British Journal for the History of Philosophy

ISSN: (Print) (Online) Journal homepage: www.tandfonline.com/journals/rbjh20

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To cite this article: Teresa M. Bejan (2024) Hobbes against hate speech, British Journal for the History of Philosophy, 32:2, 247-264, DOI: 10.1080/09608788.2022.2027340

To link to this article: https://doi.org/10.1080/09608788.2022.2027340

Published online: 03 Feb 2022.

BRITISH JOURNAL FOR THE HISTORY OF PHILOSOPHY
2024, VOL. 32, NO. 2, 247–264
https://doi.org/10.1080/09608788.2022.2027340

Routledge
Taylor & Francis Group

ARTICLE

OPEN ACCESS

Hobbes against hate speech

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ABSTRACT

This article argues that Thomas Hobbes' analysis of insult or 'contumely' prefigures recent developments in moral and political philosophy in striking ways. Specifically, Hobbes's concerns about the dignitary harms in hate speech went well beyond 'fighting words' to the essential role played by expressions of hatred and contempt in making and unmaking social hierarchies. Hobbes's sensitivity to contumely's subtle power to constitute social in/equalities recalls recent work in feminist and critical race theory. Yet his expansive solutions – both negative and positive, legal and ethical – also shed light on the difficulties faced by aspirationally egalitarian societies in their efforts to eradicate contempt today.

ARTICLE HISTORY Received 20 September 2021; Revised 17 December 2021; Accepted 6 January 2022

KEYWORDS Hobbes; respect; hate speech; contempt; feminism

1. Introduction

The final chapter of Jeremy Waldron's *The Harm in Hate Speech* takes an unexpected turn. After analysing the modern damage done by myriad forms of group defamation – from racist, sexist, and homophobic slurs, to 'hate propaganda' and religious insult – Waldron turns to early modern defenses of religious toleration. "Until recently", he confesses, "I never thought to make a connection" between these twenty-first-century concerns and the thought of "Enlightenment *philosophes*" (17). Still, he insists, early modern thinkers like John Locke and Pierre Bayle were similarly concerned about the harm in hateful speech as an assault on the social dignity of vulnerable minorities.

Strikingly, however, Waldron explicitly disavows the one early modern thinker whose analysis of hateful speech and calls for its proscription most closely resemble his own. In *Leviathan* (1651), Thomas Hobbes argued directly for the legal proscription of 'contumely' or insult – which he defined inclusively as *any* expression of hatred or contempt, by word or deed – as a

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demand of natural law. As the eighth law of nature put it: "Because all signs of hatred or contempt provoke to fight … *no man by deed, word, countenance, or gesture, declare hatred or contempt of another*" (L ii.15.234).[1] While Waldron acknowledges this provision, he nonetheless dismisses Hobbes's justifications as crudely prudential, and thus at odds with an appreciation of the *real* harm in hate speech as an assault on individuals' 'assurance' of their equal dignity – that is, to their sense that others recognize or regard them reliably as social and political equals (231, 82). To present the harm in hate speech 'simply as a matter of the causation of violence' – as, according to Waldron, Hobbes does – thus neglects 'the deeper issue', i.e. the deleterious effects of hateful speech on "the dignitary order of society" (219).

But did Hobbes, in fact, ignore this 'deeper issue'? Waldron is hardly the first to construe Hobbes's concerns about contumely narrowly as a fear of 'fighting words'.[2] Most recently, Axel Honneth has denied Hobbes a place in the history of recognition, because of the primacy of "physical" over "psychological desires" in his political philosophy (*Recognition*, 11–2; see also Hont, *Politics in Commercial Society*, 10ff). Yet this article will demonstrate that the Hobbesian case against contumely was much subtler and more central to his political project than commentators like Waldron or Honneth have allowed, particularly in its analysis of the status-harms implicit in hateful and contemptuous speech. Indeed, there have been few thinkers, before or since, who have been more attuned to the "transformative technology" of language (Pettit, *Made With Words*, 2), or who have sought to harness its power so straightforwardly to political ends.

In addition to highlighting the underlying psychology and passions motivating contumelious speech – including hatred, anger, and above all contempt – the following discussion reveals that Hobbes was also attentive to the wide array of offending modes of expression beyond mere words, including what social historians call 'the politics of gesture' (e.g. Braddick, "Introduction"). Keeping this in mind, one sees that Hobbes's concerns about contumely went well beyond the potential for violence to the role that expressions of hatred and contempt play in the construction and ongoing maintenance of social hierarchies. In this, the concerns captured in *Leviathan*'s eighth law of nature dovetail closely with the ninth: "*That every man acknowledge other for his Equall by Nature*. The breach of [which] Precept is *Pride*" (L ii.15.234).

This analysis reveals that Hobbes was, like Waldron, deeply worried about the power of hateful and contemptuous speech to undermine individuals'

[1]Parenthetical citations to Hobbes's major works will be given as follows: *The Elements of Law, Natural and Politic* (1640) as EL; *De Cive* (1642/6) as DC; *Leviathan* (1651) as L; *Behemoth, or the Long Parliament* (1681) as B.

