

Hobbes's Idea of Public Judgment: A Social Coordination Analysis*

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1 THE PUZZLE OF PUBLIC JUDGMENT

Those who would see Hobbes as a proto-liberal, with some core commitment to freedom of conscience in religious matters,¹ must puzzle over his doctrine of public conscience:

[A] For a man's conscience and his judgment is the same thing; and as the judgment, so also the conscience may be erroneous. Therefore, though he that is subject to no civil law sinneth in all he does against his conscience, because he has no other rule to follow but his own reason, yet it is not so with him that lives in a Commonwealth, because the law is the *public conscience* by which he hath already undertaken to *be guided*. Otherwise in such diversity as there is of *private consciences*, which are but private opinions, the Commonwealth must needs be distracted, and no man dare to obey the sovereign power farther than it shall seem good in his own eyes.²

Note here that conscience and judgment are “the same thing,” so that law is the public conscience implies that it is a public judgment, by which all are to be guided. In recent years scholars have turned their attention to what Hobbes means by public judgment, and in what sense it is compatible with freedom of conviction. This paper explores several interpretations, hopefully working up to a more adequate understanding, which makes sense of critical passages.

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¹ For a useful summary of interpretations of Hobbes on this question, and problems with interpreting him as articulating some version of the liberal position, see Johan Tralau, “Hobbes contra Liberty of Conscience,” *Political Theory*, vol. 39 (February 2011): 58-84. See also Edward G. Andrew, “Hobbes on Conscience within the Law and without,” *Canadian Journal of Political Science*, vol. 32 (June 1999): 203-225.

² Thomas Hobbes, *Leviathan*, edited by Edwin Curley (Indianapolis: Hackett, 1994), p. 212 (chap. 29, ¶7). Emphasis added.

Two caveats at the outset. I restrict myself to *Leviathan*, and I assume that the aim is to give a consistent and comprehensive interpretation of what Hobbes has to say in it about public judgment. There are other modes of interpretation, which stress paradoxes and suppressed inconsistencies.³ We can only use the tools in our own toolkits, and mine are those of a philosopher.

2 THE INTERPERSONALITY OF RATIONALITY

David Gauthier presented a path-breaking analysis of Hobbes on public reason that in many ways set the terms for the debate.⁴ Gauthier distinguishes our capacity to act for reasons from our capacity to assess the adequacy of those reasons, which he calls “rationality.”⁵ The first, our capacity to act for reasons, is our ability to be motivated by our representations of the world as it is, or as it might be. This capacity, Gauthier insists, is distinct from our ability to assess these representations, and whether one’s actions “fit” these representations — whether a person’s actions adequately cohere with what she takes her reasons to be. Now, Gauthier maintains, Hobbes recognized that our rationality is fallible. Rational people aim at what Hobbes calls “right reason,” which reveals the truth. However, because our rationality is fallible, we often disagree about what is right reason; the private use of our reason leads to conflict. Although in such controversies each person claims that the use of her own private reason is right reason, such claims simply exasperate the conflict. Gauthier draws our attention to a critical passage in chapter 5 of *Leviathan*, Hobbes’s analysis of reason:

[B] And, as in arithmetic, unpractised men must, and professors themselves may, often err, and cast up false, so also in any other subject of reasoning, the ablest, most attentive, and most practised men may deceive themselves, and infer false conclusions; not but that reason itself is always right reason, as well as arithmetic is a certain and infallible art, but no one man’s reason, nor the reason of any one number of men, makes the

³ See, for example, J. Judd Owen, “The Tolerant Leviathan: Hobbes and the Paradox of Liberalism,” *Polity*, vol. 37 (January 2005): 130–48.

⁴ Although many of the core ideas were explored earlier by R. E. Ewin, whose work has not been sufficiently appreciated. See his *Virtues and Rights: The Moral Philosophy of Thomas Hobbes* (Boulder, CO: Westview Press, 1991), esp. chap. 2.

⁵ David Gauthier, “Public Reason,” *Social Philosophy & Policy*, vol. 12 (Winter 1995): 19–42, at pp. 19–20.

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certainty, no more than an account is therefore well cast up, because a great many men have unanimously approved it. And therefore, as when there is a controversy in an account, the parties must by their own accord, set up, for right reason, the reason of some arbitrator, or judge, to whose sentence they will both stand, or their controversy must either come to blows, or be undecided, for want of a right reason constituted by nature, so is it also in all debates of what kind soever. And when men that think themselves wiser than all others, clamour and demand right reason for judge, yet seek no more, but that things should be determined, by no other men's reason but their own, it is as intolerable in the society of men, as it is in play after trump is turned, to use for trump on every occasion, that suite whereof they have most in their hand. For they do nothing else, that will have every of their passions, as it comes to bear sway in them, to be taken for right reason, and that in their own controversies, bewraying their want of right reason, by the claim they lay to it.⁶

Someone who insists that *her* reason is right reason, and so *her* reason should determine the resolutions of disputes, is not only a danger to society, but because she sees "every passion" of hers as an expression of right reason, she is herself *irrational*: she demonstrates want of right reason by the claim she lays to it.

Gauthier observes that in this passage Hobbes points to two different failures of rationality when a person insists that her private judgment is necessarily right reason. By confusing her passions with reason, she ignores what Gauthier calls the "autonomy" of reason: she abandons control of her actions to passions, forsaking reason. However, Gauthier adds

Hobbes's real concern in this passage...is surely with interpersonality rather than autonomy. Rationality frees us, not only from dependence on our passions, but, perhaps more remarkably, from dependence on our own considered judgments, in contexts in which that dependence is disadvantageous to us. In this respect, rationality is, as it were, the remedy for its own defects.⁷

As Gauthier reads *Leviathan*, then, Hobbes maintains that it is irrational to insist that one's reasoning is equivalent to right reason in contexts of sustained

⁶ Hobbes, *Leviathan*, p. 23 (chap 5, ¶3).

