

C H A P T E R 2 0

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THE FREE WILL
PROBLEM

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*I acknowledge this liberty, that I can do if I will; but to say I can will if I will,
I take to be an absurd speech.*

Thomas Hobbes, *Of Liberty and Necessity*

Thomas Hobbes changed the face of moral philosophy in ways that still structure and resonate within the contemporary debate. It was Hobbes's central aim, particularly as expressed in the *Leviathan*, to make moral philosophy genuinely 'scientific', where this term is understood as science had developed and evolved in the first half of the seventeenth century. Specifically, it was Hobbes's aim to provide a thoroughly naturalistic description of human beings in terms of the basic categories and laws of matter and motion. By analysing the individual and society in these terms, Hobbes proposed to identify and describe a set of moral laws that are eternal and immutable, and can be known to all those who are capable of reason and science (L 15.40). Even more ambitiously, it was Hobbes's further hope that these 'theorems of moral doctrine' would be put into practical use by public authorities with a view to maintaining a peaceful, stable social order (L 31.41).

My concern in this chapter is not so much Hobbes's larger project but the free will problem as it arises within his naturalistic science of morals. There can be no doubt that Hobbes's specific contributions on the subject 'Of Liberty and Necessity' shaped our modern understanding and interpretation of the free will problem. The particular arguments that Hobbes advanced on this topic served to establish a

number of the core features of modern compatibilism—an influence that has lasted for well over three centuries. However, while Hobbes is generally credited with being the founding figure of modern compatibilism, thereby laying down the tracks for others who followed, such as Hume, Mill, Schlick, and Ayer, his particular arguments on this topic are widely dismissed, even by compatibilists, as being too crude and simplistic to be credible. In particular, Hobbes’s understanding of the nature of ‘liberty’ is said to be far too thin and insubstantial a foundation on which to rest the edifice of morality, and his entire project of a naturalistic science of morality consequently judged as not credible.

I address this general criticism of Hobbes’s compatibilism by taking a closer look at the role of liberty as it relates to the foundations of his project of a scientific understanding of morality. I argue that Hobbes’s understanding of the role of liberty in the foundations of morals, and the particular way in which moral agents become subject to law and liable to punishment, has been misunderstood in important respects, not least by his influential contemporary critic, John Bramhall. Hobbes’s views are more subtle and complex than the form of ‘simple compatibilism’ that Bramhall and others have generally attributed to him, and there are significant lessons to be learned from Hobbes’s compatibilist arguments when they are properly understood.

I: AGAINST FREE WILL: HOBBS ON BRAMHALL’S *TRUE LIBERTY*

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Until the seventeenth century the primary focus of the free will debate as it had evolved in Western philosophy was on theological issues. The major issue was how divine foreknowledge and predestination could be reconciled with human freedom and moral responsibility, and with rewards and punishments in a future state (LN: Introduction). Related to this, although moving in the other direction, was the concern with the problem of evil and the worry that God was in some way the source of sin in the world, something that would clearly compromise the divine moral attributes. In the seventeenth century, although these issues remained very much alive, the focus shifted to a different set of concerns, viz. how the concepts and categories of the natural sciences relate to our self-image as free and moral beings who are accountable to each other as well as to God. Concerns about necessity and determinism appear in this context, not in the form of a transcendent intelligent agent who controls and governs all that we do, but in the form of a natural order, devoid of any intelligent purpose, that conditions and limits all that we may think and do. While issues of explaining and interpreting the nature and

possibility of human freedom persist, the character of these issues and philosophical challenges to our self-image is evidently different. The significance of Hobbes's writings on this subject is that they serve as the clearest and most influential statement of this shift of focus, in the free will debate, from theological worries to concern about the implications of scientific naturalism for moral life.

Hobbes developed and fine-tuned his views on liberty in large measure in response to criticisms presented against his necessitation and compatibilist doctrines by John Bramhall, who was Bishop of Derry (Jackson 2007). Bramhall's metaphysical and moral commitments manifest an allegiance to the notions and jargon of a scholastic Aristotelianism that Hobbes routinely castigates and ridicules, most prominently in the last part of the *Leviathan* (Pink 2004). Bramhall's account of the nature of 'liberty' presupposes a moral psychology that is committed to powers and faculties of the (human) soul that cannot be analysed in terms of bodies and motion. Human moral agents are capable of governing themselves by exercising rational powers that make them subject to eternal laws of justice that express the will of God (LN 50) and, at the same time, release them from the determination of natural causes (LN 46, 48–9, 56, 63). On Bramhall's scheme, therefore, genuine moral agents are capable of *rational self-government* in such a manner that they are subject to (prescriptive) moral law. Unlike animals, moral agents are not moved by whatever desires may fall upon them and, unlike mere inanimate bodies, they are not necessitated by antecedent motions of bodies in an endless causal series. Moral agents are neither animals nor mere machines. They are persons with rational powers of a kind that make them subject to the laws of God and, as such, they enjoy a liberty and freedom which serves as a foundation of all moral life.

There are two distinctions with regard to liberty that are essential to Bramhall's position: (i) between *voluntary* acts and *free* acts, and (ii) between *liberty* and *necessity*. According to the first distinction, although children, fools, and madmen are capable of voluntary or spontaneous action, they are not capable of free action. Free action is deliberate and involves a 'power of election' or rational choice. According to Bramhall, 'true liberty' depends on deliberation, which must be understood in terms of two faculties of the soul, the will and the understanding (LN 45–7). Free action or true liberty requires that the will have 'power over itself' (LN 44).

the question is plainly this, whether all agents and all events, natural, evil, moral . . . be predetermined extrinsically and inevitably without their own concurrence in the determination; so as all actions and events, which either are or shall be, cannot but be, nor can be otherwise, after any other manner, or in any other place, time, number, measure, order, nor to any other end, than they are . . . (LN 45; cf. 72)

How, then, can the will have power over itself? The will, as a distinct faculty of the soul, must engage the understanding 'to consult and deliberate what means are

convenient for attaining some end'. The understanding is, therefore, commanded by the will and serves as its 'counselor' (LN 46). As such, any 'obligation the understanding does put to the will, is by the consent of the will, and derived from the power of the will, which was not necessitated to move the understanding to consult' (LN 46). Insofar as the will is moved by the understanding, it is 'not as by an efficient, having a causal influence into the effect, but only by proposing and representing the object'. The understanding determines the will, therefore, 'not naturally but morally' (LN 46; cf. 48). With this distinction between moral and natural efficacy in place, Bramhall concludes that he has established a crucial distinction between 'true liberty', which involves *moral determination* through the use of *reason*, and necessity, whereby an act consists in 'an antecedent determination to one' (LN 43, 47, 56, 63). When an action is 'done by an extrinsic cause, without the concurrence of the will', it is compelled and therefore unfree (LN 54–8, 62).