[2]For pushback against this characterization, see Bejan, *Mere Civility* and Mark, "Natural Laws of Good Manners".

status as natural (and, indeed, political) equals. But he was also attuned to the profound importance of 'civil worship' or respectful behaviour in maintaining the dignitary order of equal subjection he deemed politically essential. In foregrounding the intimate connection between social practices of equality, respect, and contempt as the key to understanding the harms in hate speech, this Hobbesian argument prefigures recent theories of relational equality and recognition that focus on the performative power of language to create – but also undo – exclusionary and subordinating social norms.

In the conclusion, I return to the intriguing parallels between Hobbes's arguments and recent developments in moral and political philosophy (e.g. Anderson, "What was the point of Equality?" and *Private Government*; Fricker, *Epistemic Injustice*; Maitra and McGowan, "Speech and Harm"; Waldron, *Harm in Hate Speech* and *Dignity, Rank, Rights*). Inspired by insights from feminist and critical race theory, much of this work has encouraged us to look beyond legal and political institutions to the 'micropolitics' of everyday life, while highlighting the ways in which language itself can undermine equal dignity and create hierarchies of status – not only in the case of hate speech, but through more subtle microaggressions, pronoun choices, even grammatical gender itself (e.g. McTernan, "Microaggressions"; Kapusta, "Misgendering"). This article concludes by asking what light, if any, might Hobbes's analysis of hate speech, its manifold harms, and possible solutions shed on contemporary concerns.

Not only does Hobbes appear on this account as a theorist of the 'microaggression' *avant la lettre* (see Wing Sue, *Microaggressions*, 29); his analysis of the role that contumely plays in the creation, reproduction, and reformation of social inequalities can illuminate the inadequacies of law in redressing the harms in hate speech. His work thus highlights the extensive social – and occasionally sartorial – demands that the acknowledgement of equality places on individuals, as well as the inherent instability of efforts to eradicate contempt in aspirationally egalitarian societies. While the Hobbesian solutions recovered here may make modern readers uncomfortable, they shed important light on the continuing importance of expressions of respect *and* contempt in the ongoing constitution of a society of equals.

2. The harms in hate speech

'Hate speech' can seem like an unduly restrictive term for the expansive phenomenon of injurious and socially destructive language – for example, racial slurs, genocidal propaganda, religious insult, or discriminatory signage – Waldron and others have in mind. At issue are attitudes beyond hatred and modes of expression beyond the written and spoken word. Moreover, while the term 'hate speech' focuses attention on the speaker and his or her internal motivations, Waldron and others agree that the problem lies

rather in hate speech's harmful effects on its hearers, both its direct targets and society at large. 'Offensiveness' to audience sensibilities, like that of speaker hatred, is a red herring; to understand the harm in hateful speech, one must understand rather how such speech "is harmful in itself or in its consequences", or in Catharine MacKinnon's more memorable phrase how "speech *acts*" (Waldron, *Harm in Hate Speech*, 38).

In appealing to MacKinnon, Waldron follows other feminist philosophers in drawing on J.L. Austin's theory of speech acts to distinguish between hate speech's 'perlocutionary' and 'illocutionary' aspects (e.g. Hornsby and Langton, "Hate Speech and Illocution"; Maitra and McGowan, "Speech and Harm"; Langton, "Hate Speech and the Epistemology of Justice"). The former highlights the causal role that hateful or contemptuous utterances play in producing certain consequences – whether directly, as with the 'fighting words' that incite or provoke violence, or indirectly, as with the 'hate propaganda' that spreads or disseminates racist ideas and can lead, over time, to discrimination or even genocide. Waldron's interest lies primarily in the latter – that is, in the illocutionary or 'performative' dimension of hate speech as constituting a kind of dignitary or status-harm to others' "basic social standing" and "recognition as social equals" (*Harm in Hate Speech*, 59).

While legal theorists like Mari Matsuda have argued that hateful speech is not simply a cause of violence, but itself a form of 'assault', Waldron's arguments align more closely with those of philosophers like Rae Langton, Jennifer Hornsby, Ishani Maitra, and Mary-Kate McGowan who focus on the ways in which hate speech constitutes an act of 'ranking' others as inferior and so "fix [es] facts" about the "positions of groups … within the social hierarchy", thus normalizing and legitimating unequal treatment (Maitra and McGowan, "Speech and Harm").[3] In pursuing this egalitarian and social constructivist line, Waldron argues that laws banning hate speech are justified on epistemological grounds, as a way of communicating *assurance* to the most vulnerable members of society that their fellow citizens recognize and accept their status as social and political equals (*Harm in Hate Speech*, 82). Hence the perceived need to close off the possibility of presenting hate speech "*simply* as a matter of the causation of violence", which he thinks must neglect "the deeper issue of public order" – in this case, "the dignitary order of society" (219).

