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## The parent-child relation in Hobbes: beyond private life and public reason

Corneliu BÎLBĂ\*

### Abstract

We proposed a reading of Hobbes to analyze the way in which the issue of family and especially the parent-child relation is approached in his social contract theory. Our analysis first shows how we can overcome the hermeneutical dead end of the contradiction between the model of indivisible sovereignty applied to the family and the feminist critique of the contract. For this purpose we applied to Hobbes Rawls's distinction between the *concept* of justice and the political *doctrine* deriving from it. Then we argued against Peter King that the notion of hypothetical consent is operational and we can use it to justify the hobbesian concept of filial obligation. We have showed that the possible sources of filial obligation – that is inequality, gratitude and consent – must be considered first from the perspective of the natural condition and second with respect to civil order. The reason is that family can be seen as a micro-field of permanent transit from natural to political – just as international relations are the macro-field – and sovereignty has to be defined as a permanent process of legitimizing the circulation of power between these *infra* and *supra* levels. This allows us to understand that inequality, gratitude and consent are closely interconnected and that the notion of hypothetical consent is fundamental for the idea of contract extension. Finally, we have argued that no revolution of family relations can be situated outside the paradigm of hypothetical consent.

*Keywords: Hobbes; parent-child relation; paternal domination; filial obligation; hypothetical consent.*

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## Introduction

In what follows, I aim at analyzing some aspects of the parent-child relation in Thomas Hobbes's theory of social contract focusing on the problem of filial obligation and on the justification of paternal authority. This is a difficult matter, since Hobbes's attitude towards family is a controversial issue. For on the one hand, Hobbes argues against traditional patriarchalism defended by his contemporaries Bramhall, Filmer and Tenison, saying that paternal authority does not derive from natural procreation, because – then – it should be divided (between mother and father), which is impossible. On the other hand, by applying this concept of indivisible sovereignty to family (Boucher 2003, 27) – according to the natural model of the patrimonial kingdom (Strauss, 1952: 60) – Hobbes implicitly adopted some elements of the patriarchal position (Schochet, 1967: 431). Consequently, some feminist scholars have admitted that “Hobbes is a patriarchal theorist [...] who rejects patriarchal rights” (Pateman, 1989: 447)<sup>1</sup>.

This conflict of interpretations can be managed if we adopt the rawlsian point of view and distinguish between the Hobbesian *concept* of social contract, which is anti-patriarchalist in its realm, and the Hobbesian political *doctrine*, which could be still patriarchalist in some technical aspects. Since this distinction is not effective in the Hobbesian corpus, I propose to consider it as an ideal norm of interpretation, justified by the epistemological difference between the logical consequences of the original position and the political and ideological beliefs that constitute the doctrine of *Leviathan*. Therefore, some aspects of the familial relations could be determined by the epistemological concept of human nature, while others by the political and ideological skills that Hobbes shares with his time.

I will analyze the parent-child relation in Hobbes as if the concept of justice would not have been developed in a particular doctrine of sovereignty. This concept is related with two subsequent ideas: a description of “the natural condition of mankind” and an hypothesis saying that society has risen as a result of a contract between humans beings considered as rational: that is they know their own interest, calculate their actions and communicate with each other for obtaining primary common goods such as peace and security<sup>2</sup>. Therefore the issue of the parent-child relation should be basically divided into two chapters: one regarding the children's status in the state of nature, and the other referring to the parents' and children's rights and obligations in any civil society.

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<sup>1</sup> This new attitude in the interpretation of Hobbes is based on the idea that “patriarchy is more complicated. [...] Paternal right is only one dimension of patriarchy” (Pateman 1989, 449).

<sup>2</sup> This theory of the establishment of civil community was interpreted in the rationalist tradition as a first variant of the theory of rational choice. The opposition between individual (or private) reason and collective (or public) reason assumes this fact that “We all must, in effect, supplant our private reason and judgment with the reason of the arbitrator, which thereby becomes public reason for us” (Ridge 1998, 541).

## State of nature, sovereignty and parent-child relations

According to Hobbes, the natural men are not sociable at all, as having by nature the right to do anything for the preservation of their life, they become enemies each time they want the same thing., “The state of nature of men before they entr’d into Society” (Hobbes, 1983, 1.12, 49) was (historically) a state of war of every man against every man. In such a war peace could not be obtained by the victory of one man, so that the making of peace requires the use of reason. For reason is the source of some general moral precepts which are called natural laws by which men are commanded to endeavor peace (this is the first and fundamental law), to limit their natural right to all things by making covenants (the second law), to perform the covenants made (the third law), to be grateful for receiving gifts and benefits (the fourth law, etc. Hobbes says that men get out from the natural state of war by making a covenant: they transfer the natural right to kill any man to a sovereign who will use it only for defending the convention. This “monopoly of legitimate force” (Weber, 2008: 156) means that no one besides the Sovereign holds the absolute power, neither parents over children, nor masters over servants. When talking about what *parents should teach their children*, Hobbes says: “originally the father of every man was also his sovereign lord, with power over him of life and death; and [...] the fathers of families, when by instituting a Commonwealth they resigned that absolute power” (Hobbes, 1839: 329). This fragment is of peculiar importance for the hobbesian studies, because some scholars have found here an argument for their hypothesis about the “sexual contract” (Pateman, 1989: 459) that is the exclusion of women from public life. This valuable interpretation – although controversial and not charitable – has pointed out that actually there is at least one argument against the classical interpretation, according to which there are no acknowledged conventions to precede the political contract. Therefore, the idea that there are no means to limit the Sovereign’s power in Hobbes because there are no conventions prior to sovereignty is, to a certain extent, an exaggeration. Family is such a convention. Nevertheless, family relations are the permanent transitory field between natural and political, which means that they have an indefinite status. On the one hand, parent-child relations have a natural character, since they are subjected to the natural law. It is obvious that the human being that is not a *subject of law*, obedient to civil authority, must be obedient to paternal authority in the virtue of nature. From this point of view, „the natural condition of men” signifies not only the state of savagery that precedes society and civilization, but also the human nature that repeats itself with every human being. The natural child is first of all a being dominated by feelings and instincts that will become social only through education and reason. On the other hand, the child is a “passive citizen” (Kant, 1991: 126; Schapiro, 1999: 718-719) and his education becomes the task of an adult person that is subject of law and abides by the sovereign authority. Consequently the parent-child relations are subjected to regulation by the positive laws and “parents

are assumed to be the best judges of what is in their children's best interests" (Quong; 2004: 325). This epistemological ambiguity of the family is not vicious at all, since the family is, like the State, a kind of monster which belongs to different orders, for it is made by two types of domination: "the one *naturall*, such as is the *paternall*, and *despotically*; the other *institutive*, which may be also called *political*" (Hobbes, 1983: 5.12, 90)<sup>3</sup>.