⁷ Gauthier, "Public Reason," p. 27.

disagreement. “If each demands that his own reason be taken for right reason, then Hobbes’s war of every man against every man must result — and this is ‘intolerable in the society of men.’”⁸ Thus, Gauthier maintains, “on Hobbes’s account, the individual mode of deliberation, in which each person judges for herself what she has reason to do, is *supplanted* by a collective mode, in which one person judges what we all have reason to do.”⁹ Hobbes “proposes an extension of reason, so that rationality comes to have a social dimension.”¹⁰ This is not to say that the judge’s reason *is* right reason — that he is infallible — but that we take his reasoning as having the “public mark of right reason,”¹¹ to which, rationality tells us, we must submit.

It is worth stressing that Gauthier’s interpretation is based on [B], a critical passage. Rather than being drawn from a discussion of social life, state agency or public policy, to which we might give a merely pragmatic gloss, [B] is from Hobbes’s core discussion of reason. In chapter 5 of *Leviathan* Hobbes pauses his analysis of individual reason to consider the problem of disagreement and the rationality of appealing to a judge “in all debates of what kind soever.” If we accept this analysis, the idea of public judgment in Hobbes’s political philosophy is deeply rooted in his analysis of human reason. As Gauthier would have it, although right reason is a matter of truth, rationality is a matter of interpersonal agreement.

Gauthier focuses on the application of Hobbes’s analysis of public reason to “what we all have reason to *do*.” But his interpretation appears to imply it should also determine what we have reason to believe. If my rationality leads me not to trust my own deliberations in the face of disagreement, rationality leads me to accept interpersonally endorsed opinions, a public judgment. To set up a judge, then, would seem to commit us, by virtue of our own rationality, to accept his conclusions about right reason whenever there is dispute. Thus in passage [A] to be “guided” by public judgment is for a rational person to accept the reason of the sovereign — his opinion — as expressing right reason.

⁸ *Ibid.*

⁹ *Ibid.*, p. 31. Emphasis in original.

¹⁰ *Ibid.*, p. 25.

¹¹ Ewin, *Virtue and Rights*, p. 67.

It might be thought that Gauthier's account is disqualified simply by Hobbes's insistence that "belief and unbelief never follow men's commands."²⁸ But Gauthier is not committed to the sovereign *commanding* belief: that rationality requires one to believe what conforms to public judgment does not imply that the sovereign must be able to command anyone to be rational. Yet, I think, Hobbes would not endorse something along the lines of Gauthier's interpersonality of rationality account of public judgment. In analyzing religious belief and reliance on prophecy, Hobbes insists that "we are not to renounce our senses and experience nor ... our natural reason."²⁹ There are, however, "many things in God's word above reason (that is to say, which cannot by natural reason be either demonstrated or confuted)...when anything written is too hard for our examination, we are bidden to captivate our understanding to the words, and not labor in shifting out a philosophical truth by logic...."³⁰ However, Hobbes adds:

[C] But by the captivity of our understanding, is not meant a submission of the intellectual faculty to the opinion of any other man, but of the will to obedience, where obedience is due. For sense, memory, understanding, reason, and opinion are not in our power to change, but always, and necessarily such, as the things we see, hear, and consider suggest unto us; and therefore are not effects of our will, but our will of them. We then captivate our understanding and reason, when we forbear contradiction, when we so speak, as by lawful authority we are commanded; and when we live accordingly....

For our private reason to be supplanted, as Gauthier suggests, would seem to be for public judgment to captivate our understanding in the way that Hobbes rejects — a submission to the intellectual faculty of another person.³¹ Even when grounded in scripture, Hobbes insists that one cannot captivate her intellectual

²⁸ Hobbes, *Leviathan*, p. 338 (chap. 42, ¶11).

²⁹ *Ibid.*, pp. 245-6 (chap. 32, ¶2).

³⁰ *Ibid.*, p. 246. Paragraph break deleted.

³¹ "But in any business, whereof a man has not infallible science to proceed by, to forsake his own natural judgment, and be guided by general sentences read in authors, and subject to many exceptions, is a sign of folly, and generally scorned by the name of pedantry." *Ibid.*, p. 27 (chap. 5, ¶22).

faculty to the prophet's, much less can one do so to the sovereign's. Rather, it would seem that to captivate our understanding is to speak as we are commanded, and live according to the dictates of authority.

3 WILL, NOT JUDGMENT

This leads, then, to the second interpretation of Hobbes's idea of public judgment, which seems solidly grounded in Hobbes's important remarks on belief in miracles:

[D] For in these times, I do not know one man, that ever saw any such wonderous work, done by the charm, or at the word, or prayer of a man, that a man endued but with a mediocrity of reason would think supernatural. And the question is no more, whether what we see done, be a miracle, [or] whether the miracle we hear, or read of, were a real work, and not the act of a tongue, or pen, but in plain terms, whether the report be true, or a lie. In which question we are not every one, to make our own private reason, or conscience, but the public reason (that is, the reason of God's supreme lieutenant), judge; and indeed we have made him judge already, if we have given him a sovereign power, to *do* all that is necessary for our peace and defence.

