equality before the law and the sovereign is the main focus in the political state based on natural laws. Nevertheless, with this newfound equality in the political state, a new inequality emerges — social rankings.

II. Section: The Generation of the Political State

The first question that must be answered is: “Why do we need a political state?”. The end of the commonwealth is to preserve the lives of all individuals and to allow them to persevere in accordance with the natural laws. It allows these individuals to escape the state of nature — a state of uncertainty of peace — where there is no common absolute power to keep all men in awe and restraint. The laws of nature, i.e. justice, equity, modesty etc. are contrary to the natural passions of human beings and thus, while all may know them equally, there is no guarantee to their universal adherence. Without a common power, all individuals (who are all naturally equal)

must thus constantly fear death, invasion, theft, etc., and endeavor to preemptively subdue their equal neighbors. The result of this is the state of war.

As mentioned in the previous chapter, in the state of nature, these equal individuals may form allied groups. However, these groups do not provide ample security because the power they have together is neither securely guaranteed nor absolute. As Hobbes says: “There never be so great a multitude, yet if their actions be directed according to their particular judgements and particular appetites, they can expect thereby no defense, nor protection, neither against a common enemy, nor against the injuries of one another. For if we could suppose a great Multitude of men to consent in the observation of Justice, and other Lawes of Nature, without a common Power to keep them all in awe; we might as well suppose all Man-kind to do the same.”⁹² Thus, because we have no guarantor with absolute power to keep all these equal individuals in awe, the need for a common, neutral, equally subjecting and absolute power is unavoidable. The act of covenanting is necessary to escape the previously discussed state of nature and to erect a common power. Why? Because all individuals have equal passions of fear, distrust, diffidence etc. that the other party may not uphold their contract. Therefore, they need to form a commonwealth wherein the upholding of such a contract can be secured. Remember, there is no justice or injustice in the state of nature since there is no common power to enforce this justice and to ensure that individuals uphold their side of the contract. While in the natural state there exists some fear of being cast out of a group of allies when acting against a contract, this fear is not justice since the evil-doer will not be punished.

⁹² Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 107.

The question then arises: “How do we create the commonwealth in such a way as to ensure that people [in the commonwealth] keep their promises?” The answer to this question can be found in the covenant. What, though, is a covenant? In Hobbes’ theory, the covenant is the most democratic act since it displays the equality amongst all individuals to the greatest extent. Because there is no one naturally suited to rule or naturally superior to others, the individuals must create such a superior power artificially. To do this, they all must agree between themselves as equal human beings and create an artificial person — a commonwealth. They have at the same time to authorize a sovereign to bear this artificial person. Such thought contrasts with previous political thought which taught that a political state was formed by an agreement between the people, meaning the estates, that is the clerics, nobles, etc., and the King. At this point, it will be helpful to contrast Hobbes’ ideas with some examples of such previous thought in order to illustrate how ingenious and modern Hobbes’ concept of a covenant was.

II. 1. Contemporary social contract theories

Marsilius of Padua (1275-1342) was the first thinker to deny the church a right to hierarchical authority above the king or emperor. Previously, it was assumed that the rulers’ power was authorized by the pope since power was thought to come from God and, because of this, could only be bestowed by a proper representative of God. However, Ludwig of Bavaria, who was advised by Marsilius, “led an armed force into Italy to help his allies there. In Rome he had

himself crowned as Emperor not by the pope but by representatives of the Roman people.”⁹³ In *De translatione Imperii*, Marsilius developed his theory of compact between the emperor and ‘the people’ as a means to illustrate that the emperor could attain power through the people without the pope, thereby removing the pope from a position of superiority and removing the church from the state. As Gerson Moreno-Riano states: “*De translatione Imperii* seeks to demolish the papal claim that only the Roman pontiff possessed the right to choose and crown the emperor — second, it aims to show that no matter how central a role the papacy has played in encouraging the transfer of the imperial seat, its function is purely honorific and incidental.”⁹⁴ Thus, one can see Marsilius’ political theory (specifically, his theory of compacting) as taking the first step towards achieving the secular political state.

However, Marsilius’ influence was not limited to centuries before Hobbes as it was still partially adopted by some of Hobbes’ contemporaries such as the monarchomachs, e.g. the previously discussed Philippe Duplessis-Mornay. While Duplessis-Mornay advocates more willingly for a superiority of God and, thus, has a *less secular* theory than Marsilius, he still argues that “at the coronation of a king a twofold covenant was made. The first was between God, the king, and the people. Its purpose was that the people should become God’s people — [and] since it was dangerous to entrust the church to a single, all-too-human individual, the

⁹³ Rives, Stanford. “Marsilius of Padua on Church Hierarchy - knol.” *Jesuswordsonly.com*. (n.d.). [online] Available at: <https://www.jesuswordsonly.com/books/334-marsilius-of-padua-on-church-hierarchy-knol.html> [Accessed 28. Apr. 2018].

⁹⁴ Moreno-Riano, Gerson, and Cary Nederman. *Companion to Marsilius of Padua*, BRILL, 2011. <https://ebookcentral.proquest.com/lib/emory/detail.action?docID=793268>. [Accessed 20. June. 2018]. p. 135.

Church was committed and entrusted to the people [estates] as a whole.”⁹⁵ Even more explicitly, Duplessis-Mornay puts much of the political state’s power into the hands of the estates when he argues: “The king, situated on a slippery height, could easily have fallen into irreligion. Hence, God wished to have the people intervene, so that the church might not be ruined with the king.”⁹⁶ From this, it is clear that there is a covenant between the king and the people, whereby the latter are to intervene whenever the king “falls into irreligion,” whatever that may entail. Just as Thomas O. Hueglin states: “In *Vindiciae Contra Tyrannos*, this transformation of the covenant idea into a fundamental principle of contractual mutuality between people and ruler was carried to the conclusion that the people had a right of resistance if the ruler did not fulfill his part of the obligation and had therefore become a tyrant. The *Vindiciae* went even further: because all human beings are included in the covenant — the people and kings or rulers — the author also claimed that the people were equal to their kings.”⁹⁷ Thus, not only is the power in *The Vindiciae* taken away from the pope and the church, but also from the king and given to the people — with “the people” meaning the estates. Hobbes would disagree heavily with any theory purporting such thought. Why? Because the very idea of Hobbes’ sovereign entails absolute and unrivaled power which is the only thing guaranteeing equality of all subjects, every single individual who is part of the covenant, before the law in the political state (reasons for this this will be delved

⁹⁵ Franklin, Julian H. (Ed.). *Constitutionalism and Resistance in the Sixteenth Century: Three Treatises* [by Hotman, Beza, & Duplessis-Mornay]. New York: Western Publishing Co., Inc., 1969. Print. p. 147.

⁹⁶ Ibid.

⁹⁷ Hueglin, Thomas. *Early Modern Concepts for a Late Modern World: Althusius on Community and Federalism*. Wilfrid Laurier University Press, 1998. ProQuest Ebook Central, <https://ebookcentral.proquest.com/lib/emory/detail.action?docID=3050305>. [Accessed 12. July. 2018]. pp. 57-58.

into later on). If the people, in any sense of the word, were equal with their kings as their sovereigns (or worse, took power from them), then separations of sovereign power ensued by civil war— one main thing that Hobbes is so desperate to avoid — would surely result. In addition, this theory of *The Vindiciae* denies the natural equality of human beings and sees the people as naturally grown as a hierarchical whole with the upper estates speaking on behalf of all; this is in stark opposition to Hobbes's starting point. Finally, Hobbes would also disagree with such thought because it is in opposition with most of his rights of the sovereign (these rights will be explained later on).

Similarly to Duplessis-Mornay and Marsilius of Padua, Johannes Althusius presents a compact between 'the people' (in the same meaning as in Duplessis-Mornay) and the king. John Witte Jr. emphasizes: "As Althusius read the Bible, each step in this political evolution of Israel was forged by a 'consensual covenant' between the rulers and the people, with God presiding as third party governor and guarantor. When the people and their families and tribes needed judges to govern their new cities, God commanded them: 'You shall establish judges and moderators in all your gates that the Lord gave you through your tribes, who shall judge the people with righteous judgment' (Deuteronomy 16:18). When the tribes later came together to form the nation of Israel, they entered into covenant with King David."⁹⁸ Thus, the presented theories of Marsilius, Duplessis-Mornay, and Althusius all agree about a contract between the people and their ruler, the people understood in a pre-modern sense as an organic whole with the upper

⁹⁸ Witte, John. "The Universal Rule of Natural and Written Constitutions in the Thought of Johannes Althusius". *Morality and Responsibility of Rulers: European and Chinese Origins of a Rule of Law as Justice for World Order*. Edited by Anthony Carty and Janne Elisabeth Nijman, Oxford University Press, 2018. p. 178.

estates representing it. As I will show, Hobbes' theory heavily opposes the very foundation of these theories, especially in his new institutional concept of the sovereign as bearing the commonwealth, his concept of a commonwealth as resulting from covenanting individuals, and, last but not least, his concept of the people as those individuals who covenanted and submitted to the sovereign.

II. 2. Hobbes' theory of the Covenant

In Hobbes' theory, contrastingly, this compacting — more specifically, covenanting — takes place only between equal individuals and without a ruler. Without their authorization, no sovereign (king, emperor etc.) can be erected in the first place. Thus, all individuals have an equal responsibility for erecting and being subjected to the sovereign. Before I explain the covenanting process, it is essential to clarify its key concepts: that of a person (natural and artificial), the multitude, the authors, the people, authority, the actors, the subjects and the sovereign.

A person is someone whose words or actions are considered his or her own. There exist natural and artificial persons.⁹⁹ A natural person clearly authors their words and/or actions. The same is true though for the artificial person of the commonwealth. But an artificial person is comprised of many natural persons who constitute one artificial person. It cannot speak with one voice unless it is borne by a representant — the sovereign — who acts on behalf of the artificial

⁹⁹ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 101.

person of the commonwealth. The covenanting people are the authors of the actions executed by the sovereign while the sovereign, one or more individuals who represent these authors and bear the artificial person of the commonwealth, is the actor. The authors, the covenanting people, authorize the actor to do this representing. When a covenant is made, and the authors have authorized the actor, that is the sovereign, to act on their behalf, this covenant binds the authors to the consequences of the words or actions of the actor no less than if they — each of the authors — had committed these words or actions themselves.¹⁰⁰ The sovereign is either a monarch, the aristocrats, or — in a democracy — the citizens. However, the subjects, respectively the citizens in a democracy, are understood, nevertheless, to be individuals and equal authors of the covenant.

The term “multitude” refers to the large number of equal individuals in the natural state who have yet to covenant with one another, authorize the sovereign, and enter the political state. The term “subjects” refers to the same natural persons after having done this authorizing of the sovereign. Finally, the artificial person, the commonwealth, made by covenanting of the many individual natural persons of the multitude, holds absolute, authorized and unlimited power which is represented and borne by the sovereign. Now that the main elements of the covenant have been outlined, the processes of covenanting, generating a political state, and generating a sovereign may be explained.

To generate a sovereign, in Hobbes’ theory, is to confer the joint powers of the multitude “upon one Man, or upon one Assembly of men, that may reduce all their Wills, by plurality of voices, unto one Will: which is as much as to say, to appoint one man, or Assembly of men, to

¹⁰⁰ Ibid.

bear their Person.”¹⁰¹ They submit their wills to the will of the sovereign, their judgements (regarding action) to the sovereign’s judgements¹⁰² and become one artificial person by the covenant with equal human beings as if everyone said to everybody: “I Authorise and give up my Right of Governing my selfe, to this Man, or to this Assembly of men, on this condition, that thou give up thy Right to him, and Authorise all his Actions in like manner.”¹⁰³ It is not until this is done that they have accomplished covenanting and become united into one artificial person called a commonwealth. Only those who agree to enter this newly generated state enter; nobody can be forced by a majority to enter a newly erected state. However, should they abstain from covenanting, they would immediately become enemies of the newly founded commonwealth. This covenanting is the generation of the Leviathan that holds greater power than anybody else on earth. It is important to mention that this covenanting and authorizing of a sovereign are distinct procedures yet mutually dependent for they are both necessary in order to generate the political state. Without an artificial and absolutely powerful sovereign, the state would be pointless for it could guarantee no more safety than any covenant within the state of nature. Without covenanting, there can last no agreed and authorized artificial person. As a result of their symbiotic nature, one of these two processes cannot form the political state without the other.

Though Hobbes does not explicitly mention equality here, the very act of erecting such a commonwealth is though an equal laying down of natural right (according to the second natural

¹⁰¹ Ibid., p.109.

¹⁰² It is important to distinguish that, even in the political state, people retain their judgements and need not alienate opinions, thoughts etc. However, they must act according to the judgement of the sovereign.