In order to understand the stake of this distinction, it is necessary to imagine political sovereignty not as a *state*, such as civil state, but as a *process* of domination that ensures the circulation of power between an inferior limit – that is the natural man – and a superior (also natural) limit – that is the field of international relations. According to Hobbes, the Sovereign is not a part of the social contract. He remains in the state of nature as its guarantor. At the upper limit of political sovereignty lies the natural state of war, hence the open field to exert natural (or despotic) domination. When referring to this aspect, Hobbes speaks about the conquest as an alternative way for the institution of sovereignty, for the right of dominion is given not by the victory, but by the covenant of the vanquished (Hobbes, 1839: 189). Therefore, we can say that the natural domination becomes political domination at the *supra* level; this is even more obvious at the *infra* level, where each new born is caught in the scheme of natural domination and have to reiterate the original contract and become a citizen. The model of contract implies the commercial exchange – Foucault says (1997: 14) – and the Sovereignty is that process that produces political legitimacy for the natural domination, both at the *supra* and *infra* level of commonwealth. The proof for this interpretation is the comparison of kingdom with family – "and thus a Great Family is a Kingdom, and a little Kingdome is a Family" (Hobbes; 1983: 8.1, 117).

This is not at all an advantage for the task of defining and legitimizing the rights and obligations parents and children each have. The difficulty of analyzing these rights and obligations comes from the asymmetrical character of the parent-children relations and we can now see that there is a double asymmetry: in natural and in civil order. In the natural order, there is obviously a difference of power between children and adults, which are an inequality between them as far as the faculties of soul and body, are concerned. In the civil order, it is precisely the natural inequality and the associated responsibility of the faculties of soul and body that triggers the asymmetry between passive and active citizens. The distinction between the two plans seems compulsory to me in analyzing the various ways to legitimate the rights and obligations within the parent-child relation in Hobbes.

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<sup>3</sup> Regarding this aspect, *Leviathan* reads: "The attaining to this sovereign power is by two ways. One, by natural force: as when a man maketh his children to submit themselves, and their children, to his government [...], or by war subdueth his enemies to his will [...] The other, is when men agree amongst themselves to submit to some man, or assembly of men, voluntarily [...]" (Hobbes, 1839: 158-159).

### **Three sources of filial obligation. And three difficulties**

Peter King (1998) had shown that Hobbes suggested (maximum) three ways to solve this problem, mainly: a) the inequality of power explains why parents have the right to give orders to children and children have the obligation to obey; b) filial obligation derives from gratitude; c) the parent-child relation is contractual in its nature. King made a minute analysis of the three aforementioned possibilities but he did not consider necessary to distinguish, for each one in part, between the level of natural and civil order as suggested above. King had only made a distinction between the two meanings of the state of nature – as state of savagery prior to any society or as analytical device (King 1998: 69) – conceived to emphasize by contrast and hyperbole the constitutive elements of society. But this is not enough to define the family status in Hobbes's system; to be more precise, it is not enough to understand that family lies between two forms of authority. However, King's analysis has the merit of shedding light on the difficult task of positing family in Hobbes, irrespective of the interpretation of the state of nature. In what follows, I will give a short account of King's considerations as far as the three possible sources of filial obligation are concerned and I will show how to complete its analysis by considering the distinction between the two types of authority and the idea of continuous circulation of power, i.e. the idea of power as *process* between the two *states*.

#### ***The first difficulty: the natural inequality***

According to King, the first "suggestion" of Hobbes would be that paternal domination results from the parent-child inequality in the state of nature. A series of fragments in Hobbes (as in *Leviathan* 1.13 and 2.20; *De cive* 1.10 and 9.1 or *Elements of Law* 23.2 and 23.3) would allow this interpretation in the light of which domination on children could be justified either by the natural right of each individual to use any means to survive or by the idea that rough force creates a natural hierarchy of the categories of individuals (such as adults and children). King believes that Hobbes does not exploit this possibility because of the difficulties it raises, namely: the hypothesis of parent-child inequalities would contravene the axiom of natural equality; moreover, even if the power inequality would explain paternal domination, it could not explain filial obligation and moral hierarchy, says King. As far as I am concerned, King himself did not explore in a satisfying manner the resources of this hypothesis. If there really is in Hobbes the "suggestion" that paternal domination originates in natural inequality, this supposition can work implicitly and in parallel with the axiom of natural equality. The "axiom" of equality refers to those men that, when found *de facto* in the natural state of war (because of passions), they have the possibility (by the use of their reason) to make a covenant. The description of this state of nature, in Hobbes, points to those conditions that are necessary for justifying political authority.