A private man has always the liberty, because thought is free, to believe or not believe in his heart those acts that have been given out for miracles, according as he shall see what benefit can accrue by men's belief, to those that pretend or countenance them, and thereby conjecture whether they be miracles or lies. But when it comes to confession of that faith, the private reason must submit to the public; that is to say, to God's lieutenant.⁸

Lawrence Sollum glosses this as "each individual has reason to accept the sovereign's judgments about some religious matter;" the sovereign's reason is "dispositive," settling the issue.⁹ Passage [D] seems to accord with our interpretation of the captivation of understanding in passage [C] — it also goes out of its way to stress that when "it comes to *confession* of that faith, the private reason must submit to the public." Though the passage begins with a dispute

⁸ *Ibid.*, p. 300 (chap. 37, ¶13). Emphasis added.

⁹ Lawrence Sollum, "Constructing an Ideal of Public Reason," *San Diego Law Review*, vol. 30 (1993): 729-62 at p. 755.

about fact, and on Gauthier's account it would seem that a rational person would accept that "private reason must submit to the public" as to how to 'add up the account' — what to take as the fact of the matter — Hobbes does not claim that. Instead, he holds that, as regards the act of confession, public judgment is dispositive about what is to be *said and done*.

Susanne Sreedhar thus interprets deferring to public judgment as not acting on one's own judgments. People, she explicitly says, "are only obligated to follow the sovereign in *action*, not in *belief*."⁸ This straightforward and intuitively plausible analysis is clearly consistent with passages [C] and [D],⁹ and also seems to get at the heart of Hobbes's basic description of

[E] The RIGHT OF NATURE, which writers commonly call *jus naturale*, is the liberty each man hath, to use his own power, as he will himself, for the preservation of his own nature, that is to say, of his own life, and consequently, of doing any thing, which in his own judgment, and reason, he shall conceive to be the aptest means thereunto.¹⁰

So the right of nature gives a person the liberty to act on her own *will* how to use her power to protect her life, as determined by her *judgment and reason*. Thus in the state of nature, each person acts on her own will, and this will is based on her own judgment and reason as to what will best satisfy her appetites. "For the thoughts are to the desires, as scouts, and spies, to range abroad, and find the way to the things desired."¹¹ We need only to renounce the liberty of *acting* on our private judgment.

This would seem the orthodox, and most plausible, interpretation. Yet it ultimately undermines the significance of appealing to public judgment or public reason. This story is not about anyone adopting the sovereign's judgment about anything, but of conforming her will to the commands of the sovereign. The Right of Nature is the liberty to do as we *will*, and unless we add some other consideration (such as an obligation) we will to do what in our judgment is best; to renounce the right of nature we need to submit our will, not our judgment, to

⁸ Susanne Sreedhar, "Private Judgment," in *The Bloomsbury Companion to Hobbes*, edited by S.A. Lloyd (New York: Bloomsbury, 2013): 198-201, at p. 201. Emphasis in original.

⁹ Sreedhar also argues that it accords with the critical passage [B].

¹⁰ Hobbes, *Leviathan*, p. 79 (chap. 14, ¶1).

¹¹ *Ibid.*

the sovereign's laws. In this regard it is critical to remember that in *Leviathan*, "as the last appetite in deliberation, is called the will; so the last opinion in search of the truth of past, and future, is called the JUDGMENT, or *resolute* and *final sentence* of him that *discourseth*. And as the whole chain of appetites alternate, in the question of good, or bad, is called *deliberation*; so the whole chain of opinions alternate, in the question of true, or false, is called DOUBT."² Action follows from the will, the last appetite in deliberation; final opinion follows from judgment, the final sentence resolving doubt.

Ultimately, Sreedhar's interpretation is deflationary: all that is really involved in "public judgment" is the will, and not any judgment — any search for any truth. Submission to public judgment and the reason of the public turn out to be largely illusory. What is critical is that one does not claim the *liberty* to always follow a will determined by one's own judgment of what is best; it is this liberty that must be renounced. This does not require either renouncing private judgment or accepting public judgment. It does not require the former because, if one judges that obedience to the laws is best (if only because of the threat of punishment) then one can freely act on a will that is grounded in one's private judgment. It does not require submission to the judgment of the sovereign, but only that one's will is to follow the sovereign's laws. To be sure, these are the results of the sovereign's judgment, yet no one needs to accept, or defer to, this "public judgment" *as judgment* — as "the last opinion in search of the truth." The will simply needs to be aligned with the law: the last appetite in deliberation must be to conform to the law.

Perhaps this essentially deflationary interpretation is correct, and the reason commentators cannot fit public judgment into *Leviathan* is that it is not really there. It is simply a roundabout and misleading way of talking about willing and doing, and not at all about believing. But that is not easy to accept. *Leviathan* clearly distinguishes will and judgment: will is part of the analysis of Chapter VI, on voluntary motions, while judgment is a focus of Chapter VII on discourse, which leads into chapters on intellectual defects and knowledge. More importantly, in the critical passage in Chapter XVII, where Hobbes introduces the commonwealth as the solution to the state of war, he insists that parties, in

² Ibid., p. 35 (chap. 7, ¶2).

erecting a sovereign “submit their wills, every one to his will, and their judgments, to his judgment.”²³ Indeed, throughout Part II of *Leviathan*, the idea of the judgment of the sovereign looms rather larger than the will of the sovereign. Instituting a commonwealth is critically about instituting public judgment, not simply submitting our will to the sovereign’s.

