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## **Review Article**

### **Games with Hobbes**

*Hobbes and the Social Contract Tradition.* By Jean Hampton. Cambridge: Cambridge U. P., 1986. Pp. xii, 299.

*Hobbesian Moral and Political Theory.* By Gregory S. Kavka. Princeton: Princeton U. P., 1986. Pp. xviii, 460.

The theory of games has become, within the last two decades, an expectable part of the standard kit brought by philosophers to ethics and political philosophy. These two excellent books, more allies than rivals, give it a mature and sustained application to the reassessment of Hobbes's doctrine in *Leviathan*. Hobbes's account of the state of nature invites being interpreted as relating every person in that situation to every other person as players in a game of "prisoner's dilemma," where both would do better to cooperate, but where neither can choose to do so without risking disaster. But if the state of nature implies such relations, how do people in that situation ever get out of it? How, in particular, do they ever come to rely on one another enough to be able to make a social contract, Hobbes's most elaborately presented solution? The game must somehow change from prisoner's dilemma into a game of another sort before the sovereign who is to enforce the contract has been selected.

Kavka's answer is, essentially, that the prospect of establishing an effective government transforms the game-situation into one of impure coordination, known in the trade as "the battle of the sexes," where (in the two-player case) both players prefer to cooperate, but must choose between two modes of cooperation, one of which somewhat favors one party, one the other. Although he thinks that Hobbes's argument needs a good deal of modification at other points, Kavka takes Hobbes to be presenting on this central issue an ingenious two-stage solution to just such a game. People first agree to coordinate

in having an effective government of some sort; only then do they turn to resolving (by majority vote) conflicts about just what government to have.

Hampton's answer runs along the same line and like Kavka's revises Hobbes to end up in the neighbourhood of limited government in a representative democracy rather than in absolute monarchy. The answer is a little harder to see in Hampton's case, because she brings up a greater variety of model-games and with them opens up and shuts down many more possible interpretations of Hobbes than Kavka's argument — simpler, more concentrated, and therefore more powerful in impact — stops to consider. In some of the shuttings-down, moreover, Hampton seems to me to lapse into errors that further complicate the reader's work in ways that Kavka spares him. Reading Kavka, the reader does not have to correct so much, or bear so many corrections in mind, as he goes along.

This is not to say that Hampton does not offer substantial compensations for these complications. Her applications of the theory of games are invariably lucid and ingenious, even when they serve doubtful intermediate conclusions. To a degree that Kavka does not — indeed, to a degree that no previous author in ethics and political philosophy has done — she makes manifest the great variety of analyses of political choices that can be drawn from the theory of games. Kavka has inventions of his own to offer in this connection — a relaxed version of standard multiperson prisoner's dilemma; more attention to principles of rational choice (maximin, and his own "disaster-avoidance principle") other than the principle of maximizing expected utility, on which Hampton solely relies. Putting his account together with hers may well engender a hypothesis (which they, for different reasons, do not themselves seriously entertain) that if Hobbes's argument goes through at all, there are multiple ways of bringing it off, partly because his language hovers at times between different applications of the theory of games, partly because in one passage he invites one application, in another another.

Both authors treat the social contract as they reconstruct it as what Hampton calls an "agency" contract, which establishes a government continually answerable to its citizens, rather than an "alienation" contract, which authorizes the government once established to do anything that it sees fit without further reference to the consent of the citizens. Hence the contract acquires, as Hampton emphasizes, a Lockean cast. This does not, as she is inclined to believe, take the contract out of Hobbes's own framework. The solution that Locke recommends falls within that framework as an approximation of the special case of a sovereign democracy that sets up a limited govern-

ment answerable to itself. Hampton argues that Hobbes cannot (as he purports to do) allow for democracy as one form of an absolute sovereign consistently with his arguments for preferring the monarchical form of sovereign as free from internal conflict. But this is an exaggeration. Hobbes's arguments against democracy aim at direct democracy, not at representative democracy, which his framework accommodates, but about whose subsequent success he had no expectation one way or another.

Both authors treat the contract as a hypothetical one, which establishes a government as a device for enforcing principles of cooperation (for Hobbes as for other authors laws of nature) given apart from the contract rather than arrived at in the contract itself (as some contract theories of the present day hold). Neither author, however, makes anything of Hobbes's own chief use for the hypothetical feature. Sovereigns by acquisition (that is to say, chiefly, by conquest) are far more frequently encountered in the world, as Kavka points out. Why then does Hobbes spend so much time and thought upon sovereigns by institution, which are established by social contracts so difficult to arrange for that were people to find themselves in the state of nature they would rarely if ever succeed in escaping by this route?

Both Hampton and Kavka seem to me to underrate, after all, the difficulty. Kavka acknowledges that the variables describing the state of nature may take on values that create an active war of all against all; so might the variables (they are the same variables) defining the problem of giving agents enough security to come unarmed to the negotiations. Hampton does not establish the contrary on either point. Indeed, she lays out the ingredients of defending Hobbes against her own attack. Let the agents in the state of nature be, and know each other to be, shortsighted, and in various degrees irrational; and suppose that their encounters with each other are very frequently if not always situations in which defection by the others from cooperation would endanger their lives much more than foregoing cooperation would. Hampton shows in alert and convincing detail how such agents will suspect every other of inclining to strike first; and so incline themselves, reinforcing the suspicion.

The overall structure of Hobbes's argument makes plain, I think, that he spends so much time and thought upon sovereigns by institution in order to be able to say to people (almost everybody) living under sovereigns by acquisition that they are no worse off in respect to the powers engrossed by the sovereign than they would be under a sovereign of their own instituting, had they had a chance to contract for one. As rational agents, they would have had to make such a

sovereign absolute; and they would have best chosen the monarchical form.

