

Hobbes's Lesser Evil Argument for Political Authority

Abstract: This article identifies an argument in Hobbes's writings often overlooked but relevant to current philosophical debates. Political philosophers tend to categorize his thought as representing consent or rescue theories of political authority. Though these interpretations have textual support and are understandable, they leave out one of his most compelling arguments—what we call the *lesser evil argument* for political authority, expressed most explicitly in Chapter 20 of *Leviathan*. Hobbes frankly admits the state's evils but appeals to the significant disparity between those evils and the greater evils outside the state as a basis for political authority. More than a passing observation, aspects of the lesser evil argument appear in each of his three major political works. In addition to outlining this argument, the article examines its significance both for Hobbes scholarship and recent philosophical debates on political authority.

Keywords: Hobbes, lesser evil, *Leviathan*, political authority, state of nature, nonideal theory

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Thomas Hobbes's defense of political authority has long hung over contemporary debates on the subject. His vivid account of the horrors in the state of nature, where government is absent, has played no small role in defining what is at stake in these debates. Some skeptics of political authority—understood as the state's moral right to rule with coercion (political legitimacy) and inhabitants' corresponding moral obligation to obey (political obligation)—reject that a stateless society would be as horrific as Hobbes suggests.¹ Other skeptics are more willing to entertain claims about the evils that would plague life outside the state,² but still see flaws in Hobbes's arguments, such as his appeal to consent as a basis for political authority.³ Some defenders of political authority continue to view Hobbes's thought as a source of inspiration, notably for so-called rescue theories. These theories make the case that the obligation to obey the state lies in a duty to rescue others from the dangers that would exist under conditions of anarchy.⁴

¹ Michael Huemer, *The Problem of Political Authority: An Examination of the Right to Coerce and the Duty to Obey* (New York: Palgrave Macmillan, 2013).

² A. John Simmons, "The Duty to Obey and Our Natural Moral Duties," in *Is There a Duty to Obey the Law?* by Christopher Wellman and A. John Simmons (New York: Cambridge University Press, 2005), 133–34.

³ A. John Simmons, *Moral Principles and Political Obligations* (Princeton, NJ: Princeton University Press, 1979), 57–74.

⁴ Christopher Wellman, "Liberalism, Samaritanism, and Political Legitimacy," *Philosophy and Public Affairs* 25 (1996): 211–37; "Toward a Liberal Theory of Political Obligation," *Ethics* 111 (2001): 735–59; "Samaritanism and the Duty to Obey the Law," in *Is There a Duty to Obey the Law?*, 1–89.

The tendency to interpret Hobbes's political philosophy as exemplifying consent or rescue theories is understandable since his writings contain passages that lend support to both views. But that characterization of Hobbes proves incomplete. As Hobbes scholars note, he often offers multiple arguments for key points in his thought,⁵ including the state's political authority.⁶ Along with other arguments, he makes what we call the *lesser evil argument* for political authority, which largely has been overlooked.⁷

In *Leviathan*, Hobbes recognizes that a sovereign's exercise of political authority can have "evill consequences, yet the consequences" that come from there being no such authority "are much worse."⁸ It would be a mistake to characterize these claims as a straightforward consequentialist argument that simply appeals to realizing the best consequences. Rather,

⁵ Kinch Hoekstra, "The End of Philosophy (The Case of Hobbes)," *Proceedings of the Aristotelian Society* 106 (2006): 56–62; Ben Jones, "The Natural Kingdom of God in Hobbes's Political Thought," *History of European Ideas* 45 (2019): 448–51; Alison McQueen, "Hobbes's Strategy of Convergence," *Hobbes Studies* 33 (2020): 135–52.

⁶ S. A. Lloyd, *Ideals as Interests in Hobbes's Leviathan: The Power of Mind over Matter* (New York: Cambridge University Press, 1992), 50–51; Luciano Venezia, "Hobbes's Two Accounts of Law and the Structure of Reasons for Political Obedience," *European Journal of Political Theory* 13 (2014): 282–98.

⁷ See, e.g., Luciano Venezia, *Hobbes on Legal Authority and Political Obligation* (New York: Palgrave Macmillan, 2015).

⁸ Thomas Hobbes, *Leviathan*, ed. Noel Malcolm (New York: Oxford University Press, 2012), p. 320 [107].

Hobbes's argument appeals to the significant disparity between the horrific evils characterizing the state of nature and those of the state. The latter evils pale in comparison to the former, which provides a moral basis for the state and its political authority.

That argument by Hobbes resembles lesser evil arguments commonly found in applied ethics, particularly the literature on the ethics of defensive force.⁹ Despite being familiar concepts in some areas of contemporary philosophy, lesser evil arguments are less common in debates over political authority. Influenced by John Rawls,¹⁰ contemporary defenses of political authority have tended to operate at the level of ideal theory and assume a just or "reasonably just" state. That assumption has become increasingly controversial for establishing the political authority of actual states, since many engage in grave injustices of one sort or another. Recent work has turned to nonideal approaches in search of alternative bases for political authority, which notably share features with Hobbes's lesser evil argument.¹¹

⁹ Larry Alexander, "Lesser Evils: A Closer Look at the Paradigmatic Justification," *Law and Philosophy* 24 (2005): 611–43; David Rodin, "The Lesser Evil Obligation," in *The Ethics of War: Essays*, ed. Saba Bazargan and Samuel Rickless (New York: Oxford University Press, 2017), 28–45; Helen Frowe, "Lesser-Evil Justifications for Harming: Why We're Required to Turn the Trolley," *Philosophical Quarterly* 68 (2018): 460–80; Kerah Gordon-Solmon, "How (and How Not) to Defend Lesser-Evil Options," *Journal of Moral Philosophy* (forthcoming), <https://doi.org/10.1163/17455243-20223735>.

¹⁰ John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, MA: Harvard University Press, 1999).

¹¹ See C. H. Wellman, "The Space between Justice and Legitimacy," *Journal of Political Philosophy* (forthcoming), <https://doi.org/10.1111/jopp.12272>.

