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## STATE FOR INDIVIDUALS AND COMMUNITIES IN THE PHILOSOPHY OF THOMAS HOBBS

The name of Thomas Hobbes, one of the most controversial political thinkers, is often referred to in the comments containing a diagnosis of the current geopolitical situation in the world.<sup>1</sup> Recently, the following statement has become popular: “*Americans are from Hobbes, Europeans are from Rousseau*”,<sup>2</sup> which briefly characterizes the differences between the positions of the Old and New World in the issued regarding handling global conflicts. In situations in which the Europeans, in the spirit of Jean-Jacques Rousseau, are counting on the success of prognosis and negotiations, America, with its Hobbesian soul, prefers a sword and military solutions. A growing American concern for ensuring the security of the American citizens since September 11, 2001 results in the civil rights catalogue reduced in the name of safety, which resembles the thought of the thinker from Malmesbury. Until recently, it was clear that Americans above all valued their privacy, and each violation was clearly branded as an assault on individual freedom. However, in the face of terrorism, Americans need to revise their existing hierarchy of values. In the near future when the U.S. weapon in the fight against terrorism will be a computer, knowing all about the inhabitants of America, it will be necessary to answer the Hobbesian question: what is more important – *a sense of security or freedom and privacy?*

It is significant that today like three hundred years ago the evaluation of the English thinker’s socio-political philosophy is extremely different. Some call Hobbes “the servant of Leviathan” or an apologist for totalitarianism, others represent him as a precursor of liberalism, emphasizing his contribution to the formulation of the canon of the inalienable rights of individuals.

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<sup>1</sup> See for example R. Kagan, *Potęga i raj. Ameryka i Europa w nowym porządku świata*, Warszawa 2003.

<sup>2</sup> See for example J. Żakowski “Polityka” No. 18 (2399) dated 03.05.2003, *Ameryka marzy, Europa kłamie*, pp. 48–50.

Thomas Hobbes' philosophical reflection on the state and law is largely conditioned by the traumatic events which Hobbes directly witnessed. He lived in a very turbulent period in the history of England. Years of the reign of James I and Charles resulted in constant conflicts in the monarch – the parliament line, which finally turned into a bloody civil war. Hobbes's fame as a social philosopher coincides with the period of the Cromwell dictatorship whereas in his late years of life Hobbes saw the Restoration times and the establishment of a parliamentary monarchy.

Hobbes's system of views on the state was based on the statement that a domestic war is the worst time for an individual; the time when the highest value, life, is constantly in danger. The philosopher was forced to accept such views not only as a result of his direct observation, but also because of his personal experience. Feeling that his life was endangered, several times he had to escape abroad. What is more, he escaped being burnt at the stake only through the intercession of his influential friends. In the seventeenth century searching for a prescription how to restore order and governance in the state became the aim of the majority of socially engaged philosophers, not only English ones.

Hobbes also shared a fascination with mathematics and geometry with other prominent thinkers of his time. Hobbes's characteristic method of making philosophy, that is deductive method, was taken from geometry. In his opinion, the method was valid in all types of sciences, including social sciences. This method relies on deriving incontrovertible conclusions from the previously established assumptions which are clear and explicit – axioms. For Hobbes, the idea of the state is based on the rational human nature assumption, both the state and positive law appear to be directly deduced from the primary principles of his philosophy. The emergence of the state is a consequence of people's acceptance of one language and their establishment of a social agreement. It is undoubtedly based on the convention and has a conventional character itself.<sup>3</sup> The idea of the state, *Leviathan*, most fully represented in the work written in 1651, is an inevitable consequence of the initial assumptions of the English thinker's socio-political philosophy.

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<sup>3</sup> For Hobbes, language, adopted thanks to the convention, is a factor which conditions the creation of the institution of state, law and morality. A discovery of language placed human beings above the state of nature and contributed to the emergence of another invention – the state. The invention of speech, which permanently differentiated people from the animal world, enabled the development of knowledge and science. Law and the state, artificial creations of man making people rational and moral beings, are direct consequences of the adoption of language. See K. Doliwa, *The role of language in the philosophical system of Thomas Hobbes*, in: *Studies in Logic, Grammar and Rhetoric*, 6 (19)/2003, ed. H. Świączkowska.