As we have seen, Waldron justifies his dismissal of Hobbes on these grounds, and the language of 'provocation' used in the eighth law of nature would seem to justify that choice. Many historians of political thought have likewise situated Hobbes's comments on contumely in the

[3]As MacKinnon points out, "saying someone is inferior is largely how structures of status and differential treatment are demarcated and actualized. Words and images are how people are placed in hierarchies, how social stratification is made to seem inevitable and right, [and] how feelings of inferiority and superiority are engendered" ("Francis Biddle's Little Sister", 31).

context of the practice of duelling as the consummate example of "rash speaking" resulting in violence (L ii.10.142).[4] As early as *The Elements of Law* (1641), Hobbes would single out 'contumely' as a particularly noxious cause of violent conflict: "[B]ecause all signs which shew to one another of hatred and contempt provoke in the highest degree to quarrel and battle … it must necessarily be implied as a law of nature, *That no man reproach, revile, deride, or any otherwise declare his hatred, contempt, or disesteem of any other*" (EL xvi.11). But even in focusing narrowly on the perlocutionary problem of provocation, Hobbes showed a striking sensitivity to the variety of possibly offensive expressions. *De Cive* (1647) included not only "taunting and offensive remarks", but all "deeds, words, facial expression[s] or laughter" that could be construed as such (DC 49), and then again in *Leviathan*, *"by deed, word, countenance or gesture"* (L ii.15.234).

Hobbes explained the explosive effects of hateful speech through his sensationalist psychology of affection and aversion. He defined hatred as a "strong aversion" to a present object, expressions of which produced anger – and the "sudden courage" necessary to pick the fight – on both sides (L ii.6.80, 84). The injury may have been 'Phantasticall' rather than 'Corporeall' (ii.27.466), but just "as Anger causeth heat in some parts of the Body, when we are awake; so when we sleep, the over heating of the same parts causeth Anger, and raiseth up in the brain an Imagination of an Enemy" (ii.2.32). This immediate connection between hatred, 'heat', and anger explained contumely's violent effects. Like any pain or discomfort, both parties to the exchange will experience expressions of hatred subjectively as an 'evil' and conceive, in turn, a desire to destroy its cause (ii.8.116–17). "For in those things men hate, they find a continuall, and unavoydable molestation; whereby either a mans patience must be everlasting, or he must be eased by removing the power of that which molesteth him" (ii.27.462).

Rather than affairs of honour and insults between aristocrats, however, the paradigm case of hateful speech for Hobbes in *Leviathan* was the "disgraceful" and "evil names" used to express anger or displeasure towards the sovereign – by calling democracy "anarchy", aristocracy "oligarchy", or by slandering the king as a "tyrant" (L iii.46.1094). As Hobbes pointed out, the latter "originally signified no more simply but a monarch" but over time those discontented with their governors converted it into a term of abuse used to label all kings as "odious" enemies to the people. For proof of the power of hateful labelling, one need look no further than England's recent rebellion, in which subjects, drunk on the vitriol and 'Venime' of Greek and Latin writers, had taken to abusing Charles I and undertook "to kill their

[4]E.g. Peltonen, *The Duel*, 170–1; Skinner, "Hobbes and Unsociability", Mark, "Natural Laws of Good Manners". In 1638 while serving as his tutor, Hobbes wrote to Charles Cavendish to warn him to avoid "all offensive speech" and "harsh language" lest he provoke a duel (quoted in Bejan, *Mere Civility*, 211–2ff).

Kings, because … their books, and discourses of Policy, make it lawfull, and laudable, for any man to do; provided before he do it, he call him Tyrant". In this case, the deployment of hateful speech by malcontents provoked hatred, anger, and violence in their audience, with the target responding in kind. Hobbes compared the infection of the crowd with the malady he called "tyrannophobia" to being bitten by a rabid dog (ii.29.508).

Yet Hobbes, like Waldron, was clear that not all 'hate speech' expressed hatred or anger; indeed, he seems to have been more concerned with the ill effects of contumely as an expression of *contempt*. As Ross Carroll has noted, Hobbes treated this concept with his characteristic – and idiosyncratic – attention to definitional detail. "Those things which we neither Desire, nor Hate, we are said to *Contemne*: CONTEMPT being nothing else but an immobility, or contumacy of the Heart, in resisting the action of certain things" (ii.6.80). This contumacy – that is, an obstinate resistance or indifference – was the root of 'contumely'. The insult arose from the dishonour implicit in denying another's power or potency. One *honoured* the object of hatred by calling it '*evil*'; on the contrary, one *demeaned* the object of contempt by deeming it '*Vile* and *Inconsiderable*'.

As we have seen, *Leviathan* suggested that any "contumely, in words, or gesture" – including "trifles, as a word, a smile, a different opinion, and any other signe of undervalue" – was so dangerous that it should be considered one of the "principall causes of quarrell" (ii.15.234, ii.27.480, ii.13.192).[5] Hobbes blamed the destructive effects of such apparently trivial instances of incivility on man's natural partiality and passion for "glory" – that "exultation of mind" arising "from imagination of a man's own power and ability".[6] As others have emphasized, Hobbes viewed this passion as essentially relative and relational – a man's high opinion of himself depended on his favourable comparison with others and their recognition of his superiority. But this universal demand for recognition resulted inevitably in disappointment: "[f]or every man looketh that his companion should value him, at the same rate he sets upon himself" (L ii.13.190).