¹⁰³ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 109.

law) in that every single individual must reduce their rights over another equally. Remember, according to the second natural law, individuals must lay down their rights and be content with as much liberty against another individual, as they would allow other individuals against themselves.¹⁰⁴ Everyone is equally obligated to covenant (if they wish to enter the political state) and to confer their powers and wills. Furthermore, and very importantly, everyone is equally authorizing this sovereign. As Hobbes says, the commonwealth is “One Person, of whose Acts a great Multitude, by mutuall Covenants one with another, have made themselves every one the Author, to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and Common Defence.”¹⁰⁵ To recap, the necessity of creating this commonwealth arises from the natural equality of human beings. Because nobody is pre-determined to become the leader or ruler of this commonwealth, and nobody would lay down their rights unless everybody else did likewise, these equal individuals must find a procedure to create this state artificially.

In Hobbes’ conception of a commonwealth, ‘the people’ should no longer be taken to mean solely the estates and other high-ranking individuals with great wealth and power. Instead, ‘the people’ should be understood to mean every single individual subject who has covenanted, laid down their rights over the others, entered the commonwealth and submitted to the sovereign. All these individuals, who are originally equal, have, as natural persons of the state, the right to be treated as equal subjects (such as political participation in a democracy) and are equally subjected to the laws and customs of the political state. This heavily contrasts with the political

¹⁰⁴ Ibid., p. 80.

¹⁰⁵ Ibid., p. 109.

theories of Marsilius and Duplessis-Mornay who both specify ‘the people’ as only including those of the upper estates. In their theories, only those noble or wealthy individuals and clerics had the ability to contract with the king while those not belonging to these higher classes did not have the ability to participate in any political activity or engage in political resistance. Thus, these ‘lower’ individuals could not authorize their sovereign and, as argued in the first chapter, could not resist or, as Duplessis-Mornay states, intervene whenever the king “falls into irreligion” (this right of resistance will be further explained in section V).

Finally, a further equality is seen here: everyone’s wills and powers are equally at the sovereign’s disposal to be used whenever and wherever it¹⁰⁶ sees fit, so long as there is no infringement upon an inalienable right (these will be expounded upon later) of the subjects. Now, that the process of covenanting and the equality found in this covenanting throughout Hobbes’ political theory has been illustrated, the (arguably) most important aspect of Hobbes’ political state, in terms of maintaining equality, may be discussed — his concept of the sovereign.

III. Section: The Sovereign Power — The Guarantor of Equality

Before explaining the many intricacies and duties of the sovereign itself, I must answer the question “What is a sovereign?”. Simply put, a sovereign power is the power to whom everyone else is submitted to.¹⁰⁷ The sovereign bears the artificial person of the commonwealth and acts on

¹⁰⁶ In order to maintain the institutional and neutral character of the sovereign power, I will refer to the sovereign as ‘it’ throughout this work.

¹⁰⁷ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 109.

the behalf of every individual who covenanted. In a monarchy, every individual is a subject except the monarch. In an aristocracy and democracy, every individual is subject even those holding the sovereign power.¹⁰⁸ However, those forming the sovereign assembly are, of course, not subject qua sovereign. They have to be considered in two lights: as natural persons they are supposed to obey the sovereign, and as being sovereign and bearing the artificial person of the commonwealth, they rule. The same is somehow true for monarchy; Hobbes states that the monarch — as a natural person — can still be sued although not qua sovereign. However, in a monarchy the artificial and natural person are more inextricable than in the other two state forms because individual members of an assembly can be added or removed (e.g. via elections). Obviously, public ministers of the sovereign are just subjects and not above the law because they are simply tools of the sovereign.

Hobbes defines the rights and duties of the sovereign by institution with the intention to maintain an equal subjection of all subjects under the law and a common, absolute power to keep them all in awe of the law. The rights and duties of the sovereign are interconnected for its duties cannot be performed without these rights. These rights and duties will now be discussed in order to demonstrate how the sovereign contributes to the subjects' equality in the political state in terms of an equality before the law.

First to be discussed are the rights of the sovereign for they contribute to the preservation of equality in the political state. Firstly, no man can, without injustice, protest against the

¹⁰⁸ Ibid., p. 147. "It is the act of the Assembly, because Voted by the major part; and if it be a crime, the Assembly may be punished, as farre-forth as it is capable, as by dissolution, or forfeiture of their Letters (which is to such artificiall, and fictitious Bodies, capitall,) or (if the Assembly have a Common stock, wherein none of the Innocent Members have propriety,) by pecuniary Mulct."

sovereign. Remember, all authors are equally bound to the consequences of the words and actions of the sovereign. The subjects, having previously authorized the sovereign to bear their wills and powers, cannot justly go against the sovereign for that would mean to cancel their own authorized action. It would ultimately go against the laws of nature (particularly the first and second). This is evident because going against the sovereign would be going against one's ability to persevere for one would be putting themselves at risk of being destroyed by the rest of the commonwealth or, even worse, destroying one's commonwealth and exposing it to those outside the commonwealth in the state of nature, e.g. via war.

For similar reasons, it follows secondly that the sovereign's actions cannot be justly accused by the subjects. As a consequence, subjects cannot punish the sovereign, no matter the circumstances. To do this would be to punish somebody else for an action authored by oneself. Remember, all actions of the sovereign had been authorized by the covenanters. It is thus the sovereign's right to do whatever it sees fit to attain justice and peace. It is also to judge what doctrines are to be taught to the subjects. Because all individuals are equally subject to their passions and easily fall prey to the state of war, the sovereign must judge what opinions and doctrines are deleterious to the state of peace found in the political state. This, similarly to the laws of nature against contumely and pride, aids in keeping the rights of these equal individuals out of the state of an interminable war by suppressing any doctrines or opinions that contribute to discord and war.¹⁰⁹

Furthermore, the sovereign possesses the right of making rules, whereby the subjects may

¹⁰⁹ Ibid., p. 114.

know what is their own so that no other subject, without injustice, can take it.¹¹⁰ One can see equality within the legislation process since the rules are applied equally to every subject. Before, when all individuals had an unlimited natural right to all things, the result was war. With everybody laying down their natural right and their equal subjection, peace can be maintained. There is a clear equality between all subjects before the law.

The sovereign also possesses the right to decide all controversies in order to keep all subjects equal before the law. If the sovereign did not possess the right to decide all controversies then not only would this go against the laws of nature (e.g. of equity and justice), but subjects would also not be equal in the political state before the law, due to bias, kinship etc. of the then arising many deciders. This would go against the law of equity because a man biased towards one man — due to kinship or any other reason — obviously could not judge impartially between him and another. Thus, subjects would not be dealt with equally in a court of law. Furthermore, this would go against the natural law of justice because a biased judge would not “distribute to every man his own”, in other words, reward or punish when necessary.¹¹¹ If a sovereign does not judge, reward, and punish equitably and equally, the result will be jealousy, corruption, nepotism, in short, chaos amongst subjects and the inevitable degeneration of the commonwealth.

¹¹⁰ Ibid. “Seventhly, is annexed to the Soveraigntie, the whole power of prescribing the Rules, whereby every man may know, what Goods he may enjoy and what Actions he may doe, without being molested by any of his fellow Subjects: And this is it men Call Propriety. For before constitution of Soveraign Power (as hath already been shewn) all men had right to all things; which necessarily causeth Warre: and therefore this Propriety, being necessary to Peace, and depending on Soveraign Power, is the Act of the Power, in order to the publique peace. These Rules of Propriety (or Meum and Tuum) and of Good, Evill, Lawfull and Unlawfull in the actions of subjects, are the Civill Lawes, that is to say, the lawes of each Commonwealth in particular”.

¹¹¹ Ibid., p. 95.

These rights of the sovereign are indivisible. Hobbes briefly and explicitly illustrates in *Leviathan* why the division of sovereign power is impossible: “If any one of these rights is lacking, all the others will cease, and there will be that division of which Christ himself said, *a kingdom divided against itself cannot stand*. For without an antecedent division of these rights, there will be no division of the people into opposed armies. The opinion of those who taught that the rights of the Kingdom of England were divided between the King, the Lords, and the House of Commons, was the cause of the civil war which followed.”¹¹² Thus, one can see Hobbes arguing explicitly against the division of sovereign power by reason of the civil war he experienced, from afar though, since 1642. If these rights of the sovereign were not indivisible, then its power would not be absolute, it would not be able to deter war and discord, it would not be powerful enough that not even the mightiest in the commonwealth could rise against it, and, as a result of this, the commonwealth would surely fall.¹¹³ These rights can never be passed away without a direct renouncing of the sovereign itself. It is this absolute and undivided power that guarantees the existence of the commonwealth against the competition of individuals for privileges and aiming to make themselves superior above others. The sovereign is supposed to guarantee the law and the equal obedience of everyone to the law.

Finally, and most importantly for the sovereign to maintain an absolute power and these rights, is the right that the power and honor of all subjects vanishes in its presence. This makes everybody equal before the sovereign in spite of any possible social hierarchy. No one is more

¹¹² Ibid.

¹¹³ Ibid. “if we consider any one of the said Rights, we shall presently see, that the holding of all the rest, will produce no effect, in the conservation of Peace and Justice, the end for which all Common-wealths are Instituted.”

honorable or powerful than the other qua subject or citizen.¹¹⁴ As Hobbes says: “As in the presence of the Master, the Servants are equall, and without any honour at all; So are the Subjects, in the presence of the Sovereign. And though they shine some more, some lesse, when they are out of his sight; yet in his presence, they shine no more than the Starres in presence of the Sun.”¹¹⁵ This emphasis of equality among all subjects before the sovereign stands in sharp contrast with not only pre-Hobbesian thought but also his contemporary thinkers. Hobbes’ idea of having such equality between individuals in the political state, similar to such an equality between individuals in the natural state, was groundbreaking, ingenious, and strangely modern.

Now that the rights of the sovereign have been discussed, it is pertinent to speak of the duties of the sovereign, for these duties which the sovereign performs also contribute to the equality found in the political state. In Hobbes’ political state, the sovereign is responsible for creating a framework of legal equality within the political state by being absolute and insurmountable. While the civil state allows for social inequality — some individuals (e.g. officers, judges, ministers, state secretaries, entrepreneurs etc.) may attain higher positions, get paid more than others, or become rich in their private business — they all remain equal subjects before the law and the sovereign. No one is less subject to the will and law of the sovereign than another. The sovereign and the law treat all individuals as equal subjects.

Before delving into the sovereign’s duties, it must first be made clear that the sovereign is obliged by the laws of nature and God, the author of those laws. Given that the laws of nature are deeply connected with the principle of equality, it follows that the sovereign will be obligated to

¹¹⁴ Ibid., p. 117.

¹¹⁵ Ibid., p. 116.

act within this realm of equality between individuals and to not — against the natural laws — create laws that do not apply to all citizens or subjects equally. Also, all men must know the laws equally and be equally subjected to them. The sovereign, in Hobbes' political state, holds nine main duties: to legislate, to adjudicate, to execute laws (i.e. punish), to educate, to honor (i.e. appoint public ministers), to tax the subjects, to make war and peace, to implement currency for the nutrition of the political state, and to appoint counsellors. Some of these duties are given to the public ministers of the sovereign, which the latter appoints (discussed later) who act on the sovereign's behalf.

Firstly, and perhaps most importantly, the sovereign holds the duty of supreme legislature and is not bound by civil laws because, if the contrary was true, it would cease to be an absolute sovereign and the Leviathan would fall.¹¹⁶ Furthermore, a sovereign not above the law contradicts the very idea of a sovereign as a law maker because, if a sovereign was below the law but was still law maker, it could simply change the law to its liking. Any law made by the sovereign power is thus a good law (this will be expounded upon in the following chapter). Remember, no law made by the sovereign power can be unjust because it has been authorized by each and every individual in the commonwealth. Thus, even the laws made in the political state follow from the equality between individuals because they all equally authorized them when authorizing the sovereign. Because they all agreed from the very outset of the commonwealth to confer all powers to the sovereign, and authorized it, they cannot justly accuse the sovereign of injustice for this would be contradictory and akin to accusing themselves. Resultantly, the subjects cannot rebel against the sovereign for nothing it does is unjust.

¹¹⁶ Ibid., p. 220.

Secondly, the sovereign has the duty to educate all subjects about the rights of the sovereign, the civil laws, as well as about their rights. The equality present here is explicit for Hobbes vies for an equal education of all subjects in these matters that concern them as subjects of the commonwealth, again, to ensure an equal application of and subjection to the law. This, obviously, was not the common practice in the political states of his time or before. In fact, Hobbes argues explicitly against those who “say that though the principles be right, yet common people are not of capacity enough to be made to understand them. I should be glad that the rich and potent subjects of a kingdom, or those that are accounted the most learned, were no less incapable than they — they are like clean paper, fit to receive whatsoever public authority shall be imprinted in them.”¹¹⁷ Thus, Hobbes’ equality of individuals in the political state in all fields, including their ability to comprehend law, allows for laws (enforced by the sovereign) that are equally binding upon all individuals — rich and poor, ‘high class’ and ‘low class’ —, and attests to his political state of equality. The sovereign here is responsible for such equal education which is possible only as long as its power is absolute.¹¹⁸

Furthermore, the sovereign has the duty to instruct the subjects to avoid doing injury to another and to obey all these teachings from the heart. As Hobbes states: “every Sovereign Ought

¹¹⁷ Ibid., p. 221.