Usually the title of Hobbes's most popular – Leviathan – is explained by making references to the Biblical Book of Job, pointing to the sea monster: a powerful animal – a whale, a snake or a dragon, destroying everything around. Such an image of Leviathan is associated with a number of interpretations of a mythical, kabbalistic and theological character.<sup>4</sup> Such interpretations were frequent in the Middle Ages, but in the seventeenth century the symbol of Leviathan abandoned them starting functioning in terms of non-mythical and non-demonic symbols: Leviathan has become a humorous term referring to all possible huge and powerful people and things, houses and ships.<sup>5</sup> The thesis that the word “Leviathan” for Hobbes was a synonym of power and incredible strength, able to stop everything seems reasonable. What is more, for him it was rather free from any demonic-diabolical connotations.<sup>6</sup> A drawing presented in the book strengthens the thesis that Hobbes referred to a symbol of omnipotence, rather than a personification of all evil while giving the book that particular title. The picture which illustrated the first English edition of *Leviathan*, which enjoyed the popularity similar to that of the text and made it even more popular, did not present a monster. There appears a huge human being, full of dignity and majesty, consisting of many small beings, holding a sword in one hand and a pastoral in the other, being the symbols of secular and spiritual power.<sup>7</sup>

The Hobbesian Leviathan is a “mortal god”<sup>8</sup> (*deus mortalis*), the image combining “god, human, machine and animal”. C. Schmitt notes that calling the state “god” does not result in granting it a special meaning, and has a clear polemical edge. Leading fierce polemics against the papacy, puritans and presbyterians, Hobbes could not resist employing the concept of “divinity” in his argumentation, he could not leave it to his adversaries. In the text Hobbes calls Leviathan only three times, for the first time when the author calls a commonwealth *great Leviathan*,<sup>9</sup> for the second time when he describes the establishment of the state – the birth of Leviathan.<sup>10</sup> In chapter XXVIII Hobbes compares the Old Testament Leviathan to the sovereign, justifying the comparison by mentioning the animal's great power,

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<sup>4</sup> C. Schmitt, *Lewiatan w teorii państwa Thomasa Hobbesa*, Warszawa 2008, p. 14.

<sup>5</sup> *Ibid.*, p. 37.

<sup>6</sup> *Ibid.*, pp. 30–32.

<sup>7</sup> *Ibid.*, pp. 25–26.

<sup>8</sup> Leviathan – the state is a “mortal” god because there are a number of reasons that may kill him, one of which is being defeated by a foreign sovereign state, another reason is the lack of control over the internal situation of the ruler. See T. Hobbes, *Leviathan*, Oxford 1909, p. 170.

<sup>9</sup> T. Hobbes, *Leviathan*, op. cit., p. 8.

<sup>10</sup> *Ibid.*, p. 132.

with which nothing can compare.<sup>11</sup> The Leviathan is a state, specifically the personification of his power, or the sovereign. One of the most important prerogatives of the sovereign is to create the state law by using externalized acts of his will, or orders.

For the above reason, Hobbes is a thinker, who is commonly referred to as a precursor of legal positivism,<sup>12</sup> although there are numerous statements bidding his concepts with the natural law mainstream.<sup>13</sup> (Zygmunt Ziemiński notes that Hobbes is one of the philosophers of law whose concepts are classified differently. He is considered to be a supporter of jusnaturalism or a positivist depending on which fragments of his work under analysis are more exposed by classifiers<sup>14</sup>).