Consequently, King's statement regarding the children's political status<sup>4</sup> is useless if we refer to the lack of the quality of subject of law as a form of political inequality determined by natural inequality. In other words, the natural inequality between children and adults is a condition for the political inequality between children and parents. We should not interpret this inequality only as a difference of physical force, but also as a difference of power according to Hobbes's definition of power: "Natural power is the eminence of the faculties of body, or mind; as extraordinary strength, form, prudence, arts, eloquence, liberality, nobility" (Hobbes, 1839: 74). The definition given by Hobbes to power and value in chapter X of the *Leviathan* allows us to state that power inequality between parents and children is definitely a source of paternal domination and also of filial obligation. An undeniable proof for this interpretation is that civil order does not contest paternal domination within family and this is because the natural relations within family are not a state of war. On the contrary, when dealing with what it means to honour someone, Hobbes says that "[to pray to another..., to give great gifts..., to show any sign of love, or fear..., to praise, magnify or call happy..., to speak with consideration..., to believe, to trust..., to agree, to imitate... etc.]" *all these ways of honouring are natural*; and as well within, as without commonwealths" (Hobbes 1839, 78 – my italics). Put differently, family is the original place of manifestation for the superior and inferior relation and thus, the action of honouring the other. Before thinking that family is a form of civil agreement, we should rather consider that family in the state of nature is a form of acquisition in which peace is ensured by the hierarchical structure of power, i.e. by paternal domination. This interpretation is supported by the fragment *De cive* 9.2 where Hobbes *deduces* child domination from natural equality by means of the following reasoning: 1) The victor is the master of the vanquished on the base of natural law (major premise); 2) All *adults* in the state of nature are equal (minor premise); 3) "Therefore" children (that do not have enough power to stand along the adults) are subjected to that person that first has them in his power.<sup>5</sup>

### ***The second difficulty: the gratitude***

The second suggestion of Hobbes – King says – is that the source of filial obligation could be the gratitude and trust that comes from the parents' gift of life *in the state of mere nature* (Hobbes, 1839: 2.20, 187) or from the education received from parents (Hobbes, 1839: 2.30, 329) in the civil state. But we have to say that the sense of gratitude is different in nature and society. As sovereignty

<sup>4</sup> "Even if the state of nature is a pure analytical device, we may ask what it tells us about the political standing of children" (King, 1998: 6).

<sup>5</sup> "Wee must therefore returne to the state of nature, in which, by reason of the equality of nature all men of riper yeares are to be accounted equall; There by right of nature the Conqueror is Lord of the conquered: by the Right *therefore* of nature, the Dominion over the Infant first belongs to him who first hath him in his power" (Hobbes, 1983: 122).

limits the right of life and death of the parent and institutes parental obligation, precisely by this limitation, the gratitude showed to parents is a propedeutics for respecting civil laws and the Sovereign. Nevertheless, when inquiring – in *Leviathan* 2.30 – “what doctrine [parents] ought to teach their subjects” (Hobbes 1839, 329) and answering that they should tell children how the fathers of families have resigned the absolute power and founded the commonwealth, Hobbes adds: “[yet] it was never intended they should lose the honour due unto them for their education” (Hobbes, 1839: 329). What Hobbes has in mind is that children have to be obedient to their parents because of the natural law, since the fathers have not lay down their right to be honored by children, for transferring this right “was not necessary to the institution of the commonwealth” (Hobbes, 1839: 329). On the other hand “it is necessary that [children] should be obedient to them [...] and not only so, but they acknowledge the benefit [...] by external signs of honour [to which end they are to be taught]” (Hobbes, 1839: 329). This argument could be considered as a vicious circle if there [were not be] the circulation of power between the two forms of domination: *paternal domination works by means of natural laws for the use of political domination, as political domination works by civil laws for the use of natural rights*. In the end, this would be. The teaching on the original situation simultaneously creates the obligation towards parents and the gratitude towards civil order<sup>6</sup>: children learn that the fact to have been born not in a mere state of nature, but in a family of parents that abide by constituted civil laws is a gift, and they should be grateful for. Civil society is a common good: children should understand this before they become citizens themselves and can understand this even from the relation with their parents that is presented as different from the simple state of nature. Children would be able to take political responsibility provided that they obey their parents and be grateful to them for the education received (Chapman, 1975: 86; Bejan, 2010: 619). For Hobbes, gratitude is a law of nature that resembles contractual obligation since it results from a benefaction that has already been done in the same manner that obligation itself results from the prior drafting of a convention.

The relation between obligation and gratitude is quite difficult to analyze because the term of “obligation” has, in Hobbes, an ambiguous meaning; thus, in the state of nature, obligation refers to the seeking of peace by limiting natural law (*in foro interno*)<sup>7</sup> in some cases, while in others the carrying out of external actions prescribed by the natural laws (*in foro externo*) and in society civil obligation sometimes refers to the interpretation of a civil law in conscience (*in foro interno*), whereas in other cases it refers (*in foro externo*) to the external constraint of a legislator or judge (Warrender, 1957: 71). When Hobbes analyzes

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<sup>6</sup> “In teaching a child the nature of obedience in family, a parent is teaching the nature of obedience in the state.” (Chapman, 1975: 86)

<sup>7</sup> “There is no Obligation on any man, which ariseth not from some Act of his own” (Hobbes, 1839: 133).



paternal domination in the simple state of nature, he says that, if a mother – whose moral domination prevails in the absence of the contract of submission – decides to expose her child instead of nourish him, then “the obligation also which arose from the benefit of life, is by this exposition made void” (Hobbes, 1983: 123). Therefore the gift of a mother creates an obligation through gratitude since this obligation is not of a contractual nature. But what could be the basis of the idea of gratitude (filial obligation) in that state of nature which lacks even the simple convention between woman and man? The answer to this issue is difficult as the gift (or benefit) is not based on any contractual promise regarding any future act which can be considered a reward. Despite all this, Hobbes claims that, if the abandoned child were found by another person that nourished him, he should obey the latter “because preservation of life being the end for which one man becomes subject to another, every man is supposed to promise obedience to him in whose power it is to save or destroy him” (Hobbes, 1839: 2.20, 188).