The lesser evil argument developed by Hobbes merits greater attention both in political philosophy and Hobbes scholarship. For political philosophers, Hobbes’s lesser evil argument offers potential insights into political authority under nonideal conditions. For Hobbes scholars, aspects of the lesser evil argument appear in all three of his major political works—*The Elements of Law*, *De Cive*, and *Leviathan*—evidence that it is more than a passing observation and represents an important part of his strategy to demonstrate the state’s authority.

This article begins by reviewing how contemporary political philosophy has interpreted Hobbes’s account of political authority. It then turns to outlining Hobbes’s lesser evil argument and noting the different places where it appears in his writings, with particular attention on his frank account of the state’s evils and emphasis on proportionality analysis. The remaining sections of the article consider the value of identifying this argument for both Hobbes scholarship and current philosophical debates on political authority.

1 Interpreting Hobbes as a Consent or Rescue Theorist

When contemporary philosophers writing on political authority mention Hobbes, they typically treat his thought as an example of consent theory.¹² Hobbes represents one of the major figures in the social contract tradition, which often relies on consent as a vehicle by which the state

¹² Simmons, *Moral Principles and Political Obligations*, 64–65; Chaim Gans, *Philosophical Anarchism and Political Disobedience* (New York: Cambridge University Press, 1992), 49; Wellman, “Toward a Liberal Theory of Political Obligation,” 751; Huemer, *The Problem of Political Authority*, 20; Jason Brennan, *When All Else Fails: The Ethics of Resistance to State Injustice* (Princeton, NJ: Princeton University Press, 2019), 74.

acquires political authority. Consent operates like a promise. The act of promising generates a moral obligation that one would otherwise lack. Similarly, many social contract theorists look to consent to explain how individuals come to have a special relationship with their state that includes an obligation to obey its commands. According to this view, political obligation comes about through voluntary and deliberate action to indicate consent to government rule in exchange for security and other goods.¹³

Social contract theories appeal to various forms of consent—express, tacit, and hypothetical—which all appear in different passages by Hobbes. *Leviathan* notes that subjects can make a promise of obedience that is “either expresse, or tacite.” Hobbes like most social contract theorists avoids relying on express consent as a basis for political authority—a shaky foundation since most individuals never explicitly pledge obedience to their state. In an appeal to tacit consent, he claims that someone living under government’s “Protection openly ... is understood to submit himselfe to the Government.”¹⁴ Hobbes also appears to appeal to hypothetical consent, the idea that there can be an obligation to obey government because an idealized individual—say, someone who is rational—would consent to its rule. His account of how the civil sovereign or Leviathan comes into being states: it is “as if every man should say to every man, *I Authorise and give up my Right of Governing my selfe, to this Man, or to this Assembly of men.*”¹⁵ The “as if” found in the passage suggests that we should not see this act of consent as something that actually occurred or needed to occur to establish political authority.

¹³ Simmons, *Moral Principles and Political Obligations*, 57.

¹⁴ Hobbes, *Leviathan*, p. 1135 [391].

¹⁵ Hobbes, *Leviathan*, p. 260 [87].

The various forms of consent that Hobbes and other social contract theorists appeal to have come under withering criticism.¹⁶ Express consent has obvious problems since most people never explicitly consent to their government's rule—or even have the opportunity to. Tacit consent also runs into problems. There are circumstances where tacit consent appears to be a valid vehicle for creating obligation, like silence from everyone in a group when asked if anyone objects to a proposed action. But tacit consent only works in generating obligation when paired with a meaningful opportunity to explicitly object to proposals, along with the recognition that the latter trumps the former.¹⁷ States fail to provide such an opportunity to reject its rule. Hypothetical consent falters for similar reasons. Though most grant a role for hypothetical consent—say, assuming that an unconscious patient would consent to life-saving medical care—it does not preclude the importance of having opportunities for explicit dissent. For instance, an explicit do-not-resuscitate order previously signed by a patient would override what a doctor believes a rational patient would desire.¹⁸ The lack of meaningful opportunities to opt out of what the state believes rational individuals would desire undermines attempts to establish political authority on the basis of hypothetical consent.

¹⁶ See Simmons, *Moral Principles and Political Obligations*, 57–100; Huemer, *The Problem of Political Authority*, 20–58.

¹⁷ Huemer, *The Problem of Political Authority*, 22.

¹⁸ Huemer, *The Problem of Political Authority*, 37–38.

The growing recognition that consent fails as a basis of political authority, including among defenders of such authority,¹⁹ can make social contract theories such as Hobbes's seem like a relic that offers little normative guidance today. But though few contemporary philosophers find Hobbes's appeals to consent persuasive,²⁰ some draw on other aspects of his thought to make the case for political authority.

Hobbes's influence is most evident in so-called rescue theories. This approach appeals to the dangers that exist outside the state but, rather than focus on self-interest as a reason to obey the state, focuses on our duties to help save *others*. A widely held ethical principle is that there is a duty to assist and rescue others from danger when the rescuer can do so at little cost to themselves. Rescue theories draw on that principle to formulate a basis for political authority. Since the state rescues individuals from the perils outside it and most individuals can support that goal at little cost through their obedience, they can have an obligation to obey the state.²¹ The leading

¹⁹ See Wellman, "Liberalism, Samaritanism, and Political Legitimacy"; Wellman, "Toward a Liberal Theory of Political Obligation"; Wellman, "Samaritanism and the Duty to Obey the Law"; David Copp, "The Idea of a Legitimate State," *Philosophy and Public Affairs* 28 (1999): 3–45; Thomas Christiano, "The Authority of Democracy," *Journal of Political Philosophy* 12 (2004): 266–90; Thomas Christiano, *The Constitution of Equality: Democratic Authority and Its Limits* (New York: Oxford University Press, 2008).

²⁰ For an exception, see Robin Douglass, "Hobbes and Political Realism," *European Journal of Political Theory* 19 (2020): 259–64.