Bramhall rejects the criticism made by Hobbes that his account of free actions involves 'something beginning from itself' (LN 61, 65; cf. 38). He argues that, although 'nothing can begin without a cause . . . many things may begin, and do begin without a necessary cause' (LN 65). To understand how this is possible, one must distinguish the *faculty* of will from *acts* of will or election (LN 59). The power of willing found in a reasonable being 'takes not beginning from itself but from God', whereas the act of willing 'takes not beginning from itself but from the faculty or from the power of willing which is in the soul' (LN 61, 62). 'The general power to act is from God', says Bramhall, 'but the specification of this general and good power to murder, or to any particular evil, is not from God but from the free will of man' (LN 50). It is these powers of the rational soul that make it possible for the free agent to act otherwise, which would not be possible where actions are determined by antecedent, external causes (LN 45, 59). Without 'true liberty' of the kind enjoyed by a rational soul there remains only a 'brutish liberty: that can serve the purposes of neither religion nor morality' (LN 44, 47–8; cf. 4). The essence of sin 'consists in this, that one commits that which he might avoid. If there be no liberty to produce sin, there is no such thing as sin in this world' (LN 6). In sum, the reality of sin proves the existence of true liberty, which is a precondition of sin or moral evil in this world.

The vision of human moral agency that Bramhall advances is well captured by Spinoza as follows: 'They seem to conceive man in nature as a dominion within a dominion. For they believe that man disturbs, rather than follows, the order of nature, that he has absolute power over his actions, and that he is determined only by himself' (SC 491). Bramhall holds that moral agents, including human agents, are capable of following laws of reason and justice as established by God. 'The rule of justice then is the same both in God and in us; but it is in God as in him who does regulate and measure, in us as in those who are regulated and measured' (LN 50). Rational agents are capable of deliberation and choice, and are not governed or necessitated to act according to external, antecedent causes. On this

view of things, humans participate with God in a community of beings (which also included angels and evil spirits) governed by laws of reason *as opposed to* laws that govern physical (material) nature. It is a condition of the possibility of moral life that human agents cannot be understood as simply part of the natural order of things whereby they are subject to the same causal forces and principles that direct the movements of animals and inanimate bodies. Moral evaluation presupposes a moral law that we are capable of obeying, and that is itself wholly distinct from any scientific laws that may describe the necessary motions of bodies. It is this alternative, anti-naturalistic self-image of man that Hobbes set out to demolish.

Hobbes's objections to Bramhall's scheme are both general and specific in nature. At the more general level, Hobbes rejects the entire set of metaphysical and epistemological assumptions with which Bramhall operates, most of which he dismisses as the unintelligible jargon of the 'schoolmen'. Early in the *Leviathan* he simply dismisses the term 'free will' as entirely meaningless and absurd speech, something he closely associates with the use of other insignificant terms such as 'incorporeal substance', 'spirits', etc. (L 5.5, 8.9, 12.7, 34.2, 46.15; cf. LN 16). His philosophical task is, therefore, to provide an alternative set of real and true definitions of the terms involved in this context, such as will, deliberation, understanding, passion, and so on, in light of his own purely materialistic metaphysical commitments (L 46.15; cf. 4.14). Hobbes also raised specific objections to Bramhall's metaphysical scheme, the most important of which is a rejection of any 'third way' between chance and necessity (LN 70). The key instrument that Bramhall uses to find a way between necessity and chance is the distinction between moral and physical efficacy. Hobbes simply states that he does not know what this *means* (LN 20). According to Hobbes, there is *one* kind of causation, which must be understood in terms of the antecedent motions of matter or body (Hobbes 1966a: I, 121–7). To suggest that an effect is produced by a cause which is not sufficient for the effect to be produced is, Hobbes maintains, contradictory and incoherent (LN 38–9). We cannot even 'imagine anything to begin without a [sufficient] cause' (LN 39). Similarly, 'nothing takes beginning from itself, but from some other immediate agent without itself' (LN 38). On this view of things, it is no less absurd to say that 'to will is an act of it according to that power' than to say that 'to dance is an act allowed or drawn by fair means out of the ability to dance' (LN 33; cf. 82). While an agent may be free to do what he will, Hobbes denies that we can make any sense of the suggestion that 'the will can determine itself' (LN 16, 72, 73, 82). It is no more the will that wills than it is the understanding that understands. The fundamental source of confusion here is to suppose that the power of willing is distinct from acts of willing (LN 75, 82, 85). In short, on the key question of whether the will can determine itself, Hobbes's answer is clear: there is no such power, ability, or capacity, because the very notion involved is absurd and without meaning.

II: LIBERTY, LAW, AND THE BASIC OBJECTIONS

Hobbes's critique of the doctrine of free will has provided the materials for much of the writings of later generations of compatibilists against libertarian metaphysics (Ayer 1954: for a compatibilist account of free will, rather than free action, see Frankfurt 1971). The challenge for libertarianism, in face of these criticisms, has been to decide which elements of Bramhall's scheme can be salvaged or revised and which need to be jettisoned or repudiated.¹ For our purposes, however, it is the other side of the debate that is of particular interest and importance, namely: how Hobbes can provide an alternative account of 'liberty' that serves the ends of morality and religion. As already noted, Hobbes must do this within the confines of his materialist philosophical anthropology. The *Leviathan* presents an analysis of human nature that serves as the foundation for this 'scientific' moral philosophy. On Hobbes's account, (in)famously, man is nothing more than an arrangement of bodies with a particular structure and motions. Human thought, sensation, understanding, passions, and the will are all defined and described in terms of relevant motions of body. The processes involved in human thought and action are entirely mechanical in character. External objects cause motions, which in turn give rise to pleasure or pain and the various particular passions; these in turn generate some appetite or aversion towards the object as it has been presented to us (cf. L, ch. 6). According to Hobbes, deliberation is nothing more than an alteration or succession of appetites and aversions that may come upon us concerning some act or object. What we call the will is simply 'the last appetite or aversion' that moves us to act (L 6.53). These are all activities that are strictly, philosophically, defined in terms of particular motions within the human body as it responds to its environment (i.e. the motions of external bodies upon it).

