

Green Leviathan? Thomas Hobbes, Joel Bakan and Arnold Schwarzenegger

Un Léviathan vert? Thomas Hobbes, Joel Bakan et Arnold Schwarzenegger

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Abstract

Thomas Hobbes postulates that men are driven by “a perpetual and restless desire of power after power, that ceaseth only in death.” The miserable consequences of this drive for power and the competing “desire of ease and sensual delight” and “fear of death and wounds” lead them to establish and obey. Substituting “profit” for “power” yields a description of the modern corporation, but without the desires or fears of natural persons. Such “unnatural persons” lack the Hobbesian ground of obligation, yet have appropriated the privileges and protections of natural persons. They challenge or undermine the sovereign wherever it limits their profits. Governor Schwarzenegger’s re-election in California, however, on a strong anti-CO₂ program, suggests a willingness by threatened natural persons to re-empower Leviathan.

Résumé

Thomas Hobbes émet l'hypothèse que tous les hommes sont mûs par [traduction] « un désir perpétuel et fébrile d'acquérir pouvoir après pouvoir, désir qui ne cesse qu'à la mort », « le désir de bien-être et de plaisirs sensuels » et « la peur de la mort et des blessures ». Les malheureuses conséquences du désir de pouvoir les incitent à édifier et à obéir à un tout-puissant État souverain : le fameux Léviathan. Remplacez « bénéfiques » par « pouvoir » et vous avez une description de la personne morale moderne, mais sans les désirs ou les craintes qui animent les personnes physiques. Ces « personnes non physiques » ne sont pas tenues d'adhérer au principe d'obligation de Hobbes, et pourtant, elles se sont approprié les privilèges et les protections dont jouissent les personnes physiques. Elles minent le souverain ou contestent ses décisions lorsqu'il cherche à limiter leurs profits. Toutefois, la réélection, en Californie, du gouverneur Arnold Schwarzenegger sur la base d'un solide programme de réduction des émissions de dioxyde de carbone, montre que les personnes physiques sont disposées à redonner du pouvoir au Léviathan lorsqu'elles se sentent menacées.

THOMAS HOBBS'S FAMOUS PHRASE, "NASTY, BRUTISH AND SHORT," WAS offered as a description not of a marginalized ethnic group but of life in a (purely hypothetical) "state of nature," where there is no central authority and power:

In such condition, there is no place for industry; because the fruit thereof is uncertain: and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving, and removing, such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short.

This grim yet rather poetic passage bears a remarkable similarity to Thomas Homer-Dixon's description of conditions in modern "failed states," torn by communal violence, in which the scarce supply of human effort and ingenuity is devoted not to bettering the human condition but to plundering one's neighbours (Homer-Dixon et al. 1993). Hobbes's description, however, owes nothing to observation; it is a pure thought experiment, derived from *a priori* assumptions about human nature:

So that in the first place, I put for a general inclination of all mankind, a perpetual and restless desire of power after power, that ceaseth only in death.

This essentially mechanical drive for (individual) power results in a perpetual “war of all against all,” in which all men share an equal vulnerability in the most fundamental sense that the weakest can kill the strongest (you have to sleep sometime) and no man’s person or property is ever secure. But human nature includes other (equally mechanical) drives:

Desire of ease, and sensual delight, disposeth men to obey a common power.
... Fear of death and wounds disposeth to the same.

All men therefore agree, in order to escape the state of nature, to enter into an equally hypothetical “social contract” by which they give up ultimate power and accept the over-arching authority of a sovereign, acting through the State. The sovereign might be a hereditary monarch, but the later Crown-in-Parliament, with an elected parliament, will also serve so long as the sovereign has absolute authority, in any way it chooses, to impose peace on its otherwise warring subjects.

The state of nature is a logical consequence of Hobbes’s assumptions about human nature. He seems to have made no effort – though by the mid-17th century he might

have done – actually to collect information on societies at different levels of development. In reality, all societies, human and non-human, have a complex social structure and a web of relationships, of expectations, obligations and unwritten rules. The greater complexity of human societies may result,

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at some stage of development, in the establishment and acceptance of a sovereign power, but the relation of authority and obedience between sovereign and subject is only one component of this complex web.

What has disappeared from political thinking is the notion of “bonding” —the horizontal links between citizens. ... The family, clan, neighbourhood, religious order, or any traditionally “unwritten laws” determined by custom as the basis for political life are forbidden, unless the sovereign permits them. (Johnston 1999)

Political behaviour is thus emptied of moral content, and men in Hobbes’s world are no longer moral agents. Their individual behaviour arises from a mechanical response

to the limitless drive for power, and their collective political behaviour – the social contract – arises from their need to reconcile the consequences of this drive with their desires to increase pleasure and avoid pain.