On Hobbes's analysis, men's 'offensiveness' to one another was therefore natural; "every man thinking well of himself, and hating to see the same in others, they must needs provoke one another by words, and other signs of contempt and hatred, which are incident to all comparison" (EL 78, 80). Men's capacity for vindictive naming and the "art of words by which some men can represent to others that which is good in the likeness of evil, and

[5]This was true of laughter, as well, which Hobbes famously described as a "sudden glory arising from [a] conception of some eminency in ourselves, by comparison with the infirmities of others" (Skinner, *Visions of Politics*, 142–76; cf. Black, "Laughing with Leviathan", 2021).

[6]For analysis of the central importance of glory – and the related 'vain-glory' – to Hobbes's political theory, see e.g. Slomp, "Hobbes on Glory"; Cooper, "Vainglory"; and Abizadeh, "Hobbes on the Causes of War".

evil in the likeness of good", explain why man was such a singularly anti-social animal. For "upon all signes of contempt, or under-valuing", one "naturally endeavours, as far as he dares … to extort a greater value from his contemners, by dommage" – that is, the opposite of *homage* – "and from others, by the example" (L ii.13.190). Here again however, Hobbes's concerns extended well beyond affairs of honour between aristocrats (e.g. DC 26–7). Because partiality and pride were natural to human beings as such, the danger struck among the 'modest' as well as the 'vain-glorious'.

Thus far, this reading would seem to confirm Waldron's contention that Hobbes was concerned with contumelious speech merely as a perlocutionary cause of violent quarrels, and hence Honneth's judgement as to the primacy of the physical over the psychological in this thought. But elsewhere, Hobbes also drew attention to intriguing, *illocutionary* dimensions of contumely. For instance, *Leviathan* identified as the fourth 'abuse' of words men's propensity to "use them to grieve one another": "for seeing nature hath armed living creatures, some with teeth, some with horns … [and] hands, to grieve an enemy, it is but an abuse of Speech, to grieve him with the tongue, unlesse it be one whom wee are obliged to govern" (L ii.4.50). The notion that sometimes words, in and of themselves, can *wound* resembles Matsuda's idea of 'assaultive hate speech'. Moreover, according to Hobbes, contumelious speech was not simply a *cause* of war; rather, it *constituted* a state of war in itself: "For WAR is nothing else but that time wherein the will and intention of contending by force is either by words or actions sufficiently declared" (EL 80). As an implicit threat of destruction, the diffident recipient could be expected to respond in kind: therefore, "to declare hatred *is* war" (92, my emphasis).

Hobbes was also attuned to the 'harm in hate speech' beyond its violent potential, as a source of social, as well as psychological, injury. As I have argued elsewhere, a profound sensitivity to the insidiousness of insult and the social power of a well-crafted slur pervades his writings. 'Tyrant' was far from the only previously neutral word converted into a term of abuse. Religious insults like 'heretic' and 'anti-Christian' were also cases in point. *Leviathan* criticized Protestants for indiscriminately accusing their opponents of being 'Jesuits' in the service of 'Antichrist' (L iii.874–6), and *Behemoth* argued that the unregulated circulation of such labels in anti-Catholic propaganda fuelled popular intolerance and paranoia about Charles I and his Queen by linking them to the 'Roman Religion'. There was "nothing … more hateful to the people; not because it was erroneous (which they had neither learning nor judgment enough to examine) but because they had been used to hear[ing] it inveighed against … [which] was indeed the most effectual calumny, to alienate the people's affections from him" (B 60). Without these anti-Catholic 'calumnies', Hobbes insisted, as without the

successful labelling of Charles as a tyrant marked out for righteous elimination, the revolution and regicide could not have taken place.

Hobbes found the pejorative labels applied in his own case – primarily 'heretic' – equally troubling. *Leviathan* described the emergence of the Hellenistic philosophical sects in terms designed to remind its readers of the religious sectarians – e.g. 'Papists', 'Independents', 'Anabaptists', 'Fifth-Monarchy-men', 'Quakers', 'Adamites', etc. – of their own time (iv.46.1056). When these philosophers' disputes or '*Diatribae*' became heated, they abused their opponents with smears like "criminal, sacrilegious, thieving, parricidal, [impure], [accursed], and the other names which the lowest class of people use when they are aroused almost to fisticuffs". According to Hobbes, Christianity had subsequently embraced this abusive practice of polemical 'denomination', whereupon 'heretic' became "the greatest reproach of all" (L Appendix iii.1192).

Clearly, Hobbes was concerned about the potential violence caused by casting aspersions on others "direct in their Persons, or by reflexion in their Kindred, their Friends, their Nation, their [religious] Profession, or their Name" (L ii.13.192). But his analysis of the evils of sectarian labelling also went deeper, to the power of verbal and other expressions of contempt to undermine authority and (re-)order social relations. Had not the path for "planting of Christian religion" been paved by the "contempt, into which the Priests of the Gentiles" had been brought, just as "speak[ing] evill of the Soveraign Representative … or any way [using] his Name irreverently" would bring him "into Contempt with his People, and [slacken] their Obedience" (ii.12.184, ii.30.526)? The unfortunate Charles I had suffered this fate at the hands (or tongues) of his rhetorically adept republican critics.