Hobbes's most important observation about the positive law nature is: law is an order. *Civil law is to every subject, those rules, which the Commonwealth hath commanded him, by word, writing, or other sufficient sign of the will, to make use of, for the distinction of right and wrong; that is to say, of what is contrary and what is not contrary to the rule*<sup>15</sup> – the philosopher writes in *Leviathan*. In the light of the above-mentioned statement Hobbes appears as a pioneer of the ordering theory of law and legal positivism although it is necessary to highlight that the concept proposed by him differs from later theories in many details.<sup>16</sup>

Associating the philosopher with the doctrine of jusnaturalism results in a highly specific understanding of the term “natural law”. According to Hobbes, the appearance of law is tightly connected with the creation of the state. He searched for the sources of law in the sovereign's unstable and variable will. He deprived those sources of their eternal and stable character. In the state of nature there was no law; there were only natural rights which were not protected. In turn, in the state people abandoned most of their rights while accepting duties expressed in the form of the positive law, and did so at the cost of their security being indispensable for a happy life, which, according to Hobbes, was the primary goal of every human being. The sense of security offered by the state is a prerequisite for any human

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<sup>11</sup> Ibid., p. 246.

<sup>12</sup> The ancient Sophists, who were the first to separate positive law (nomos) bidding regardless of its moral value, were precursors of legal positivism. See J. Woleński, *Wprowadzenie* in: H. L. A. Hart, *Pojęcie prawa*, trans. J. Woleński, Warszawa 1998, p. XX.

<sup>13</sup> Compare L. Strauss, *Natural Right and History*, Walgreen Foundation Lectures 1953, and N. Bobbio, *Thomas Hobbes and the Natural Law Tradition*, Chicago 1993.

<sup>14</sup> Z. Ziemiński, *O pojmowaniu pozytywizmu oraz prawa natury*, Poznań 1993, p. 7.

<sup>15</sup> T. Hobbes, *Leviathan*, op. cit., p. 203.

<sup>16</sup> See M. M. Goldsmith, *Hobbes on law*, in: T. Sorrel, *The Cambridge Companion to Hobbes*, Cambridge 1996, pp. 275–298.

activity – the threat of an unexpected death is the greatest curse of man. The state power protects citizens from civil war and provides a defense against external attacks.

Discussing the essence of the natural laws, Hobbes concludes that a natural law is a general rule that makes a reference to the reason, and which forbids a man to do things contrary to his self-preservation instinct. The laws of nature dictate themselves to the reason clearly, so they are widely known, and their nature is immutable and eternal. Although obvious, the laws of nature require their inclusion in the legal system by the sovereign. Significant is the fact that, according to Hobbes, who was a nominalist, the law of nature is not a separate entity, whose “chipping” or reflexes would be the state laws; the law of nature is the ability of intelligence involving a skill to recognize the principles which are crucial for the survival of the individual.

For the citizen, the state law constitutes the rules of conduct that have been imposed by the sovereign command. Thanks to them, the citizen is able to distinguish good from evil, what is right from what is wrong. The rules are valid only on the date of their proclamation and for their understanding the interpretation made by the sovereign himself is required. They should necessarily be clear and understandable. The natural laws and the state law are two types of law recognized by Hobbes. These are not two separate or conflicting legal systems. Simply they are two different parts of the law.<sup>17</sup> Laws of nature, after they join the legal system of the state, become the law of the state, being given a legal force by the state. Therefore, the role of the state law is significant in the Hobbesian philosophy.

Natural laws, or “laws” dictated to man by reason, that is orders of natural reason, are current in both states – in the preceding state of nature as well as in the state artificially created by man. Nevertheless, only the state constitutionalization and integrating the laws into a legal system allow for the regulations to be obeyed and become the law in the strict sense.

The initial period in which laws of nature “exist” is a natural human state, the state of nature, the war of all against all. The description of this state resembles apocalyptic visions of hell on earth. This is a period of total anarchy, where everyone, by *ius naturale*, or *inherent powers*, is entitled to everything, including things and other people’s bodies. For the realization of this power one can use all available means – including depriving other people of their lives.<sup>18</sup> This is the state characterized by a total contra-

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<sup>17</sup> T. Hobbes, *Leviathan*, op. cit., p. 205.