²¹ George Klosko, "Duties to Assist *Others* and Political Obligations," *Politics, Philosophy and Economics* 3 (2004): 143–59.

proponent of this approach, Christopher Wellman, recognizes its debt to Hobbes: “Certainly there is reason to quibble with various details of Hobbes’s description of the state of nature ... but it strikes me as difficult to deny the general picture. Put plainly, for the vast majority of us, life without political order would be a horribly perilous environment.”²² In this way, rescue theorists like Wellman have revived Hobbes’s relevance for contemporary debates over political authority.

There is reason, though, to doubt that rescue theories represent the strongest argument for political authority drawing on Hobbes’s thought, at least when it comes to defending the authority of actual states. Wellman emphasizes that his rescue theory includes the assumption that the state in question is legitimate and its laws just—otherwise the conditions are absent to establish an obligation to obey the law.²³ Work in political philosophy increasingly questions this assumption because of the grave wrongs that actual states are complicit in—war crimes, environmental destruction, genocide, structural racism, failure to make amends for past injustices, and the list goes on.²⁴ Though some states are clearly better than others in providing

²² Wellman, “Samaritanism and the Duty to Obey the Law,” 11.

²³ Wellman, “Samaritanism and the Duty to Obey the Law,” 53.

²⁴ See David Lyons, “Moral Judgment, Historical Reality, and Civil Disobedience,” *Philosophy and Public Affairs* 27 (1998): 31–49; Charles Mills, “‘Ideal Theory’ as Ideology,” *Hypatia* 20 (2005): 165–84; Tommie Shelby, *Dark Ghettos: Injustice, Dissent, and Reform* (Cambridge, MA: Harvard University Press, 2016); Charles Mills, *Black Rights/White Wrongs: The Critique of Racial Liberalism* (New York: Oxford University Press, 2017); Candice Delmas, *A Duty to Resist: When Disobedience Should Be Uncivil* (New York: Oxford University Press, 2018); Erin

for the needs of their people, even states that fall into this category are imperfect and marred by injustice, which casts doubt on whether they qualify as reasonably just.

The recent trend in political philosophy of questioning the “reasonably just” assumption in arguments for political authority makes Hobbes’s work especially relevant. He offers a lesser evil argument for political authority that explicitly includes rather than tries to exclude imperfect states, like the ones actually found in the world. It therefore has potential resources for developing a basis for political authority that avoids some of the controversial assumptions that limit the real-world relevance of idealized accounts of political authority, as we’ll see next.

2 The Leviathan, Warts and All

Notably in his writings, Hobbes does not focus on establishing the political authority of the ideally just state. He takes a dim view of utopian works of political philosophy, and instead dedicates most of his energy toward what political philosophy today refers to as nonideal theory.²⁵ He admits, in blunt terms, that the Leviathan state he defends sometimes suffers from deep imperfections. That concession puts him in a stronger position to address concerns about whether individuals have obligations to the actual, imperfect states that exist in the world.

Pineda, *Seeing like an Activist: Civil Disobedience and the Civil Rights Movement* (New York: Oxford University Press, 2021).

²⁵ Hobbes, *Leviathan*, p. 575 [172]. For more on this point, see Ben Jones, *Apocalypse without God: Apocalyptic Thought, Ideal Politics, and the Limits of Utopian Hope* (New York: Cambridge University Press, 2022), 114–18.

When discussing how commonwealths take form, Hobbes identifies “Common-wealth by *Institution*” as one path, in which people freely gather and authorize a sovereign to rule over them.²⁶ Elsewhere, though, he concedes that the actual origins of almost all states are far less ideal. Near the end of *Leviathan*, he notes that “there is scarce a Common-wealth in the world, whose beginnings can in conscience be justified.”²⁷ Acts of usurpation, rebellion, and conquest shape the world, yielding the states within it. And for Hobbes, what makes states less than ideal goes beyond just their origins, for they often rule in ways that inflict grave evils on subjects.

Admittedly, the manner in which Hobbes understands and uses the term justice can obscure this point. He emphasizes that “no Law can be Unjust.”²⁸ This view stems from his claim that subjects authorize the actions of their sovereign and thus are the authors of all that the sovereign does. He cites a principle from Roman law—“no wrong is done to a consenting party” (*volenti non fit iniuria*)—to support this conclusion.²⁹ Every “man is Author of all the Sovereigne doth,” writes Hobbes, which means that no subject can complain of the sovereign’s injuring him “because to do injury to ones self, is impossible.”³⁰ So by definition, Hobbes’s understanding of justice precludes the sovereign from ever doing injustice to a subject.

²⁶ Hobbes, *Leviathan*, p. 262 [88].

²⁷ Hobbes, *Leviathan*, p. 1135 [392].

²⁸ Hobbes, *Leviathan*, p. 540 [182].

²⁹ Hobbes, *On the Citizen (De Cive)*, ed. and trans. Richard Tuck and Michael Silverthorne (New York: Cambridge University Press, 1998), p. 47 [ch. 3 §7].

³⁰ Hobbes, *Leviathan*, p. 270 [90].

Though on this strict definition of justice a commonwealth never will witness injustice by its sovereign, wrongdoing by the sovereign remains a real possibility. For Hobbes, sovereigns commit “Iniquity” when they violate the laws of nature commanded by God.³¹ Throughout his political writings, he emphasizes the following principle as the fundamental law of nature for sovereigns to uphold: “the safety of the people is the supreme law” (*salus populi suprema lex*).³² Sovereigns have a duty to God to promote the safety and welfare of their people. When they fail to, they sin against God. Hobbes’s choice to describe such action as iniquity rather than injustice differs from the language characteristic of contemporary philosophy. But by recognizing the possibility that sovereigns engage in iniquity, he develops a nonideal account of political authority suited to the realities of actual states.

One finds this nonideal approach in all three of his major political works. In Chapter 24 of *The Elements of Law*, Chapter 10 of *De Cive*, and Chapter 19 of *Leviathan*, Hobbes compares the “inconveniences” and “disadvantages” associated with different types of regimes—monarchy, aristocracy, and democracy. One goal of these chapters is to show that monarchy comes with the fewest inconveniences. But these chapters also point out that *all regimes*—including monarchies—come with inconveniences. So even while making the case for

³¹ Hobbes, *Leviathan*, pp. 270, 330 [90, 109].