According to Hobbes, expressions of contempt were therefore extremely effective in bringing the high low and undermining positions of religious or political authority. But this was not the limit of their power or abuse. Evidently, one of Hobbes's primary concerns in decrying contumely was the way in which the powerful demeaned and denigrated those *below* them on the social ladder. He had little patience for the propensity of those who thought themselves wise to denominate others as 'the Vulgar', by whom they meant simply "all men but themselves, and a few others [of] whom, by Fame, or for concurring with themselves, they approve" (L ii.13.188). Moreover, throughout his political writings Hobbes insisted that "justice be equally administered to all degrees of people", citing the unfortunate propensity of the 'rich' and the 'great' to assume impunity "when they doe violence, dishonor, or any Injury to the meaner sort" and "poor and obscure persons" (ii.30.534). Hobbes's description of 'grieving' another with the tongue noted above raised a similar point. Such speech might be appropriate towards an inferior whom one is "obliged to govern", but towards an equal or superior, it was "an abuse of speech" (ii.4.50).

Undoubtedly, Hobbes's criticism of contemptuous superiority was informed by a prudential concern about the violent, levelling zeal that might result from "partiality toward the great", which encouraged insolence in them, "and hatred and endeavor to pull down all oppressing and contumelious greatnesse" in their victims (ii.30.536). But Hobbes also insisted that contemning the common people was *iniquitous* as well as imprudent. The Latin *Leviathan* expanded provocatively upon this point: "To revile him for his lowly status is both iniquitous and dangerous to the commonwealth … if the great citizens, because they are great demand reverence on account of their power, why should not the common people be revered, because they are many, and much more powerful?" (ii.30.536n).

Here, crucially, one can see the concerns expressed in the eighth law of nature coming together with the ninth: "*That every man acknowledge other for his Equall by Nature*. The breach of [which] Precept is *Pride*" (L ii.15.234). Hobbes was clearly sensitive to the unwillingness of many people, especially the 'vainglorious', to concede equal status to the weak and vulnerable. What is remarkable at this stage is the extent to which his case for constraining contumely hinged not simply on the threat of violence, but rather on the awesome power of expressions of contempt – in speech or deed – to order and *re*-order social relations. To borrow modern terminology, Hobbes was pointing to the illocutionary force of contumely to subordinate others, be they one's lawful sovereign *or* fellow subjects of 'the meaner sort'. The following section will show the surprising extent to which Hobbes's sophisticated understanding of contumely's role in creating and undermining social hierarchies informed his proposed solutions.

3. Constraining contempt

Hobbes did not comment directly on the many laws banning 'persecution of the tongue' adopted in the seventeenth century.[7] Still, his case for sovereign constraint went beyond the legal proscription of particular insults to the panoply of subtle social methods by which human beings communicated respect, as well as contempt to one another.

[7]Many came after *Leviathan*'s publication, except for the Maryland Toleration Act of 1649, which declared "Whatsoever p[er]son or p[er]sons shall … in a reproachful manner or Way declare call or denominate any p[er]son or p[er]sons whatsoever … an heritick, Scismatick, Idolator, Puritan, Independent, Prespiterian, popish priest, Jesuite, Jesuited Papist, Lutheran, Calvenist, Anabaptist, Brownist, Antinomian, Barrowist, Roundhead, Sepa[ra]tist, or any other name … [shall] forfeit and loose the somme of tenne shillings". Quoted in Bejan, *Mere Civility*, 46. Still, as Black observes, *Leviathan* itself noted that laws against contumely, where it "produce[d] no other harme, than the present griefe of him that is reproached", had been "neglected [by] the Greeks, Romans, and other both antient and moderne Common-wealths; supposing the true cause of such griefe to consist, not in the contumely, (which takes no hold upon men conscious of their own vertue,) but in the Pusillanimity of him that is offended by it" (ii.27.480; see Black, "Laughing with Leviathan").

This becomes clear when we turn to Hobbes's analysis of 'Worship' – that is, the signs by which individuals express outwardly their inward estimation of another's value – which he divided into 'Civill' and 'Spirituall' depending on the object (L iii.45.1028–30). By 'Civill Worship', Hobbes had in mind not only the signs a subject used to magnify his sovereign, but also the rules of respectful behaviour governing social interactions. These included "speak[ing] to another with consideration … decency, and humility … as signes of fear to offend" and doing "those things to another, which he [himself] takes for signes of honour, or which the Law or Custome makes so" (ii.10.136–8, iii.45.1028–30). Establishing sovereign authority over these was essential to Hobbes's wider project of deploying the sovereign's power to determine all evaluative terms subject to controversy (see Tuck, *Hobbes*; Wolin, *Politics and Vision*, 232). These included terms like 'contemnible', conflicting uses of which led to "Emulation, Quarrells, Factions, and at last Warre" due to the different "values men are naturally apt to set upon themselves; [and] what *respect* they look for from others" (L ii.18.276, my emphasis). Accordingly, the sovereign possessed an absolute and indisputable right to regulate "titles of Honour; and to appoint what Order of place, and dignity, each man shall hold," as well as, "*what signes of respect, in publique or private meetings, they shall give to one another*" (ii.18.276).