This could mean that, if the source of filial obligation is not a promise, then it is a behavior responsive to the expectancy of promise, an expectancy that accompanies benefaction. This behavior could not exist if there was equality between parents and children because of the mistrust and suspicion between equals, in the simple state of nature. Therefore the inequality between parents and children is the source of a relationship based on trust: if in the state of nature, there was no trust between those related by blood, then parents would suppress their children. But this does not happen because of the mistrust in other people, that are *l'extérieur* and oblige men to defend themselves by founding a family and having children or by acquiring subjects, thus setting a public form of *intérieur*, i.e. sovereignty. Hence paternal domination implies trust as a result of mistrust, a sort of “unsociable sociability” in Hobbes’s version that generates a form of obligation through the children’s gratitude to their parents. In *De cive* 3.8, where the third law of nature is formulated not as an incentive to gratitude, but as a command to blame ingratitude, Hobbes claims that in the absence of gratitude, “all beneficence, and trust, together with all kind of benevolence would be taken from among men, neither would there be ought of mutual assistance among them, nor any commencement of gaining grace and favour; by reason whereof the state of Warre would necessarily remain, contrary to the fundamental Law of Nature” (Hobbes, 1983: 66). Both benefaction and gratitude – although not verbal – are actually explicit signs necessary for building confidence in people and this confidence is essential to achieve any agreement in the state of nature. Consequently, King’s interpretation (1998) of the relation between filial obligation and gratitude has flaws as he considers the parent-child relation rather in commonwealth. Thus the distinction between gratitude and convention is much more difficult to make since the parent-child relation is caught in a network of conventions that turns the signs of gratitude into an action from interest. Seizing this difficulty, King tries to find a way out: starting from the idea that trust is in fact the main element of a contract

and is related to social virtues, he deduces that we should be able to analyze gratitude outside trust, if we wish to found filial obligation on the natural law. According to King, Hobbes would explicitly reject the hypothesis of gratitude in *De cive* 9.8 (Hobbes, 1983) where he would describe the honour owed to parents “as a kind of bargain” (King, 1998: 74). This observation is justified. Therein, Hobbes claims that “The enfranchised son, or released servant, doe now stand in lesse fear of their Lord and Father [...] doe Honour him lesse, then before” (Hobbes, 1983: 124). And Hobbes further comments that a master or parent that releases his son or servant has not the intention to make the servant or son his equal, but “It must therefore be ever understood, That he who is freed from subjection, [...] doth promise all those externall signes, at least whereby Superiours used to be Honour’d by their inferiours” (Hobbes, 1983: 124). Doubtless, here the respect owed to parents is inscribed in the logic of social relations and can be understood “as a kind of bargain”. However, before drawing a final conclusion, we should also read the end of the fragment: “the precept of honouring our Parents, belongs to the law of nature, *not onely* under the title of Gratitude, *but also* of Agreement” (Hobbes, 1983: 125). The reference here is made to the fundamental natural law, otherwise plural should have been employed as “gratitude” and “agreement” which are indications for the third and the second natural law, respectively (in *De cive*’s description). Furthermore, it is obvious that here, gratitude comes before contract as we showed above and ingratitude is against the fundamental law of nature - says *De cive* 3.8 - as it ruins trust and consequently compromises any future convention. In the general exposition of natural laws and of the foundation of commonwealth, Hobbes starts from the situation of equality between adults in the state of nature and, consequently, he puts the law of contract before the law of gratitude. However, in the case of inequality between parents and children, it is obvious that the law of gratitude precedes any (other) convention in determining obligation. As a result, it is a mistake to believe, just as King does, that gratitude, being retrospective, cannot be a source of obligation for children in their childhood because they would not understand the significance of the parental gift. The excerpt from *Leviathan* 2.30 (quoted above) shows how parents should build the gratitude they expect by the education they give, as the doctrine they should teach explains the significance of the parental gift and presents discipline as a common good. Accepting the idea that gratitude is a source of filial obligation only for adult children - as King suggests - returns to the statement that gratitude is not at all a source of filial obligation because adults transform gratitude in a “kind of bargain”. Besides this, there is no explicit opposition between the hypothesis of gratitude as such and the hypothesis of respect “as a kind of bargain”, as the expectation of gratitude is integrated in the cost-benefit analysis that precedes benefaction. For this purpose, we provide as proof the excerpt from *Leviathan* 2.30 where Hobbes, when referring to the respect owed to parents, says that “nor would there be any reason why any man should desire to have children, or take the care to nourish and instruct them, if they were afterwards to have no other benefit

from them than from other men” (Hobbes, 1839: 210). Love, friendship and respect can also be considered such advantages as Hobbes considers them to be “ways of honouring” (Hobbes, 1839: 77-78); therefore, the idea that parents are not trustful because they act from interest – as King suggests – cannot be justified in anyway.

### ***The third difficulty: the consent***

The third solution of Hobbes analyzed by King would be that the source of paternal domination and filial obligation is *consent*. In this respect, textual sources are richer since consent is the “official solution” provided by Hobbes for the issue of obligations: he says that paternal domination does not actually come from generation (nor the despotic domination from victory), but from the consent “either expresse, or by other sufficient arguments declared”. Herein a difficulty arises as far as the expression of consent is concerned: children cannot take part in a contractual relation by using articulate language – “words spoken with understanding of what they signify” (Hobbes, 1839: 121). In this case, some scholars have admitted that the mother’s decision to keep the child and nourish him is accompanied by the latter’s tacit consent, and this consent – “projected into the future” (Schochet, 1967: 444) – creates an obligation. This solution is, in fact, based on the importance of the relation between gratitude and consent (Warrender, 1957: 51-52) since consent is projected into the future “through the law of gratitude” (Schochet, 1967: 444). The obligation of submission is a result of the further understanding and acceptance of a debt created by the consumption of a benefit. However, this remarkable solution of the – let’s say – *postponed contract* is not accepted by all Hobbes’s interpreters (as required by the principle of charity). Warrender himself cannot decide on the issue of cognitive interpretation (Warrender, 1957: 124; cf. Schochet, 1967: 434). King subscribes to that interpretation and contests the fact that we can endow children with the capacity to signify “by inference”, as new-borns “completely lack the cognitive capacities that would allow them to give consent” (King, 1998: 77). He does not even accept the idea that the simple desire to eat, in the absence of rational faculties may express “the will of Contractor” and invokes, in this sense, an excerpt from *Leviathan* in which Hobbes says that “Over natural fools, children, or madmen there is no law, no more than over brute beasts [...] because they had never power to make any covenant or to understand the consequences thereof” (Hobbes, 1839: 257). But quoting this fragment in the present context finally proves the need to adopt a form of “hypothetical covenant from the perspective of the mother” (Lewis, 2003: 56), to underline the difference between the beings whose faculty of reason lacks accidentally or only for a while and those to whom nature refused by definition the gift of reason. In *Leviathan*, the fragment quoted by King refers to the exemption of responsibility of those who do not understand *hic et nunc* the command of the commonwealth. If we take into account the fact that a major

problem of social contract theory is the extension of the contract (Rawls, 1993: 38), and not only in space – that is including new lands and new subjects – but also in time by including new generations, the solution of tacit or hypothetical consent is strongly imposed.