¹¹⁸ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 222. “I conclude therefore, that in the instruction of the people in the Essentiall Rights (which are the Naturall, and Fundamentall Lawes) of Sovereignty, there is no difficulty, (whilst a Sovereign has his Power entire,) but what proceeds from his own fault, or the fault of those whom he trusteth in the administration of the Common-wealth; and consequently, it is his Duty, to cause them so to be instructed; and not onely his Duty, but his Benefit also, and Security, against the danger that may arrive to himselfe in his naturall Person, from Rebellion.”

to cause Justice to be taught, which is as much as to say, to cause men to be taught not to deprive their Neighbour, by violence, or fraud, of any thing which by the Sovereign Authority is theirs. Of things held in propriety, those that are dearest to a man are his own life, & limbs; and in the next degree, those that concern conjugall affection; and after them riches and means of living. Therefore, the People are to be taught, to abstain from violence to one another.”¹¹⁹ Because men are equal individuals prone to succumbing to their passions and an endless war, the sovereign has the duty to instruct men in the horrors that would follow these violent acts and to maintain peace amongst the subjects by holding them equally accountable before the law. Hobbes concludes his remarks about these teachings of the sovereign by referring to the biblical saying “*Thou shalt love thy neighbor as thyself*”,¹²⁰ which is also a summary of the natural laws that can be known by all human beings through reason. The equality present here is explicit for it dictates that all individuals are supposed to love one another equally and to not prefer the rights of some over others since all individuals equally have these rights guaranteed by the laws and are equally bound to the natural and civil laws.

To retain these aforementioned rights that allow the sovereign to perform these duties and maintain an absolute power, the sovereign must also instruct the subjects to not affect change of government nor to adhere to popular men against it. Regarding the former, Hobbes argues that the success of a commonwealth does not result from the type of state form but from the obedience and concord of the individual subjects within that state form, whatever it may be. Hobbes’ view of every individual subject being an integral part for the success of the

¹¹⁹ Ibid., p. 224.

¹²⁰ Ibid., p. 225.

commonwealth demonstrates the equality found in the political state between individuals. While some individuals may hold more important positions such as those in the government while others may be simple farm workers, they both contribute to the success of the commonwealth in their respective ways. Regarding the latter, subjects are to be taught to not confer power to fellow subjects in a way that could lead to a separation of power and civil war.¹²¹ However, this does not mean that a subject cannot hold some influence over another because Hobbes does allow for some private organizations or as he calls it: "private bodies".¹²² There are both legal and illegal private bodies. An example of a legal private body is a family. In this private body, the father could hold power over the children and servants and, by doing this, hold influence. Nevertheless, before the sovereign power, his power still vanishes. An example of an illegal private body is any private body where subjects in the same commonwealth form a private league to undermine the sovereign. Hobbes argues: "The leagues of subjects are in a commonwealth for the most part unnecessary, and savour of unlawful design; and are for that cause unlawful, and go commonly by the name of faction or conspiracies - leagues of subjects of one and the same commonwealth, where every one may obtain his right by means of the Sovereign Power, are unnecessary to the maintaining of Peace and Justice, and unlawfull. For all uniting of strength by private men, is, if for evill intent, unjust; if for intent unknown, dangerous to the Publique, and unjustly concealed."¹²³ For similar reasons, the subjects are to be taught by the sovereign to not dispute sovereign power. How does the sovereign achieve all this education?

¹²¹ Ibid., p. 153.

¹²² Ibid., pp. 152-153.

¹²³ Ibid.

To aid in this equal instruction, the sovereign is supposed to utilize universities to educate the people.¹²⁴ Hobbes argues that “the instruction of the people dependenteth wholly on the right teaching of youth in the universities.”¹²⁵ The equality present here is explicit for all the people, meaning, “they whom keepeth attendant on their trades and labor, and they, whom superfluity or sloth carrieth after their sensual pleasures”¹²⁶ may participate in some degree of instruction in order to perform their duties to the commonwealth. This instruction is necessary, Hobbes argues, after mentioning the Universities and people of England in his time still taught “Opinions, it is most certain, that they have not been sufficiently instructed; and 'tis no wonder, if they yet retain a relish of that subtile liquor, wherewith they were first seasoned, against the Civill Authority.”¹²⁷ Thus, we see Hobbes’ solution against uprisings is not, as is commonly argued against him, merely using terrifying power but also equal education of the subjects about the necessity of the sovereign and the laws.

Thirdly, the sovereign holds the duty of supreme judicature. In controversies of parties to be judged, all subjects have already agreed that the sovereign is to be judge for they have previously covenanted and authorized the sovereign. Therefore, they are obliged to submit to the sentence of the sovereign or the judge and public ministers appointed by the sovereign. As Hobbes says: “if the Defendant be allowed to except against such of his Judges, whose interest maketh him suspect them, those which he excepteth not against, are Judges he himself agrees on.

¹²⁴ Ibid., p. 225.

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Ibid., p. 226.

Secondly, if he appeale to any other Judge, he can appeale no further; for his appeale is his choice. Thirdly, if he appeale to the Sovereign himself, and he by himself, or by Delegates which the parties shall agree on, give Sentence; that Sentence is finall: for the Defendant is Judged by his own Judges, that is to say, by himself.”¹²⁸ The equality present here is so because it follows from the natural laws (particularly the law of equity) that no man shall be his own judge and that no man shall be judge who has any partiality within him. Remember, all actions and judgements of the sovereign must be owned by the subjects. Anything that follows is a consequence of the previous covenanting. More specifically, had any man with partiality in him be allowed to be judge, then trials would likely be biased and corresponding sentences or judgements could no longer be deemed justice. Every individual subject must be judged by an impartial judge so that they can be justly, that is, equally susceptible to facing the necessary consequences of their actions as another subject. Thus, one can clearly see the sovereign in this case preserving the eleventh natural law of equity in the political state by maintaining unbiased and absolute judgements according to the law.

Fourthly, the sovereign holds not only the duties to legislate and adjudicate, but also to execute these civil laws (e.g. via punishments) and decisions of judicature. The sovereign alone holds the duty to punish “every Subject according to the Lawe he hath formerly made — to serve the Common-wealth, or deterring of them from doing dis-service to the same.”¹²⁹ Thus, one can see an equality here between the subjects again for they are equal before the law. The sovereign also has the capability to punish as far as any transgression warrants for and, thus, acts as a

¹²⁸ Ibid., p. 157.

¹²⁹ Ibid., p. 115.

deterrent to even the most powerful citizens from trying to overthrow it. What is essential to point out here is that while critics of Hobbes are keen to argue that his sovereign holds all the power, leaving the poor subjects with no freedom or liberties, these accusations of inequality could not be more mistaken. It is precisely because the sovereign is so powerful and absolute that all the subjects are able to *equally* enjoy their freedom and liberty. Remember, the stronger the sovereign, the more secure is the law of the land and its execution. If the law is more secure and absolutely and equally administered, then peace can be more easily sustained in the commonwealth and even the most powerful and “popular” men could not overthrow it.

It is important to point out that the sovereign need not be necessarily one man but many people who could be comprised of any of the subjects. This is important because Hobbes is often criticized for espousing tyranny and solely monarchy. Because the sovereign could be comprised of any of the subjects, there is not only less possibility for an authoritarian or tyrannical rule but there is also a greater equality between the subjects when compared to the political states conceived by the monarchomachic writers. As Hobbes explicitly argues, and demonstrates the equality in the political state between all subjects: “The safety of the People, requireth further, from him, or them that have the Sovereign Power, that Justice be equally administred to all degrees of People; that is, that as well the rich, and mighty, as poor and obscure persons, may be righted of the injuries done them; so as the great, may have no greater hope of impunity, when they doe violence, dishonour, or any Injury to the meaner sort, than when one of these, does the like to one of them: For in this consisteth Equity; to which, as being a Precept of the Law of Nature, a Sovereign is as much subject, as any of the meanest of his People. All breaches of the

Law, are offences against the Common-wealth.”¹³⁰ An example of a transgression of the law to be punished is making ill impressions in the mind of the people, particularly against the sovereign, or forming preferment to another individual that is not the sovereign power. This is a transgression for it damages the public and the equality and protection provided within the commonwealth. If these laws were transgressed and not equitably and strictly punished, then there would no longer be any deterrent to breaking these civil laws and, as a result, they would become futile, chaos would result, and the Leviathan would fall. Remember, even the rich and mighty must be punished equitably and as harshly as those poor and obscure persons to maintain justice, equality, and peace in the commonwealth. If this were not so, then the same result would occur as found in the philosophies of monarchomachic writers such as Duplessis-Mornay — certain individuals would be less subject to the laws because of their ability to resist while others did not hold such rights. Unless all individuals are punished equally strictly and harshly, the laws will have no deterring force. This can be seen even today in the cases of large corporations breaking sustainability laws because it is cheaper for them to pay the specified fine than to obey the law¹³¹ (while surely smaller and less powerful companies do not have this luxury). Had there been more stringent penalties and a stronger enforcement of the law, then these companies would fear being penalized and would be more likely to not break the law.

Fifthly, the sovereign is responsible for honoring. The duty to bestow honor to individuals and to recognize achievement is perhaps one of the most important in restraining the passions of all individuals and to make them obey the laws. As Hobbes says: “considering what values men

¹³⁰ Ibid., p. 226.

¹³¹ Macrory, Richard. (2015). “Environmental sanctions – challenges and opportunities.” *Environmental Policy and Law*. 45(6): pp. 276-281. Print.

are naturally apt to set upon themselves; what respect they look for from others; and how little they value other men; from whence continually arise amongst them, Emulation, Quarrells, Factions, and at last Warre, to the destroying of one another, and diminution of their strength against a Common Enemy; It is necessary that there be Lawes of Honour, and a publique rate of the worth of such men as have deserved, or are able to deserve well of the Common-wealth; and that there be force in the hands of some or other, to put those Lawes in execution.”¹³² But does such honoring not cause inequalities between persons as natural individuals? Quite the opposite! Honor, in the political state, is necessary to enforce obedience and recognition toward those who put the laws into execution (such as a public minister of execution). There must not only be absolute force, but also the recognition of such force by all subjects, in order to prevent or deter the state of war and, even more importantly, to preserve the equality in the political state of all subjects before the law. Thus, the sovereign’s honoring of these individuals, who act on behalf of the sovereign in preserving the political state in their respective ways, preserves the liberties and equality of subjects before the law. Nonetheless, it is important to mention throughout this essay that, from this honoring follows some degree of social hierarchy, thereby leading to certain unavoidable artificial (not natural) inequalities. Regardless of these inequalities, while these individual subjects may be honored and hold some artificial superiority, they remain naturally equal before their fellow subjects and, above all else, they are equal before the law and the sovereign.

Sixthly, the sovereign holds the duty to tax. In order to carry out the duties which contribute to the equality in the political state, the sovereign must impose taxes. The sovereign

¹³² Ibid., p. 115.

imposes taxes on the equality of the debt that every man owes to the commonwealth for their defense equally. These impositions are nothing but wages to the sword of the commonwealth and follow from the equality in the political state because they demonstrate that all individuals benefit equally. Because all these individuals equally benefit from the commonwealth and its sovereign and depend equally upon the state, they should be taxed equally to their benefits: “Seeing then the benefit that every one receiveth thereby, is the enjoyment of life, which is equally dear to poor, and rich; the debt which a poor man oweth them that defend his life, is the same which a rich man oweth for the defence of his.”¹³³ This equality of imposition is based upon the equal consumption of security by all individuals. As an aside: this is also a strong counterargument for those who argue that Hobbes is a tyrant¹³⁴ for he himself argues: “For what reason is there, that he which laboureth much, and sparing the fruits of his labour, consumeth little, should be more charged, then he that living idly, getteth little, and spendeth all he gets; seeing the one hath no more protection from the Common-wealth, then the other?”¹³⁵ While this may not demonstrate a further equality than what has already been discussed, it provides a useful counterargument against those who aim to place him in a tyrannical camp such as Sir Robert Filmer or John Whitehall.

Furthermore, the sovereign has the duty to choose good counsellors to advise it in the

¹³³ Ibid., p. 227.

¹³⁴ Bowle, John. (1951). *Hobbes and his critics, a study in 17th century constitutionalism*, London: J. Cape. p. 15. “Since Filmer favored patriarchal absolutism, his rather perfunctory attack on Hobbes is not very effective, for they were both authoritarians, if in very different ways.”