<sup>18</sup> *Ibid.*, p. 96–97.

diction. Staying in it and benefiting from the freedom of almost unlimited natural power is associated with a constant threat of one's life which, in the philosopher's opinion, is a fundamental value. In the state of nature an individual is not encouraged to respect natural laws. After all, one cannot expect other individuals to respect them. Following the laws of nature in the state of nature would be contrary to the basic rule of self-preservation.<sup>19</sup>

The reason postulates that the state of nature should be abandoned and a social agreement should be established, which results in the formation of the state. The transition from the state of nature to the government state is not a painless process. It is a result of a difficult choice between two values: the implementation of people's natural rights to everything and the desire to leave the state which creates a constant threat of sudden death. Difficult as it is, the choice is made – only the power of the state guarantees preservation of peace, and peace is a sine qua non condition for a peaceful life allowing one to be happy. Although the state of nature is connected with absolute and unrestricted freedom, the overall profit and loss account requires an individual to leave it and constitutionalize a new state. He is also expected to abandon the majority of his rights for the benefit of the sovereign.

The role of the sovereign, who is a representative of all citizens, is to provide them with safety and protection. The sovereign, who can be either a single person or a team of people or congregation, constitutes a soul of the artificial creature – Leviathan – established by individuals in the name of their interest. A Biblical metaphor of the monster seems to be accurate – the state is a figure equipped with enormous power, irrevocably absorbing the power of individuals. The state power is the sovereign power equipped with the apparatus of enforcement, setting fear among citizens. However, it should be remembered that the state – Leviathan – is a deliberate creation. Fear resulting from it is a necessary condition for the citizens (parties of the agreement constitutionalized into the state) to respect the laws established by the sovereign, the laws which finish a period of the destructive anarchy.

For Hobbes establishment of peace meant following the laws of nature which the sovereign has included into the state laws and whose respect is realized through sanction. The sovereign, accepted by the power of the social agreement which results into the state establishment – the Leviathan – creates a social reality with common laws bidding every citizen. The new reality is free from numerous dangers present in the natural state. The term *Defensor Pacis* taken from the works of Marsilius of Padua does not fit into it. It is not a defender of peace coming from God. Instead, he is a creator

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<sup>19</sup> Ibid., p. 94–95.

of peace on this earth; he is a *Creator Pacis*, freeing the individual from the horror of the frightened state of nature and the risk of sudden death.<sup>20</sup>

Along with the law morality is born because in the state of nature *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.*<sup>21</sup> The integration of the natural laws into the legal system has allowed for the constitutionalization of morality. It has also guaranteed a universal validity of moral norms.

The first law of nature on which the sovereign has based moral norms is the principle ordering one *to strive for peace and sustain it*. The second law involves a social agreement, that is the willingness to give up one's natural rights, provided that others are also ready to do so. The third law of nature regarding the obligation of completing agreements is very significant for it is the source for the Hobbesian definition of justice stating that "justice" means as much as "completing agreements".<sup>22</sup> (Original in the seventeenth century,<sup>23</sup> nowadays the definition seems to be too narrow). The fourth law of nature requires to show one's gratitude; the fifth one relates to one's effort to adapt to the rest of society. The laws mentioned later concern as follows: not showing one's hatred, contempt or disdain towards other people; a necessity of treating other people as equal and granting them equal rights, and finally, being impartial in judging disputes.<sup>24</sup>

By incorporating the laws of nature into the legal system and introducing their interpretation made by the sovereign, primary values are protected: life and health, conjugal love and private property (Hobbes introduced such a hierarchy basing it on the analysis of the unchanging human nature and observation of his contemporaries' behavior).<sup>25</sup>

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<sup>20</sup> C. Schmitt, *Lewiatan w teorii państwa Thomasa Hobbesa*, op. cit., p. 44.

<sup>21</sup> T. Hobbes, *Leviathan*, op. cit., p. 98.

<sup>22</sup> *Ibid*, p. 111.