4 ON FIXING CONTENT

We appear to have arrived at an impasse. Gauthier’s interpersonal reason account gave a robust analysis of public reason and public judgment as supplanting reliance on private judgment; but it seems doubtful that Hobbes approved of the sovereign captivating our understanding in this way. A more orthodox interpretation avoids this problem by insisting that Hobbes only requires that we renounce the liberty to will whatever our private judgment recommends, and obligate ourselves to align our will with the will of the sovereign, as based on his judgment. This interpretation, however, has the effect of marginalizing public judgment. It seems simply false that we need to submit our judgments, as well as our wills, to the sovereign. What is important is that the sovereign employs his judgment, instructs us what to do, and we do it.

How can subjects actually “submit” to public judgment in their reasoning about the truth (for, we must always remember, a judgment is an opinion in the search for truth) without falling into Gauthier’s difficulties? Simone Chambers is among those who see an important link between private will and submitting to public judgment in passage [F]:

[F] But whatsoever is the object of any man’s appetite or desire, that is it which he for his part calleth *good*: and the object of his hate and aversion, *evil*; and of his contempt, *vile and inconsiderable*. For these words of good, evil, and contemptible, are ever used with relation to the person that useth them, there being nothing simply and absolutely so, nor any common rule of good and evil, to be taken from the nature of the objects themselves, but from the person of the man (where there is no commonwealth), or (in a

²³ *Ibid.*, p. 109 (chap. 17, ¶13).

commonwealth) from the person that representeth it, or from an arbitrator or judge, whom men disagreeing shall by consent set up, and make his sentence the rule thereof.²⁴

Chambers observes:

Without such authority there is a natural tendency to fall back on private judgment to determine the meaning of words. Private judgment can gain no distance from subjective desires.... Thus there appears to be no way to adjudicate between divergent private judgments in a state of nature. Nature itself just did not offer a common standard of good and bad or right and wrong. Or more precisely nature's standard was tied to each individual's judgment of what is good and each individual's judgment of what is necessary to preserve himself. *Without some prior stipulation or established conventions, moral language and evaluation was thoroughly subjective.* Therefore, while Hobbes can say that difference of opinion causes civil unrest, he cannot say that difference of opinion is itself caused by error or some sort of human willfulness. The solution to this problem is not to get people to give up their false beliefs. *The solution to this problem is to get people to see that they need to give up private judgment in order to establish a standard of right and wrong, good and bad, against which to adjudicate claims. This in turn will only happen if they forgo judging all-together and hand it over to a third party.*²⁵

In passage [F] Hobbes tells us that "good" and "bad" have different referents in the state of nature and in a commonwealth, and he nicely links this up with the critical idea from passage [B] of "an arbitrator or judge, whom men disagreeing shall by consent set up, and make his sentence the rule thereof." Here public judgment changes the referent of "good" and "bad," and so by essentially changing meaning, public judgment shapes private judgment.²⁶ If private dispute is about what is "good," and the sovereign declares the referent of "good," then public judgment determines — or, we might say, "supplants" —

²⁴ Ibid., pp. 28-9 (chap. 6, ¶7).

²⁵ Simone Chambers, "Who Shall Judge? Hobbes, Locke and Kant on the Construction of Public Reason," *Ethics and Global Politics*, vol. 1 (2009): 439-68, at p. 353 (emphasis added). Between the ellipses Chambers quotes passage [F]; after the quotation she goes on to cite part of passage [B].

²⁶ Yet note, as quoted above, Hobbes identifies the *will*, not judgment, with "deliberation concerning good and evil." *Leviathan*, p. 35 (chap. 7, ¶2).

private judgment without captivating understanding in an objectionable way. Subjects are not to defer to the understanding of the sovereign about the truth rather than their own, but by changing the definition of the words they use in their reasoning, public judgment can shape the conclusions that subjects come to.

It might seem that the sovereign could be generally credited with setting the meaning of words when our private judgments differ, but this seems wrong. As Philip Pettit argues, Hobbes distinguishes words whose meaning are fixed by right reason because they refer to a real property (such as “round”), and those where the meaning is not fixed by nature.²⁷ We might call this latter group “conventional,” including measures (e.g., “inches”) and evaluative terms such as good and bad.²⁸ Public judgment, perhaps, can fix the latter but not the former.

Even concerning in the latter, evaluative terms, the way in which public judgment can “fix” their content is considerably more complex than it first appears. In concluding his discussion of the laws of nature, Hobbes argues:

[G]...the science of them, is the true and only moral philosophy. For moral philosophy is nothing else but the science of what is *good*, and *evil*, in the conversation, and society of mankind. *Good*, and *evil*, are names that signify our appetites, and aversions; which in different tempers, customs, and doctrines of men, are different; and divers men, differ not only in their judgment, on the senses of what is pleasant, and unpleasant to the taste, smell, hearing, touch, and sight; but also of what is conformable, or disagreeable to reason, in the actions of common life... from whence arise disputes, controversies, and at last war. And therefore so long as a man is in the condition of mere nature, which is a condition of war, as private appetite is the measure of good, and evil; and consequently all men agree on this, that peace is good, and therefore also the way, or means of peace (which, as I have shewed before, are *justice*, *gratitude*, *modesty*, *equity*, *mercy*, and the rest of the laws of nature) are good (that is to say, *moral virtues*), and their contrary vices, evil.²⁹

²⁷ Philip Pettit, *Made With Words: Hobbes on Language, Mind and Politics* (Princeton: Princeton University Press, 2008), pp. 88-9.

²⁸ Pettit suggests passage [B] is only about these matters. *Ibid.*

²⁹ Hobbes, *Leviathan*, p. 100 (chap. 15, ¶40).