³² Hobbes, *The Elements of Law*, ed. J. C. A. Gaskin (New York: Oxford University Press, 1994), p. 172 [ch. 28 §1]; *De Cive*, p. 143 [ch. 13 §2]; *Leviathan*, p. 520 [175]; *A Dialogue between a Philosopher and Student, of the Common Laws of England*, in *Writings on Common Law and Hereditary Right*, ed. Alan Cromartie and Quentin Skinner (New York: Oxford University Press, 2005), p. 70 [90].

monarchy, he notes various ways in which monarchs abuse their power. A monarch can enrich “a favourite or flatterer” by depriving a subject “of all he possesseth,” which Hobbes confesses “is a great and inevitable inconvenience.”³³ A further “inconvenience of monarchy,” he writes, “is the power of dispensing with the execution of justice; whereby the family and friends of the monarch, may with impunity, commit outrages upon the people, or oppress them with extortion.”³⁴ Such risks are unavoidable when empowering a sovereign.

One of the worst outrages imaginable is killing innocent subjects. Hobbes recognizes this potential consequence of giving sovereigns power, frankly admitting that the execution of the innocent “may, and doth often happen in Common-wealths.”³⁵ In *De Cive*, he mentions reviled rulers like Nero and Caligula whose petty motivations led them to put innocent citizens to death.³⁶ That danger persists even with respected rulers, evident from the example mentioned in *Leviathan*: the biblical story of Uriah. King David of Israel ordered his army to allow his faithful subject Uriah to be killed in battle so that David could take Uriah’s beautiful wife Bathsheba as his own. In Hobbes’s framework, David committed no injury against Uriah “because the right to do what he pleased, was given him by *Uriah*.” David’s injury instead was against God.³⁷

³³ Hobbes, *Leviathan*, p. 290 [96]. See also Hobbes, *The Elements of Law*, p. 139 [ch. 24 §5]; *De Cive*, p. 119 [ch. 10 §6].

³⁴ Hobbes, *The Elements of Law*, p. 139 [ch. 24 §6].

³⁵ Hobbes, *Leviathan*, p. 330 [109].

³⁶ Hobbes, *De Cive*, p. 120 [ch. 10 §7].

³⁷ Hobbes, *Leviathan*, p. 330 [109].

Now for Hobbes, innocent subjects (as well as guilty ones) threatened with execution do have the right to resist the sovereign's attempt to kill them. Subjects cede power to a sovereign for the purpose of gaining protection, so when the sovereign no longer succeeds in achieving that goal, a subject has permission to resist in an effort to preserve their life.³⁸ But this right to resist remains limited to those directly threatened. When a sovereign threatens to execute the innocent for selfish gain, their iniquity fails to create for individuals not threatened a permission to resist such cruelty. Subjects out of harm's way still have an obligation to obey. As Hobbes explains, "To resist the Sword of the Common-wealth, in defence of another man, guilty, or innocent, no man hath Liberty; because such Liberty, takes away from the Sovereign, the means of Protecting us."³⁹ The commonwealth's authority persists even in the midst of the sovereign's grave iniquity.

For readers today, this argument by Hobbes—given in the context of defending the political authority of sovereigns who execute the innocent—can seem jarring, even horrifying. But it is important to remember that contemporary political philosophers also defend the authority of states that commit grave evils like executing the innocent. Rawls takes it as obvious, "as requiring no argument," that societies like the United States are reasonably just and possess political authority.⁴⁰ The US has a record—both when Rawls wrote and into the present day—of

³⁸ Hobbes, *Leviathan*, pp. 336–40 [111–13].

³⁹ Hobbes, *Leviathan*, p. 340 [112].

⁴⁰ John Rawls, "Legal Obligation and the Duty of Fair Play," in *John Rawls: Collected Papers*, ed. Samuel Freeman (Cambridge, MA: Harvard University Press, 1999), 117.

executing innocent people.⁴¹ Likewise David Estlund, who defends the political authority of democracies,⁴² suggests that a state about to execute an innocent prisoner still has political authority and that its order obligates the executioner if the condemned was convicted under a reasonably just legal system.⁴³

So Hobbes hardly is alone in defending the political authority of states responsible for grave wrongs. But he differs from many contemporary defenders of political authority in his bluntness. He recognizes that harms caused by states—including states whose political authority many would like to defend—do not all fall into the category of honest mistakes. It is easier to reconcile honest mistakes than grave intentional wrongs with a reasonably just state. Not surprisingly, contemporary defenders of political authority often focus on the former as the sort of shortcomings found in imperfect states that still morally demand our obedience. Yet many actual states also commit grave intentional wrongs, sometimes with disturbing regularity. For example, to return to capital punishment, a troubling number of wrongful convictions and

⁴¹ See Death Penalty Information Center, “Posthumous Pardons,”

<https://deathpenaltyinfo.org/policy-issues/innocence/posthumous-pardons>; James Liebman, Shawn Crowley, Andrew Markquart, Lauren Rosenberg, Lauren Gallo White, and Daniel Zharkovsky, *The Wrong Carlos: Anatomy of a Wrongful Execution* (New York: Columbia University Press, 2014).

⁴² David Estlund, *Democratic Authority: A Philosophical Framework* (Princeton, NJ: Princeton University Press, 2008).

⁴³ David Estlund, “On Following Orders in an Unjust War,” *Journal of Political Philosophy* 15 (2007): 219–20.

executions in the US stem from intentional wrongdoing rather than epistemic limitations.⁴⁴

Given this reality, the euphemism “reasonably just” proves inadequate for communicating the grave wrongs committed by states that often enjoy this label. Hobbes frankly acknowledges these wrongs when tackling the task of defending political authority in a deeply imperfect world.