¹³⁵ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 228.

government of the commonwealth. Hobbes argues, contrary to popular belief: “Good Counsell comes not by Lot, nor by Inheritance; and therefore there is no more reason to expect good Advice from the rich, or noble, in matter of State, than in delineating the dimensions of a fortresse; unlesse we shall think there needs no method in the study of the Politiques.”¹³⁶ Similarly to Hobbes’ other arguments regarding the equal capacities of men in the natural state and their abilities to understand the law, all men are equally capable to advise the sovereign in matters of politics. This, Hobbes argues, is independent of social status (noble, peasant etc.). An engineer would be best capable to advise when it is about building a fortress, a farmer would give the best advice about agriculture, and a general could instruct best about warfare. Nevertheless, what matters for Hobbes is not class, status or any other factor but *acquired* abilities, which all men can equally attain in their respective fields of expertise.¹³⁷

There is a further equality in Hobbes’ discussion of counsel. He states: “The best counsel is to be taken from the generall informations, and complaints of the people of each Province, who are best acquainted with their own wants, and ought therefore, when they demand nothing in derogation of the essentiall Rights of Sovereignty, to be diligently taken notice of. For without those Essentiall Rights, (as I have often before said,) the Common-wealth cannot at all

¹³⁶ Ibid., p. 231.

¹³⁷ Ibid., p. 232. “Whereas in these parts of Europe, it hath been taken for a Right of certain persons, to have place in the highest Councell of State by Inheritance; it is derived from the Conquests of the antient Germans; wherein many absolute Lords joyning together to conquer other Nations, would not enter in to the Confederacy, without such Priviledges, as might be marks of difference in time following, between their Posterity, and the posterity of their Subjects; which Priviledges being inconsistent with the Sovereign Power, by the favour of the Sovereign, they may seem to keep; but contending for them as their Right, they must needs by degrees let them go, and have at last no further honour, than adhaereth naturally to their abilities.”

subsist.”¹³⁸ Thus, for Hobbes it is the silent majority of subjects — that lower class individuals who obey the laws and respect the sovereign, not raving against the sovereign or asking for privileges — that should be heard just as much as the rich and noble troublemakers. Not only are all provinces and people’s interests to be equally accounted for but those who are most fit to be counsellors have not necessarily to come from a certain class. Nevertheless, counseling has to be done by experts (independent of their origin).

Finally to be discussed are the public ministers of sovereign power. A public minister is he that, by the sovereign, is employed in affairs with authority to represent in that employment the person of the commonwealth. Hobbes clearly distinguishes employees of the sovereign qua sovereign from the natural persons constituting the sovereign. Only those who serve and represent the sovereign in the administration of public business are public ministers: “Neither Ushers, nor Sergeants, nor other Officers that waite on the Assembly, for no other purpose, but for the commodity of the men assembled, in an Aristocracy, or Democracy; nor Stewards, Chamberlains, Cofferers, or any other Officers of the houshold of a Monarch, are Publique Ministers in a Monarchy.”¹³⁹ There are public ministers for general administration, for special administration, for instruction of the people, for judicature, and for execution. Public ministers are obliged to act in the name of the sovereign and to do nothing that would go against the sovereign’s previously discussed duties and rights.

General ministers are in charge of the whole dominion or of a general part of it such as a province. Everyone in that province or part is obliged to them in the name of the sovereign to

¹³⁸ Ibid.

¹³⁹ Ibid., p. 157.

execute the sovereign's will. Ministers for special administration, such as in economy, collect, receive, issue etc. in the name of the sovereign representative. As is the case for all ministers, they can do nothing against the sovereign's command, nor without its authority. Some may have authority to instruct other people as previously discussed. They do this by the command and instruction of the sovereign in order to preserve peace amongst the individuals in the commonwealth. As previously discussed, there are public ministers who are designated by the sovereign to adjudicate and those designated to execute the law. Before ending the discussion of the public ministers of sovereign power, it must be stressed that while these ministers are honored and appointed to carry out the will of the sovereign, and thus obtain a higher social ranking in the commonwealth, they do not constitute the sovereign (as they are mere tools to exercise the will of the sovereign) and before the sovereign they are all equal with every other subject.

IV. Section: The Different Forms of the Commonwealth

It should be interesting to check for equality in Hobbes when looking at the different forms of the commonwealth, which can best sustain these (e.g. legal) equalities and why monarchy is Hobbes' preferred choice. For Hobbes, there are only three kinds of commonwealths possible: monarchy (one), aristocracy (few), and democracy (all). Hobbes' argument against other forms of government echoes his arguments for indivisible power. Firstly, Hobbes discusses the dangers that may result from a division of power such as civil war: "for that were to erect two sovereigns,

and every man to have his person represented by two actors that by opposing one another must needs divide that power which is indivisible, and thereby reduce the multitude into the condition of war.”¹⁴⁰ More specifically, his argument against the other state forms is that they are against the indivisibility of sovereignty. Remember, this indivisibility is key for Hobbes’ sovereign in order to maintain an absolute authority. Hobbes argues in favor of monarchy as it is more able to execute this indivisibility of power and sovereignty: “I know not how this so manifest a truth, should of late be so little observed; that in a Monarchy, he that had the Sovereignty from a descent of 600 years, was alone called Sovereign, had the title of Majesty from every one of his Subjects, and was unquestionably taken by them for their King”¹⁴¹ However, such authority is less clear in the other state forms because who is sovereign is not one man but a few or all. Furthermore, in such assemblies,¹⁴² divisions of powers were obviously more likely to occur between those making up the sovereign power than in a monarchy because where there is one person as sovereign no disagreements can occur with itself. In an assembly, however, where there are multiple individuals who are all subject to their own diverging passions, disagreements and divisions are far more probable.¹⁴³ Finally, as a result of these divisions, civil war would

¹⁴⁰ Ibid., p. 119.

¹⁴¹ Ibid.

¹⁴² These other state forms were evidently against the indivisibility of the sovereign power as they had power split between the King, the Lords, the House of Commons etc.

¹⁴³ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 115. “this division is it, whereof it is said, "A kingdome divided in it selfe cannot stand:" For unlesse this division precede, division into opposite Armies can never happen. If there had not first been an opinion received of the greatest part of England, that these Powers were divided between the King, and the Lords, and the House of Commons, the people had never been divided, and fallen into this Civill Warre; first between those that disagreed in Politiques; and after between the Dissenters about the liberty of Religion”.

become more likely.¹⁴⁴

Hobbes discusses the pros and cons of all three state forms objectively but personally *prefers* monarchy. In fact, he openly admits that he has no demonstration for his preference. Also, it must be stated that Hobbes, while he did not prefer democracy, was the first political philosopher to declare democracy a legitimate and functioning state form besides aristocracy and monarchy.¹⁴⁵ This obviously contradicts common arguments against him — such as the previously discussed arguments of Sir Robert Filmer or John Whitehall — claiming his contempt for democracy and his deeming it an inconceivable state form. This also contrasts with the thought of Jean-Jacques Rousseau who explicitly declared an aversion towards democracy in his *The Social Contract: Book III*. Rousseau states: “There never was and never will be a real democracy in the strict sense of the word. It’s against the natural order for the many to govern and the few to be governed. It is unimaginable that the people should be continually in session dealing with public affairs, and obviously they couldn’t set up commissions for that purpose without changing the form of the administration.”¹⁴⁶ From this, Hobbes’ modern thinking should

¹⁴⁴ Hobbes, Thomas. *De Cive. The English Version. Entitled in the First Edition Philosophical Rudiments Concerning Government and Society*. Edited by Howard Warrender, vol. 3, Clarendon Press, 1983. Print. p. 137. “In a great covent, thence wrist *Factions* in a commonweal, and out of *Factions*, Seditions and Civil War; for when equall Oratours doe combat with contrary Opinions, and Speeches, the conquered hates the Conquerour, and all those that were of his side, as holding his Counsell, and wisdome in scorne: and studyes all meanes to make the advise of his adversaries prejudiciall to the State, for thus he hopes to see the glory taken from him, and restored unto himself.”

¹⁴⁵ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. pp. 118-127.

¹⁴⁶ Rousseau, Jean-Jacques. *The Social Contract*. Edited by Jonathan Bennett. Early Modern Texts, Dec.2010, www.earlymoderntexts.com/assets/pdfs/rousseau1762.pdf. p. 34.

be clearly seen as contrasting with those both during and after his time.

Monarchy, for Hobbes, is the superior state form because the monarch's private interests coincide the most with those of the public when compared to other state forms: "where the public and private interests are most closely united, there is the public most advanced."¹⁴⁷ It follows that, in a monarchy, the public interest will be most equally catered to. However, while this may not always be true and there may be inconsistencies in terms of how much these interests coincide, these inconsistencies are present in all state forms, even more so in assemblies because of the large number of diverging interests and biases amongst those in these assemblies.¹⁴⁸ There are other reasons that monarchy is the superior state form. For example, a monarch, unlike an assembly, is able to both choose its own counsel and use such counsel in secrecy. This is so because, in an assembly, the multitude prevents any true secrecy. Resultantly, an assembly is unable to keep necessary secrets of the political state.¹⁴⁹ This could prove problematic if the sovereign were, for example, planning an invasion of a neighbor state and, because of the multitude, these plans were divulged.

But why does this state form contribute the most towards equality in the political state?

Firstly, in a monarchy, there is the least risk of flattery and partiality because a monarch's

¹⁴⁷ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 120.

¹⁴⁸ Ibid.

¹⁴⁹ Hobbes, Thomas. *De Cive. The English Version. Entitled in the First Edition Philosophical Rudiments Concerning Government and Society*. Edited by Howard Warrender, vol. 3, Clarendon Press, 1983. Print. p. 138. In the fourth place, the counsels of great assemblies have this inconvenience, that whereas it is oft of great consequence, that they should be kept secret, they are for the most part discovered to the enemy before they can be brought to any effect, and they power, and will, is as soon known abroad, as to the *People* itself *commanding* at home.

favorites are less numerous than the number of ‘friends’ of an Assembly.¹⁵⁰ While Hobbes admits that in all political states this is an unavoidable inconvenience, it is least present in a monarchy. Given that there is the least risk for partiality, it follows that subjects will be dealt most impartially in this state form *relative* to other state forms. Furthermore, a monarch cannot disagree with itself out of envy or interest and will thus be more consistent in its judgement. Since a more consistent judgement is, in most cases, a more equal judgement, the result is a greater legal equality.

Regarding succession, since there is only one individual to take the place of the sovereign after the previous one’s death, and since only the sovereign has the right to determine succession, then “if it be known who have the power to give the sovereignty after his death, it is known also that the sovereignty was in them before — but if there is none that can give the sovereignty after the decease of him that was first elected, then has he power, nay he is obliged by the law of nature to provide, by establishing his successor, to keep those that had trusted him with the government from relapsing into the miserable condition of civil war.”¹⁵¹ This, for Hobbes, is one method to secure a fortuitous succession in a monarchy.

However, generally speaking, there is an inconsistency that is found more so in monarchy than in other state forms for the monarch will have to decide its successor or keep those it trusted in the government to prevent a relapse. This is unlike the other state forms where there is no problem of succession because successors will have to get either elected or coopted. While the

¹⁵⁰ Hobbes, Thomas. *De Cive. The English Version. Entitled in the First Edition Philosophical Rudiments Concerning Government and Society*. Edited by Howard Warrender, vol. 3, Clarendon Press, 1983. Print. p. 133.

¹⁵¹ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 120.

right of succession is most difficult for monarchy compared with the other two state forms, a consistency of rule can be present in all state forms. Why is this relevant? A lack of consistency and the problems associated with it can be seen in the political system of Hobbes' time. Simply put, such a system (a constitutional Monarchy sharing power with a parliament) produced incessant clashing between the King, the Lords, the House of Commons etc. and a constant repealing and re-legislating of law. The result was an endless oscillation of law to no avail or real progress. While the possibility for such oscillation still exists in absolute monarchy, the chances of this are far less because the successor is merely one individual who is often chosen from the previous sovereign or by a law of succession. Because, in a monarchy, there is less oscillation and repealing of law, it also follows that there is a greater legal equality as punishments and sentences will be more consistent over time. Nevertheless, Hobbes himself concedes that the right of succession is a more prevalent issue in monarchy because a succession can often be more difficult to secure. However, if a succession is achieved, a greater legal equality will be secured as well. This shows him to be objective in his judgments towards each state form and contrasts with the polemics made against him proclaiming his explicit vouching for tyrannical monarchy.

To briefly discuss democracy and aristocracy in comparison with monarchy, and to systematically reiterate some of what has been mentioned, Hobbes points out their numerous shortcomings in terms of promoting equality. Firstly, while in all state forms those constituting the sovereign may promote unworthy persons to public ministers, this is most pronounced in democracy, even more so than in aristocracy. Hobbes explains: "In a monarchy, the promotion of family and friends to positions of power would be kept under strict control by the monarch. But in a democracy, there would be competition to do this because there are more favorites to satisfy,

resulting in the promotion of many unworthy people, to the detriment of the state.”¹⁵² However, this is least so in monarchy because the monarch need not worry about the power of those around it increasing because they act favorably to others.¹⁵³ Thus, equality of the subjects is more present in monarchy for there is less chance that a monarch will promote an unworthy judge because it feels the need to acquire power through favor.