The hypothetical covenant would then refer to the situation in which, in the lack of the partner's actual consent, the rational contractor would take a decision that, by hypothesis, would correspond to the non expressed interest of the other. Thus, hypothetical consent would be a presupposition on the likely answer of the one incapable of speech and reason, as if he were to fully possess these faculties. King does not take into account such considerations, which means that he does not take seriously either contract theory or Hobbes. He points out two fragments in which Hobbes seems to operate with the notion of hypothetical consent. The first is from *Leviathan* 2.20 (quoted above) and reads that if a child was abandoned by the mother and nourished by someone else, he owes to the one that saved his life and “is supposed to promise obedience to him” (Hobbes, 1839: 188). As we have already suggested, this excerpt should first be analyzed as a matter of gratitude because the issue here is the moral obligation that derives from the gift of life made in the simple state of nature. The paternal gift builds trust in the future possibilities of the child who will answer exactly as taught, the first thing taught being precisely the trust (or mistrust). From mutual trust an obligation derives *as if* it were contract; in fact, the obligation is first the expression of gratitude and further becomes the basis of contractual relations.

The second place where Hobbes seems to have used the notion of hypothetical consent is *Elements of Law* 23.3: “And though the child thus preserved, do in time acquire strength, whereby he might pretend equality with him or her that hath preserved him, yet shall that pretence be thought unreasonable, both because his strength was the gift of him, against whom he pretendeth; and also because it is to be presumed, that he which giveth sustenance to another, whereby to strengthen him, hath received a promise of obedience in consideration thereof” (Hobbes, 1840: 155-156). As can be seen, here too and even in a more explicit manner, the issue is that of the gift, thus *gratitude and consent must be connected together*. However, King rejects the notion of “supposed” or “presumed” promise because – he says – the idea of consent would work in the hypothesis of the lack of cognitive capacities. He strongly supports this position and does not accept the idea that the child's immediate interest is more important than the analysis of counterfactuals. King believes that the notion of child interest is actually a detour from the idea of consent and contract theory: “Interests are now fundamental notion. Why not then appeal to interests in all cases and simply ignore consent?” (King, 1998: 80).

The major problem of King's interpretation is that he makes an analytical distinction between the possible sources of filial obligation without showing an interest in their connection. He analyzes the notion of contract without pre-

supposing the interest, defines gratitude without referring to consent and discusses inequality without considering it a source of obligation. The three so called “suggestions” of Hobbes may be then easily rejected by King: he is not interested in the way in which these simple elements work together. A proof in this sense is that defining the three simple solutions sends to the same (known) places in Hobbes’s corpus. For instance, consent is defined by King by means of two perfectly equivalent fragments, one in *Elements* 23.3 and the other in *Leviathan* 2.20 (King, 1998: 76). Before that, King used the same quotations (King 1998, 70, 72) to give arguments for the solution of inequality (with *Elements* 23.3), and to define gratitude (with *Leviathan* 2.20)! Despite these inaccuracies, King’s effort to distinguish between the three roots of filial obligation is of great theoretical importance as the concepts defined by him may lead to the complex solution of the problem. There is no immediate logical opposition between the three concepts; consequently, they do not have to be considered exclusively to define the source of obligation, as King did, but must be interconnected under a double aspect: first, regarding natural order and second – the civil order, and this is because “freedom means something different in society from what it does in nature” (van Mill, 1995: 458). If we analyze the idea of consent taking into account this difference, it will lead us alone to inequality and gratitude.

### **The complex solution: the parent-child relation and the hypothetical consent**

In natural order, where every man has an unlimited right on all things, including on the body of the other men, consent is nothing but a limitation of natural (absolute) freedom *in foro interno*, under the pressure of external factors that prevent motion power in an actual or potential way. Thus understood, the consent given to the winner *in war* or the consent that limits natural law by contract *in the state of war* is one and the same thing. In both cases, we are dealing with the future limitation of natural freedom to avoid a possible evil. The interpretation of paternal domination as a particular case of acquisition – when the child is impounded by the mother or by the one that the mother is subject to or by the one that founds him exposed – would equal the form of consent that operates in the case of *master over servant*. However, for King “filial obligation is identical to servile obligation only applying to the older child” (King, 1998: 80), since only adults have the possibility to express their actual consent, on the one hand, and the hypothesis of hypothetical consent is unconvincing, on the other hand.

If we want to explain filial obligation by the idea of hypothetical consent, we have to understand that the hypothesis of natural inequality between parents and children is fundamental and this inequality refers to the victory of the strongest in the natural state of war. Clearly, the child cannot obey the winner by expressed