<sup>23</sup> See D. D. Raphael, *Hobbes on Justice*, (in:) *Perspectives on Thomas Hobbes* Oxford 1988, pp. 153–155.

<sup>24</sup> T. Hobbes, *Leviathan*, op. cit., p. 110–120.

<sup>25</sup> Hobbes highlights that the hierarchy of values cherished in the state is not consistent with the hierarchy of values in themselves, see B. Suchodolski, *Antropologia Hobbesa*, "Studia Filozoficzne" 1967, vol. 2, p. 209. He pointed out a dichotomous division of virtues: he distinguished virtues of people as citizens (which can be defined as social virtues) and the virtues of human beings as such (personal virtues or decorating virtues). The first of the above-mentioned virtues allowed for a peaceful coexistence of citizens in the state and included, among others, the responsibility for the word, the ability of forgetting harmful experiences, not allowing someone who did something good for us to suffer through it. These virtues can be ultimately reduced to two basic ones – *justice* and *common benevolence*. The virtues of people as such do not bring profit to the state, but to those who possess them. They are a confirmation of their power. Hobbes mentions here

Hence, attempts to situate Hobbes in the jusnaturalism mainstream seem to be irrelevant. Any ideas advocating the primacy of nature over the order of the state law are based on the *lex iniusta non est lex* principle and proclaim the thesis that natural law serves a validation function as referred to the state rights. Hobbes, a strong opponent of the existence of common things, does not assume that the laws of nature (as he defined them) bide the sovereign in an absolute way. For the sovereign, aiming at the establishing and maintaining peace, they are a significant clue while deciding on the state laws. Nonetheless, they do not have an absolutely imperative character. In theory, the sovereign could as well resign from their incorporation into the legal system. The Hobbesian sovereign is like Ockham's God, omnipotent and rich in unlimited creative power. The positive law establishment constitutes morality in a given community. On the other hand, there is no necessity to define it precisely. Significant is the fact that it is relative; it may be subjected to changes. The sovereign's command may modify or even erase it any time.

What seems to be troublesome in Hobbes's moral philosophy is the following statement: norms dictated by natural laws including moral norms are bidding an individual only when his partner respects them as well.<sup>26</sup> Although it is certain that the English philosopher's proposed rules of moral norms cannot be accepted in current circumstances, they remain in perfect harmony with the Hobbesian thought. When the state apparatus is affected by the anarchy disease, when it is too weak to provide citizens with protection, the agreement whereby the state was created stops operating. The state laws are no longer bidding, and thus, the laws of nature, being part of the state, stop being obligatory whereas the previous definition of justice becomes irrelevant. After all, the state, Leviathan, which is an artificial structure built by man, is not an end in itself. It is merely a means to an end. The end, in turn, is to ensure the protection of what has the highest value – the life of an individual.

Hobbes proves that sovereign power should be indivisible. That power is the sum of all future citizens' power<sup>27</sup> who join a social agreement. What

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fortitude, prudence, moderation and dignity. For Hobbes, dignity is an expression of one's power, specifically understood – a general tendency of all people, is, according to him, a stable and neverending desire for more and more power, which ceases only with one's death. This desire results from the inherent human desire to live the best life, filled with sensual pleasures or in a blaze of glory, depending on one's disposition. Therefore, dignity is of a particular value from the standpoint of an individual, see M. Ossowska, *Normy moralne*, Warszawa 2000, p. 63.

<sup>26</sup> T. Hobbes, *De Cive* at <http://www.constitution.org/th/decive03.htm>.

<sup>27</sup> B. Hindess, *Filozofie władzy od Hobbesa do Foucaulta*, Warszawa – Wrocław 1999, p. 48.

is crucial is that the sovereign himself is not the agreement's party. The sovereign authority can neither be criticized by the citizens, nor undermined. If the sovereign acts as a representative of the citizens and takes decisions on their behalf, any criticism coming from the citizens would, in fact, be self-criticism. The philosopher clearly highlights that the moment a social agreement is signed, its parties, that is, all future citizens agree to accept all future actions of the sovereign, trusting that all his actions will aim to strengthen the power of the state.