As a description of human psychology, and of actual behaviour, this is pretty thin stuff. But as economic theory amply demonstrates, *a priori* reasoning about social behaviour is dangerously attractive. The well-organized mind makes rapid intellectual progress without the tedious process of collecting and sorting out all the baggage of empirical reality, producing coherent, logically consistent, and aesthetically pleasing model worlds that may be rather distant, in critical respects, from our own.

In the centuries since Hobbes, however, an entirely new class of “persons” has emerged, legal rather than natural, that fit his framework rather well. Rephrase his second postulate as “profit” for “power” in the postulate of “a perpetual and restless desire of power after power,” and you have the modern corporation.

The corporation is, of course, ultimately owned by natural persons. But in the modern capital market these owners are numerous, typically dispersed and anonymous, and constantly shifting. Corporations own shares in other corporations, while much of the ultimate human ownership is indirect, through mutual or pension funds. Most of these ultimate “owners” neither know nor care what they own. What they care about is the rate of return. Paraphrasing Vince Lombardi, “Profit is not the most important thing. It’s the only thing.”

Moreover, “the market” demands not merely high profits, but continuously compounded growth, and builds growth expectations into stock prices. A “perpetual and restless desire of profit after profit” is not a psychological postulate but an immediate consequence of the structure of capital markets. If (expected) earnings growth slackens, stock prices fall, and management will probably fall with them.

A person who does not recognize the bonding relationships – the normal horizontal links among natural persons – and who pursues his or her own objectives indifferent to their impact on others is considered to be psychologically disturbed, a “sociopath.” As argued in the documentary film *The Corporation*, based on Bakan (2004), the modern corporate “person” is thus essentially sociopathic. Its motives and behaviour meet the technical definition of the diagnosis. The corporation is not immoral; it is simply amoral.

Moreover, the corporation is the real Hobbesian thing. His political animals were radically stripped-down versions of human beings (rather like the consumers of economic theory). Then as now, real people were embedded in complex webs of obligations and objectives that shaped their behaviour. The wars of religion, for example, were not simply the aggregate consequence of individual self-aggrandizement. The corporation really is a “person” with a single, unbounded objective. But it differs from Hobbesian individuals in a couple of respects that are, I think, crucial.

First, despite its name, the corporation has no physical body to be threatened

or delighted. Lacking fear of death or wounds, or desire of ease or sensual delight, it has no motivation to respect a social contract. Hobbes's arguments for accepting the authority of the sovereign and obeying its orders – the “ground of obligation” – do not apply to the new class of corporate persons. Respecting or breaking the law is simply a business decision: which behaviour yields the greater expected profit?

Second, the economically successful corporation commands resources on a scale unimaginable for any individual person, even Bill Gates. All these assets belong, legally, to natural persons who are in principle identifiable. But if the corporation is to fulfill its single mandate of profit maximization, it must have full control over their use. And it does.

The picture that emerges is of a collection of immensely wealthy and powerful sociopathic “pseudo-persons” with Hobbesian drives, but without Hobbesian fears. It

is therefore not surprising that, as Bakan documents, the historical evolution of the modern corporation was accompanied by deep suspicion on the part of the natural persons among whom it operated. On the other hand, there is also no denying that the corporation has been an engine of eco-

economic growth and prosperity, of technical and institutional innovation, unmatched in human history. It is hard to imagine a modern world without the modern corporation. It works.

But we seem to have lost sight of the fact that this “legal person” is a social construction, owing its existence and powers to specific legal and political decisions. Unlike natural persons, it is not in the Kantian sense an end in itself but rather a means, an institution created by a society of natural persons to serve their ends.

Natural persons have “human rights” simply because they are human. But corporations are not human. Logically, they have no claim to inherent rights. Rather, they should be assigned only those rights that can be shown to further the purposes and promote the well-being of the society of natural persons (not just their owners!) that brings them into being. Yet over the last century, the corporate “person” has succeeded (quite deliberately) in portraying itself as, in effect, a big natural person, entitled to all the same legal and constitutional privileges and protections. Our political and legal representatives have been persuaded to look the other way, while a bamboozled public have not even noticed.

So now, when CanWest Global challenges the Canadian ban on advertising of

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prescription drugs, the case is being argued on the basis of a constitutionally protected right to free speech, a right that is inherent, not simply instrumental. (Tobacco companies have previously made the same claim.) Much dust is kicked up about the alleged informational, even educational, role of corporate advertising. One might get the impression that a pharmaceutical firm is “an eleemosynary outfit” (Robertson 1976). But the more fundamental question is, why does a corporation have constitutionally protected rights at all?