Furthermore, and very pertinent to the subject of legal equality, Hobbes argues that innocent subjects are less susceptible to undeserved punishment under a monarch than an assembly. Hobbes argues: “subjects are less often undeservedly condemned under *one ruler*, than under the *people*. For kings are only severe against those who either trouble them with impertinent counsels, or oppose them with reproachful words, or control their wills; but they are the cause that that excess of power which one subject might have above another, become harmless. But in a popular dominion, there may be as many Neros as there are orators who soothe the *people*, and they mutually give way to each other’s appetite, as it were by this secret pact, *spare me today and i’ll spare thee tomorrow*, while they exempt those from punishment who satisfy their lust and private hatred have undeservedly slain their fellow subjects — there is a certain limit in private power, which if it exceed, it may prove pernicious to the realm; and by reason whereof it is necessary sometimes for *monarchs* to have a care that the commonwealth do receive no prejudice.”¹⁵⁴ Thus, one can see how equitable punishment and a lack of draconian

¹⁵² Apperley, Alan. “Hobbes on Democracy.” *Politics*, vol. 19, no. 3, 1999, pp. 165–171. Print.

¹⁵³ Hobbes, Thomas. *De Cive. The English Version. Entitled in the First Edition Philosophical Rudiments Concerning Government and Society*. Edited by Howard Warrender, vol. 3, Clarendon Press, 1983. Print. p. 133.

¹⁵⁴ Hobbes, Thomas. *The English Works of Thomas Hobbes of Malmesbury*. Edited by William Molesworth, vol. 2, London: John Bohn, 1841. Print. p. 132.

law are more manifested in a monarchy because, in a monarchy, private power *must* be limited.¹⁵⁵

Moreover, Hobbes also addresses the popular opinion that, in an assembly, because all men may have a hand in public business, it is to be preferred. However, Hobbes argues that this opinion is flawed because, in these cases, the numerous passions of men and human nature (which applies equally to all men) will lead to their desire to be praised, to have their wisdom valued over others and to have their opinions preferred. From this, it may be correctly deduced that, as the number of men increases, then the intensity of passions and the desire to be preferred will increase too in a positive correlation. This, he argues, will lead to hate, envy, and much disagreement of opinions and divisions. Resultantly, the more men there are, the more division there will be. However, in a monarchy, this is all, in Hobbes' words, "shut up."¹⁵⁶ From this, one can again see that, in a monarchy, there is less room for enmity and division of opinions and power.

There are numerous other reasons that Hobbes argues against these other state forms and in favor of monarchy. Firstly, deliberations are less successful in great assemblies for every man wishes to have their lengthy opinions heard. This is unavoidable when such a multitude of individuals converge, all bearing their passions and desire to be heard. This leads to very little actually being accomplished. Obviously, this is not an issue in a monarchy. Secondly, factions

¹⁵⁵ Ibid., p. 133.

¹⁵⁶ Ibid., p. 136. "But in a Monarchy, this same way to obtain praise, and honour, is shut up to the greatest part of Subjects; and what is a grievance, if this be none? I will tell you: To see his opinion whom we scorne, preferr'd before ours; to have our wisdom undervalued before our own faces; by an uncertain tryall of a little vaine glory, to undergoe most certaine enmities; to hate, and to be hated, by reason of the disagreement of opinions".

arise out of assemblies which then lead to divisions of power and civil war due to the previously mentioned reasons of numerous diverging opinions and passions. Thirdly, as has been mentioned, in an assembly, an oscillation of laws is inevitable for Hobbes states: “when the legislative power resides in such convents as these, the Laws be inconstant, and change, not according to the alteration of the state of affaires, nor according to the changeableness of mens mindes, but as the major part, now of this, then of that faction, do convene; insomuch as the Laws do flote here, and there, as it were upon the waters.”¹⁵⁷ This oscillation of laws, which may result from men simply wishing to restore glory upon themselves and their factions over others, obviously leads to inconsistent laws which are unable to secure the same equality as consistent laws. Such inequalities resulting from inconsistent laws will be shown later on. However, for the purpose of lucidity and brevity, an inequality from an inconsistent law can be seen in the case of judges in different provinces executing very different sentences for the same crime based on their own discretion and actions as deputy legislator. However, in an absolute monarchy where there is none or less oscillations of the laws (because the power of legislation lay solely in one person), legislation and the execution of such legislation will be more consistent and, resultantly, more equal.

In democracy and aristocracy, the sovereign (assemblies) is less free to fulfill all its duties for, in order for this to happen, there must be scheduled meeting times of the assembly. Other than in a monarchy, no free legislation, adjudication, or any other duties of the sovereign that help guarantee the rights and equalities of the civil state can be fulfilled without these meetings. Just as Hobbes states: “if they depart, and break up the Convent, and appoint no time, or place,

¹⁵⁷ Ibid., p. 138.

where, and when they shall meet again, the publick weal returns to Anarchy, and the same state it stood in before their meeting, that is, to the state of all men warring against all. — For except that be known and determined, they may either meet at divers times, and places, that is in factions, or not at all; and then it is no longer demos, the People, but a dissolute multitude, to whom we can neither attribute any Action, or Right.”¹⁵⁸ This alone shows one of the great limitations of assemblies. Not only can these meetings be to no avail due to the many diverging opinions and passions of a few or many men, but these meetings are also required for any duty of the sovereign to be fulfilled. If the sovereign cannot fulfill its duties, then it cannot guarantee the aforementioned rights of the civil state. As Hobbes rightly states, if they cannot or do not meet, the sovereign may as well be dissolved, and the state of war returned to. Finally, a monarch is free to elect its successors at any time, while the same cannot be said of assemblies. This, then, leads to more wasted time and required meetings which may, yet again, run into the aforementioned problems.

Finally, Hobbes argues that aristocracy, as it is a middle-ground between democracy and monarchy, is the better the closer it is to monarchy, and the worse the farther it is from it. Nevertheless, all preferences aside, Hobbes sees all three state forms as capable to exercise the sovereign power and to guarantee the security and equality of all subjects before the law. He concludes that the best commonwealth, regardless of its state form, is the one where the ruler’s interests depend upon the safety and welfare of the subjects.¹⁵⁹ While not all these differences show monarchy to be superior in terms of preserving a legal or general equality, they are still

¹⁵⁸ Ibid., p. 109.

¹⁵⁹ Ibid., p. 140.

interesting to be pointed out to offer a holistic view of each state form and why Hobbes preferred monarchy over assemblies.

From this discussion of the different state forms it should be clear that all state forms have the potential to allow for sovereignty. As Hobbes himself states: "The difference between these three kindes of Common-wealth, consisteth not in the difference of Power; but in the difference of Convenience, or Aptitude to produce the Peace, and Security of the people; for which end they were instituted."¹⁶⁰ While it was important to speak of all the state forms and their possible adeptness to serve this end, in the following chapter it will become clear to the reader that, for the purposes of attaining an equality before the law in the political state, monarchy (for numerous reasons) is Hobbes's preeminent choice.

V. Section: The Rights and Liberties of Subjects

This section will be centered around the rights and liberties of the subjects as well as the way in which they are gained and further secured by the political state. I will focus on the role of equality for Hobbes' approach to these rights and liberties. Firstly, it is helpful to remind the reader of what exactly a 'right' or a 'liberty' of a subject is. A right, in the political state, is a moral or legal entitlement to act in a certain way or to obtain and own something such as property. A liberty, in Hobbes words, is a freedom to do something without opposition such as the liberty to contract with one another or even to choose one's career. All these liberties and rights which come from a secure political state, as it has been shown, depend on an indivisible

¹⁶⁰ Ibid., p. 120.

and unlimited sovereign power capable to grant them.¹⁶¹

In Hobbes' political state, all individuals have not only a freedom of thought (which is an inalienable right) but also a limited freedom of speech. For example, they have the liberty to engage in their chosen religious practice and to espouse certain ideals. Such liberties can be limited though because subjects are not free to do or say anything that could undermine the sovereign power by inciting riots. This is important because, while it grants as much liberty as possible, Hobbes maintains that the sovereign power must retain its absolute and indivisible quality for all the aforementioned reasons throughout this work. These liberties, which may become more extended if the state is healthy, can be further seen in Judd Owen's, a Professor of Political Science at Emory University, *The Tolerant Leviathan: Hobbes and the Paradox of Liberalism*. Just as Owen states, referring to Thomas Hobbes: "For circumstances may arise in which the safety of the people requires that those liberties be suspended. Such freedoms are always provisional: 'If a monarch or sovereign assembly grant a liberty to all or any of his subjects, which grant standing, he is disabled to provide for their safety, the grant is void, unless he directly renounce or transfer the sovereignty to another.' Circumstances vary from time to time and place to place, however constant they may appear for long stretches of time. The sovereign must be allowed discretion, and in his judgment he is answerable to none but God. For if subjects claim the right to gainsay the sovereign judgment, they find themselves back in a state of war."¹⁶² Thus, one can see that if the state is healthy and the sovereign is absolute, many liberties in the political state can be accomplished and *guaranteed*. Furthermore, if the sovereign

¹⁶¹ Ibid., p. 138.

¹⁶² Owen, J. Judd. "The Tolerant Leviathan: Hobbes and the Paradox of Liberalism." *Polity*, vol. 37, no. 1, 2005, pp. 130–148. *JSTOR*, JSTOR, www.jstor.org/stable/3877065. p. 136-137.

is absolute, then all the subjects will have equal liberties. This very much contrasts with the arguments of Hobbes' critics who aim to portray him as an espouser of oppressive, dogmatic and arbitrary rule and his sovereign as a 'Behemoth' or 'Monster in Policy.'¹⁶³ Instead, one should now begin to see Hobbes and his conception of sovereign rule in a light of masked equality through absolutism.¹⁶⁴

Furthermore, as has been mentioned, once there is law and an absolute sovereign, all subjects have the ability to own property. However, it must be stated that, while all individuals have the equal right to own property, the inequalities found in the political state are evident here in that some will own more property, be more honored and reach higher social rankings than others. Nevertheless, while this may be true, every individual will have their property equally guaranteed by the law before the sovereign. It is important to remind the reader that, even if individuals do not have property, in Hobbes' state, they will still be protected equally before the law. This obviously contrasts the theories espoused by other philosophers of the time such as John Locke (this will be further developed later on).

Perhaps most importantly, as it has been stressed throughout the entirety of this essay, is that all subjects have the right to be judged in courts according to the law instead of arbitrary rule (as has been previously shown to be common practice in England both before and during Hobbes' time). Again, law is legislated by and only by the sovereign and is *equally* true for *every* subject. All these rights of the subjects are equally guaranteed by the law and no one subject can

¹⁶³ Bowle, John. (1951). *Hobbes and his critics, a study in 17th century constitutionalism*, London: J. Cape. pp. 175-201.

¹⁶⁴ Owen, J. Judd. "The Tolerant Leviathan: Hobbes and the Paradox of Liberalism." *Polity*, vol. 37, no. 1, 2005, pp. 130–148. *JSTOR*, JSTOR, www.jstor.org/stable/3877065.

infringe on the rights (such as the right to own property) of another. For example, no subject, because they hold office or high status (for example), can infringe on any of these rights of another for they are all equally subjected before the sovereign. All these inequalities, which do surface in the political state, vanish before the might of the sovereign power. This alone shows an avant-garde aspect of Hobbes' work for it has often been seen in works such as Karl Marx's *Capital: Critical Analysis of Capitalist Production* that those of the wealthy ruling class were able to take possession of the land of those below them, thereby rendering them landless and, in the world of John Locke, powerless. Marx speaks of the ruling class engaging in the private accumulation of capital,¹⁶⁵ separating the peasants from their land and thereby transforming them into powerless wage workers: "With this polarization of the market for commodities, the fundamental conditions of capitalist production are given. The capitalist system presupposes the complete separation of the labourers from all property in the means by which they can realize their labour — The so-called primitive accumulation, therefore, is nothing else than the historical process of divorcing the producer from the means of production."¹⁶⁶ Thus, the need for an insurmountable sovereign in order to guarantee such rights, liberties, and most importantly, equalities before the law, that, not even the mightiest combined can usurp, should seem clear.

¹⁶⁵ Marxists.org. (2018). *Glossary of Terms*. [online] Available at: <https://www.marxists.org/glossary/terms/p/r.htm> [Accessed 4. Aug. 2018]. "Marx detailed the "so-called primitive accumulation" as a process by which large swaths of the population are violently divorced from their traditional means of self-sufficiency. This process, unlike the bloodless version told by classical political economists, was one where common lands were closed to those peasants who used them"

¹⁶⁶ Marx, Karl. *Capital: a Critical Analysis of Capitalist Production*. Edited by Frederick Engels. Translated by Samuel Moore and Edward Aveling, vol. 1, New York: The Humboldt Publishing Co., 1954. Print. p. 457.

Penultimately to be discussed in this section are the inalienable rights of the subjects. Briefly put, an inalienable right is a right that cannot be relinquished or taken away by the sovereign power nor are the individuals capable to lay them down at the covenant. Some examples of these rights are: the right to defend oneself even against a lawful invasion or penalty, the right to freedom of thought (as this cannot be controlled), the right to escape capital punishment (e.g. flee a prison before execution), the right to never accuse oneself or one's spouse, the right to never abstain from anything needed for the preservation of life such as food, medicine etc. and the right to refuse to go to war (even if this is punishable). The only purpose for explaining these inalienable rights in the political state here is that they apply equally to every subject and can be taken away by nobody.