The duty of the sovereign is to punish citizens for exceeding a public measure of good and evil for the sake of the state consistency. But when the sovereign comes to the conclusion that the implementation of civil liberties threatens the state security, he is entitled to introduce some restriction. What is more, he has the right to use repression and violence against people whose views he considers to be subversive. Highly controversial nowadays, such a thesis left Hobbes with numerous enemies and resulted in his unflattering nickname – *Leviathan's servant*.

One of the most important and controversial questions that arises while reading Hobbes's texts concerns a scope of the citizens' liberty. Undoubtedly, they enjoy liberty in cases in which the state does not interfere: *The Liberty of a Subject, lyeth therefore only in those things, which in regulating their actions, the Sovereign hath praetermitted; such as is the Liberty to buy, and sell, and otherwise contract with one another; to choose their own aboad, their own diet, their own trade of life, and institute their children as they themselves think fit; & the like.*<sup>28</sup> Significant is Hobbes's position regarding the widely famous freedom of the ancient times. He proves that freedom of the ancient times is the freedom of the states, not individuals.<sup>29</sup> Only representatives of the ancient Greece and Rome were free; the sovereign was free *to invade other people*.<sup>30</sup>

Hobbes's reflections on the state and law fit perfectly in the mainstream of the seventeenth-century utilitarian thought.<sup>31</sup> According to the philosopher, his political works reveal the solution which is the only right solution to restore a social order in the seventeenth-century England which was in the state of a revolutionary chaos. His works also provide model solutions for the future. Benefits resulting from the practical use of the Hobbesian clues should not be doubted. The sovereign, holding the power of the state,

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<sup>28</sup> T. Hobbes, *Leviathan*, op. cit., p. 163.

<sup>29</sup> Ibid., p. 164–165.

<sup>30</sup> Ibid., p. 165.

<sup>31</sup> W. Voisé, *Myśl społeczna siedemnastego wieku*, Warszawa 1970, p. 320.

should rule so that fundamental interests of the citizens are not violated and, if possible, he should try to fully satisfy their more sophisticated needs. To understand Hobbes's thought fully, it is necessary to add that he presumes convergence of the interests of the sovereign and all his citizens; he assumes that the sovereign identifies the good of the citizens with his own good, and that the interpretation of the laws of nature made by the sovereign is perfectly rational.

Using modern concepts, one can say in the Hobbesian way that the time of peace funded by the state, that is the time in which there is no threat of war (if it appears, it is immediately dealt with) is a period in which societies and citizens develop and enrich. In such periods culture flourishes and everybody enjoys prosperity. Still preserving the spirit of Hobbes, it is possible to say that that military force is an inalienable attribute of the state, the only true measure of its power. It is obvious that Hobbes's diagnosis concerning international relations is false. A lack of international governing between the states would result in the state of nature, permanent war, or its threat. Today it is obvious that in international relations multi – and bilateral agreements play a crucial role. However, one can certainly argue that the states which possess the greatest power have a real and genuine impact on the world politics.

#### S U M M A R Y

This paper aims at identifying the implications which in the Hobbesian system are the consequences of people's acceptance of the social agreement and constitution in the state. This is an important moment both for the community, which expresses its agreement for the state, and for each individual, the signatories of the contract. The state establishment connected with the resignation from the individuals' inherent freedom of individuals, which is the price to be paid for the state, results in the birth of the legal system, and is also linked to the rise of morality. In the state of nature, preceding the state establishment, law could not act and there was no space for moral behavior. According to Hobbes, the state birth is a natural consequence of man's rational nature; the state, because of the qualities humans have, was predestined to exist. For Hobbes, the state – Leviathan – is the embodiment of virtue, which as the only one allows for the operation of law, and thus enables man to be protected against the danger of violent death. The state status is the only state in which the individual is able to develop natural virtues, in which societies develop and enrich, and cultures enjoy their flowering time and prosperity.