In this way, Hobbes's materialist account of human nature is combined with a conception of philosophical and scientific method that is evidently mechanical in character. In *De Cive* Hobbes uses the metaphor of a watch to explain his approach:

Concerning my method . . . everything is best understood by its constitutive causes. For as in a watch, or some such small engine, the matter, figure, and motion of the wheels cannot be well known, except it be taken insunder and viewed in parts; so to make a more curious search into the rights of states and duties of subjects, it is necessary, I say, not to take them insunder, but yet that they be so considered as if they were dissolved; that is, that we rightly understand that the quality of human nature is, in what matters it is, in what not, fit to

¹ Bramhall's distinction between moral and physical causation, and its relation to the exercise of rational powers, remains a significant feature of some of prominent eighteenth-century libertarian systems, such as those of Clarke (1998), Reid (1969), and Kant (1873). While remaining committed to the need for alternative possibilities, libertarians are widely divided about most other issues relating to causation and the nature of the self that is the source of (moral) action.

make up a civil government, and how men must be agreed amongst themselves that intend to grow up into a well-grounded state . . . (Hobbes 1972: 98–9).

Granted this ‘clockwork’ conception of human nature, how is any recognizable form of liberty possible? Hobbes makes matters more complicated by offering more than one definition of liberty (Skinner 2008). In the first place, he is committed to the following definition: ‘Liberty, or Freedom, signifieth (properly) the absence of opposition; (by opposition, I mean external impediments of motion;) and may be applied no less to irrational, and inanimate creatures, than to rational’ (L 21.1—cf. L 14.2; LN 38, 39). Evidently, this general definition of liberty, as Bramhall had been quick to point out several years before the publication of the *Leviathan*, not only fails to distinguish humans from animals; it does not even distinguish humans from *inanimate* creatures. Rivers, stones, and tennis balls, no less than the actions of human beings, can be said to be free in this sense.

Perhaps with this objection in mind, Hobbes further refines his definition as follows: ‘A Free-Man, is he, that in those things which by his strength and wit he is able to do is not hindered to do what he has a will to’ (L 21.2). From this definition it follows that it is man and not the will that may or may not be free (LN 16, 89) and that, when we are speaking of a man in this context, we are concerned with the freedom of a body that is moved by the internal motions that constitute the will (L 21.2; 6.49–54). With respect to a liberty of this kind, ‘it cannot be conceived that there is any liberty greater than a man to do what he will. . . . He that can do what he wills has all liberty possible, and he that cannot has none at all’ (LN 31). Liberty, thus considered, is something that the agent has or does not have; it does not come in *degrees* (although the *extent* of our liberty may vary greatly). Most importantly, as Hobbes acknowledges, a liberty of this kind does not distinguish humans from animals, or man from beast (LN 83; and cf. 18–9; also L 6.1, 6.49–53). Animals, no less than humans, are capable of deliberation and voluntariness. The same is true of the actions of fools, madmen, and children (LN 17–9). Whatever boundary is to be drawn between moral and non-moral agents, therefore, this distinction does not rest with the presence or absence of *liberty*, since this is something that moral and non-moral agents alike may enjoy.²

As if this road were not challenging enough, Hobbes further expands this conception of liberty to include actions that may be performed or done out of fear (L 21.3; and cf. 14.27, 20.2). He cites Aristotle’s famous example of sailors throwing their cargo overboard to save themselves, but observes that while this action may be necessitated, it is no more necessitated than actions done from other motives and is, moreover, still voluntary (L 21.3; LN 18, 30) (Aristotle 1925: III,

² In the *Leviathan* Hobbes confuses matters by speaking of agents as being at liberty until deliberation puts an end to the oscillation we experience between appetite and aversion, i.e. when the will is set in motion (L 6.50). This may be described as a kind of liberty of the *will* in the agent and it is a suggestion that Locke subsequently develops (*Essay* II. xxi. 47).

1 [1110a]). Although many of Hobbes's followers have found this claim difficult to accept, it is, nevertheless, a view that is integral to his entire moral system.³ This view is so because it is a fundamental claim of Hobbes that a person motivated by fear (of death) may *freely* give his *consent* whereby he makes himself a *subject* who has recognized and accepted *sovereign authority* over him, either by covenanting with others or by directly covenanting with the sovereign (L 14.27, 20.2). Covenants in these circumstances, though they are motivated by fear and so compelled, are still valid and voluntarily and freely undertaken. In this way, it is crucial to Hobbes's system that *individuals make themselves subjects through their free acts of consent* even if they that are motivated by fear and in this sense compelled to undertake these actions.

Bramhall's criticism of Hobbes's account of liberty is motivated as much by issues of religion as by those of morality, although for Bramhall these issues can hardly be separated. For Bramhall it is crucial to provide an account of liberty that not only does not compromise human moral standing in relation to God and a future state (i.e. Heaven and Hell), but also does not compromise the integrity of God's basic moral attributes, especially divine *justice*. With regard to the latter issue, Bramhall raises what may be called the dual-law objection: it would clearly be unjust 'for the same person to *command* one thing and yet to *necessitate* him that is commanded to do another thing' (LN 3; my emphasis). A law must be deemed 'unjust and tyrannical which commands a man to do that which is impossible for him to do' (LN 51). Accordingly, God cannot possibly command us to avoid some action which God or secondary causes necessitate us to do. It follows that 'God's chiding proves man's liberty', which is understood as 'true liberty from necessity' (LN 3).⁴ This objection is especially effective against Hobbes. It was a particular concern of Hobbes throughout the *Leviathan*, as in his other writings, that no kingdom, no society, can survive where there are 'two masters' or 'two sovereigns' making divergent laws (L 18.16, 19.3, 20.4, 26.41, 29.8, 29.15, 39.5, 43.1). As he says, more than once, 'a kingdom divided against itself cannot stand' (L 18.16, 29.15). Where any person is subject to *two distinct systems of law*, which require divergent and inconsistent things of them, only chaos and anarchy can follow. Bramhall's dual-law objection provides a variation on Hobbes's own theme with respect to the free will issue. If there is a *moral* law that commands our obedience, then we cannot also be subject to a *physical* law that makes obedience impossible. This would not

³ Hobart (1934), Schlick (1939), Ayer (1954), wish to allow some forms of freedom-defeating *internal* compulsion. The difficulty then becomes how we can draw a principled line that allows that some voluntary actions, willed by the agent, to be nevertheless unfree. Frankfurt (1971) is an influential effort to deal with this difficulty. Hobbes rejects this possibility.