3 Hobbes’s Proportionality Analysis

Obtaining the tremendous goods provided by the state, most notably peace and security, comes with unavoidable inconveniences and evils according to Hobbes. It is naïve to believe otherwise. Hobbes’s challenge, then, is to establish the state’s authority despite its imperfections. He tackles this task by developing an argument that resembles lesser evil arguments found in applied ethics.

The lesser evil framework involves proportionality analysis to evaluate competing options in a scenario where all lead to some harm. In other words, harm is unavoidable. All else being equal, action that *causes* harm is typically regarded as morally worse than inaction that *allows* it. For instance, killing a child is morally worse than failing to prevent another from killing a child. Nonetheless, most believe that, under certain circumstances, action that causes harm is the right thing to do. Lesser evil arguments seek to formulate that intuition in a way that avoids reducing it to consequentialism. Where the harm caused by an action is significantly less than the harm that would come from inaction, a lesser evil justification appeals to the disparity between the two potential harms to show why the action is permitted. If the disparity between the

⁴⁴ See, e.g., Bryan Stevenson, *Just Mercy: A Story of Justice and Redemption* (New York: Spiegel & Grau, 2014).

harms is great enough, there can be a lesser evil *obligation* rather than merely a *permission* to take the action that results in less harm.⁴⁵

The classic trolley problem illustrates this argument. A trolley is rolling down a track that has five people on it and will kill them all, absent intervention. Someone at the switch can pull it and send the trolley down a different track with only one person on it. Because pulling the switch leads to significantly less harm—one death rather than five—the individual at the switch has a lesser evil justification or perhaps even obligation to pull it. Ideally, there would be an option that saves the lives of everyone on both tracks. But the circumstances preclude that ideal option and leaves pulling the switch as a necessary evil to reduce harm.

Lesser evil arguments most commonly appear in evaluations of individual action, but also can apply to social and political institutions. If an institution causes harm, there still can be a moral basis for it within a lesser evil framework when it prevents far greater harm than it causes. That point connects back to individual obligations since institutions almost always need support from individuals to come into existence and persist. For an institution that prevents far greater harm than it causes, there can be a lesser evil obligation to support it, especially among those enjoying its benefits. Fulfilling that obligation involves complicity in the institution's harms, but such complicity is the lesser evil compared to withholding support and undermining the institution.

⁴⁵ See Alexander, "Lesser Evils"; Rodin, "The Lesser Evil Obligation"; Frowe, "Lesser-Evil Justifications for Harming"; Gordon-Solmon, "How (and How Not) to Defend Lesser-Evil Options."

Hobbes makes a lesser evil argument along those lines when defending the state's authority. Its most explicit expression appears in Chapter 20 of *Leviathan*:

Sovereign Power, whether placed in One Man, as in Monarchy, or in one Assembly of men, as in Popular, and Aristocraticall Common-wealths, is as great, as possibly men can be imagined to make it. And though of so unlimited a Power, men may fancy many evill consequences, yet the consequences of the want of it, which is perpetuall warre of every man against his neighbour, are much worse. The condition of man in this life shall never be without Inconveniencies; but there happeneth in no Common-wealth any great Inconvenience, but what proceeds from the Subjects disobedience, and breach of those Covenants, from which the Common-wealth hath its being. And whosoever thinking Sovereign Power too great, will seek to make it lesse; must subject himself, to the Power, that can limit it; that is to say, to a greater.⁴⁶

This passage exaggerates in its claim that “great Inconvenience” in a commonwealth only stems from disobedience. Hobbes’s discussion of Uriah only a few pages later contradicts that claim. Being killed—a great inconvenience, to say the least—can occur even when the subject, like the faithful Uriah, remains obedient to their sovereign. But despite the exaggeration, the passage develops a compelling idea: a lesser evil argument for political authority. Hobbes recognizes that the sovereign’s power comes with real evils. Ultimately, though, the evils caused by such power are preferable than the alternative—the evils of the state of nature. It is necessary to endow a

⁴⁶ Hobbes, *Leviathan*, p. 320 [106–7].

sovereign with immense power and risk the evils that come with it so as to steer clear of the “much worse” consequences that come with the state of nature.

Despite his strong preference for monarchy, Hobbes in the passage above recognizes that other commonwealths also qualify as lesser evils. When a people institute a commonwealth, monarchy in his view represents the best option or lesser evil among the forms of government available. But even democracy for Hobbes involves fewer inconveniences than civil war and the state of nature. For those living under such a regime, it represents the lesser evil among the options they face. This claim by Hobbes implicitly assumes that a people’s immediate set of options shrinks once a particular form of government is established. They cannot move easily between different forms of government without steep transition costs—violence and conflict.

In the framework of Hobbes’s lesser evil argument, subjects obey their sovereign not with the intention of empowering the state to commit iniquity. Rather, iniquity by sovereigns is best understood as an unintended but largely unavoidable *side effect* of giving them power. Sovereigns need their power to provide the vital good of security, but at the same time it is impossible to prevent its abuse. Subjects obey with the goal of avoiding the evils associated with an overly weak state or no state at all. Ideally, this moral goal could be achieved without wrongdoing by the sovereign. But regrettably that ideal option is not available. For Hobbes, it is clear that individuals have an obligation to choose what in his view is the lesser of two evils: obey a fallible sovereign and give it sufficient power to provide for people’s safety, which comes with the unavoidable risk and side effect that this same power could be abused.