Hampton and Kavka reject both Hobbes's hypothesis and his use of it to justify sovereigns by acquisition. Kavka thinks that because the sovereign in this case coerces the consent of its victims the consent cannot be treated, from the moral point of view, as genuine. I agree, though I think that to say just this begs the question against Hobbes's deliberate assertion to the contrary. I also think (in opposition to both Hampton and Kavka) that Hobbes implies a continuing benefit for the victim, by distinguishing the consent in question from surrender at discretion and thus putting the conqueror under a continuing obligation to spare the victim's life and corporal liberty during obedience.

Hampton supplies in her conception of would-be sovereigns circulating in the state of nature and collecting subjects who value the protection offered them a needed explanation of how sovereignty by conquest might build up from scratch. Ironically, she nevertheless holds that Hobbes's account of sovereignty by acquisition fails because he omits to say that the subjects have the protection in mind when they submit. Why does the account fail if it can be made good by supplying this point? And may not Hobbes be taking for granted that some agents at least appreciate the protection at the moment of submission or soon thereafter? Hampton also holds — without documentation, in a book that elsewhere is steadily documented in detail — that Hobbes “clearly preferred the more peaceful route of the institution story.” He might; but his main position is that the upshot is the same; and he might well regard the route by acquisition as the only practical one.

On the contract itself, Kavka takes the more familiar line that Hobbes's argument for contracting to have an absolute sovereign is unsound, since having it absolute is unnecessary to its being effective enough. Rational agents would not give away any powers dangerous to themselves that they did not need to. Hampton agrees that they do not need to; but her main objection (one raised, as she shows, by some of Hobbes's contemporaries) is that Hobbes's argument is invalid. Besides thinking that Hobbes's account of conflict in the state of nature is exaggerated and inconsistent, Hampton thinks that rational agents could not consistently retain any right of self-defence (as Hobbes argues) and still alienate to the sovereign (what Hobbes holds they must) the right of deciding all controversies.

There is no doubt that Hobbes's way of putting his point about self-defence is confusing, particularly in his use of the term “right.” What the subject retains is only that part of his right of nature — a very queer right to begin with, since no one is obliged to respect it — which

no one can give away, the right to resist the force of the sovereign when it turns against him. It is true, the sovereign's resolution of controversies between one given subject and others may lead to this event, as may the sovereign's resolution of controversies between the subject and itself. The subject resists rationally because then (like rebels who have not been offered a pardon) he has nothing left to lose. But the law and morality of the established society are on the sovereign's side: The sovereign acts rightfully and justly — as the subject allows beforehand in making the contract — even in exercising the force that the subject now resists. His decision to resist no more decides any controversy than the resistance itself, which may be expected to be futile.

Kavka makes more than Hampton of Hobbes's basic doctrine in ethics. Indeed, Kavka considers Hobbes's approach to the character of the laws of nature — the basic principles of ethics — to be so exemplary as to demand (unlike his theory of politics) little or no correction. According to Kavka, Hobbes's position is "rule-egoism": The laws of nature are rules that people most of whom in most connections are egoists would commit themselves to in order to advance their own interests. They have, Kavka argues, a two-part structure, one part of which spells out what commitment implies when cooperation is forthcoming, the other part of which tells what to do when it is not. Kavka notes that rule-egoism tends to converge on the same commitments, given cooperation, as rule-utilitarianism; and that Hobbes himself uses rule-utilitarian arguments on occasion.

One might wonder whether the two positions can in the end be distinguished. I think they can, *ex ante* (before the commitment is cashed in under cooperation), given perfect information. Rule-egoists will refuse to go along with any rule that leads to catastrophe for themselves. Rule-utilitarians (more selfless than Bentham would have expected any utilitarian had to be) will in principle accept such a rule if all alternatives would lead to less happiness overall. But suppose *ex ante* people know that self-sacrifice will be required of any given person only as a matter of probabilities that are the same for all. Then rule-egoism and rule-utilitarianism will coincide in the rules that they select: to minimize the probabilities for oneself will give the same results as to minimize the probabilities for everybody. But even here the two theories will pull apart again *ex post*, when the rules require catastrophic self-sacrifice. Will not a rule-egoist repudiate the rule then (and most rule-utilitarians suddenly convert to egoism)? Or at any rate resist its application? So she might; but Hobbes could argue, bringing in (as he means to all along) his political theory to complete his ethics, that commitment to the laws of nature must take the form of

a commitment to having them enforced even against the agents themselves by an effective government.

Hobbes says, "The Law of Nature, and the Civil Law, contain each other, and are of equal extent." This coincidence can be maintained either by denying that any purported law can be a genuine one if it conflicts with the laws of nature or by denying that any interpretation of the law of nature which produces such a conflict can be a correct one. Hobbes, as Kavka and hardly less so Hampton make plain, puts forward his catalogue of the laws of nature as firm objective conclusions from the nature of human beings and their circumstances. Supposing they want peace — and they do — these are the rules that they must obey in order to have it. This view of the laws of nature should deter anyone from lightly following Hampton in declaring, "Hobbes clearly takes a position on the nature of law that has traditionally been called positivist." Yet Hampton, of course, finds passages that support her saying this. Hobbes will allow no one to question the justice of the sovereign's interpretation of the laws of nature; and that may be merely self-serving or, worse, capricious. Hobbes's position is certainly paradoxical; but I am not sure that if we make the proper allowances for the complex intersection here of theoretical and practical considerations, the position is senseless. It is not the position of a natural law theorist who thinks that to give the laws of nature effect one must run the risk of having to accept laws that are such only on a positivist account and nonetheless endorse them?