⁴ Thomas Reid expressed the same general objection against the necessitarian view: 'That the moral laws of nature are often transgressed by man, is undeniable. If the physical laws of nature make his obedience to the moral laws to be impossible, then he is, in the literal sense, *born under one law, bound unto another*, which contradicts every notion of a righteous government of the world' (Reid 1969: 337).

only compromise God's justice; it would also erode the essential foundations of morality insofar as it presupposes the accountability of man.

Closely related to this line of objection is Bramhall's general objection to Hobbes's account of liberty in terms of the absence of external impediments or, more narrowly, in terms of mere voluntariness. As Bramhall notes, if liberty is understood in terms of nothing more than the absence of external impediments, then even 'inanimate creatures' have a liberty of this kind (LN 44, 65; cf. LN 38).⁵ Nor will it help to fall back on Hobbes's narrower view of a free agent defined as 'he that can do if he will and forbear if he will' (LN 39; cf. 31; and also L 21.2). While definition along these lines makes the required reference to a will, a freedom of this kind also belongs to animals, fools, madmen, and children. This is, as Bramhall sees it, a 'brutish liberty' that cannot serve the required purpose of distinguishing between moral and non-moral agents (LN 44).

On Bramhall's account, Hobbes compounds this mistake by giving a utilitarian or pragmatic justification for punishing actions that are done even though they are necessitated. It is certainly true that Hobbes maintains that the aim of punishment is to deter those who might otherwise break the law; he also argues that when the aim is only to 'grieve the delinquent for that which is past and not to be undone', it is not strictly punishment at all but an 'an act of hostility' (LN 25; L 28.7). To this Hobbes adds that *excessive* punishment is also an act of hostility, since 'the aim of punishment is not revenge but terror' (L 28.10; cf. L 44.26). In opposition to these views Bramhall argues that it 'is not lawful to do evil that good may come of it' and that punishment cannot be justified with reference only to its deterrent effects (LN 52). At the same time, he also argues that punishment may be justified solely on the basis of retributive considerations, with a view to satisfying the requirements of law by giving each what they are due (LN 52). Without true liberty, however, punishments are 'as vain as they are undeserved' (LN 4). The utilitarian perspective on punishment that Hobbes seems to endorse conflates training a dog with punishing a moral agent for wrong-doing; this is a criticism that subsequent generations of incompatibilist critics would echo (Campbell 1951: 114–17).

There is an intimate connection between the dual-law objection and the failings that Bramhall finds in Hobbes's conception of liberty, which I will refer to as the *liberty objection*. The liberty objection holds that (true) liberty cannot simply be a matter of voluntariness because, apart from anything else, this does not serve to distinguish moral and non-moral agents. The dual-law objection holds that no agent can be subject to *both* moral and physical laws, as this would undermine *desert*, which is the basis of all justified reward and punishment. If liberty were simply a matter of voluntariness or being able to do what we will without external impediment, then it is not clear how an agent who is necessitated to break the

⁵ Many incompatibilists have pointed out that a liberty of this kind is consistent with speaking of the motions of a clock as being free (e.g. Clarke 1998: 133, 136; Kant 1873: 189).

moral law could in fact have kept it, given that he could not have willed otherwise than he did. Mere voluntariness, therefore, cannot serve as the relevant foundation for our ability to obey or disobey the moral law. That requires ‘true liberty’ or ‘free will’. In this way, any agent who is properly subject to praise or blame, or to rewards or punishment, for obeying or disobeying the moral law cannot at the same time be subject to *physical laws* that *necessitate* their conduct. It follows that any agent who is subject to *moral law* must have *free will* (true liberty) and, therefore, cannot be necessitated to act. These two closely related objections concerning liberty and the dual-law problem may be called the *basic objections*.

The basic objections turn on a particular interpretation of Hobbes’s position that is encouraged if one reads Hobbes’s views on this subject primarily in the context of his controversy with Bramhall, and if one makes little reference to his overall moral system as presented in *Leviathan*. This interpretation may be described as the *simple compatibilist* interpretation. There are three important and related elements to the simple compatibilist position.

1. Liberty, understood directly in terms of *voluntariness* or an agent doing as he will unimpeded by external constraints, serves as a full and proper account of *moral agency*, whereby we may distinguish moral from non-moral agents (e.g. agents who are or are not liable to rewards and punishments, etc.). Call this the *voluntariness claim*.
2. Rewards and punishments may be justified directly in terms their desirable social effects, especially as this relates to securing obedience to the law. Call this the *utility claim*.
3. The distinction between humans and animals, or between normal adults and children, fools, and madmen, lacks any *deep* significance for morality or moral agency (except as it may concern the *effectiveness* of rewards and punishments). Individuals of *all these kinds* are capable of acting freely and may, to a greater or lesser extent, be influenced by the impositions of rewards and punishments. Call this the *shallow morality claim*.

Bramhall attributes all these claims to Hobbes (e.g., LN 65). Furthermore, many of Hobbes’s most influential followers in the classical compatibilist tradition may be read as taking views that are consistent with the three simple compatibilist doctrines described above. Subject to some qualifications, this includes prominent figures in the twentieth century, such as Schlick (1939), Hobart (1934), Ayer (1954), and Smart (1961).