As Julie Cooper has stressed, Hobbes's related insistence that "the Will of the Soveraigne" was the "Fountain" of all civil honours reflecting the "DIGNITY" or "publique worth of a man", rather than any merit on the part of the honouree, was part of a concerted effort to undermine the traditional claims of hereditary aristocrats to independent status and worth (L ii.10.136–8; see Cooper, "Vainglory"). However, it also served his greater political project by presenting all existing social inequalities as *artificial*, rather than natural. As the ninth law of nature put it: "The question who is the better man, has no place in the condition of meer Nature; where, (as has been shewn before) all men are equall. The inequallity that now is, has bin introduced by the Lawes civill" (ii.15.234).

Crucially, Hobbes's account of the basis of social hierarchy meant that, according to the his civil science, even the great must recognize themselves to be, fundamentally, *political* equals with 'the vulgar'. This basic equality was grounded in their shared inferiority and dependence on the sovereign, to whom all were equally subject. For:

> As in the presence of the Master, the Servants are all equall, and *without any honour at all*; So are the Subjects, in the presence of the Soveraign. And though they shine some more, some lesse, when they are out of his sight; yet in his presence, they shine no more than the Starres in the presence of the Sun.
>
> (L ii.18.280, my emphasis)

Or, as Hobbes put it earlier and more explicitly in *The Elements of Law*: "The subjection of them who institute a commonwealth … is no less absolute than the subjection of servants. And therein they are in *equal estate* … freedom therefore in commonwealths is nothing but the honour of equality of favour with other subjects" (EL 132–3, my emphasis).

Hobbes's analysis of civil worship thus made clear that social in/equalities were *not* simply the product of whatever titles or offices a sovereign chose to create and bestow upon certain subjects. Rather, they were the sum-total of the everyday conversations and interactions of subjects themselves – whether conducted with signs of respect expressive of honour or with the myriad methods of contumely expressive of contempt.

Here, *Leviathan* can and should be read as a deliberate intervention in seventeenth-century controversies over the 'politics of gesture'. Specifically, Hobbes's analysis of civil worship reflects his engagement with a very contemporary controversy – namely, the popularization by the Levellers and other mid-century radicals of the practice of refusing to 'doff and don' their hats to their social and political superiors. Under the banner of Acts 10:34, 'God is no respecter of persons', this form of sartorial protest – which conscientiously denied the great the respectful behaviour they believed to be their due – was subsequently converted into a theological principle by the early Quakers (Kesselrig, "Gender and the Hat"). As John Walter has argued, the refusal of 'hat honour' for Levellers, Diggers, and Quakers alike derived its critical bite from the awareness on all sides of the power of social rituals, norms, and conventions as constitutive of social hierarchies (Walter, "Gesturing at Authority" and "Crowds and Popular Politics"). To refuse to doff and don was not only to refuse to acknowledge a fellow human being as one's superior; it was an assertion of equality. Given this, it is striking that *Leviathan* singled out hat honour, in particular, as a form of civil worship subject to sovereign regulation (iii.45.1029). More striking still is the depiction in its frontispiece of a crowd of common people in the presence of their sovereign in which all of the male Commoners are still wearing their hats.[8]

Moral and political philosophers have only recently recovered this micro-political insight into the gestural foundations of a society of equals (e.g. Waldron, *Dignity, Rank, Rights*; Anderson, *Private Government*; Pettit, *Just Freedom*). But the significance of Hobbes's attention to civil worship was not lost on his contemporaries. His former friend and inveterate critic Edward Hyde, the Earl of Clarendon, directly accused *Leviathan* of flattering the people by playing on "the delight they have in the word Equality, which in truth signifies nothing but keeping on their hats" (*Briefe View and*

[8]I first noted this in my Balzan Skinner Lecture, "Acknowledging Equality", at Cambridge in 2016. See also Bejan, "What was the point of equality?"

Survey, 59). Despite their many differences, it seems that Hobbes and the Levellers shared an insight into the power of contempt to undermine social and political hierarchies. But while Levellers like John Lilburne and Quakers like George Fox kept their hats on in order to humble the proud, for Hobbes, positive performances of respect had an equally important role to play in the creation of a society of equals.

4. Acknowledging equality

Hobbes is sometimes portrayed as a pioneer in establishing natural equality as a foundation of modern political philosophy (e.g. Hampton, *Hobbes and the Social Contract*, 26). However, by claiming that 'all men are equall' by nature he was, in fact, rehearsing a claim central to Christian and Roman law traditions. As Kinch Hoekstra has argued, Hobbes's real innovation was rather in presenting the 'natural' equality of human beings as wholly artificial – that is, as an abstract and theoretical premise of political geometry to be 'acknowledged' rather than an empirical fact (Hoekstra, "Hobbesian Equality").