signs but not many signs are needed to consider that the acceptance of conditions has taken place. First, *he is not able to refuse* by expressed signs; second, *he would have a serious reason to accept* (“the preservation of life being the end”); third, *he would not have any reason to refuse*, lacking the “idols” that spread discord between men, namely “first, competition; secondly, diffidence; thirdly, glory” (Hobbes, 1839: 112). The idea of presumptive consent derives from *reductio ad absurdum*. It is true that the expression of actual consent is missing, but is no less true that the actual reasons of the opposite choice are missing too. Hypothetical consent is not defined by the counterfactual situation, that is *what decision would the child take if he possessed the faculties of an adult*, but rather by the hypothesis that the absence of resistance and of the reasons for resistance is a form of consent. The classical theory of sovereignty actually works under this hypothesis: the absence of resistance towards possession was considered to be a form of consent “by other sufficient argument declared”. One may object that the hypothesis of the lack of resistance and reasons for resistance is not convincing in the case of the parent-child relation because of the child’s evolution: we can expect for his physical and moral development to cause in time those reasons for refusal (to obedience) that were absent in childhood. But this argument has to be in agreement with the fundamental hypothesis of inequality. To be more precise, we have to give a general answer to the question: how will the caregiver make sure that the one in his care will not become his enemy and remain obedient? The hypothesis of power inequality allows us to understand that the strongest has the first chance and it depends only on him whether the future adult will have reasons to turn against him. To grasp the deep sense of Hobbes’s reasoning, we suggest the parallel reading of two excerpts. The first is from *Elements* 23.8, where Hobbes says that parents “may alienate children, that is, assign his or her dominion, by selling or giving them in adoption or servitude to others; or may pawn them for hostages, kill them for rebellion, or sacrifice them for peace” (Hobbes, 1840: 157). The second excerpt is from *De cive* 9.7: “a Parent cannot be injurious to his Sonne as long as he is under his power” (Hobbes, 1983: 124). The obvious contradiction between the two excerpts is not a formal vice as the issue is in fact the normal opposition between natural right and natural law. Certainly, parents may abandon their children, but then the children’s obligation towards them ceases in virtue of the natural law and is transferred to another master. Therefore King’s stake on the first fragment (*Elements* 23.8) is an exaggeration. What is more important is the fact that the respective fragment shows the extreme situation that could derive from inequality if parents did not limit their natural right or use it to punish disobedience. Besides the state of exception, parents would endeavor to shape in a disciplinary manner the children’s nature so that the increase of their capacity to overcome obstacles is offset by their capacity to limit natural freedom by internal mechanisms. We are thus led to the issue of gratitude and consent.

It was not at random that the idea of hypothetical consent was taken seriously by those commentators of Hobbes that analyzed the relation between consent and gratitude<sup>8</sup> (Schochet, 1967: 433). This is because, in the end, gratitude cannot exist beyond consent as it is nothing else than the limitation of natural law *in foro interno*, based on the trust that comes from a previous act of benefaction. Therefore, it is out of the question for the act of gratitude to be carried out without the *actual* consent of the indebted one. Before that, when the benefactor performed his service (with an interest in mind), he did not have any guarantee on the future response of the recipient (thus, it would not have been a free gift, but a contract). As a result, the donator lays down his right hoping that his gift will be received as a sign of peace and that, in exchange, he will not be treated with hostility. The assumption he will make is that the other will act according to the natural law: “every man ought to endeavour peace, as for as he has hope of obtaining it, and when he cannot obtain it, that he may seek and use all helps and advantages of war” (Hobbes, 1839: 117). And this is nothing else than a form of hypothetical consent as the first natural law establishes clearly and distinctively the condition that limits natural right (namely when there are assurances that the other envisages peace rather than war). The idea of hypothetical consent does not only concern the parent-child relation, but is also present in any act of benefaction to the extent to which benefaction is a sincere gesture of peace by the transfer of right. A clear proof in this sense is the fragment in *Elements* 14.11, where Hobbes shows that consent is the general condition of every form of transfer of right<sup>9</sup> in search for peace. To answer by an act of hostility to a peaceable action is a proof of vanity and a violation of the fundamental natural law and of the precept “that every man strives to accommodate himself to the rest” (the fifth natural law). Consent is thus actually present in the gesture of gratitude and given as hypothesis in the act of benefaction.

As a result, the free gift (as non-mutual transfer of a right) resembles very much that form of contract – called pact or convention – in which the thing contracted is delivered immediately by one part while the obligation of the other part is postponed for a time to come. This similitude suggests that, in adulthood, filial gratitude will be hardly distinguished from contractual obligation. What makes this possible is the capacity of adult children to understand, by reason, that the parent’s gift – preservation of life or education – has been the expression of the human natural inclination for power and honors. This could mean, as *De cive* 9.7 also reads, that adult children become less grateful “if regard be had to true

<sup>8</sup> “Ultimately, the future consent of the child was probably derived from Hobbes’ fourth law of nature, the law of gratitude” (Schochet, 1967: 433).

<sup>9</sup> “And forasmuch as in all covenants, and contracts, and donations, the acceptance of him to whom the right is transferred, is necessary to the essence of those covenants, donations, it is impossible to make a covenant or donation to any, that by nature, or absence, are unable, or if able, do not actually declare their acceptation of the same” (Hobbes, 1840: 91).

and inward Honour” (Hobbes, 1983: 124), but they will not stop honoring, by external signs, the ones that have more power. They can turn gratitude into a rational account; every party knows the interests of the other, and tries to live in harmony with him according to the natural law. As a result, the genuine reason for which someone respects his parent – for love or calculation’s sake – remains impossible to determine as long as he performs the actions that he is expected to. In *Elements* 8.5, Hobbes presents the honors that superior and inferior give one another as a strategic account, for the signs of honor “the inferior giveth to the superior” are strategic responses to the signs of honor “from the superior to the inferior”.

It is obvious that these considerations on “manners” refer too little to that “mere state of nature” where there are neither conventions, nor the leisure to observe the exchange of honors between superior and inferior, especially since there is no distinction between superior and inferior<sup>10</sup>. We can ask then if we could talk about contract as source of filial obligation in that state of nature where the natural unlimited right prevails. We showed above that recognition derived from the “preservation of life” is a source of this obligation and should at least mean that he who benefited from the gift of life will not become enemy of his benefactor. But this is nothing else than a “secret pact”<sup>11</sup> by which mother and child enter a

<sup>10</sup> “The subordination of men was due to convention and human consent, not to nature.” (Schochet, 1967: 432).