Simple compatibilism thus understood gives substantial credibility to both of the basic objections. If liberty is conceived simply in terms of voluntariness, then it seems impossible to draw an appropriate distinction between moral and non-moral agents. Similarly, if we accept that punishment is justified directly in terms of its influence over the will of the agent, then we may have an answer for the dual-law objection but not one that can explain the basis of such practices in terms of *desert*

or *justice*. Considerations of desert and justice require that agents be blamed or punished for what they could have avoided. The fact that punishment may have the desirable effect of changing the future behaviour of agents in no way shows that this condition has been satisfied (LN 6, 52–3). If Hobbes is indeed committed to simple compatibilism, then he is plainly vulnerable to both of the basic objections.

In the next section, however, I argue that a closer reading of Hobbes's views on liberty (and necessity) in light of the details of his moral system in *Leviathan* shows that he *rejects* all three of the key claims of simple compatibilism. When read in this light, he has the resources to provide more sophisticated and convincing replies to the basic objections than the simple compatibilist reading makes possible.

III: LIBERTY, CONSENT AND THE FOUNDATION OF MORALS

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If liberty consists of voluntariness, it suggests that animals, fools, and children should be regarded as moral agents who are subject to law and its associated sanctions (LN 65). Hobbes does indeed take the view that liberty is voluntariness, or the absence of external obstacles to what we will to do, and that fools, madmen, children, and animals have a liberty of this kind. He adds, furthermore, that individuals of these kinds deliberate before acting no less than their normal, adult human counterparts. With respect to liberty and deliberation, therefore, no relevant distinction can be drawn between these classes of individual. Does this imply that Hobbes regards animals, fools, children, etc. as fully fledged moral agents?

This would be correct only if he assumed, with Bramhall, that liberty is *sufficient* to make an individual a moral agent. It is Bramhall's view that 'true liberty' is both *necessary and sufficient* for moral agency, and that this is what distinguishes moral agents from non-moral agents since, evidently, animals, fools, children, etc. lack true liberty. Hobbes claims, however, that it is a mistake to suppose that the relevant distinction between moral and non-moral agents rests with *any kind of liberty*. Since fools and madmen clearly enjoy liberty in the form of voluntariness, but are *not* moral agents, he cannot accept the more general assumption that the distinction between moral and non-moral agents rests on some relevant account of liberty or freedom. Call this mistaken view the *liberty assumption*. Hobbes argues that, while liberty is required for an agent to become subject to law, its role is very different from Bramhall's account of the matter.

According to Hobbes, each individual in a state of nature, antecedent to any established sovereign authority with the right and power to make and enforce laws,

is at liberty to preserve his own life as he may judge necessary. Being at liberty in this sense is not properly understood in terms of voluntariness or the absence of external impediments. Rather, it is a liberty constituted by the ‘right of nature’, something that every person has unless he has divested himself of this (natural) right (L 14.1). This is done by renouncing or transferring this right, whereby a person becomes obliged or bound by *law* (L 14.3). A liberty of this kind must be understood in terms of the absence of a particular kind of obstacle or external impediment to action, namely, the impediments and constraints of *obligation* and *law*. Where obligation and law begin, natural liberty comes to an end.⁶ There is only one way, therefore, in which a person’s natural right or liberty may be limited, and that involves the agent’s exercise of his own (voluntary) *consent*. Specifically, it is through the ‘laying down’ of our right to all things, on condition that others do likewise, that serves to make us obliged and bound not to use our voluntary actions in a manner that violates these constraints (L 14.7). This mutual transferring of right is what Hobbes calls a contract, and it serves as the foundation of legitimate political authority, whereby a sovereign is authorized to represent our own will. The making of contracts of this kind, which requires language or the power of speech, is the basis of justice and injustice (L 14.13, 15.2). Justice is to perform our contracted duties and injustice is to violate them.

Thus, being an agent who acts according to his will (i.e. is not obstructed by external impediments) does not make an individual a *moral* agent who is *subject to law* (and thus liable to punishment when it is violated). On the contrary, a liberty of this kind is indeed to be found in animals, fools, children, and madmen and other such voluntary agents who are clearly *not* moral agents. To become a moral agent, subject to law and its associated obligations and sanctions, an agent must *voluntarily consent* by means of some relevant form of *speech*, which is a free act of his own (L 21.10). The act of consent is a *particular kind of free act* performed by an individual who must have the power of speech. Simply being able to do what one wills unobstructed by external impediments (i.e. acting voluntarily) does not make an agent a *moral* agent who is subject to law. We may conclude, in light of this, that Hobbes rejects the first claim of simple compatibilism (i.e. the voluntariness claim).

The second claim of simple compatibilism, that rewards and punishments can be justified in terms of beneficial social effects such as deterrence, certainly plays some role in Hobbes’s moral system. Although our contractual obligations and duties are established through speech or words, Hobbes makes clear that ‘mere words’ are too weak to constrain and ensure compliance. We therefore require a

⁶ Hobbes’ multiple use of the term ‘liberty’ in this context requires care. While an agent may voluntarily (and in that sense freely) break the law, an agent who is obliged to obey the law has no *right* to do so (and in that sense is not free to break the law). For a discussion of these two senses of freedom, see Pettit (2005).

system of sanctions to enforce them (L 14.7, 14.18, 14.31, 17.2, 21.6). By freely placing ourselves in a commonwealth under the authority of a sovereign, we thereby limit our natural liberty and make ourselves subject to ‘the artificial chains called civil laws’ (L 21.5). Punishment is defined by Hobbes as ‘an evil inflicted by a public authority on him that hath done or omitted that which is judged by the same authority to be a transgression of the law, to the end that the will of men may thereby the better be disposed to obedience’ (L 28.1). It is clear from this definition that punishment can be imposed only by a sovereign or public authority on an individual who is *subject to law* (L 28.13) and that individuals who have not consented to authority are not liable to punishment. Such individuals, who remain in a state of nature, may be ‘declared enemies’ and may be destroyed or killed because they are considered ‘noxious’; but they are not punished or liable to punishment of any kind.