Humans have many purposes, and insofar as those purposes are lawful we assign them value, or at least protection. But the corporation’s sole purpose, profit maximization, has no inherent value at all. The assignment of particular rights to such entities can be justified only insofar as it tends to promote the well-being of natural persons. The notion that restricting the right of these immensely powerful sociopaths to make propaganda in pursuit of profit is somehow akin to preventing me from talking to my neighbours, or placing my opinions in the public domain, is bizarre. But it follows from a (carefully nurtured) confusion between legal and natural persons, between means to ends, and ends in themselves.

A similar confusion has arisen, during the last generation, over patents. Throughout their history, patents have been understood as a special privilege, a monopoly granted and enforced by the State to advance a particular public purpose – encouragement of innovation. Lawyers and economists were perfectly clear that patents were not a reward for past behaviour, but an incentive to future behaviour. As an instrument of public purposes, patents could – and should – be modified and adapted as the State saw fit so as to sharpen their efficiency and limit their interference with other public objectives.

The past generation has seen this historical interpretation turned inside out. The new concept of “intellectual property” creates a new form of rights that the State is obliged to respect and protect. Patents are no longer instruments of public policy; they are now private entitlements. For any government to tamper with them is to violate private property rights that are constitutionally protected ... in the United States.

In 1969, the Canadian government introduced compulsory licensure for patented drugs. Big Pharma objected strenuously, since the intent and the effect was to create a more competitive market and lower drug prices in Canada. They fought the policy long and hard, and eventually (with the assistance of the United States government) successfully.

No one, however, questioned the authority of the Canadian government to pass such legislation. Today, in the world of NAFTA, TRIPS, and indeed the 1982 Canadian constitution, such a measure is hard to imagine. Patents have been transformed from instruments of social policy to private property rights, primarily through the initiative, and certainly to the benefit, of private corporations.

That the modern corporation may attempt to undermine the authority of the sov-

foreign state wherever that authority impedes the pursuit of profit is not a new insight. But the Hobbesian perspective suggests that the behaviour of the tobacco industry – concealing health data, lying under oath and engaging in deliberate criminal activity to protect its markets – is not aberrant, as anti-smoking activists would have it. Such corporate behaviour is a predictable response to threats to profits. What makes tobacco different is only the particularly noxious nature of its product.

This point is made by Terry Tamminen (2006), who draws an explicit parallel between the tobacco industry and the behaviour of the automobile and oil industries in the United States from the 1920s onward. He describes an actual corporate conspiracy initiated by General Motors, through a corporation called National City Lines, to buy up and shut down urban electric railways in 45 American cities, in order to expand the market both for diesel buses and, more significantly, for the private automobile.

The oil and automobile industries systematically concealed data and lied to regulators about the health effects of automobile emissions – just like the tobacco industry. If American legislators had had a more realistic picture of the environmental effects of the oil economy, would they have launched, in 1956, the gigantic federal subsidy of the Interstate Highway Program?

Tamminen is a lifelong environmental activist, and his claims are neither new nor uncontested. What makes him interesting is that he is also an environmen-

tal adviser to Governor Arnold Schwarzenegger of California. Arnie, the derider of “girlie men,” driver of Hummers and, allegedly, political acolyte of Attila the Hun, has just ridden to easy re-election on the back of a really serious and multi-pronged legislative program to reduce greenhouse gas

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emissions. This is the sort of thing that other state governors might notice, whatever their political stripe, and according to Tamminen, they have (CBC 2006).

The Bush administration still has its collective head firmly buried in the environmental sands, but Tamminen argues that the US government will either wake up over the next couple of years, or simply be pushed aside as the individual states move forward. (In Ottawa, Stephen Harper has woken much more quickly to the political threat, and the embarrassing contrast between California’s legislation and his own, but extracting one’s head from the tar sands may be more difficult.)

And here we come back to Hobbes. Crucial to his analysis was the universally shared vulnerability in the state of nature that could be escaped only by accepting the authority of the sovereign. Governor Schwarzenegger's success, over the strong resistance of the legal but unnatural persons in his state, can perhaps be interpreted as reflecting a growing sense among natural persons of their shared vulnerability to global warming. That sense of shared vulnerability – to death and wounds, in a general sense – was in this case powerful enough to overcome corporate resistance and reassert the ultimate authority of the sovereign.

Where will it all end?

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