That emphasis on proportionality analysis for evaluating the state and its authority shows up in other political works besides just *Leviathan*. In *The Elements of Law*, Hobbes writes: “The

inconveniences of government in general to a subject are not at all, if well considered.”⁴⁷ Now shortly after this claim, he goes on to admit real inconveniences that commonwealths have, like the risk of one’s possessions or life being taken away due to the sovereign’s arbitrary decision. So Hobbes should not be read as claiming that there are literally no inconveniences for subjects in a commonwealth. Rather, he thinks that these risks are significantly lower than those outside the commonwealth. Or as Hobbes puts it: “to say there is inconvenience, in putting the use of the Sovereign Power, into the hand of a Man, or an Assembly of men; is to say that all Government is more Inconvenient, than Confusion, and Civill Warre.”⁴⁸

Before comparing the strengths and weaknesses of different regimes, Hobbes in *De Cive* stresses the need for a more fundamental proportionality analysis: “first let us compare the advantages and disadvantages [*commoda & incommoda*] of the commonwealth in general, so that no one will believe it would be better for everyone to live at his own discretion than to make a commonwealth at all.” He explains the rationale for his conclusion: “Outside the circumstances of a commonwealth [*statum civitatis*] each man does indeed have the most complete liberty, but it does him no good. And the reason is that he who does all things of his own free will because he has his liberty, also suffers all things at the will of others, because they have their liberty.”⁴⁹

It is an uphill battle to convince readers of this point, notes Hobbes, because the proportionality analysis he recommends often does not come naturally. People tend to focus on inconveniences they feel and are most familiar with, while downplaying or ignoring

⁴⁷ Hobbes, *The Elements of Law*, p. 136 [ch. 24 §2].

⁴⁸ Hobbes, *Leviathan*, p. 292 [97]. See also Hobbes, *Leviathan*, p. 282 [94].

⁴⁹ Hobbes, *De Cive*, pp. 115–16 [ch. 10 §1].

inconveniences—even if far greater—more distant from them. In response to those who bemoan “that the Condition of the Subjects is very miserable,” Hobbes writes: “all men are by nature provided of notable multiplying glasses, (that is their Passions and Selfe-love,) through which, every little payment appeareth a great grievance; but are destitute of those prospective glasses, (namely Morall and Civill Science,) to see a farre off the miseries that hang over them, and cannot without such payments be avoyded.”⁵⁰ With his lesser evil argument, he tries to get readers to engage in a more balanced analysis of the state’s benefits and harms, which truly takes into account the evils that arise when no state is present.

It would be a mistake to interpret Hobbes’s proportionality analysis as claiming that *every* individual in a commonwealth is better off and more secure than they would be in the state of nature. Karl Widerquist and Grant McCall attribute this view to Hobbes in their book *Prehistoric Myths in Modern Political Philosophy*. Based on their understanding of Hobbes’s description of the state of nature and its role in his political philosophy, they “characterize the ‘Hobbesian hypothesis’ as follows. *Everyone under a sovereign government is better off (or no worse off) than they could reasonably expect to be outside of that authority.*”⁵¹

Though Widerquist and McCall’s analysis has notable strengths, such as their detailed engagement with anthropological evidence to highlight problematic assumptions in modern political philosophy, their formulation of the “Hobbesian hypothesis” mischaracterizes Hobbes. We need look no further than Hobbes’s lesser evil argument to see why. Not everyone is better

⁵⁰ Hobbes, *Leviathan*, p. 282 [94].

⁵¹ Karl Widerquist and Grant McCall, *Prehistoric Myths in Modern Political Philosophy* (Edinburgh: Edinburgh University Press, 2017), 30.

off as a result of lesser evil actions. The trolley problem highlights that point: the person killed when the switch is pulled obviously is worse off than they would be if it were not pulled.

Similarly, Hobbes's account of the many advantages of living under a sovereign still leaves room for the possibility that some—like Uriah—could end up worse off in a commonwealth.

For subjects threatened with grave harm by their sovereign, Hobbes recognizes that the best option for them—among the bad ones available—sometimes is returning to the state of nature. He notes that a subject is at “Liberty to disobey” if the sovereign commands him “to kill, wound, or mayme himselfe; or not to resist those that assault him; or to abstain from the use of food, ayre, medicine, or any other thing, without which he cannot live.”⁵² We know from earlier in *Leviathan* that disobeying the sovereign returns an individual to “the condition of warre he was in before.”⁵³ This condition of war is, of course, the state of nature.⁵⁴

In allowing those who face the harms of lesser evil actions the permission to resist them, Hobbes adopts a view common in moral thinking today. It is intuitively plausible that those who have done nothing to make themselves liable to harm—such as civilians who would be harmed as a side effect of a strike on a military target—can resist the harm they face, even if it stems from a morally justified lesser evil action. As Jeff McMahan puts it, there is no moral requirement “simply to submit to being wronged by another’s morally justified action.”⁵⁵ The

⁵² Hobbes, *Leviathan*, p. 336 [111–12].

⁵³ Hobbes, *Leviathan*, p. 268 [90].

⁵⁴ Hobbes, *Leviathan*, pp. 192, 196 [62, 63].

⁵⁵ Jeff McMahan, “The Basis of Moral Liability to Defensive Killing,” *Philosophical Issues* 15 (2005): 399. In addition, accounts of lesser evil obligations often include a caveat that they only

exceptions for resistance built into Hobbes's thought ultimately prove compatible with a lesser evil argument for the state and obligations for most of its residents to obey it.

Notably, at one point when emphasizing proportionality analysis, Hobbes says that the state imposes fewer inconveniences on the people generally, not every individual subject. "Man can never be without some incommodity or other," he writes in *Leviathan*, "and ... the greatest, that in any forme of Government can possibly happen to the *people in generall*, is scarce sensible, in respect of the miseries and horrible calamities, that accompany a Civill Warre."⁵⁶ In other words, most (but not necessarily all) people do far better with government than without it.

So a careful reading of Hobbes and his lesser evil argument shows that he avoids the controversial and clearly false assumption that *everyone* is better off under a sovereign power. Rather than shy away from that point, he admits that government can have devastating consequences for some subjects through no fault of their own. The best way to understand Hobbes's argument is as a probabilistic argument. For most people, they will enjoy greater security and a longer life under government than if they lived in the state of nature. Individuals have an obligation to obey the state in order to support the lesser evil, while also giving themselves the best opportunity of security. But there are exceptions—namely, when the state

hold if the action required does not impose an "unreasonable cost" on the person performing it (Frowe, "Lesser-Evil Justifications for Harming," 463). This point usually is intended for the person in position to take a lesser evil action that prevents greater harm, but it also seems to apply to those facing the harm. That is, there typically is no moral obligation to passively accept a lesser evil harm if doing so comes with an unreasonable cost.