In the state of nature “good” can *only* refer to our appetites and aims, for that is all there is to guide us; but the laws of nature tell us what is good and evil in social life, for they tell us how to better satisfy our aims in society. If the sovereign declared that “good” meant “ingratitude” he would be wrong³⁰ — the sovereign can misunderstand the laws of nature, which are “the true moral philosophy.”³¹

However, it would seem the sovereign can “fix” the meanings of terms insofar as his judgment can specify precisely what the laws of nature require. Because, “all laws, written, and unwritten, have need of interpretation,”³² when, as in the state of nature, each relies on private judgment, we disagree. But this can lead us to make war on each other, so we need to coordinate our judgments. Remember that the laws of nature, as the true moral philosophy, identify what is conducive to our perseverance, but disagreeing about them (as we do) defeats their aim, for such disagreement undermines peace.³³ Therefore the very aim of the laws of nature can only be secured when individuals concur on their requirements. This means that rational parties’ aim must be to concur in their interpretations, even though their private judgments differ. Consider, then, Display 1.

		Betty	
		<i>Interpretation</i> A	<i>Interpretation</i> B
Alf	<i>Interpretation</i> A	2 nd	3 rd
	<i>Interpretation</i> B	1 st	3 rd
		4 th	1 st
		4 th	2 nd

DISPLAY 1

³⁰ Ibid., pp. 138-9 (chap. 21, ¶7).

³¹ Ibid., p. 100 (chap. 15, ¶40).

³² Ibid., p. 180 (chap. 26, ¶21).

³³ Ibid., p. 100 (chap. 15, ¶40).

Here Alf's judgment holds that Interpretation A is the best interpretation of some law of nature, with Interpretation B being inferior — but, we might suppose, still a plausible enough interpretation of the relevant natural law.^a Betty's judgments over the interpretations are reversed, but both Alf and Betty hold that, as the aim of the laws of nature is to allow them to live together in peace, coordinating on either interpretation is better than each insisting on his or her private judgment (much less each adopting the judgment of the other!) Suppose, then, public judgment deems Interpretation A the proper interpretation. Interestingly, Betty has reason to now judge that A is indeed *the better interpretation* — even though in her private opinion B is, in an important sense, really better. This is not because she has captivated her understanding to the sovereign in any dubious way, for when she deliberates on her own about the meaning of the law of nature, B is still the last opinion before belief; nor is it simply because the sovereign fixes the meaning of evaluative terms invoked in the laws of nature. Rather, given the differences of opinion on this matter and the absence of any certain deductions, that the sovereign selects Interpretation A *makes* it the better interpretation from the public, shared, point of view, for it is the one that can fulfill the aims of the laws of nature.

This, I think, is an important point. In joint activities, in which the parties seek to act in concert, they must adopt common categories (is this a case of gratitude?) and need to share common expectations (what do we take gratitude to demand?). Convergence on a common view can make it the correct view, for it is the view that serves the end of social cooperation. By fixing on an interpretation — in game theoretic terms, making it salient — the sovereign makes it the case that this interpretation is the one to be accepted in social life. Although the end is joint *action*, this is neither simply the sovereign telling us what to *do*, for one of the things he is doing is establishing common expectations about what people will *judge* (e.g., what the law of nature requires). Yet the sovereign is not usurping private judgment, for his identification of, say, interpretation A, helps makes interpretation A the one that all should embrace.

^a We might say that when Alf applies his private judgment, he is not certain that Interpretation B is inconsistent with the relevant law of nature.

5 PUBLIC JUDGMENT AND SOCIAL COOPERATION

We thus have arrived at the idea of public judgment as a common judgment in the social sphere, where individuals as members of the public sphere have reason to accept a public judgment that, as private reasoners, some would not judge it the opinion to be accepted. Hobbes stresses that a human multitude cannot follow a joint plan of action unless it follows a common judgment.

[H] And be there never so great a multitude, yet if their actions be directed according to their particular judgments, and particular appetites, they can expect thereby no defence, nor protection, neither against a common enemy, nor, against the injuries of one another. For being distracted in opinions concerning the best use and application of their strength, they do not help but hinder one another; and reduce their strength by mutual opposition to nothing; whereby they are easily, not only subdued by a very few that agree together; but also when there is no common enemy, they make war upon each other, for their particular interests.³⁵

Bees, Hobbes says, can live sociably “and yet have no other direction, than their particular judgments and appetites, nor speech, whereby one of them can signify to another, what he thinks expedient for the common benefit.”³⁶ However, humans need to coordinate their actions via common judgments, when acting together. As S. A. Lloyd observes:

Not only will their private judgments diverge over questions of fact and of value, urgency and strategy; they may also diverge over which matters should be regarded as common business and which to leave to individual choice. Unlike ants and bees and other naturally “sociable creatures” whose consensus on a coordinated pattern of behavior in their community is hard wired, we humans come to differing judgments about matters of right and wrong, good and bad, yours and mine, fine and base, pious and irreligious, acceptable and unacceptable; and these differing private judgments can put us at odds over how to conduct our community.³⁷

³⁵ Hobbes, *Leviathan*, p. 107 (chap. 17, ¶4).

³⁶ *Ibid.*, p. 198 (chap. 17, ¶6).

³⁷ S. A. Lloyd, “Public Reason in Hobbes” in *Public Reason in the History of Political Philosophy*, edited by Piers Noris Turner and Gerald Gaus (New York: Routledge, forthcoming), §I.

Coordination on judgments is not only a condition of the efficacy of social coordination, but of its reciprocity. Think back to Display 1. Suppose that Alf believes that Interpretation B is faulty, and so insists that Betty should defer to his favored A — that her private judgment should endorse A.