Hobbes thus rejects the utility claim. He argues instead that agents who have not consented to become subjects of sovereign authority are not liable to punishment of *any kind*, because the law has no application to them and they have no duty to obey it (i.e. they retain their natural liberty). These considerations apply to all individuals who cannot give consent, including animals, children, fools, and madmen. Even if these individuals are capable of deliberation and voluntary action, and may have their wills and future conduct influenced by harsh treatment (HW: V, 195–7), this does not make them *moral* agents liable to *punishment*. Those who may be judged to *deserve* punishment are necessarily individuals who have freely *consented* to make themselves subjects to law. We may conclude that, on Hobbes’s account, individuals cannot be liable to punishment simply because they act freely (voluntarily) or because their will and future conduct can be influenced in socially desirable ways by means of harsh treatment. To represent Hobbes’s doctrine as having commitments of this kind is to overlook entirely key features of his contractualist moral system.

The third claim of simple compatibilism, that is the shallow morality claim, suggests that there is no deep significance for morality or moral agency in respect of the difference between humans and animals or between normal adults and fools, children, and madmen. This is a natural corollary of the first two claims. Since Hobbes is not committed to either the first or the second claims of simple compatibilism, there is no reason to assume that he is committed to the shallow morality claim on either of these grounds. Hobbes denies that the correct basis for drawing the distinction between moral and non-moral agents is the possession or absence of *free will*—something that he holds is incoherent and meaningless. The relevant basis for this fundamental distinction is whether or not an agent has freely *consented* to become a subject to law and, thereby, to be liable to punishment if the agent violates that law. It is, therefore, the *particular free or voluntary act* (i.e. consenting through speech) and not the more general fact that an agent acts freely, as such, that makes an agent a *moral* agent (Pettit 2008). Animals, children, fools,

and madmen may act freely but they cannot consent by use of speech and thereby *make themselves* moral agents. It follows that, for Hobbes, the distinctions mentioned do indeed have *deep* moral significance. What Hobbes denies is that the basis of these distinctions can be understood simply in terms of liberty *of any kind*, since what matters is consent, which is itself a free act of which not all (free) agents are capable.⁷

Having established that Hobbes rejects all three of the claims of simple compatibilism, we may now return to the two basic objections. The liberty objection holds that Hobbes's account of liberty in terms of the absence of any external constraint on action (e.g. chains, etc.) cannot be accepted since it fails to distinguish moral from non-moral agents. The relevant reply on behalf of Hobbes has two parts. First, Hobbes may grant that his account of 'liberty' fails to distinguish moral from non-moral agents because it is a mistake, in his view, to rest *this distinction* on *any* account of liberty (i.e. as per the liberty assumption). This would include not only a meaningless and illusory conception of liberty based on free will but also Hobbes's own preferred account of liberty in terms of voluntariness. Second, it is not the case that Hobbes is unable to draw any relevant distinction here. The relevant distinction rests with the role of speech and consent. An agent becomes a moral agent who is subject to law if and only if he can and does freely renounce his natural right to all things. This requirement excludes all animals, fools, children, and madmen, since they plainly cannot give the consent whereby they may become subjects who are moral agents liable to punishments.

What, then, of the other basic objection, the dual-law objection, that that a moral agent cannot be subject to both moral and physical laws, as this would erode the basis of desert and make all punishment unjust? The essentials of Hobbes's reply to this objection are now clear. It is not Hobbes's view that mere voluntariness or the efficaciousness of punishment serves as a basis for moral desert or retributive practices. On the contrary, only a moral agent who has freely *consented* to accept and recognize sovereign authority can be said to *deserve* moral praise or blame or the sanctions associated with it. Contrary to Bramhall, it is not free will that serves to ground these practices and the attitudes associated with them, but rather the agent's status as a *subject* in a system of *law*. This is something that only the agent can bring about through his own free act of consent. We may conclude, therefore, that we are not required to rest the foundations of morality on an illusory and incoherent doctrine of free will, because mere voluntariness and social utility

⁷ It is true, of course, that Hobbes's incompatibilist critics, such as Bramhall, would object that an act of consent is itself free in the relevant sense only if it is not necessitated. From Hobbes's perspective, however, this objection is groundless because it presupposes a meaningless and incoherent form of liberty or freedom that is unavailable to us. That is to say, according to Hobbes, it is precisely because no alternative form of liberty understood in terms of 'free will' is available to us that we must resist the temptation to rest the notion of consent on a general requirement of this kind.

cannot, by themselves, play this role. The entire edifice of the *Leviathan*, notably Parts I and II, is devoted to showing that this is not our predicament.

IV: THE ETERNAL MORAL LAW AND THE DUAL-LAW OBJECTION

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The reply outlined above explains how, on Hobbes's view, agents may be subject to *both* moral and physical laws without any inconsistency or conflict. The reconciliation depends not on agents possessing free will of a kind that releases them from the realm of physical laws but rather on the role of *consent*, involving speech, whereby a person may voluntarily make himself subject to the rule of a sovereign who represents his own will and has the authority to *command* his obedience (L, ch. 16; and also L 18.10, 26.1–3, 26.12). However, critics may argue that this reply is, at best, incomplete insofar as it is relevant only to the case of *civil* laws. Civil laws are 'those rules, which the commonwealth has commanded [the subject] . . . 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' (L 26.3; also 18.10). Although civil laws may be valid or apply to subjects only in virtue of their prior consent, this is evidently not the case with the 'laws of nature' or eternal, immutable moral laws. The latter are clearly distinct from civil laws that depend entirely on the will of the sovereign and the prior consent of the subject. The eternal laws of nature, which I will refer to as the *eternal moral law* hereafter (to avoid confusion with physical and civil laws), are valid for and apply to all human beings. This is true, moreover, whether they have consented to become subjects to a commonwealth or not. It cannot be the case, therefore, that the dual-law objection, insofar as it concerns the relationship between the eternal moral law and the physical law, can be answered by reference to the role of consent in subjecting an agent to law.

