

Alienation and punishment

1 De Cive (1642), chap. 6

4. It is not enough to obtain this security, that every one of those who are now growing up into a city, do covenant with the rest, either by words or writing, *not to steal, not to kill*, and to observe the like laws; for the pravity of human disposition is manifest to all, and by experience too well known how little (removing the punishment) men are kept to their duties through conscience of their promises. We must therefore provide for our security, not by compacts, but by punishments; and there is then sufficient provision made, when there are so great punishments appointed for every injury, as apparently it prove a greater evil to have done it, than not to have done it. For all men, by a necessity of nature, choose that which to them appears to be the less evil.

5. Now, the right of punishing is then understood to be given to any one, when every man contracts not to assist him who is to be punished. But I will call this right, *the sword of justice*. But these kind of contracts men observe well enough, for the most part, till either themselves or their near friends are to suffer.

6. Because, therefore, for the security of particular men, and, by consequence, for the common peace, it is necessary that the right of using the sword for punishment be transferred to some man or council; that man or council is necessarily understood by right to have the supreme power in the city. For he that by right punisheth at his own discretion, by right compels all men to all things which he himself wills; than which a greater command cannot be imagined.

2 Leviathan (1651), chap. 28, par. 2

there is a question to be answered, of much importance; which is, by what door the right, or authority of punishing in any case, came in. For by that which has been said before, no man is supposed bound by covenant, not to resist violence; and consequently it cannot be intended, that he gave any right to another to lay violent hands upon his person. In the making of a commonwealth, every man giveth away the right of defending another; but not of defending himself. Also he obligeth himself, to assist him that hath the sovereignty, in the punishing of another; but of himself not. But to covenant to assist the sovereign, in doing hurt to another, unless he that so covenanteth have a right to do it himself, is not to give him a right to punish. It is manifest therefore that the right which the commonwealth (that is, he, or they that represent it) hath to punish, is not grounded on any concession, or gift of the subjects. But I have also showed formerly, that before the institution of commonwealth, every man had a right to every thing, and to do whatsoever he thought necessary to his own preservation; subduing, hurting, or killing any man in order thereunto. And this is the foundation of that right of punishing, which is exercised in every commonwealth. For the subjects did not give the sovereign that right; but only in laying down theirs, strengthened him to use his own, as he should think fit, for the preservation of them all: so that it was not given, but left to him, and to him only; and (excepting the limits set him by natural law) as entire, as in the condition of mere nature, and of war of every one against his neighbour.

Sources

Hobbes, Thomas. 1993. *Leviathan*. Edited by Mark C. Rooks. British Philosophy: 1600-1900. Charlottesville, VA: InteLex Corporation.

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