...[W]hy should others who disagree defer to those people's private judgments rather than rely on their own? Hobbes argues that if it is permissible for you to judge the correctness of my judgments about how to act, it must be equally permissible for me to judge the correctness of your judgment about the correctness of my judgment. As equals, our judgments stand on the same footing; and to imagine that all humans each governing themselves by their private judgment and equal enough to press their claims against others' competing claims would somehow each decide to leave everyone else in their reach untouched is pure fantasy. Hobbes appears to be correct that a permanent state of universal unbridled private judgment would result in perpetual irresolvable conflict.*

Suppose instead that Alf and Betty have agreed to be guided by the sovereign's judgment in the social sphere — they agree to accept his "sentence" as ending *public discourse* on the matter, and so accept his *public* judgment.* The reciprocity condition is now met: even though on this matter the public judgment accords with his interpretation, Alf is not making an asymmetric claim about judgment: both he and Betty accept that the sovereign has resolved public discourse on this matter, having selected Interpretation A, and *that is why* both must accept it.

On this account the tie between private and public judgment is neither simply "abandoning" the former for the latter, nor simply doing what the sovereign tells us. Alf and Betty recognize that their private judgment is in the realm of "opinion" rather than certain, scientific, knowledge. They appreciate, however, that in matters of social cooperation, their joint plans must be based on common judgments, not only about evaluative matters (good, bad etc.) but empirical ones — the main threats, their resources, the relevant information, and so on: to plan together they must coordinate their reasoning on common

* Ibid., §III.

* I am indebted to Chad Van Schoelandt for recognizing the link between public judgment and resolving public discourse.

categories, premises and assumptions. Unlike bees, they cannot effectively cooperate simply on the basis of naturally coordinated private judgment. Thus their joint activities — in the public realm — are based on a public discourse about the truth, which the sovereign resolves, and all then accept that judgment. It is as if a general asks the opinion of her staff about strategies, resources, formations, and threats, and then at some points ends debate, and declares what they shall take as the common judgment in the battle.

It is not enough to simply follow the will of the sovereign, for joint activities are not based simply on obeying orders, but on common planning. In planning a battle, for example, our general determines objectives, major threats, limits on the operation, and so on. Those lower in the command structure devise their plans on the basis of these judgments; the general is not only, or perhaps mainly, instructing them what to *do* — given the uncertainties of battle this cannot be effectively done — but gives the judgmental basis for further deliberations, expectations, plans and responses. Again, while bees can just go and swarm threats on the basis of naturally unified private judgments, humans cannot. We need joint plans on the basis of common determinations.

6 TWO MODELS OF JOINT ACTION

(AND THE RELATION OF PUBLIC JUDGMENT AND INDIVIDUAL REASON)

Pettit also recognizes the importance of collective, public, action in *Leviathan*. In creating the “artificial man” of the commonwealth,⁶ Pettit stresses the way in which Hobbes is creating a corporate agent — a notion of corporation which, Pettit believes, has roots in medieval thought.⁶ Abstracting from some of the complexities of his account, we might say that on a strong collective agency analysis, *when acting as members of a group* individuals must abandon their own reasoning and employ only the collective rationality and judgments of the group. Think, perhaps, of Rousseau’s theory of the general will. After a vote has been taken, he tells us, a member of the minority should change her mind and declare “If my particular opinion had carried the day I should have achieved the

⁶ Hobbes, *Leviathan*, p. 4 (Introduction).

⁶ Cf. Pettit, *Made with Words*, chap. 5.

opposite of my will....”⁴ As I have argued elsewhere, Christian List and Philip Pettit’s model of collective agency also requires members of the collective agent, qua members, to adopt the group’s rationality as determining what constitutes a rational group decision and their role in it.⁵ On this sort of view, as a member of the collective agent, I must take the sovereign’s judgment as the rational decision for the collective agent of which I am a part and, formally, my private reasoning about its irrationality is beside the point. This model does not require what I called an objectionable captivating of the understanding by the collective agent (§2), since it is only qua member of the collective agent that one must accept the sovereign’s judgment as the mark of right reason. It does, though, require a sharp separation of individual, private, reasoning and that qua part of the “artificial man.”

On the alternative account I have been developing, public judgment does not presuppose a robust conception of corporate agency. The point of the toy game theoretical analysis in Display 1 was to show how prosaically modeled individuals can be committed to employing a judgment in cooperative life that conflicts with their private judgment as to what is best. This does not require a full-fledged notion of a collective corporate agent, nor does it imply that social or political creatures must sometimes see themselves as mere functionaries in an artificial agent, acting on one set of judgments, and sometimes as their own agent, acting on another.

There is something to say for both interpretations. The great support of Pettit’s interpretation is, of course, Hobbes’s insistence that the aim of *Leviathan* is to construct an artificial agent with will and judgment. A worry, on the other hand, is that although Pettit cites the critical passage [B] — in which Hobbes lays out his fundamental case as to why the conflict of private judgment calls for accepting as right reason the determination of a judge — this occurs in Hobbes’s analysis of rational individual agents (chap. 5), and so long before he

⁴ Jean-Jacques Rousseau, *The Social Contract* in *The Social Contract and Discourses*, G. D. H. Cole, translator (London: Dent, 1973), p. 250 (Book IV, chap. ii).

⁵ See my “Constructivist and Ecological Modeling of Group Rationality,” *Episteme*, vol. 9 (September 2012): 245-54. See Christian List and Philip Pettit, *Group Agency: The Possibility, Design, and Status of Corporate Agents* (Oxford: Oxford University Press, 2011).

has introduced a corporate person into the analysis.⁴ Setting up a judge to adjudicate disputes is required by the sixteenth law of nature;⁵ it certainly does not suppose corporate agency, though it does suppose a desire for a cooperative social life (on which I have focused).