<sup>11</sup> The notion of “secret pact” was employed by Samuel Sorbière, Hobbes’s friend and secretary, in his translation of *De cive*, to render the notion of agreement (*pactum*) from the fragment 9.8 which reads that *sparentibus honorandis esse legis naturalist non modo sub titulo gratitudinis, sed etiam pactionis* (Hobbes 1642, 233). “Non seulement a cause de la gratitude, s...t mais aussi en vertu d’une paction secreete” (Sorbière, 1787 : 169). Probably Sorbière understood from the context that it was a form of agreement based on tacit consent (and this is precisely its sense); however, the use of the word “secret” is excessive in the fragment discussed since it only refers to emancipated children and released servants and not to the secret, emotional or bodily relation between mother and child. We could consider that Sorbière translates too freely, as in the case of fragment 10.7 which actually refers to a “secret pact” that is not mentioned by the French text. Hobbes refers therein to the agreement of the “many Nero’s” in democracy that – as Sorbière’s translation reads – “se prentent l’epaule tour a tour” (*hodie midi, cras tibi*); but the translator completely forgot the expression *quasi tacito quodam inter se pacto* (Hobbes, 1642: 10.7, 259). We could forget this incident if we did not find a small inadequacy in the English translation of the (exact) same fragment: “sand they mutually give way to each others appetitet as it were by this secret pact, Spare me today, and Ile spare thee to morrow” (Hobbes, 1983: 134). Not (only) the translation of *tacito* by “secret” draws my attention, but (especially) the association between this option and the change of the original meaning of *hodie midi, cras tibi*! Namely, the expression of the Latin version (1642) – which was often used as epitaph – could not be used to render precisely the idea of hypothetical consent based on which paternal domination is established in the state of nature; instead the expression in the English version (1651) is practically the best definition we can give to hypothetical consent. I am not trying to suggest that the deviations from the Latin text are the result of Hobbes’s interventions (which is quite possible), but rather that the idea of hypothetical or “tacit” consent affords the interpretation of filial gratitude as a form of secret contract (*Spare my life...*).



relation of domination that sets “a little body politic which consisteth of two persons” (Hobbes, 1840: 149). However, the idea of secret pact – even if we accept it – does not seem to be sufficient to explain filial obligation in the state of nature, given the fact that it only has a negative meaning of limitation of the right to kill and this is not enough to found a solid positive relation. In *De cive* 14.9, Hobbes says that, in the state of nature, “all things were determined by every man own judgment, and therefore paternal respects also” (Hobbes, 1983: 173). This means that we cannot speak of the duty to honor one’s parents before the existence of family. In *the state of nature* the family refers to “the whole consisting of the father or mother, or both, and of children, and of servants [...] wherein the father or master of the family is sovereign” (Hobbes, 1840: 158). If this family is able to ensure its own protection by growth and conquest, “then is that family called Patrimonial Kingdom” (Hobbes, 1840: 159).

Consequently, what makes family the place of manifestation for filial obligation in the state of nature, is its capacity to ensure protection and stability, which implies a certain power to protect the children. However, in the state of nature, the effort of association is so baffled by the continuous change of the power relations that no convention can be accomplished: “But yet a family is not properly a Commonwealth [...]. For where a number of men are manifestly too weak to defend themselves united, every one may use his own reason in time of danger to save his own life, either by flight, or by submission to the enemy, as he shall think best” (Hobbes, 1839: 191). And Hobbes compares this situation with “a very small company of soldiers surprised by an army”, thus suggesting that, in the state of nature, contracts are null because what finally guarantees them is power. But this does not mean at all that the source of filial obligation is only civil, even if its turning into positive duty is made by civil law as in the case of filial obligation within the Law of Moses (*De cive* 14.9). The explanation consists in the fact that children have to respect their parents before becoming citizens or subjects of law, and this fact makes us return to the issue of hypothetical consent in the state of nature. Now the idea of hypothetical consent has to be argued in another way.

The best argument is the comparison between despotic and political domination. When Hobbes says that family is a small kingdom as kingdom is a large family, he particularly has in view the type of submission: the political obligations of the citizen resemble the *domestic* obligations that children and servants have towards their master. What seems important to me here is the source of the obligations that citizens have in the instituted sovereignty. To be more precise, if the legitimacy of all obligations results from the original contract, the question raised is: how does contract reiteration take place when an emancipated son becomes a citizen with full rights and obligations? This question seems useless as the obligation that results from the contract is different form the obligation that

results from law, even if the law is based itself on an original convention<sup>12</sup>. Thus it seems that the idea of contract renewal (every time an emancipated son becomes citizen with full rights and obligations) is superfluous, since the obligation derived from the law precedes the knowledge of action. But there is still one more problem to solve, namely that there is no obligation without consent, in which case we have to admit by hypothesis that consent has been given: “because we have contracted to obey the sovereign’s laws through our own will, we are also the authors of the laws, which provides an additional reason to obey” (van Mill, 1995: 455). And if consent was given hypothetically, then the civil law was (re)established by a “secret” pact. Because, if it had not been so, what right would have been to punish the crime of lese majesty by the law of war and not by civil laws (*De cive* 14.20)? “There is an obligation derived to observe each one of the civil Lawes, so that that Covenant contains in itself all the Laws at once” (Hobbes 1983, 180). This constitutive obligation has to be also based on a form of consent and this consent is only hypothetical. Similarly, filial obligation cannot derive from civil laws as the relation between parents and children is prior to and independent in relation to civil laws. So, as at the *supra* level of the commonwealth, the Sovereign punishes by the law of nature any action (of lese majesty) by which the community is dissolved *hypothetically*, at the *infra* level, paternal domination and filial obligation are the natural mechanisms by which commonwealth is infinitely (re)produced by hypothetical consent.

## Conclusions

The analysis of the parent-child relation in Hobbes is of interest to the issue discussed in this volume under various aspects that precisely refer to the notion of parenting. At a first glance, the conception of Hobbes on family as *little kingdom* to whom the concept of indivisible sovereignty is applied (Boucher, 2003: 37) is the opposite of present theories and practices. Thus, the idea of “multicaregiver families and parenting” (McHale et al., 2002: 99) or „parentage élargi” (Dandurand, 1994: 343) – referring to the alternative or competitive participation of several (individual or institutional) actors in the upbringing and education of the child – equals to a limitation of the idea of patriarchal sovereignty operated by Hobbes and hence, a disconfirmation of his theory on paternal domination and filial obligation. Hobbes’s theory on the parent-child relation would not be of any interest had it not been for the history of ideas since it remains fundamentally related – by content – to the patriarchalist thought of the 17<sup>th</sup> century (Austin, 2007: 62). However, the historical point of view is only a point of view, never

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<sup>12</sup> “In simple covenants the action to be done, or not done, is first limited and made known, and then followeth the promise to do or not do; but in a law, the obligation to do or not to do, precedeth, and the declaration what is to be done, or not done, followeth after” (Hobbes, 1840: 221).