⁵⁶ Hobbes, *Leviathan*, p. 282 [94] (emphasis added).

poses grave threats to particular individuals. In those cases, the lesser evil obligation to obey the state no longer applies to those targeted by it.

4 Another Role for Lesser Evils in Hobbes's Thought

Hobbes deploys the language of lesser evils in other arguments which have drawn the attention of Hobbes scholars. Many focus on passages that recognize individuals' right to resist if their life is at stake. In *Leviathan*, Hobbes writes: "man by nature chooseth the lesser evill, which is danger of death in resisting; rather than the greater, which is certain and present death in not resisting."⁵⁷ He makes a similar point in *De Cive*: "an obligation not to resist is an obligation to choose what will seem the greater of two present evils. For certain death is a greater evil than fighting. But it is impossible not to choose the lesser of two evils. Hence by such an agreement we would be obligated to the impossible."⁵⁸ He goes on to note in *De Cive* that men "willingly break the law, whenever it seems that *greater good* or *lesser evil* will come to themselves from breaking it."⁵⁹ Together, these passages explore the limits of the obligation to obey the sovereign and its laws under nonideal conditions. If obedience comes with such great harms that it no longer represents the lesser evil, Hobbes stresses that we cannot expect people to obey.

⁵⁷ Hobbes, *Leviathan*, p. 214 [70].

⁵⁸ Hobbes, *De Cive*, p. 40 [ch. 2 §18].

⁵⁹ Hobbes, *De Cive*, p. 69 [ch. 5 §1].

Various articles on his understanding of obligation and the role of fear of death in his thought cite these passages.⁶⁰ In particular, the passages figure prominently in studies of Hobbes's theory of resistance, like Susanne Sreedhar's *Hobbes on Resistance*.⁶¹ Such work highlights that, for Hobbes, resistance represents a lesser evil under certain narrow conditions.

It is far less common, however, for scholars to similarly note that Hobbes explicitly understands the state as a lesser evil, which in turn provides grounds to obey it under the vast majority of circumstances. One finds a passing reference by Gregory Kavka that Hobbes in his social contract theory "conclude[s] that the parties would choose the absolute sovereign as the

⁶⁰ See, e.g., Andrew Alexandra, "'All Men Agree on This...': Hobbes on the Fear of Death and the Way to Peace," *History of Philosophy Quarterly* 6 (1989): 47–48; Graham Dodds and David Shoemaker, "Why We *Can't* All Just Get Along: Human Variety and Game Theory in Hobbes's State of Nature," *Southern Journal of Philosophy* 40 (2002): 360; Martin Harvey, "Hobbes's Voluntarist Theory of Morals," *Hobbes Studies* 22 (2009): 68–69; Mark Peacock, "Obligation and Advantage in Hobbes' *Leviathan*," *Canadian Journal of Philosophy* 40 (2010): 443–46; Alan Cromartie, "'The Elements' and Hobbesian Moral Thinking," *History of Political Thought* 32 (2011): 42, 45; Venezia, "Hobbes' Two Accounts of Law," 291; Johan Olsthoorn, "Worse than Death: The Non-Preservationist Foundations of Hobbes's Moral Philosophy," *Hobbes Studies* 27 (2014): 160–61; Paul Garofalo, "Psychology and Obligation in Hobbes: The Case of 'Ought Implies Can,'" *Hobbes Studies* 34 (2021): 157, 164.

⁶¹ Susanne Sreedhar, *Hobbes on Resistance: Defying the Leviathan* (New York: Cambridge University Press, 2010), 31–33, 38, 46. See also Peter Steinberger, "Hobbesian Resistance," *American Journal of Political Science* 46 (2002): 865.

lesser evil.”⁶² But Hobbes scholarship on his theory of political authority focuses on other arguments—like those appealing to rational self-interest, God’s natural law, or an act of authorization—that he makes for why individuals have an obligation to obey the state.⁶³

Thus Hobbes’s lesser evil logic is potentially compatible with and overlaps, to a certain extent, with other arguments in his thought. We can understand the state that God commands

⁶² Gregory Kavka, “Hobbes’s War of All against All,” *Ethics* 93 (1983): 297.

⁶³ This literature is vast, but key works contributing to it include Howard Warrender, *The Political Philosophy of Hobbes: His Theory of Obligation* (New York: Oxford University Press, 1957); Thomas Nagel, “Hobbes’s Concept of Obligation,” *Philosophical Review* 68 (1959): 68–83; David Gauthier, *The Logic of Leviathan: The Moral and Political Theory of Thomas Hobbes* (New York: Oxford University Press, 1969); Jean Hampton, *Hobbes and the Social Contract Tradition* (New York: Cambridge University Press, 1986); Gregory Kavka, *Hobbesian Moral and Political Theory* (Princeton, NJ: Princeton University Press, 1986); Lloyd, *Ideals as Interests in Hobbes’s Leviathan*; A.P. Martinich, *The Two Gods of Leviathan: Thomas Hobbes on Religion and Politics* (New York: Cambridge University Press, 1992); Perez Zagorin, *Hobbes and the Law of Nature* (Princeton, NJ: Princeton University Press, 2009); Venezia, *Hobbes on Legal Authority and Political Obligation*; Michael Byron, *Submission and Subjection in Leviathan: Good Subjects in the Hobbesian Commonwealth* (New York: Palgrave Macmillan, 2015); Michael Green, “Authorization and Political Authority in Hobbes,” *Journal of the History of Philosophy* 53 (2015): 25–47; John Deigh, “Political Obligation,” in *The Oxford Handbook of Hobbes*, ed. A.P. Martinich and Kinch Hoekstra (New York: Oxford University Press, 2016), 293–314.

obedience to, that advances most individuals' self-interest, and that people should consent to obey as a lesser evil. Nonetheless, the lesser evil argument remains distinct from other arguments in what it specifically appeals to: the significant disparity between the evils that a people experience in the state and the greater evils that they would experience outside of it. That line of argument focused on the lesser evil for society as a whole differs from strictly appealing to individual self-interest, God's natural law, or acts of authorization or consent. The lesser evil argument notably can stand by itself even if Hobbes's other principal arguments for political authority fail or his readers reject them. Because of its distinctiveness, the lesser evil argument merits more attention when considering the various reasons that Hobbes offers for political authority. Recent developments in political philosophy also make now an apt time to take note of this argument by Hobbes, as the next section explains.