The ninth law of nature made the duty of individuals to acknowledge this equality explicit: "If nature therefore have made men equal, that equality is to be acknowledged; or if nature have made men unequal, yet … such equality must be admitted." While Hoekstra focuses primarily on 'acknowledgement' as a matter of civil doctrine, the preceding discussion allows us to push his insight farther. Hobbes's analysis of contumely and civil worship suggest that paying lip service to the principle of natural equality was a necessary, but not sufficient, condition for reforming society along egalitarian lines. In addition to legal constraints on contempt, one must look to 'what values men are naturally apt to set upon themselves; [and] what *respect* they look for from others' – that is, the way in which social status would be articulated and enacted daily through respectful utterances, gestures, and other performances of civil worship on the part of private individuals.

Here, we come to the positive aspect of the Hobbesian case against contumely. While the insight that manners have an 'expressive function' by which we 'acknowledge one another's special dignity' and communicate a shared commitment to equality – what Waldron calls *assurance* – is more often associated with Immanuel Kant, Kant himself expressed ambivalence about the power of manners to perform this important function as "small change, indeed".[9] By contrast, a century earlier Hobbes would consistently emphasize the constitutive power of civil worship to re-order social relations.

[9]Kant argued in the *Metaphysics of Morals* that "the respect which I bear others or which another can claim from … is the acknowledgement of the dignity (*dignitas*) of another man, i.e. a worth which has no price, no equivalent for which the object of valuation (*aestimii*) could be exchanged". But, as Buss notes, he also claimed that one is "not bound to venerate others (regarded merely as men),

Moreover, he insisted that ensuring the observation of the eighth and ninth laws of nature demanded more than the "terrour of legall punishment" (L ii.30.522). The duty to acknowledge equality placed significant ethical as well as legal demands on individuals; education, as well as discipline, would be required (iii.1132).

Not only did this mean that the habit of swearing that comes from "too much vehemence of talking" needed to be broken; "For Cursing, Swearing, Reviling, and the like, do not signifie as Speech; but as the actions of a tongue accustomed" (L ii.6.94). Additionally, it demanded the inculcation of two distinctively Hobbesian virtues: discretion and complaisance. *Leviathan* defined the former as a virtue of good judgement, "particularly in matters of conversation and business wherein times, places and persons are to be discerned" (ii.8.108). Discretion appeared in discussion as primarily a virtue of self-restraint, one that regulated the boundary between the 'inward' realm of opinion and its 'outward' expression. As such, discretion demanded an acute awareness of one's environment and audience, as well as a willingness to police one's speech and conform to the behavioural norms appropriate to each.

Hobbes's second essential virtue, complaisance, possessed a more active and affirmative signification. In *Leviathan*, 'COMPLEASANCE' formed the basis of the fifth law of nature, that "*every man strive to accommodate himselfe to the rest*". As such, it connoted a virtuous reciprocity and sensitivity to the sensitivities of others directly opposed to the 'contumacy' underlying contempt (ii.15.232). In complaisance, one finds precisely the virtue of 'sociability' that Waldron attributes to 'Enlightenment *philosophes*' like Locke and Bayle. As a synonym for politeness, the term was used frequently in the seventeenth-century England to describe a virtue beyond 'mere civility' that reflected a desire to make oneself *agreeable* to others (see Bejan, *Mere Civility*, 99–101; Peltonen, *The Duel*, 161–7). In *Leviathan*, Hobbes adapted this virtuous gentility for his own ends, as a form of *agreeing to agree* in accordance with whatever doctrines in religion and politics might be mandated by the sovereign. The fifth law of nature cast such inauthentic 'professions' as a duty of all men not only in the relationship with their social superiors, in this case the sovereign, but also with their equals.

Evidently there was one proposition, in particular, that Hobbes would have individuals profess – namely, the doctrine of natural equality. By making people aware of the awesome power of the sovereign Leviathan before whom even the children of pride must be humbled, Hobbesian civil science sought both to humiliate the strong and elevate the weak as enjoying

i.e. to show them positive reverence. The only respect which I am bound to by nature is that for the law generally (*revere legem*)". Quoted in Buss, "Appearing Respectful", 797n.

equal natural and political status. The ninth law of nature demanded that any self-styled superiors flatter others as they did themselves – by forcing them to 'admit' equality, as well as to perform the sovereign-mandated forms of civil worship.

5. Conclusion

In turning to early modernity, Waldron seeks to draw readers' attention to a domain of dignity beyond – or rather below – Kantian notions of sanctity or transcendence. "The primary habitat of human dignity is the mundane", he writes; it is "a matter of ordinary presence – the status of being respected in the myriad anonymous interactions as a member of society in good standing" (*Harm in Hate Speech*, 219). This article suggests that there are, indeed, excellent sources in the past to explain or even support the modern idea that hate speech, religious insult, and other forms of group defamation are serious threats to individuals' 'assurance' of their equal status and dignity. The Hobbesian case against hate speech recovered here went well beyond a fear of 'fighting words' to offer an understanding of how contumely can structure and restructure social relations.