How can Hobbes explain the way in which an agent may be subject to both the physical laws of nature and the eternal moral law? The physical laws of nature may necessitate an agent to act contrary to the eternal moral law. In these circumstances the agent would be obliged by one law to do what another law makes impossible, and could hardly deserve blame or punishment for failing to obey the eternal moral law. Hobbes's reply to this version of the dual-law objection requires a careful account of his understanding of the *nature* of the eternal moral law. Although we may use the language of law in this context, Hobbes is clear that the eternal moral law has a complex relationship with civil law. All laws, strictly speaking, must be *commands* of a sovereign authority (L 26.3, 26.12) Although eternal moral law may be regarded as commanded by God, this is highly problematic since God's word

must be known through revelation and prophecy (L 31.3). The opening chapters of the third part of *Leviathan* make clear how unreliable and problematic this form of moral knowledge must be (L chs 32 and 33; esp. 29.8, 32.5, 36.9–14, 43.1, 47.2–4). With this in mind, we may consider God’s word in respect of the ‘dictates of natural reason’ (L 31.3). ‘These dictates of reason men use to call by the name of laws, but improperly: for they are but conclusions or theorems concerning what conduceth to the conservation and defence of themselves, whereas law properly is the word of him that by right hath command over others . . .’ (L 15.41). The eternal moral law is thus *prior* to and *distinct* from the civil law. This, indeed, must be true given that Hobbes makes clear that the sovereign authority is *not* subject to civil law (L 26.6) but *is* subject to eternal moral law (L 30.15; cf. 29.9). Although the civil law and eternal moral law ‘contain each other’ insofar as the commonwealth may establish eternal moral law as civil law and, in the opposite direction, the eternal moral law requires obedience to the civil law (L 26.8), the two forms of ‘law’ must still be distinguished. Most importantly, Hobbes emphasizes the point that the eternal moral law, which it is the point and purpose of his *Leviathan* to identify and describe, is not itself strictly ‘law’ *until the Commonwealth makes it so*.

That which I have written in this Treatise, concerning the moral virtues, and of their necessity, for the proving and maintaining peace, though it be evident truth, *is not therefore presently Law*; but because in all Commonwealths in the world, it is part of the civil law: For though it be naturally reasonable; yet it is by the sovereign power that it is Law . . . (L 26.22: emphasis added)

It is important not only to understand the intimate relationship between the eternal moral law and civil law (i.e. law in the strict sense of the commands of sovereign authority) but to keep in mind the way they are nevertheless distinct and independent of each other.

Hobbes holds that the eternal moral law is best understood in terms of ‘theorems’ or ‘conclusions’ about which actions are conducive to peace and happiness and which actions lead to war and death (L 14.3, 15.34, 26.22). Insofar as all men agree that peace is good, they must also agree that the means to peace are also good (L 15.40). Moral philosophy is, therefore, conceived by Hobbes as the *science* of good and evil in respect of what conserves peaceful society (L 15.34–40). It is a particular kind of *scientific* investigation, which aims at the discovery of particular kinds of ‘law’. The laws that are identified describe the motions of certain kinds of body, human beings, and the consequences that diverse motions will have by way of maintaining or destroying the social body that they form when united together. Thus the eternal moral law is a *physical* law or scientific claim that has a particular content or object of study. These laws of nature are no more prescriptive than any other scientific law which we may or may not put into use for our own ends. Granted that we know these laws (based on ‘science’), and that we have certain ends (i.e. peace and preserving our lives), these ‘laws’ provide *practical guidance*

about what actions we should or should not undertake. The practical value of the science of morals is certainly of central concern to Hobbes (L Intro 1–4, 31.41, 46.40–42, Rev. 16–17). With respect to the science of morals, we may remain *ignorant* of these truths or we may simply *ignore* them. If this is the case, then we either lack moral knowledge or make no use of it, and we will suffer the (natural) consequences accordingly. However, these natural consequences of acting contrary to the eternal moral law are not strictly *punishments* at all (e.g. the sovereign is not punished when he fails to follow the eternal moral law but will surely suffer harm nevertheless; L 28.8).

With these observations we may now address the dual-law objection as it concerns the relationship between *eternal moral law* and physical laws of nature. It is evidently Hobbes's view that there is no conflict or inconsistency here of any kind insofar as the eternal moral law is properly conceived as 'theorems' describing the motions of bodies and their consequences. As such, the eternal moral law is a *particular kind* of physical law. These theorems describe actions that may be undertaken or avoided with a view to creating and preserving society or destroying it. The actions required to create and maintain society presuppose individuals who can consent to authority and obey (civil) law. This rules out animals, fools, children, and madmen, since actions of this kind are not possible for them. Moreover, the individuals whose actions are the object of investigation are themselves able to use their *reason* (based on their powers of language, proper definitions, and so on) to acquire *knowledge* of these laws by means of the methods of *science*. We have, therefore, on Hobbes's account, the ability to discover and learn these laws and put them to *practical* use. By 'knowing ourselves' scientifically, we may guide our actions in ways that secure our common end, viz. a peaceful life in society. Many individuals may remain ignorant of these laws or choose to ignore them. As in other walks of human life, they will bear the natural and inevitable consequences or costs of doing this. There exists, however, no conflict at all between 'moral' and 'physical' law, since the former is, on Hobbes's analysis, simply a particular mode or form of the latter. The dual-law objection is, accordingly, groundless.

V: GODS, CLOCKS, AND THE LIBERTY ASSUMPTION

The basic objections advanced by Bramhall presuppose a reading of Hobbes along the lines of simple compatibilism. On this reading, the core disagreement between Hobbes and Bramhall rests on this issue:

1. What conception of liberty is the relevant basis on which to distinguish moral from non-moral agents?

According to the liberty objection, voluntariness or the absence of external obstacles to what is willed cannot possibly serve as an adequate account of this distinction, since non-moral agents who are not subject to law or liable to punishment have a liberty of this kind. For this reason Bramhall insists that we need a form of liberty, understood in terms of free will, that can serve to make these distinctions. However, this criticism wholly misrepresents the relevant issue for Hobbes.

