

THE CONCEPT OF GOOD LAWS IN HOBBS'S *LEVIATHAN* A FRESH LOOK

Isaiah Azariah
Albany State College

Like no age in history, the age of absolutism (1650-1775) saw the institution of monarchy at the peak of its power. The unprecedented governmental change was the outcome of interactions between several forces at work at the dawn of the modern age. The realization by a generation groaning under internecine wars of turbulent barons that only a strong central agency could evolve order out of chaos enhanced the growth of royal authority. In addition, nationalism found expression in the person of a king who skillfully consolidated his position to become the natural center of political gravity and national unity. Eager to advance its interests, the merchants wanted to strengthen the hands of a prince who could keep the peace. The Reformation had sapped the vitality of the papacy, and the Catholic Church was no longer a challenge to an ambitious monarch. The discovery of gunpowder and the use of firearms, one of the earliest expressions of the scientific spirit of the age, revolutionized the methods of warfare, and provided the king with a powerful weapon against feudal enemies. Chivalry and knighthood passed away as the age of gunpowder dawned.

Formed by the crystallization of the various forces, absolute despotism found a sanction in the writings of a number of political theorists. But it was Thomas Hobbes (1588-1679) who provided the most penetrating and influential rationalization of absolutism.¹ Hobbes did not resort to religion as did Jacques Bossuet (1627-1704) in order to justify absolute monarchy. Instead, he drew upon science and a type of psychology of man.² From the excesses of the religious wars in France, the Thirty Years War in Germany and the Civil War in England, Hobbes discovered what he believed to be the essential nature of man when on restrained by law.

Hobbes drew a distinction between the just law and the good law, a symbol of his struggle to emphasize the absolute power of a sovereign over all moral constraints. Hobbes defined good law on the basis of morality which is not subject to the opinion of the sovereign. A good law has two important qualities: first, it must be necessary for the welfare of the people, and second, it should be briefly stated and clearly defined. A law merely for the benefit of the sovereign is, therefore, not a good law. However, any law, whether good or bad, that the sovereign issues is a just law, for justice means the equal administration of all laws. That Hobbes discriminated between good and just laws showed both his concern that the sovereign recognize the existence of the good law and that his subjects accept all laws made by the sovereign. Yet Hobbes's balanced good law excessively since he desired to withhold any fuel

for rebellion against the sovereign on the basis of what is good. Hobbes held as a principle all subjects must obey all laws equally in order to prevent regression into a state of war. This superseded morality. Thus, Hobbes was barely persuasive in putting forward his case that the sovereign must try to create good laws.

A good law must be necessary, the true end of laws. The use of laws, wrote Hobbes, "is not to bind the people from all voluntary actions . . . [they are] as hedges set not to stop travellers, but to keep them in their way."³ Furthermore, a law is not good if it serves the sovereign's interest alone. Hobbes felt that the sovereign ought to love his people and that "the good of the sovereign and people cannot be separated."⁴ Therefore, what benefits the sovereign must naturally be to the advantage of the people. The second quality of a good law is that it is short, simple and clear. Too many words multiply the ambiguity, wrote Hobbes, and "seem to imply, by too much diligence, that whosoever can evade the words, is without the compass of the law." The reason why the law was made must be evident so that there will be no "contention between the penners and pleaders of the law."⁵

The welfare of the people is inextricably tied to the definition of a good law. The final end of the office of the sovereign is "the procuration of the safety of the people; to which he is obliged by the law of nature and to render an account thereof to God the author of that law, and none but him."⁶ The latter part of Hobbes's statement showed a wry appreciation that when a man is held accountable only to God he bears a great spiritual responsibility, but in fact, has power to do as he pleases. However, Hobbes thought the sovereign should acquire an attitude of enlightened self-interest to insure that the people perform no "acts of hostility" against him. Hobbes encouraged the sovereign to make certain that all the people know the basis of his power so that they understand the nature and reasons for the covenant between them and him. Furthermore, the people should be taught to "avoid doing of injury" which implied that the sovereign himself should set an example. The sovereign must try to concern himself with making provisions for those who through no fault of their own are unable to work and finding labor for those who have no employment. All laws made by the sovereign must, of course, be administered equally. Again, this is in the sovereign's interest since partiality causes insolence, hatred and rebellion. Thus, an attitude of enlightened self-interest on the part of the sovereign imposes on him not only "a bare preservation but also all other contentments of life, which every man by lawful industry, without danger or hurt to the commonwealth shall acquire to himself."⁷ However, the decision of whether to work for the good of the people and avoid oppressive laws is left to the will of the sovereign. According to Hobbes, the social contract is broken only when the sovereign cannot preserve the peace.

In view of the historical unwillingness as well as ineptitude of many sovereigns to concern themselves with the good of the common man, Hobbes carefully insisted that no law, whether or not morally wrong, can be unjust. Once the law is made, it must simply be administered equally to all degrees of people. "The law," wrote Hobbes, "is made by sovereign power and all that is done by such power is warranted, and owned by every one of the people."⁸ This precept is a part of the original covenant which instituted the commonwealth. However, the creation of good laws is not a part of the covenant. As long as the sovereign preserves the domestic security and prevents war among his subjects, he has accomplished the sum total of his duties; the duty of the people is complete submission. They must obey all laws made by the sovereign, honor no man above the sovereign, abandon religious scruples when they contradict the sovereign's decrees and accept as uncontested all judgments made by the sovereign. Hobbes pointed out that "it is a weak sovereign that has weak subjects; and a weak people, whose sovereign wanteth power to rule them at his will."⁹ But his reasoning was not based on the belief that good laws are implied by the covenant made between people and sovereign. Rather, he simply reiterated a point made earlier that "the good of the sovereign and the people can not be separated."¹⁰ The state of the people presumably reflects on the state of the sovereign in all cases. Thus, even if Hobbes believed morality could be objectively judged (that is, what is morally good could not be subject to the opinion of the sovereign), Hobbes left the determination of morality in laws entirely to the will of the sovereign. There is no natural obligation to be moral in the social contract.