For Hobbes, understanding the harms in hate speech was also a necessary first step towards finding a solution. Today, Waldron and others argue that that solution is primarily negative – that is, through laws banning group defamation of the kind widely adopted in most liberal democracies, excluding the United States. But Hobbes's own analysis of the causal *and* constitutive harms in hate speech led him to conclude that proscribing hateful words was not enough. Adequately constraining contumely demanded the extension of legal regulation beyond the public to the private sphere, including regulating "what signes of respect … they shall give to one another" in their "publique *or* private meetings" (my emphasis). Individual subjects must also be made to police their speech and perform the positive duties of recognition necessary to fulfil their obligations under the ninth law of nature. According to Hobbes's theory, it fell to everyone to participate actively in the ongoing constitution of an egalitarian social order through the practice of mutually respectful civil worship.

In pointing towards this positive solution – the use of everyday practices of civil worship to serve the cause of equal respect – Hobbes's analysis once again prefigures arguments in contemporary moral and political philosophy. These also highlight the authority possessed by 'ordinary speakers' in constituting norms of subjugation, silencing, and exclusion. Certainly, if any expressions of contempt possesses the power to undermine equality attributed to them by Waldron, constraining overt instances through law will necessarily be superficial. To address the true foundations of inequality, one must go beneath the surface, to the private realm and intimacies of

everyday interactions. Langton faults Waldron for precisely this and argues that his epistemological argument about assurance demands a more 'interventionist' approach than he realizes; "more is required of ordinary citizens than liberalism usually assigns to us" ("Hate Speech and the Epistemology of Justice," 870–1). Hobbes himself could not have said it better. Expansive harms require expansive solutions.

Still, if it is true that hate speech demands more intrusive and difficult work than liberals like Waldron find comfortable, Hobbes's example should also chasten the hopes of critics like Langton, who seem to think that the harms in hate speech cannot be overcome until the principles of equality and mutual respect are fully and sincerely embraced by everyone. For Hobbes, the basic competitive and comparative impulses of human psychology made the complete of eradication of contempt in society not only unlikely, but *impossible*. Men and women's natural drive to comparison and competition for glory meant that expressions of contempt or under-value were as inevitable as they were destructive.

If Hobbes is right in thinking that contempt must arise whenever one values another less than oneself, then it will result whenever both parties to comparison enter convinced of their own superiority. This suggests that the problems created by a universal demand for recognition may only get worse in egalitarian societies, the members of which believe themselves to be universally entitled to equal respect. For Hobbes, most people's self-worth depended on seeing themselves as above average; hence thinking well of themselves hinged ultimately on thinking ill of others. Pettit takes Hobbes to task for precisely this 'implausible' zero-sum assumption "that people can only be satisfied with superiority … [and] cannot settle for the positional good of equality in standing with others" (*Made with Words*, 96). For Pettit, there "is a crucial difference between the desire to be superior to others and the desire not to be inferior"; "things will look very different if people are *acknowledged* to find a high degree of satisfaction in having equal standing with others" (3–4, my emphasis).

Pettit's invocation of 'acknowledgement' here is suggestive. As stated, Hobbes would not disagree. As we have seen, the acknowledgement of equality was precisely what he was after – the only difference being that Hobbes did not demand or assume that that acknowledgement need reflect a realistic appraisal of any facts about individuals or how they operate.[10] Whether it is true or not that human beings can really be satisfied with mere equality is beside the point. In this, Hobbes sides with William James: "faith in a fact can help create a fact" (*Will to Believe*, 25). Or as Hoekstra puts it: "Hobbes does not so much want people to acknowledge

[10]Compare this with the criticisms of Hannah Arendt's 'anti-foundationalist' account of basic equality in Waldron, "Arendt". For a recent defence of the Arendtian position see Phillips, *Unconditional Equals*.

a state of affairs *as to create a state of affairs via their acknowledgement*" ("Hobbesian Equality," 102, my emphasis).

If Hobbes offers a firmer grasp of the difficult legal and ethical work required to secure individuals' outward performances and professions of equality, he also highlights the tensions and inevitable instability of even these solutions. In casting doubt on the benign assumption that egalitarian societies can universalize respect and eradicate contempt, Hobbes has a particularly valuable lesson to teach. In modern societies riven by palpable inequalities and mutual contempt, equality in one respect often presupposes inequality in others in order to be meaningful. This often means that, in aspirationally egalitarian societies, the relevant inequalities will be pushed elsewhere, to non-members for instance, or to the state of nature that is international affairs (Levy, *Rationalism, Pluralism, Freedom*, 70).

Domestically, one might hope with Hobbes, that the internalization of virtues like discretion and complaisance will enable individuals to manage contempt through a strong social pressure to conform, and that this will convert any unreconstructed racists and bigots among us into isolated hypocrites. Scrupulous regulation and studied hypocrisy may, over time, approximate sincerity. In the meantime, individuals can rest content and labour happily, but silently, under the illusion of their own superiority. Still, it seems that contempt – and certain forms of contumely, like laughter – will remain necessary in egalitarian societies, too, in order to cut the powerful and proud continually down to size.[11]

Acknowledgements

I am grateful both to the editors of the Special Issue and of BJHP, as well as many generations of anonymous reviewers, for their constructive feedback and advice.

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[11]For recent historically informed arguments along these lines appealing to Hobbes directly, see Black, "Laughing with Leviathan", and Carroll, *Uncivil Mirth*.

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