



Max Weber Programme Conference

“Thomas Hobbes and the Modern State: A 21st Century Interdisciplinary Perspective”

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“Theorising Rights in the 21st Century: Neo-Hobbesian Possibilities”

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Abstract:

Hobbes develops a theory of rights in *Leviathan* which has often been overlooked. One reason for this is that the rights Hobbes describes for subjects are seen as lacking credibility or strength once a sovereign is instituted, because of the absolute power of the sovereign. Those rights that subjects hold are deemed to be *natural rights*, which exist in the state of nature only to be relinquished once the sovereign is in place. Hobbesian subjects, as some commentators put it, ‘give up all their natural rights to the sovereign’.

Another reason why the theory has been overlooked comes from a more recent analysis of rights; namely that of the jurist Wesley Hohfeld. According to a Hohfeldian analysis, all the rights Hobbes describes for subjects are *liberty rights* or *privileges*, that is, rights which are ‘bare freedoms’, and are not attached to any correlative duties on the part of others. These are said not to be rights in any meaningful sense, as they lack the means of recognition and protection by the state or others.

I argue, against both of these analyses, that, first, Hobbes does not hold a theory of *natural rights* and second, that the rights he describes for subjects are not all mere *liberty rights*. On the contrary, Hobbes constructs a modern, secular theory of rights that provides for the protection of some rights. Furthermore, he uses the notion of liberty to ground the notion of a right, which offers an elegant alternative to other modern theories of rights which ground the notion of a right variously in claims, interests and the will.