The right question to ask, according to Hobbes's account, is this:

2. Does *any form of liberty* serve as the relevant basis for distinguishing moral from non-moral agents?

Hobbes answers this question firmly in the negative. Liberty is to be understood in terms of voluntariness and the absence of external impediments to action, but it does not serve as the relevant basis for distinguishing moral from non-moral agents. To accomplish this task we must turn to the details of Hobbes's moral system and his account of the origin of (civil) law and sovereign authority in the (free) consent of subjects who are capable of speech and reason. The interesting and important point that is being made is that the whole free will controversy, conceived in terms of the first question, rests on a mistake: namely, the *liberty assumption*. Even if Hobbes's general position on this subject is vulnerable to the objection that he places too much emphasis on the role of speech and consent in distinguishing moral from non-moral agents, he may still be correct in holding that this distinction is not to be located in some special or unique form of *liberty* that *moral* agents must possess. This is an approach that plainly *deflates* the significance of liberty when it comes to understanding and describing the foundations of moral life.

While Hobbes's aim was to deflate the significance of liberty in his own account of the foundations of moral life it should be clear, nevertheless, that it is not his view that liberty is *irrelevant* to the foundations of moral life or to drawing the distinction between moral and non-moral agents. On the contrary, liberty, properly understood in terms of *voluntariness*, is *necessary* for morality. On Hobbes's account, no agent can become *subject to law* and, through this, *liable to punishment*, unless he has freely consented to make himself subject to sovereign authority. This said, it remains true that the freedom involved in such acts of consent is not of a distinct or unique *kind* that differentiates (human) moral agents from non-moral agents. The source or root of this distinction must be found elsewhere and it is the task of Hobbes's contractarian theory to identify and describe the relevant source of this distinction. The threat posed by the liberty assumption is that, not only does it take our attention away from the relevant contractarian foundations of morals, it also encourages us to search for an illusory account of *moral* freedom (e.g. free will) that can serve to fill the void generated by the assumption that some distinct form

of *freedom* is required of *moral* agents. The relevant cure for the free will controversy, therefore, rests not so much with Hobbes's views about liberty and necessity, as with the specifics of his contractarian moral theory.

It is important to consider the wider significance of the divide between Hobbes and Bramhall as this continued to influence the free will problem throughout the early modern period. Bramhall's free will position turns, crucially, on the liberty assumption, and takes for granted that Hobbes *accepts* the liberty assumption. Within the compatibilist tradition, as it evolved after Hobbes, there have been many who have *accepted* the same liberty assumption. When compatibilists travel down this track, they divide between those who believe that Hobbes's account of liberty in terms of voluntariness is more or less correct (e.g. as simple compatibilists hold), and those who believe that this account requires some substantial revision or amendment (i.e. a theory of freedom that can play the role required by the liberty assumption). Insofar as the parties on *both sides* of the free will debate (i.e. compatibilists and incompatibilists) are committed to the liberty assumption, it has generated a philosophical dynamic that takes the form of a familiar, apparently intractable, dilemma. On one hand we may, with Bramhall and other libertarians, aim to provide an account of liberty that attributes to moral agents a God-like capacity or power to transcend the operations of nature and the physical laws that govern it. Unlike other (natural) agents in the world, moral agents are, on this account, able to govern their conduct in such a way that their powers of reason and will provide open alternatives which *the agent alone* decides or determines. Whatever path is taken, it is not merely a function of antecedent conditions over which the agent had no control. The obvious difficulty with this account, as Hobbes observes, is that the attempt to secure God-like powers for moral agents comes at a high cost: it detaches moral agents from the fabric of the natural order and the physical laws that govern it; hence the force of Spinoza's remarks cited above, about a 'dominion within a dominion'. It is a perennial challenge for libertarian metaphysics to try and restore some plausible 'fit' between the moral and the natural realms consistent with these metaphysical ambitions. Perhaps the most dramatic version of this difficulty that libertarians face can be found in the schism between Kant's noumenal and phenomenal being, insofar as human agents must somehow reconcile this dichotomy within their own experience and self-interpretations.

Compatibilists are plainly unwilling to pay the price of an anti-naturalistic metaphysics of the kind that Bramhall advocates. However, insofar as compatibilists continue to adhere to the liberty assumption, they face a different challenge. The model of freedom to which the compatibilist is committed is, as we have noted, vulnerable to the charge that it remains mechanical in character. Simple compatibilism, with its view of liberty understood in terms of mere voluntariness, is evidently vulnerable to this objection (*pace* the liberty objection). Those compatibilists who aim to provide a 'deeper' account of liberty face the objection that,

no matter how much *complexity* they give to alternative compatibilist theories, they can never escape from the spectre of ‘mechanism’ (Frankfurt 1971; Dennett 1984). A freedom that fails to transcend the causal laws of nature cannot successfully or categorically distinguish human agents from other agents in the world who are plainly incapable of moral conduct. In this way, a commitment to the liberty assumption appears to trap us between two unattractive models or ideals: (i) a God-like freedom that is incoherent and impossible, and (ii) a clockwork freedom that is inadequate to the demand of distinguishing moral from non-moral agents. Neither of the two rival models looks like a plausible (or attractive) metaphysical foundation for moral life.

The irony of Hobbes’s legacy on this subject is that he is generally understood as falling squarely on one side of this dilemma, alongside the simple compatibilist. Much of the contemporary debate, which has been considerably influenced by the Hobbes–Bramhall exchange, has taken for granted the liberty assumption and reads Hobbes this way as well (Berlin 1969: xv; Davidson 1973: 63; Kane 1996: 10–12). It is evident, nevertheless, that Hobbes *challenges* the liberty assumption and, to this extent, aims to find a way around the dilemma that it has generated. Granted that *no account* of liberty or freedom serves as the relevant basis on which to distinguish moral from non-moral agents or explains the basis on which an agent becomes subject to law and liable to punishment, the correct compatibilist strategy rests, on Hobbes’s account, with a proper appreciation and description of the *contractualist* features that shape and structure the moral community. From this perspective human agents may indeed use their liberty to *make themselves moral agents*. In doing this, however, they are not employing a *distinct kind of liberty* but rather using a liberty that they share with animals and other non-moral agents to perform a *distinct kind of act* (i.e. consent) whereby they become moral agents subject to law and any punishments that are required to enforce it. Hobbes’s effort to reorient the free will debate along these lines is easily lost sight of unless his rejection of the liberty assumption is properly recognized and acknowledged. Whether one finds this strategy promising or not, it is clear that it is a key part of Hobbes’s attempt to deflate the free will issue and puts considerable distance between his own views and those of simple compatibilism of a kind that Bramhall and others have attributed to him.

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