In contrast to Pettit's collective agency account, on the social coordination analysis I have offered, public judgment and individual reasoning are critically tied. Consider again our example of the battle. If the general is regularly making judgments that the subordinates consider fantastic, cooperation and coordination will break down. They cannot see her judgment as one that their individual reasoning can accept as rational. Lloyd rightly stresses that, for Hobbes, each citizen must have "by her own standards a sufficient reason to accept an obligation to defer her private judgment to a public political authority": private judgment must endorse accepting the *procedural* authority of the sovereign.⁶ Our analysis of public judgment suggests as well a *substantive* tie between an individual's reasoning and what can be accepted as a *bona fide* public judgment. Judgment, we have seen, is the last opinion in the search for truth; in public judgment the sovereign resolves the discourse and settles on an opinion. But not all beliefs are opinions.

[I] when the discourse is put into speech, and begins with the definitions of words, and proceeds by connexion of the same into general affirmations, and of these again into syllogisms, the end or last sum is called the conclusion; and the thought of the mind by it signified, is that conditional knowledge, or knowledge of the consequence of words, which is commonly called SCIENCE. But if the first ground of such discourse, be not definitions, or if the definitions be not rightly joined together into syllogisms, then the end or conclusion, is again OPINION, namely of the truth of somewhat said, though sometimes in absurd and senseless words, without possibility of being understood.⁷

Now in matters of science there is no rational controversy, though we might imagine disputes motivated by sheer interests. In geometry

⁴ Recall that Pettit argues that its focus is fixing the content of evaluative terms (§4).

⁵ Hobbes, *Leviathan*, p. 98 (chap. 15, ¶30).

⁶ Lloyd, "Public Reason in Hobbes," §VII.

⁷ Hobbes, *Leviathan*, p. 36 (chap. 7, ¶4).

[J] men care not, in that subject, what be truth, as a thing that crosses no man's ambition, profit or lust. For I doubt not but if it had been a thing contrary to any man's right of dominion, or to the interest of men that have dominion, *that the three angles of a triangle should be equal to two angles of a square*, that doctrine should have been, if not disputed, yet by the burning of all books of geometry, suppressed, as far as he whom it concerned was able.*

Given passages [I] and [J] we cannot take the core passage [B] at its face value: even though Hobbes says that individuals in disagreement should submit to arbitration in "*all debates of what kind soever*," if a dispute is about science, and not a matter of opinion, it literally would make no sense to accept the judgment of an arbitrator as the mark of right reason, even if we do as she instructs (§3). For while a rational person will see that in matters of *opinion*, social life requires coordinating on a *shared opinion* — and that is precisely what public judgment is — there is no judgment to be made about the truths of science, as they are not matters of opinion.

So while individuals can, in cooperative contexts, adopt public opinions as the basis of cooperative activities and refrain from planning on the basis of private opinions, they cannot rationally follow a public opinion that, on their deliberations, was actually a matter of science, and opposed to science because interests were engaged. Again, this is not to say that they nevertheless might not will to act as they were instructed, but there could be no question of adopting a *public judgment*. Given this, a person's reasoning must serve to check what can be accepted as public judgment. This, I think, is a strong point in favor of our analysis of public judgment, which posits a continuity between individual reasoning and what can be accepted as public judgment, as opposed to those that more radically distinguish public reason as that of the collective agent, and private judgment as that of individual agents.

The worry for our account is that this continuity condition undermines Hobbes's absolutism. If the individual's reasoning is always relevant to whether a public dictum can be accepted as a genuine public judgment, then there is a

* Ibid., p. 61 (chap. 11, ¶21).

* I owe this important point to Jeremy Reid.

limit on the extent to which she can make the sovereign's judgments her own, and so in this regard the contract is limited.³⁰ This moves Hobbes's view of public judgment somewhat closer to Locke's, in which the realm of public judgment is circumscribed.³¹ I think, though, there are two indications that Hobbes recognizes this inherent limit on public judgment, and seeks to mitigate it.

(i) Hobbes famously insists that, as the "the actions of men proceed from their opinions; and in the well-governing of opinions, consisteth the well-governing of men's actions, in order to their peace, and concord."³² On a view that isolates the reasoning of the collective from that of individuals, we might think that, at least formally, the opinions and private judgments of subjects could be set aside: what matters is that they reason qua members of the collective, artificial agent, according to its rationality. But because public and private judgment are linked in important ways — the conclusions of private judgment affect what can be accepted as public judgment — it is critical for the Hobbesian sovereign to control private judgment, so that, to paraphrase Rawls, private judgments will not conflict too sharply with public reason.³³ The liberal way to do this is to make sure that public reason does not stray too far from private judgment; the Hobbesian way is to seek to influence private judgments so as to conform to public judgment. Thus the sovereign is the "judge of doctrines ... and supreme judge of controversies."³⁴ Note that this does not violate the dictum that belief cannot be commanded: the sovereign has the authority to shape the environment in which private judgments are formed, thus helping to insure that the private judgments that emerge will not conflict too sharply with public judgment.

(ii) In the "Review and Conclusion" Hobbes maintains that his doctrine is fit to be taught at universities: "as to the whole doctrine, I see not yet but the

³⁰ I have argued a similar point in another context. See *my Contemporary Theories of Liberalism* (London: Sage, 2003), pp. 67-74.

³¹ See further my "Locke's Liberal Theory of Public Reason" in *Public Reason in the History of Political Philosophy*. This is structurally similar to Jean Hampton's analysis in *Hobbes and the Social Contract Tradition* (Cambridge: Cambridge University Press, 1986), chap. 7.