The question which arises here is not only whether Hobbes overestimated a man's fear of physical death in the face of repression caused by the absence of good laws.¹¹ There is also the fundamental problem that Hobbes did not say that the sovereign must preserve security and peace. Hobbes made grave error in his belief that the social contract between sovereign and subject does not require that good laws be enacted in order that the contract remain valid.

The very nature of a covenant made in good faith implies that a type of morality will govern the behavior of both contracting parties. In chapter 12 (of Religion) in the *Leviathan*, Hobbes quotes I Samuel 8:3 where the people of Israel ask for a king to replace dishonest and morally perverted judges. Hobbes used the example to point out that the Israelites thus deposed their God from reigning over them as their faith failed. The psychology of the argument was that although the judges did not lead the Israelites into war with one another, they did fail to do what was morally good. Hobbes approved of the Israelites asking God for a king and deposition of the judges.¹² When the wrongs of the judges were not corrected, it was right that a new sovereign be appointed similar

to those who ruled other nations. The nature of the covenant with the king was that he was to lead his people in security and avoid the immoral actions of the judges. Thus, if Hobbes approved of the overthrowing of the judges for another sovereign in this instance, it can only mean that a part of the covenant with the people had been broken by the judges. This part was the upholding of that which is morally good.

Hobbes wrote that "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."¹³ "Good," or "moral" is above the welfare of the sovereign. Here Hobbes recognized that objective morality exists above the judgment of the sovereign and acknowledged that morality is an integral component of human well-being. Man's values of what is right and wrong equal his instinct for self-preservation. Why should a man secure his life by giving away his expectations of being dealt with morally by the sovereign? One does not willingly turn over one state of war for another. In the final analysis, what is the value of living when one is forced to live in conditions much like a state of war by being subjugated by economic or oppressive means where a man's industry cannot prosper? When describing the state of war before the advent of social contract, Hobbes wrote: "The notions of right and wrong, justice and injustice have there no place. Where there is no common power, there is no law: Where no law, no injustice. Force, and fraud, are in war the two cardinal virtues."¹⁴ The power given to a sovereign by his covenant with the people supposedly corrects these conditions. Thus the social contract is expressly formed with the intent, not only of achieving peace, but also of upholding what is right. Therefore, objective morality, what is good and what is bad, cannot be brushed aside by the sovereign without breaking his covenant with the people. Rebellion would then be justly warranted since the breaking of the supreme accord of the social contract implies a return to the conditions of war.

The major thrust of Hobbes's argument to persuade the sovereign to maintain good laws is that the interests of the monarch and his people are actually one and the same. The fruits of the labor of the people are enjoyed by the sovereign and people alike; one's happiness is to the benefit of the other. However, this argument would not stand up since its very conception was rooted in the fairy-tale world of Camelot and King Arthur. Hobbes seemed to have divested himself suddenly of his cynical and worldly view of human nature. A monarch with unlimited power and accountable only to God can misuse the labor of his people to his own advantage and their deprivation. Hobbes overlooked the argument that maintaining good laws is essential to the social contract. Mankind could not give up all his rights to the sovereign in return for security unless he also gained most other assets of life in a morally run society. While one cannot argue with Hobbes's definition of a good law, one can disagree with

his contention that it was not covered under the social contract.

NOTES

¹Lawrence C. Wanlass, *Gettell's History of Political Thought* (New York: Appleton Century-Crofts, 1935), 216.

²*Ibid.*, 217. Hobbes's passion for scientific method to prove the necessity of an all-powerful government can be traced to his falling "in love with geometry" as he chanced upon a copy of *Euclid's Elements of Geometry* in a friend's library.

³Thomas Hobbes, *Leviathan* (New York: Collier Books, 1962), 256.

⁴*Ibid.*

⁵*Ibid.*

⁶*Ibid.*, 247.

⁷*Ibid.*

⁸*Ibid.*, 255.

⁹*Ibid.*, 256.

¹⁰*Ibid.*

¹¹Wanlass, *History of Political Thought*, 216-221; Hobbes's exaggeration of fear and obsession with self-preservation are attributed to a combination of his personal tragedies and contemporary political chaos. His premature birth when his mother became frightened by reports of the Spanish Armada produced "a timorousness which marked the whole life." While still a boy, Hobbes became the victim of a "broken home." During the civil wars he was forced to flee to France. Later, to live out a very long life in England, he had to promise neutrality in political controversies. The time of troubles fell especially hard on Hobbes because his views alienated both republicans and royalists. The impact of such personal and political experiences on the development of his absolutist theory can hardly be exaggerated.

¹²Hobbes, *Leviathan*, 96.

¹³*Ibid.*, 256.

¹⁴*Ibid.*, 101.