sufficient to release us from the unpleasant inheritance of an author whose logic “is impeccable” (Pateman, 1989: 454). This is because the perfect logic of Hobbes allows us to go beyond the historical character of his opinions on the best form of government or the most suitable form of family organization to find the clue of contract theory. This clue should be the Rawlsian distinction between the original *concept* (of justice) and the various peculiar *conceptions* that can be built according to that concept (Rawls 1999, 5). Even if this distinction pertains to the originality of Rawlsian approach of contract theory, I think we can (still) find its germs in the perfect logic of *Leviathan*. Hobbes says, indeed, that absolute monarchy is the best form of government but implicitly admits that other forms of government are legitimate for the right to represent multitude shall be given „to whatsoever man or assembly of men” (Hobbes, 1839: 159). Leo Strauss showed that Hobbes’s arguments for absolute monarchy do not exclude the possibility of an alternative (Strauss, 1952: 66), which also comprises the establishment of mixed forms of government (*Elements* 1.17). Hobbes avoids an open critique of the other forms of government; he is only content to show the advantages of monarchy or, from time to time, to suggest certain disadvantages of democracy. Starting from these observations, we could notice that one of the most important difficulties of the political theory in Hobbes is the absence of a vision on political change. However, the idea of change cannot be excluded from Hobbesian theory for it is implied both in the idea of existence of a perfect form (although not in the Aristotelian sense) and in the idea of difference between the pure and mixed forms of government. The only interdiction that Hobbes formulates is that of the revocation of the Sovereign. This problem of political change (or even in the sense of “irresistible democracy”) has some major consequences on the approach of family in the political theory initiated by Hobbes.

Firstly, if it is true that the fathers of families founded the commonwealths, and this enterprise was preceded by a sexual contract that subjected women (Pateman, 1989), then nothing prevents – in theory – the emancipation of women to take place by the reform of administration and legislation without revolution or civil war. Paradoxically, what can guarantee the success of such reforms intended by an enlightened despot is precisely the interdiction of the citizen’s (men’s) revolt against the sovereign. Secondly, even if we admit that families function according to the political model of indivisible sovereignty, this model does not originate in the rights of the Sovereign (although it can be formulated in this language), but rather in the rights of the subjects for “no man can obey two masters” (Hobbes, 1839: 186). Here we must have in view that the relation between woman and man is (somehow) defined in the field of international relations because family constitutes a little political body in natural expansion (by generation and acquisition). As a result, the model of indivisible sovereignty is not passed to the family from the political; on the contrary it constitutes the political according to the laws of nature. The idea is that the model of indivisible sovereignty is not defined by the

subjection of woman in the traditional family even if it were related to the subjection of woman – as feminist authors showed. An argument that may be invoked here is a fact signaled by the literature on non-heterosexual families, namely that “similar to heterosexual couples, warmth decreased and conflict increased somewhat among lesbian couples when they transitioned to parenthood, differentiation between partners in childcare (though not housework) and paid employment developed” (Bilbarz and Savici, 2010: 482). Certainly, these observations may be contested in the light of other observations – “that lesbian couples without children shared housework more equally than all the other comparison group” (Kurdee, 2007; Bilbarz and Savici, 2010: 482) – which suggest that lesbian couples learn patriarchy from heterosexual couples. But then, the demonization of the distinction between public and private as expression of patriarchal attitude is unwarranted for it is revealed as permanently connected – in lesbian families, included – to the distribution of roles that is required by the life in the couple and the fulfillment of obligations that result from parenthood. To the extent to which lesbian families are defined by “more active negotiations when setting up household routines” (Esmail, 2010: 594), we may consider that we are dealing with a new form of contract. However, this contract, even though is characterized by the fact that roles are *not* predetermined by biological sex, cannot signify the end of the patriarchal model as long as it is based on the veiled perpetuation of indivisible sovereignty when “a state of exception” was instituted in family. We use this expression to denote the suspension of the natural equality of parents once the situation of parenthood occurs. Child care is a state of exception in the sense that continuous deliberation and negotiation between parents in the state of equality is replaced by a fixed distribution of roles and, consequently, by a decision model based on domestic expertise. This means that, along with assuming the role of parent, the natural state of equality – but also anarchy – ceases to be a viable model and family is to be understood through transformational operations of the contractualist model. Hobbes’s model is the most flexible model because: a) it admits the natural equality between woman and man; b) it gives the initial sovereignty over the child to the mother; c) it relates filial obligation to the care, and not to the generation; d) it prescribes the limitation of the parents’ power over children and seeks a balance between discipline and the natural rights.

Thirdly, the diversification of the forms of parenting in contemporary developed societies described by the notion of “multiple parenting” (Dandurand, 1994: 353) could not be conceived outside the tendency towards deprivatization of family relations and their movement towards the public sphere (Holstein and Gubrium, 1995: 897; Cojocaru 2009a: 45). Understood as institutionalization of child care, the notion of *public parenting* (Dandurand, 1994: 353) actually synthesizes the idea that the relaxation of the model of indivisible sovereignty in family relations is possible only if the fathers of families transfer more and more paternal

rights to “that great Leviathan [...] to which we owe our peace and our defence” (Hobbes, 1839: 158). In the language of contractualist theory, this transfer equals to a change in the original contract and not to an annulment of the concept of original position: for the idea of “professional parenthood as an expression of domestic life deprivatization” (Cojocaru, 2009a: 45; Cojocaru, 2009b: 89) and institutional message addressed to the child is based more than ever on the concept of hypothetical consent forged at the margin of Hobbesian political theory. As proof, present theories on parenting need the presupposition that someone (such as the State) needs to adopt “to a greater extent the point of view of the child as it affords to consider all the adult actors that assume caring” (Dandurand, 1995: 353). The change of stress from the language of obligations to the language of rights – for instance the right of the child to claim a “normal family life” – is important without doubt, irrespective of what may be understood by “normal family life” (Joyal, 2006), but the idea of right, as well as that of obligation cannot work without the “impeccable logic” contained by the Hobbesian notion of hypothetical consent.

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