³² Hobbes, *Leviathan*, p. 113 (chap. 18, ¶9).

³³ Rawls, *Political Liberalism*, expanded edition (New York: Columbia University Press, 2005), p. 40.

³⁴ Hobbes, *Leviathan*, p. 128 (chap. 20, ¶3).

principles of it are true and proper, and the ratiocination solid.”⁸ This, then, is the true science of the political. Teaching *Leviathan* is not mere indoctrination, a useful tool for the sovereign to form complaint opinions in his subjects. Its ratiocination is to replace the false and dangerous opinions and fancies mistakenly accepted as philosophy and science. This, though, is itself a testimony to the power of individual reasoning in search for the truth about politics. Individual reasoning cannot simply defer to public judgment, regardless of the official terms of the contract, if it cannot see this deference as rooted in the true moral and political philosophy.

7 REFLECTING ON THE KEY PASSAGES

I believe that the interpretation of Hobbes's idea of public judgment explored here makes sense of the critical passages that we have considered. The critical passage [B], from Chapter V on reason, is accommodated as long as our concern is opinion rather than true science; “*in the society of men*” — social life — it is intolerable to insist that one's opinion is always correct, and you and others should always follow it, for social action requires the coordination of judgment that a judge can provide. Note also that our interpretation retains, indeed stresses, Gauthier's insight about the interpersonal aspect of reason in social contexts. As passage [C] requires, this does not entail that in accepting a public judgment one has objectionably captivated her understanding to the judge or the sovereign, for coordination on judgment is required for social cooperation, not private judgment apart from social life. Passage [D] thus makes complete sense “A private man has always the liberty, because thought is free, to believe or not believe in his heart.” As Sreedhar rightly stressed, the focus is on cooperative action, but successful social cooperation cannot be captured by the dictum “do as you are told, believe what you will.” For in cooperative contexts, we must coordinate on interpretations of the laws of nature, and the ends of, and constraints upon, joint plans of action. It is thus as a private person apart from social cooperation, and in one's heart, that private judgment will rule. There is no difficulty in accommodating passage [E] on the right of nature. Passage [F] begins to move toward our coordination interpretation, stressing

⁸ *Ibid.*, p. 494.

that the sovereign can fix the meaning of evaluative terms, and so public judgment can affect our reasoning without objectionably captivating our understanding, but [G] showed that this “fixing” is not quite so open-ended as many have thought, and is better understood as setting common interpretations. Passage [H] is critical; Hobbes impresses upon us that while bees achieve social cooperation and coordination on plans through automatic alignment of private judgment, humans require explicit coordination of private judgments to achieve common plans and social cooperation. Passages [I] and [J] remind us that judgment involves *opinion*, but science does not; an account as to why we should coordinate private judgments in social life not extend to coordinating our scientific conclusions in the same way (this is where we must qualify passage [B]). Interestingly, this shows why Hobbes should not seek to coordinate the conclusions of *Leviathan* with other doctrines, for it is science, not opinion.

8 PUBLIC CONSCIENCE AND PRIVATE JUDGMENT OF FAITH

And what of passage [A], from which we commenced? Hobbes is so dismissive of the claims of conscience because they are opinions, and not based on sound ratiocination, and yet they seek to raise themselves above public judgment, needed for social life.

When a man's discourse beginneth not at definitions, it beginneth either at some other contemplation of his own, and then it is still called opinion; or it beginneth at some saying of another, of whose ability to know the truth, and of whose honesty in not deceiving, he doubteth not; and then the discourse is not so much concerning the thing, as the person; and the resolution is called BELIEF and FAITH: *faith*, in the man; belief, both of the man, and of the truth of what he says.*

Hobbes goes to great lengths to point out how conscience depends on faith in others, or an overvaluing of one's opinion — certainly it is not an upshot of ratiocination. Hobbes's insistence that public judgment should rule here — that there is a public conscience specified by the sovereign — is entirely at one with his overall view of differences in opinion. What is distinctive about Hobbes, and which clearly separates him from a public reason theorist such as Locke, is his

* Ibid., p. 36 (chap. 7, ¶4).

conviction that successful social cooperation is apt to require coordination on this type of judgment, as much as coordination on the interpretation of the laws on nature. Note that in passage [A] Hobbes makes the same claim about diversity of private judgment as he makes in passage [H], our core coordination argument: that the commonwealth will be “distracted” by the diversity of opinions. As I have argued elsewhere, Hobbes (again in sharp contrast to Locke) insists that differences in opinions about such matters cannot be insulated from coordinated social cooperation: just about any difference in opinion can, under plausible conditions, lead to a disruption of a cooperative and coordinated social life.⁷ If that is accepted, then the coordination analysis of public judgment must concur: we need a public judgment to coordinate our plans to avoid conflict. Thus the deep worry about Hobbes as a theorist of freedom of thought. If almost all opinions affect cooperative projects, so that public judgment is, potentially, always required, the space for one’s unfettered private judgment to shape one’s life looks vanishingly small. How to escape Hobbes’s conclusion remains, I think, the chief challenge to public reason liberalism.⁸

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⁷ See, e.g., my “Public Reason Liberalism” in *The Cambridge Companion to Liberalism*, edited by Steven Wall (Cambridge: Cambridge University Press, 2015): 112-40.

⁸ At least so I argue in “Hobbes’s Challenge to Public Reason Liberalism” in *Hobbes Today: Insights for the 21st Century*, edited by S.A. Lloyd (Cambridge: Cambridge University Press, 2013): 155-177.