Finally, I want to discuss what subjects can and cannot do in the artificial political state. As Hobbes succinctly states it, a subject may do anything justly that is not contrary to the law. Thus, their greatest liberty depends “on the silence of the law.”¹⁶⁷ Hobbes even asserts that a subject may sue the sovereign if the former finds any of his rights or liberties infringed upon by the latter.¹⁶⁸ Furthermore, Hobbes also states that, under certain circumstances, subjects are no longer required to be obedient to the sovereign: if the sovereign can no longer fulfill his duties and protect the subjects, if the subject is held captive, is banished, if the sovereign becomes subject to another sovereign — in all these cases the subjects become free to act on their own but are also back in the state of nature. However, subjects who are protected by a sovereign are not permitted to unite themselves privately and give authority to another sovereign because this

¹⁶⁷ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 143.

¹⁶⁸ *Ibid.*, pp. 143-144.

would cause a division of power and, for the aforementioned reasons, lead to a dissolution of the political state.

From what has been discussed in this brief section, it should be clear that the allegations made against Hobbes for being a tyrant or an opponent of human rights are not justified. Not only does Hobbes display that his absolute sovereign is the necessary guarantor of these rights but he also concedes that the subjects have rights that the sovereign, no matter how absolute it is, cannot infringe on. The very purpose of the sovereign in Hobbes' political state (regardless of state form), as it has been shown, is to guarantee these rights, liberties, protections, and equalities before the law. If the sovereign fails to do this, the subjects are no longer obliged to obey it. Resultantly, the juxtaposition between Hobbes' arguments and the polemics made against him should now be more than apparent.

Chapter 3: The Laws and Their Execution

I. Section: Chapter Introduction

Now that both the natural state and the political state have been discussed, the second most important aspect in Hobbes' artificial state may now be delved into — the positive laws. The legal dimension, I argue, is an extremely important aspect of Hobbes in terms of demonstrating equality. This is because it is the dimension where the interrelations and interactions between the sovereign and the subjects are the most intense. This chapter follows from the previous one because legislation is a duty of the sovereign and obeying the law is a duty of the subjects. Laws, after all, constitute the very basis of the rights and liberties that the subjects enjoy in this artificial state.

This chapter will focus on equality before the law in Hobbes' political philosophy. Specifically, discussion will now be centered around civil laws, good laws, the execution of these laws, court practices, and how these all contribute to an equality before the law in the political state. The second section will discuss civil laws and good laws. It will also include the relation of the civil laws to natural laws, specifically, how the two are included in one another. This section will end by contrasting ancient thought regarding civil laws as well as thought more contemporaneous with Hobbes in order to show, as it has been done before, Hobbes' groundbreaking views of law and equality in the political state. The third section will discuss court practices and legislation before and during Hobbes' time. It will also show how these practices and legal judgements may have contributed to disparate executions of the laws in the

political state. By doing this, I aim to contrast Hobbes' legal philosophy with such practices that led to these disparities. I will show how Hobbes' philosophy is, instead, one of equality and how it draws its power from an absolute legislator and executor — the sovereign. Finally, I will demonstrate how the sovereign, in Hobbes' political state, is involved in creating such a legal equality via the Chancery court while contrasting the Chancery court with the common law practices of Hobbes' time. This will all be done in order to carve out the modernity and equality evident in Hobbes' philosophy.

II. Section: Civil Laws

The first question to be answered is: what is a civil law? A civil law is, simply put, a law that a member of a commonwealth is obliged to obey since it has been made by the sovereign. By abiding by such a law, one is upholding the covenant they made when they entered the political state. In Hobbes' words, civil laws are “those rules which the commonwealth hath commanded him [the subject] (by word, writing, or other sufficient sign of will) to make use of, for the distinction of right and wrong, that is to say, of what is contrary, and what is not contrary to the rule.”¹⁶⁹ These laws are created by and only by the sovereign power on behalf of the commonwealth to maintain peace and stability and to keep men out of the state of nature.¹⁷⁰ Civil laws, in Hobbes' political state, inherently contain a sense of equality because they are equally valid for every single subject and demand every subject to be dealt with justly and equitably. Furthermore, because they are only made and altered by the sovereign, this means that no

¹⁶⁹ Ibid., p. 173.

¹⁷⁰ Ibid.

individual is above or less susceptible to the law than another except the sovereign qua sovereign. Remember, even the natural individuals that constitute the sovereign are not above the law when considered as natural persons.

III. Section: Good Laws

The second question to be answered is: what is a good law? For Hobbes, a good law is that which is *needful* for the *good of the people* and is legislated by and only by the sovereign power.¹⁷¹ What is good for the people (meaning for every individual subject in the commonwealth and for the commonwealth) is to remain outside the state of nature in the commonwealth and in a state of peace with an equality before the law. The granted liberties of the subjects (as has been explained) and their natural right to persevere must not be violated. Furthermore, the good of the people depends on their conferring their natural right (except for inalienable rights) and powers to an absolute sovereign. If this is not done, civil war would surely ensue and the Leviathan would fall. Therefore, the good of the people depends on their upholding the covenant. Thus, a good law is any law that helps to maintain these conditions. These laws keep men out of the condition of war and from hurting each other by their “own impetuous desires, rashness, or indiscretion, as Hedges are set, not to stop Travellers, but to keep them in the way. And therefore a Law that is not Needfull, having not the true End of a Law, is

¹⁷¹ Ibid., pp. 174-175. but the Reason of this our Artificiall Man the Common-wealth, and his Command, that maketh Law — The subordinate Judge, ought to have regard to the reason, which moved his Sovereign to make such Law, that his Sentence may be according thereunto; which then is his Sovereigns Sentence; otherwise it is his own, and an unjust one.”

not Good.”¹⁷²

Hobbes anticipates the objections that, because of his strong conception of sovereign power, he believes good laws to be those solely in favor of the sovereign power and not the people. However, he writes explicitly against such a view: “A Law may be conceived to be Good, when it is for the benefit of the Sovereign; though it be not Necessary for the People; but it is not so. For the good of the Sovereign and People, cannot be separated. It is a weak Sovereign, that has weak Subjects; and a weak People, whose Sovereign wanteth Power to rule them at his will.”¹⁷³ Thus, a good law is meant to equally guide all the subjects and is of benefit to the sovereign precisely because the people’s benefit strengthens the sovereign’s benefit as well; the two cannot be separated in Hobbes’ political state.

Furthermore, Hobbes argues that a good law must be perspicuous for it is to be understood equally by all. Specifically, the people must understand what is contrary to the law and what is not contrary to the law. Moreover, the people must know and understand that no one but the sovereign can legislate, repeal, enforce, or pardon offenders of these laws.¹⁷⁴ Finally, the people must know and understand the rights and duties of the sovereign as well as their own rights (including inalienable rights) and duties. The sovereign has a duty to ensure that the laws and customs of the commonwealth are understood equally by all individuals. This is, for Hobbes, not a problem in the political state because all individuals are generally equally capable to

¹⁷² Ibid. p. 173.

¹⁷³ Ibid.

¹⁷⁴ Ibid.

understand.¹⁷⁵ It is important to reiterate that, while Hobbes does not claim an absolute equality between individuals in all areas or skills, all individuals are (more or less) able to acquire a similar degree of understanding of the law, if the latter is properly legislated, announced, and taught. Furthermore, because there is less uncertainty of peace and survival in the civil state, all people have more time to devote to intellectual development and reasoning. As a result, one could say that people become even more able to understand and adhere to the law equally.

For Hobbes, a law that cannot be understood but by few individuals is no good law at all. Thus, even the making of the laws presupposes the equality between individuals as they are to be understood equally by all. Hobbes writes: “For all words are subject to ambiguity; and therefore multiplication of words in the body of the Law, is multiplication of ambiguity: Besides it seems to imply, (by too much diligence,) that whosoever can evade the words, is without the compass of the Law. For when I consider how short were the Lawes of antient times; and how they grew by degrees still longer; me thinks I see a contention between the Penners, and Pleaders of the Law; the former seeking to circumscribe the later; and the later to evade their circumscriptions.”¹⁷⁶ Thus, not only must a law be succinct and lucid in order to be understood equally by all, but also so that all can be equally subject to it without any confusion. Hobbes speaks of past laws which, because of their ambiguity, people found means to evade. Naturally, only those who understood the laws and found these ambiguities of use would be able to abuse them — a clear violation of the required equality before the law.

¹⁷⁵ Ibid., p. 229.

¹⁷⁶ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 229.

However, such a serpentine attitude towards the law was not limited to past legal tradition as one can see from Hobbes' polemics against the famous English jurist Sir Edward Coke. Hobbes cites Coke's argument that only those of a high class with "an Artificiall Perfection of Reason, Gotten By Long Study, Observation, And Experience"¹⁷⁷ could understand and interpret a law. Hobbes could not disagree more with such an aristocratic view of reason. If we adhered to Coke's view of reason and the law then only lawyers and private judges, through their exclusive training, could understand the law and would thereby be in full control of the legal business. This would cause great inequalities in the political state and even lead to a separation of sovereign power between the ruler and the judges or lawyers — something Hobbes would clearly be opposed to. Instead, he argued: "It is not wisdom, but authority that makes the law". The laws of England had been "made by the Kings of *England*, consulting with the nobility and the commons in *Parliament*, of which not one of twenty was a learned lawyer."¹⁷⁸ Thus, Hobbes opposed the idea of the superiority of an artificial reason held by lawyers alone, making some people more worthy than others in understanding law. If this were true, individuals would no longer hold a — more or less — equal capability to reason. Resultantly, in Hobbes' groundbreaking political view, anyone is (and must be) capable to understand and adhere to the law. This again demonstrates the significance of equality in Hobbes' political state, particularly before the law, because it means that anyone, whether rich or poor, male or female, noble or commoner is equally subject to the law and capable to understand the law. That all law is contingent solely on the authority of an

¹⁷⁷ Ibid., pp. 175-176.

¹⁷⁸ Hobbes, Thomas: *Writings on Common Law and Hereditary Right*, edited by Alan Cromartie, and Quentin Skinner, Oxford University Press, 2005. ProQuest Ebook Central, <https://ebookcentral.proquest.com/lib/emory/detail.action?docID=430583>. [Accessed 26. June. 2018]. p. 10.

absolute sovereign power, regardless of state form, simply means that the law comes from one source alone, the sovereign, whose duty it is to make the laws equally known and understood by all.

Furthermore, good laws must follow logically from reason itself rather than from custom or precedents. While they become law through the will of the sovereign, it is the duty of the sovereign to legislate according to the natural laws which are known by reason alone.¹⁷⁹ Had laws followed from custom, Hobbes argued, then each parish, town, county, etc. would have their own customs, and inequity would follow in terms of the juridical practice in sentencing and punishing within the commonwealth.¹⁸⁰ For example, in the case of a law concerning property, the conditions and consequences of breaking that law must be solely laid out by the sovereign itself whereby the degree of punishment needs to follow that of responsibility by the law breaker in order to avoid disparities of punishment. It will certainly never follow from reason that, in the case of two men who steal two identical loaves of bread, one should be fined and another hung. Hobbes stated that everybody agreed “That law can never be against reason — and it is true”, he admitted. But against Coke who would agree with such a statement, he continues: “the doubt is, of whose Reason it is, that shall be received for Law. It is not meant of any private Reason; for

¹⁷⁹ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 174

¹⁸⁰ Hobbes, Thomas: *Writings on Common Law and Hereditary Right*, edited by Alan Cromartie, and Quentin Skinner, Oxford University Press, 2005. ProQuest Ebook Central, <https://ebookcentral.proquest.com/lib/emory/detail.action?docID=430583>. [Accessed 26. June. 2018]. p. 42. “many things are made Crimes, and no Crimes, which are not so in their own Nature, but by Diversity of Law, made upon Diversity of Opinion, or of Interest by them which have Authority”

then there would be as much contradiction in the Lawes, as there is in the Schooles.”¹⁸¹ For Hobbes, reasoning is calculating with words. In addition, it follows logical rules instead of private judgments. This allows everybody to use the rules of reason to understand good laws.

Hobbes contends directly against Edward Coke, who argues in favor of private reason and custom, by counter-arguing: “many unjust Actions, and unjust Sentences, go uncontrolled a longer time, than any man can remember. And our Lawyers account no Customes Law, but such as are reasonable, and that evill Customes are to be abolished; But the Judgement of *what is reasonable*, and of what is to be abolished [cannot be based on private reason or custom/current fashions].”¹⁸² These unjust sentences and actions often occurred in common law courts which relied heavily on custom and precedent.¹⁸³ Even worse, the courts working under common law allowed for deputy legislation — something which directly goes against Hobbes’ conception of equity through a sole legislator: the sovereign. Hobbes explicitly argues against the courts of common law during his time when he states: “In the Courts of Common Law all Tryals are by 12 Men, who are Judges of the Fact; and the Fact known and prov’d, the Judges are to pronounce the Law; but in the Spiritual Court, the Admiralty, and in all the Courts of Equity there is but one

¹⁸¹ Hobbes, Thomas. *Leviathan: with Selected Variants from the Latin Edition of 1668*. Edited by Edwin Curley, Hackett, 1994. Print. p. 176.