5 Implications for Contemporary Debates on Political Authority

Political philosophy has undergone a “nonideal turn,” with heightened attention on the injustices and imperfections that mar our world.⁶⁴ Because Hobbes shows little interest in defending the political authority of perfect states, he offers an approach that takes into account concerns now at the center of debates over political authority. In fact, there are parallels between his lesser evil argument and recent work in philosophy on political authority.

These parallels are perhaps most evident in Wellman's latest article on political authority, “The Space between Justice and Legitimacy” in the *Journal of Political Philosophy*. Though

⁶⁴ Stephen Darwell, “Recognition, Second-Personal Authority, and Nonideal Theory,” *European Journal of Philosophy* 29 (2021): 569.

Wellman uses different language than Hobbes and focuses on the injustices rather than iniquities of states, he shares with Hobbes the starting premise that no state is perfect: “given that states are such large bureaucratic entities, there is no way in the real world for a state to avoid violating rights.... [I]njustice appears to be the price of admission to this realm.”⁶⁵ Later he reiterates this point: “It would be lovely if states could provide their extraordinary benefits without violating any rights, but we know in advance that—no matter how hard we try—incompetence and corruption will inevitably lead to rights violations.”⁶⁶ In light of this fact, Wellman considers what are the most compelling grounds for political authority. He arrives at a very Hobbesian answer, pointing to proportionality analysis of the state’s benefits and harms: “rights violations are (sometimes) proportionate for states.... To emphasize: it is not enough that we could not, as a practical matter, operate a state without violating any rights (that is, injustice is a practical *necessity*), the rights violations involved must also be *proportionate*.”⁶⁷

Now, to be sure, Wellman’s account of political authority differs from Hobbes’s in important ways. Most notably, far more states fail Wellman’s proportionality analysis and lack political authority than is the case for Hobbes. But despite such differences, Wellman’s overall framework for evaluating political authority has striking similarities to Hobbes’s lesser evil argument. Wellman even uses the term “lesser evil” at one point when discussing how to apply his approach to political authority in particular cases.⁶⁸

⁶⁵ Wellman, “The Space between Justice and Legitimacy,” 2.

⁶⁶ Wellman, “The Space between Justice and Legitimacy,” 9.

⁶⁷ Wellman, “The Space between Justice and Legitimacy,” 8.

⁶⁸ Wellman, “The Space between Justice and Legitimacy,” 19.

It perhaps is not surprising that Wellman would develop an argument with such close affinity to Hobbes's thought. Wellman identifies one of the state's chief benefits as "sav[ing] people from the perils of the state of nature."⁶⁹ In earlier work, he recognizes his debt to Hobbes in how he conceives the "benefits of political society,"⁷⁰ noting that it is "difficult to deny the general picture" of Hobbes's state of nature.⁷¹ If one takes the view that the state of nature is a dangerous place characterized by greater violence and instability, states stand a better chance of surviving proportionality analysis pertaining to their political authority. Wellman's Hobbesian assumptions about the state of nature yield a proportionality analysis that gives considerable weight to the benefits of peace and security offered by states.

So Wellman recognizes shared features between his approach to political authority and Hobbes's, but only to an extent. While crediting the influence of Hobbes's account of the state of nature, Wellman fails to mention Hobbes's emphasis on proportionality analysis when evaluating the state and its authority. This oversight is understandable given how little attention that Hobbes's lesser evil argument for political authority has received, and it would be unfair to fault Wellman for overlooking it.

But moving forward, political philosophy would benefit from updating its shorthand description of Hobbes's account of political authority to make room for his lesser evil argument. Long before the nonideal turn in political philosophy, Hobbes wrestled with how to establish the authority of deeply imperfect states, like those we find in the world. As political philosophers

⁶⁹ Wellman, "The Space between Justice and Legitimacy," 9.

⁷⁰ Wellman, "Toward a Liberal Theory of Political Obligation," 751.

⁷¹ Wellman, "Samaritanism and the Duty to Obey the Law," 11.

today tackle that question, there is value in examining past formulations of the lesser evil argument for potential insights.

6 Conclusion

In the Latin *Leviathan*, Hobbes makes clear that he does not want his book lumped together with utopian works like Plato's *Republic*, Thomas More's *Utopia*, and Francis Bacon's *New Atlantis*.⁷² His focus on establishing the political authority of imperfect states, like those actually found in the world, certainly distinguishes *Leviathan* from these other works. One strategy Hobbes uses to explain why nonideal states have political authority is his lesser evil argument. Actual states suffer from inevitable evils, but when they provide a population with the good of security, their evils and inconveniences pale in comparison with those in the state of nature. Hobbes scholarship and political philosophy have tended to overlook this argument that openly concedes the state's imperfections. It has renewed relevance today given the nonideal turn in political philosophy.

The aim of this article has been to explain Hobbes's lesser evil argument and highlight its presence throughout his major political works. We remain agnostic on whether Hobbes's lesser evil argument actually succeeds—that is, whether it establishes states' political authority. Long-standing debates over political authority will almost certainly continue and bringing attention to Hobbes's lesser evil argument will not put them to rest.

What often makes philosophical arguments valuable, though, is not that they end debate but rather push it in more fruitful directions. Hobbes's lesser evil argument shifts attention away

⁷² Hobbes, *Leviathan*, p. 575 [172].

from a question that has long preoccupied political philosophy but has little practical relevance: do those in an ideal (or nearly ideal) state have an obligation to obey it? The lesser evil argument instead asks: do we have an obligation to obey a state that provides the tremendously important moral good of security *and* commits grave wrongs? Perhaps the greatest virtue of Hobbes's lesser evil argument is that it puts the focus on a question that we are far more likely to face.

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