¹⁸² *Ibid.*, p. 174.

¹⁸³ Hobbes, Thomas: *Writings on Common Law and Hereditary Right*, edited by Alan Cromartie, and Quentin Skinner, Oxford University Press, 2005. ProQuest Ebook Central, <https://ebookcentral.proquest.com/lib/emory/detail.action?docID=430583>. [Accessed 26. June. 2018].

p. 63. Hobbes actually argues explicitly against custom in *A Dialogue between a Philosopher and a Student, of the Common Laws of England*. “I deny that any custom of its own nature can amount to the authority of a law. For if the custom be unreasonable, you must, with all other lawyers, confess that it is no law, but ought to be abolished; and if the custom be reasonable, it is not the custom, but the equity that makes it law.”

Judge, both of Fact, and of Law; this is all the difference — [In the courts of common law] the Justices have nothing to judge of, nor do, but after the Fact is proved, to declare the Law, which is not Judgment, but Jurisdiction.”¹⁸⁴ The dangers of relying on precedent/custom can be seen even in famous, more recent court decisions such as *Plessy v. Ferguson* (1896) which resulted in regressive legislation that acted as an impetus for segregation laws in certain areas of the United States — solely on the basis of their being previously ruled in favor of. Hobbes argues though that all law must follow directly from the sovereign and not from multitudes of private reason. In *A Dialogue between a Philosopher and a Student, of the Common Laws of England* he writes: “Precedents prove only what was done, and not what was well done.”¹⁸⁵ If laws did not subject all subjects equally to the law because they were, for example, not perspicuous to all judges or lawyers, or legislated and enforced arbitrarily, then Hobbes’ sovereign would have the duty to remedy this, e.g. through re-legislation and initiating changes in the teachings of law at the Universities. The discussion about inequity and disparities, particularly in the court system about the execution of laws, will surface in section III. Before moving on, however, it must be stated that Hobbes was not against common law per se. Instead, he was against the workings of the common law courts during his time in England for the previously explained reasons. As a result, Hobbes espouses the sovereign as the solution for these problems encountered due to private reason: “There is not amongst Men an Universal Reason agreed upon in any Nation, besides the Reason of him that hath the Sovereign Power; yet though his Reason be but the Reason of one Man, it is set up to supply the place of that Universal Reason, and consequently our King is to

¹⁸⁴ Ibid., pp. 110-111.

¹⁸⁵ Ibid., p. 100.

us the Legislator both of Statute-Law, and of Common-Law.”¹⁸⁶ Thus, because there is no universal reason amongst men, we must rely upon the reason of the sovereign. Even though the sovereign does not supply a perfect reason, it still supplies a universal reason to be abided by for all those who covenant. This prevents interminable clashing of many private reasons. Instead of this closing of private reason, what the sovereign approves and declares to be law, is law.

IV. Section: Natural and Civil Laws

A third question that is useful to answer is: how are the civil laws and natural laws included in one another? This is essential to examine because, in the previous chapter, the natural laws were shown to presuppose the equality of all human beings and were deduced from each other under such preconditions of equality. If the natural laws are shown to be mutually inclusive with the civil laws, such an equality will be demonstrated to hold a similar presence in the political state, albeit solely before the law.

The laws of nature, as Hobbes states, are “not properly laws, but qualities that dispose men to peace and to obedience.”¹⁸⁷ Moreover, these natural laws consist in equity, justice, and moral virtues that, when the commonwealth has been generated, and there is sovereign authority to ordain their obedience, become civil laws. Furthermore, our obligation to abide by the natural laws is far more ancient than our obligation to abide by the civil laws. In addition, the second natural law asks to keep the covenant, from where obedience to the civil laws made by the

¹⁸⁶ Ibid., p. 26.

¹⁸⁷ Ibid.

sovereign, follows necessarily. As a result of this, the natural laws are included in the civil laws. The natural laws apply to not just a particular town or city, but universally and thus in any political state. Hobbes states: “The law of nature therefore is a part of the civil law in all commonwealths of the world.”¹⁸⁸ Moreover, one should be able to see how the civil laws are a subset of the natural laws, the latter being universally present.

It is also true that “the civil law is a part of the dictates of nature.”¹⁸⁹ This can be seen most explicitly in the case of the third natural law — justice. Justice — the upholding of the covenant and the giving to every man his due — is a dictate of the law of nature and also the foundation of civil law for the latter dictates obedience. Succinctly put, every subject has covenanted with another in the civil state to obey the civil law, which, in itself, is an upholding of the covenant. This upholding of the covenant and obeying civil law is justice, which is a part of the law of nature. Therefore, obeying the civil law, by upholding the covenant, is performing justice and conforming to the natural law. The same can be said of the other natural laws such as the eleventh — equity. This is so because, in Hobbes’ political state, the equitable judging between two men — something that is ordained by the sovereign and essential to remaining outside the state of war¹⁹⁰ — is simultaneously obeying the natural law of equity. Remember, the natural law of equity is essential to keeping men out of the state of nature and war. By upholding equity in judgments between men in cases that arise in the political state, the natural law of

¹⁸⁸ Ibid., p. 174-175.

¹⁸⁹ Ibid.

¹⁹⁰ Ibid., pp. 157. “there may arise a controversie between the party Judged, and the Judge; which because they be both Subjects to the Sovereign, ought in Equity to be Judged by men agreed on by consent of both; for no man can be Judge in his own cause.”

equity is being abided by. Furthermore, just as Hobbes states: "the Sovereign is already agreed on for Judge by them both, and is therefore either to heare the Cause, and determine it himself, or appoint for Judge such as they shall both agree on. And this agreement is then understood."¹⁹¹ Thus, and most importantly, by covenanting and passing one's private judgement to the judgement of the sovereign (in cases of the law), one is obeying the natural law of equity while also paying obedience to the civil law. Finally, if there is a case that no civil law exists for, then the natural law must be resorted to. Because of this, one should immediately understand how civil and good laws must conform to the natural laws.

Two things should now be clear. Firstly, it should be clear how these two parts of law (civil and natural) are symbiotic and included in one another. Secondly, it should be clear that the civil laws and natural laws are not different kinds, but different parts of law.¹⁹² They are not different kinds for they are included in one another and are, thus, of the same body. They are different parts of the law, however, because the natural law is unwritten and eternally true while the civil laws are written and need to adapt to historical circumstances.¹⁹³ Moreover, the natural laws are simply sound reason while civil laws are mutable in that they depend on time and space and adapt to circumstances, existing power balances etc.

¹⁹¹ Ibid.

¹⁹² Ibid.

¹⁹³ Ibid.

V. Section: Inequality of Court Practices and the Execution of Laws

The modern notion of a law being *equally* true for *every* citizen was not standard in Europe or England in Hobbes' time. Discussion will now be centered around examining court practices before and during Hobbes' time in order to demonstrate how Hobbes' conception of legal equality, as it has been presented, heavily contrasted with the then-current common practice.

Firstly, it is important to disclose that, in Early Britain, there were great disparities in legal representation. For example, the only individuals who had private representation were royal families. These families were represented by 'ealdormen' — high ranking royal officials or magistrates.¹⁹⁴ Those who could not afford or gain such representation could only depend upon a basic form of inferior communal justice.¹⁹⁵ As an aside, this situation is rather analogous to the current legal system in America which grants the wealthy the most adept lawyers and the financially less fortunate underpaid, overworked public defenders. The problem with such a legal system then and now is simple: those who cannot pay cannot attain legal representation for there is only so much one attorney can do to help a single client in poverty who is unable to retain him or her. In fact, according to the 2018 Justice Index, there is less than one civil legal aid attorney to help every 10,000 Americans in poverty. The result of such a disparate system is injustice and also inequity as two men cannot be judged equally in court without equal representation.¹⁹⁶ In Hobbes' England, there were not only disparities in representation but also in the enforcing of

¹⁹⁴ Baker, John H. *An introduction to English legal history*. London: Butterworths, 1979. Print. p. 8.

¹⁹⁵ Ibid.

¹⁹⁶ Noren, Anders. *The Justice Index – National Center for State Courts*. (2018) [online] Available at: <https://justiceindex.org> [Accessed 2. Aug. 2018].

court decisions, particularly in cases involving wealthy and influential individuals. As John Baker states, regarding a statute concerning pardons in 14th century England in his *An Introduction to English Legal History*: “The existence of this prerogative perpetuated the barbaric rule itself, and what ought to have been a plain question of law remained for centuries at least nominally a matter of favor. What is worse, pardons were granted in many other cases for the wrong reasons. In 1328 parliament complained that pardons had been given out too freely, and enacted that in future they should only be granted where a man had killed another in self-defense or by misfortune. The statute did not, in fact, prevent the issue of pardons for money or through influence.”¹⁹⁷ Such rulings would obviously contrast with a Hobbesian court of equity and justice (given the previous explanations of Hobbes’ conceptions of equity and justice). Not only were individuals of wealth and influence able to attain superior representation but even if they were to be ruled against they could, through their wealth or influence, acquire a pardon ‘for the wrong reasons’. Thus, one can already see that the equal legal treatment Hobbes was espousing was not common practice before his time.

Furthermore, in England, before and still during Hobbes’ time, only certain cases concerning people of a higher class were tried in courts. For example, even during Henry VII’s reign (1485-1509), the *Curia Regis*, while it started to hear ‘all classes of cases’, still required the suitors to pay money to the King to have their cases tried.¹⁹⁸ Such a practice is obviously not

¹⁹⁷ Ibid., p. 420.

¹⁹⁸ Schechter, Frank I. “Popular and Common Law in Medieval England.” *Columbia Law Review*, vol. 28, no. 3, 1928, pp. 269–299. JSTOR, www.jstor.org/stable/1113386. [Accessed 20. Aug. 2018]. p. 281. “no longer confined its attention to great men and great cause tribunal where all classes of cases were heard The popularity of the court is attested by the fact that suitors paid money to the king to have their cases tried there and by the number of fines which litigants paid for writs, for pleas, for trials, for judgment, for expedition or for delay.”

conducive to equality as monetary barriers would inevitably prevent the lower class and less financially fortunate individuals from having their cases tried in these courts. Moreover, certain individuals could try others in such a court of law, but other individuals would not be able to do the same if they were unable to pay. Thus, one can see a lack of equality in the existing court system in Hobbes' lifetime and a lack of the natural equalities of the natural laws being artificially enforced.

One could only attain political involvement, sue, and truly be considered a free man if owning property. Christopher Hill, in his *Liberty against the Law*, states: "But one man's liberty can be another man's slavery — For the Parliamentary electorate — gentry and merchants — the most important liberty to be defended was the sanctity of private property; and the institution on which they relied to safeguard property was Parliament, the representative body of the propertied class. For most of the population, owning no property or very little, the sanctity of private property was not a major issue. Regular meetings of Parliament and the independence of the judiciary (which interpreted the laws protecting property) had little or no significance for the mass of the population."¹⁹⁹ Such thought echoes the focus on property found in John Locke's *Second Treatise on Government* where Locke himself, an esteemed member of the Whig party and a contemporary of Hobbes, seemingly grants property as the basis of political function.²⁰⁰ This contrast demonstrates the significance of equality in Hobbes' political philosophy. For him,

¹⁹⁹ Hill, Christopher. *Liberty against the Law: Some Seventeenth-Century Controversies*. Allen Lane, The Penguin Press, 1996. Print. p. 19.

²⁰⁰ Locke, John. *Two Treatises of Government* (Cambridge Texts in the History of Political Thought). Edited by Peter Laslett, Cambridge University Press, 1988. Print. p. 112. "Since Locke lays so much emphasis on the preservation of property as the reason for establishing the state, as the end of government, and since he assigns so many social and political functions to property ownership, it may seem that consent is the sole basis of obligation in his system."

it is essential that *any* subject shall have the ability to sue another for a damage so that *all* subjects are *equally* susceptible to the consequences of the laws legislated by and only by the sovereign power.

Finally, and most importantly, during Hobbes' time in England, the court system was still based on hierarchy of privilege, in other words, one's social status. In *A Dialogue Between a Philosopher and a Student, of the Common Laws of England*, Hobbes discusses a number of courts such as: Equity courts, Church courts, courts of admiralty, the court of Kings Bench, the Diocesan court, the Ecclesiastical Court, the Spiritual court, the court of Civil law, the Chancery court and the High court of parliament among others. However, it is clear that there is a hierarchy of courts based on status. In the *Dialogue*, Hobbes lets the student of law explain: "There be an extraordinary great number of courts in England. First, there be the King's courts, both for law and equity, in matters temporal; which are the Chancery, the King's Bench, the Court of Common Pleas; and, for the King's revenue, the Court of the Exchequer: and *there be subjects' courts by privilege, as the Courts in London and other privileged places.*"²⁰¹ Thus, one can see that, even in Hobbes' time, there were courts for different classes of people but not for all. This obviously would go against Hobbes' conception of legal equality. However, it is not only that these courts were designated for different subjects on the basis of privilege²⁰² that is criticized by Hobbes, but also the fact that they were dependent on the authority of the "legal reason" of

²⁰¹ Thomas Hobbes: *Writings on Common Law and Hereditary Right*, edited by Alan Cromartie, and Quentin Skinner, Oxford University Press, 2005. ProQuest Ebook Central, <http://ebookcentral.proquest.com/lib/emory/detail.action?docID=430583>. p. 116.

²⁰² *Ibid.*, p. 106. In the *Dialogue* different courts are mentioned for those of different classes from peasants to "courts of those subjects that are lords of great manors."

judges instead of the Royal prerogative, e.g. the English sovereign.²⁰³ Hobbes, throughout his works such as *Leviathan*, *De Cive*, and the *Dialogue*, vied instead for judges to be absolutely subordinate to the crown in order to achieve equality across *all* courts for *all* subjects which, as has been shown, was neither the case nor even a concern to jurists of the time. For Hobbes, any erroneous judgements made by these subordinate judges would no longer be ultimate but instead subject to the authority of the sovereign.

Perhaps most importantly, Hobbes distinguishes all the others courts of his time from the Chancery and Equity courts. Hobbes heavily argued in favor of strengthening and increasing the influence of these courts in legal decisions because they were directly under the will of the sovereign. Unlike other courts, which espoused the tradition of judges as deputy legislators and the private reason of lawyers as being the only reason capable to interpret the law, these courts were appointed and operated directly by the sovereign power. These other courts, because they held deputy legislators, would often lead to favoritism, different sentences for the same crime as well as other inequitable judgements. In contrast, such Equity courts were more apt to follow natural law and lead to less disparate decisions because they would be run according to reason and the will of one absolute power — the sovereign. Not only would the influence of these courts increase the sovereign's power (which is necessary for equality from the previously demonstrated reasons) but whatever such a court decided would have to be equally true for every subject. These courts heavily contrast with the courts of common law (which were the most common practice in Hobbes' time) for the previously demonstrated reasons of disparate

²⁰³ Dobbins, Sharon K. "Equity: The Court of Conscience or the King's Command, the Dialogues of St. German and Hobbes Compared." *Journal of Law and Religion*, vol. 9, no. 1, 1991, pp. 113–149. JSTOR, www.jstor.org/stable/1051110. [Accessed 21. Aug. 2018].

execution, sentences, judgements, etc. Rather than being directed by a multitude of private reasons (lawyers) with their own interests, these courts were directed by an absolute will that would provide equity and legal equality according to civil and natural laws. Thus, these courts most closely adhered to the natural laws, most explicitly, the second, third, ninth, tenth, eleventh, sixteenth, seventeenth, eighteenth and nineteenth natural laws. The most important aspect of such an Equity court is that, besides the sovereign in its artificial sense, everybody remains equal before the law and the powers of the mighty diminish before the sovereign. Every individual subject is dealt with equally and judged as an equal to other subjects regardless of social status.

Lastly, the previously mentioned disparities in punishments by social class also applied during Hobbes' own time as a result of these many different and arbitrary courts. For the sake of consistency, the issues of pardons (something previously discussed) are brought up in the *Dialogue* and suffice as an example of such disparities in punishments. While discussing the subject of pardons, Hobbes criticized Sir Edward Coke who advocated for a disabling of the king to grant pardons. Instead, Coke argued that such a grant of mercy should be solely in the hands of Parliament. Hobbes argued against this because such legislation would take power from the sovereign and surely lead to favoritism.²⁰⁴ Regarding the latter, it is important to remember that members of Parliament came from the upper classes and were wealthy land owners (such as

²⁰⁴ Thomas Hobbes: Writings on Common Law and Hereditary Right, edited by Alan Cromartie, and Quentin Skinner, Oxford University Press, 2005. ProQuest Ebook Central, <http://ebookcentral.proquest.com/lib/emory/detail.action?docID=430583>. p. 200. "and that which he says is in the Parliament roll, is but a wish of he tells not whom, and not a law; and it is strange that a private wish should be enrolled among acts of Parliament. If a man do you an injury, to whom, think you, belongeth the right of pardoning it?"

Coke himself)²⁰⁵, clerics or nobles and, resultantly, would likely be biased against others not of their own. As a result of this, one can see how common thought, on the subjects of punishment and pardons, diverged from that of Hobbes and still contained characteristics of a pre-modern hierarchy.

From what has been discussed, it should be clear that, that, while Hobbes himself was not a lawyer, his philosophy of legal equality and equity was extremely innovative for his time and pointing ahead to our contemporary discussion. Not only would such a philosophy somewhat rectify the disparities found in legal representation during his time (by demanding a more perspicuous, consistent and equally applied law), but it would also rectify much of the iniquity found in the different courts due to their many divergent decisions as a result of judges (and their unregulated decisions) not being subordinate to and regulated by an absolute legislative and executive power.²⁰⁶ As a result, the reader should now understand how Hobbes' conceptions of human beings as naturally equal individuals, an absolute and insurmountable sovereign power as well as his conception of the legislation and execution of the law (in tandem with such a sovereign) contributes to the equality (legal and general) found throughout his political philosophy.

²⁰⁵ The Editors of Encyclopedia Britannica. "Parliament. United Kingdom government." *Encyclopedia Britannica*. (2018). [online] Available at: <https://www.britannica.com/topic/Parliament> [Accessed 3. Aug. 2018].

²⁰⁶ Thomas Hobbes: Writings on Common Law and Hereditary Right, edited by Alan Cromartie, and Quentin Skinner, Oxford University Press, 2005. ProQuest Ebook Central, <http://ebookcentral.proquest.com/lib/emory/detail.action?docID=430583>. p. 187. "Now the person to whom this authority of defining punishments is given, can be no other, in any place of the world, but the same person that hath the sovereign power, be it one man or one assembly of men."

Conclusion:

The main goal of this essay has been to demonstrate and emphasize the pervasive equality and democratic tendencies in Thomas Hobbes' political theory against the numerous criticisms made against him. In order to accomplish this goal, this essay began by examining the natural state and the equality of all human beings in it as conceived by Hobbes. This natural equality is the starting point of Hobbes' theory and allows for equality in the political state as well. Equality in the natural state can be found in Hobbes' conception of human existence in the natural state and the natural laws. Due to the omnipresent nature of these laws they begin in the natural state but still persist in the political state. By examining this equality and the natural laws, it was made clear that Hobbes' natural state, contrary to the criticisms made against him, is one of equality which remains at the root of the very formation of the political state. Without the equalities of the natural state, the political state and its (e.g. legal) equalities would not be realized.

Unlike some of Hobbes' famous predecessors — Aristotle, Plato, and St. Thomas Aquinas — he does not vie for natural inequalities between human beings nor does he limit the ability of human beings to reason or to interpret and understand the natural laws. Such conceptions of natural inequalities were not limited to Hobbes' predecessors but were also present during his own time as seen in the political theories of Philippe Duplessis-Mornay as well as Johannes Althusius. This offered evidence for Hobbes' consciously modern and democratic thinking of human beings as naturally equal. As it has been shown and emphasized, such thought pointed towards our more modern practice and conceptions of human beings and was very

atypical to be held during his era.

Such insistence on equality is, I believe, something that Hobbes has not been given sufficient credit for in the history of political-philosophical thought. This is surprising because, while it was not a major value in Hobbes' time, it has become extremely important in democracies today such as that of the United States.

In chapter two, it was shown that the aforementioned natural equality persisted in the political state, albeit in a different form. This is important for Hobbes has been a main target, in both the past and present, for accusations of tyranny and oppression in this state. However, by reading Hobbes more closely one will see that equality, not tyranny or oppression, pervades the scene. The generation of Hobbes' political state already demonstrates an equality for all individual persons must covenant and transfer their natural right, wills, and powers equally to the sovereign authority. No group of persons has a contract with the sovereign as was previously seen in theories of Duplessis-Mornay and Marsilius of Padua. This forces an equality between all subjects qua subjects and leaves no room for inequalities before the sovereign. While it was conceded that the political state may hold some inequalities in that some subjects may attain more wealth, more property, material possessions, higher social rankings via attaining office as a public minister of sovereign power etc., this all vanishes and they all become equal as subjects before the sovereign power. Only the sovereign can tax, seize property, legislate, execute, educate etc. All these factors together contribute to this fostering of equality among all subjects in the political state.

Three things must be reiterated: Firstly, the accusations targeting Hobbes for being anti-democratic should be now seen as a result of misinterpretation for Hobbes was one of, if not the

first, political philosopher to explicitly declare monarchy, aristocracy and democracy to all be functioning and viable state forms. Secondly, accusations of Hobbes being a tyrant by stripping the subjects of their rights and liberties should also be seen as a misinterpretation of his absolute sovereign for it is only through this absolute sovereign that the rights and liberties of the subjects are *guaranteed* in the political state. It is only because not even the mightiest can overthrow it that the subjects are able to enjoy these rights and liberties. Thirdly, as it has been mentioned, Hobbes was not given sufficient credit for his democratic and modern tendencies. Even today, when one thinks of democracy, especially in western academic circles, figures such as John Locke or Jean-Jacques Rousseau are among the first who come to mind. However, due to the previously mentioned reasons of blatant inequality in Locke's political thought (e.g. property as the prerequisite for political involvement), or the aversion towards democracy in that of Rousseau, I found this to be unwarranted. As a result, I felt that Hobbes' work deserved a closer reading and analysis — from a lens of equality — than had been done hitherto. As it has been shown, upon doing this, it was seen that the pervasiveness of equality is truly and surprisingly conspicuous.

To end this discussion of equality in Hobbes' political theory, I will briefly reiterate the importance of chapter three and why the laws and their execution were allocated a separate chapter. While equality in the political state was explained in the second chapter, it most reveals itself in the legal dimension because, as it has been stated, this is the dimension where the interaction between sovereign and subject is most intense. It is also the dimension where such an equality is, arguably, the most important, especially in respect to Hobbes' modern and democratic tendencies. In this chapter, Hobbes' democratic and modern tendencies were most explicitly

shown both in the case of civil laws — their legislation, execution etc. — and his ideas about court practices. First and foremost, it is necessary that the sovereign educates all subjects in order for them to understand the civil laws. This is an extremely modern thought and shows Hobbes' democratic thinking in that all subjects are able to attain reason and to understand and interpret the civil laws. Furthermore, it is Hobbes' sovereign, and only the sovereign, that has the power to legislate and, as a result of this, to guarantee a more equitable enforcement and execution of the law. As it was shown, Hobbes diverted from the then-common idea of Sir Edward Coke who viewed for private reason, meaning that only very few — the lawyers — could understand and interpret the law. However, such a view excluded most people from insight into the law and their rights, and inevitably led to partial and arbitrary sentences as well as deputy legislation. Hobbes' argues that the sovereign alone be able to bypass such partiality through its absolute power and thus only it should legislate, repeal, and execute. This is similar to society today for courts are considered to be enforcers — and not legislators — of the law. Furthermore, the judges in courts are appointed by the sovereign power just as described in Hobbes' theory. This retains equality and shows Hobbes' thought as actually pointing towards our modern practice.

Finally, and very importantly, Hobbes' striving to grant equality of court practices can be seen in his espousing Chancery and Equity courts and arguing against the courts of common law. As it has been shown, there were many different courts at his time. However, Hobbes espoused placing the power in these Equity and Chancery courts for only these courts would be directly controlled by the sovereign power itself unlike common law courts and were not under the control of the private reason of lawyers. Hobbes' increasing the power and influence of these courts would result in a similar outcome as his placing the power of legislation and execution

solely in the hands of the sovereign — more equality in sentencing, judgements, pardons etc. Furthermore, and even more importantly, this would remove the inequalities found in the court systems of Hobbes' time such as the *courts by privilege* which actually excluded those of the lower classes from persecuting those socially above them. Furthermore, this would remove the inability of those without property (which included the majority of Hobbes' society) to achieve political and legal involvement. Lastly, and most pointing towards our modern practice, such Equity court decisions would be subject to the final will of the sovereign in the case that a judgement need reconsideration or reversal. The only possible result of all this is equality and equity, not tyranny and oppression.

To summarize, an impartial and fresh reading of Hobbes with the focus on equality lead me to see how Hobbes' political theory is driven by democratic tendencies rather than by defending an oppressive monarchy or aristocracy. While he expresses his preference for a monarchy, the duties and rights of the sovereign are the same in all three state forms. Likewise, the natural laws have to be followed by the sovereign in all three state forms and they all follow the principle of the equality between all human beings. That is why I see the English philosopher, against his ill-famed reputation, as a thinker of equality, as an egalitarian and thus as a democratic thinker.

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