DOES SPINOZA HAVE A CONCEPTION OF SOVEREIGNTY?

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ECPR Copenhagen, April 2000  
Political Concepts panel

ABSTRACT

The paper argues that Spinoza's principle of political order does represent a conception of sovereignty which is both historically intelligible and analytically internally coherent.

The appropriateness of four meanings of sovereignty to Spinoza's political theory are considered. Then, after examining Spinoza's use of Hobbes's still influential touchstone for the modern theory of sovereignty, Spinoza's conception is discussed in the light of the role that customary practice and republicanism play in his political theory. The analysis of sovereignty also prompts engagement with a range of meanings of the notions of constitutionalism and absolute rule.

The argument demonstrates that while Spinoza employs some different criteria, he establishes a conception of sovereignty which needs to be recognised as no less internally consistent than Hobbes's. Moreover both conceptions contain problems. Although Hobbes demonstrates the abstract logic of authority, the theoretical consequence he draws concerning sovereignty entailing a unitary state has been successfully challenged. Spinoza's conception of sovereignty is based on the logic of customary practice, but the manner in which customary practice is ultimately unsusceptible of analytical justification renders his notion also vulnerable to challenge.
Does Spinoza have a conception of sovereignty?

The short answer to the question of whether Spinoza has a conception of sovereignty is that it depends upon how sovereignty is defined. Before exploring Spinoza's political theory in detail, it is important to begin by examining the pertinence to Spinoza's political theory of four definitions of sovereignty.

Sovereignty can be defined as an aspect of a particular form of political organisation, that is, as the authoritative apex of a hierarchical structure of governmental powers in a modern centralised and unitary state. It would be anachronistic to attribute to Spinoza a conception of sovereignty so defined. This model of political organisation, dominant in the modern period, whose theoretical ratification is drawn in significant respects from Hobbes, (1) contains twin features which together sum up the unity of the whole. These are an identifiable single, unified, ultimate, exclusive and indivisible locus of legal and political authority (2) to exercise or delegate political powers, by right and in law, together with the right of self-determination of this autonomous locus of self-government within a bounded and exclusive territory independent of other states. (3)

According to this viewpoint a political society organised according to the principle of sovereignty can be contrasted with ones organised around other principles, such as that of constitutionalism or that of the divine right of kings. It follows from this view that the principles of for instance sovereignty and constitutionalism are incommensurable. However this neat contrast depends upon a particular
meaning of "constitution". The definitiveness of the contrast breaks down when it is remembered that the term "constitution" can refer both to an alternative to sovereignty, and as itself carrying the location of sovereign ultimate authority, in the sense of the "basic norm" or the "extraordinary powers" of the political society. (4)

Sovereignty can also be defined as a logically necessary feature of any settled body politic, a key feature sustaining the stability of any polity and its relation with other political communities. Following this definition, Spinoza must by definition have a conception of sovereignty. According to this perspective, sovereignty is a general feature of all political societies across time and place, underlying the diversity of laws and institutions, along with other necessary categories such as "politics", "obligation", "justice", and "government". Sovereignty here specifies which person, persons, or assembly can legitimately exercise (because entitled by authority, and not subject to the legal control of another will) legally-sanctioned decision-making powers supported by a monopoly of coercive power, both domestic and in relation to war and peace with other political societies.

As well as these two definitions of sovereignty, as characterising a particular historically-identifiable form of political organisation, or as a logically-necessary general feature of any settled body politic, the term sovereignty can also be defined in two further, contrasted, ways. If the view drawn primarily from Hobbes is taken to define the very concept of sovereignty, as a universal and abstract arrangement of conceptual relations, stripped of its extraneous historical associations, then Spinoza has either an incoherent notion of
sovereignty or is discussing another form of political organisation altogether. This view proceeds on the grounds that Spinoza does not replicate Hobbes's systematic 'logic of the concept of sovereignty'. (5) The idea of sovereignty as defined by a specific set of conceptual relations draws upon the notion of sovereignty as the defining attribute of 'the unique exercise of unbounded authority' (6) by a ruler. According to this idea sovereignty entails the analytically-sound unified and indivisible fusion of authority and power, formed from the abstract relationship between a set of inter-connected definitions about authority, authorisation, obligation and law, (7) which then define a catalogue of concepts (8) including legitimacy, power, obedience, justice, peace, the autonomy that is available to the polity and to the individual, individual rights and liberties, and expressing the unity of the polity.

Moreover if the concept of sovereignty is taken to refer specifically to the absolutist notion of the exercise of political power as specified by Bodin and Hobbes, (9) in direct constrast to a constitutionalist notion which safeguards the pre-eminence of the rule of law, (10) then Spinoza may or may not have a conception of sovereignty, depending upon what is meant by "absolute". The different political implications of the multiple meanings of the term "absolute" rule will be discussed later on.

But, coming to the fourth meaning of sovereignty, if the concept of sovereignty is taken to refer only to the very general and abstract umbrella notion of the relationship between rulers and and ruled for the exercise of political power, and the independent status of the body politic on the international stage, and if it is granted that different
conceptions are expressed over time, the diversity of meaning and usage of which can be studied historically (11) then Spinoza has a very interesting and distinctive but neglected conception of shared sovereignty. The argument developed here will propose that, following this fourth definition, Spinoza does have a defensible conception of sovereignty. There are strong grounds (12) for holding that between the views that attributing a concept of sovereignty to Spinoza would be anachronistic, that he has a conception of sovereignty by definition, and that he has an incoherent notion, there is scope for arguing that Spinoza has a distinctive conception of sovereignty which is both historically intelligible and conceptually coherent. Support for the position that Spinoza does have an internally-coherent conception of sovereignty comes from Putnam, who contends persuasively that we rightly attribute to humans in the past vis-a-vis us, 'shared concepts, however different the conceptions that we also attribute'. (13) A positive answer to the question posed in the title also gains credence in the light of the contestable nature, outlined in the final section of the paper, of the standard definition of the political concept of sovereignty, as well as from the different meanings the term attracts in political practice, and from the interpretive range of definitions of the terms "constitutionalism" and "absolute". The paper focuses upon the delineation of an internally-coherent version of the concept of sovereignty by Spinoza, and an examination of how the coherence of that conception is both enriched and limited by Spinoza's adherence to assumptions governing the political discourse of the political community of the United Provinces.

But the crux of the matter will hinge upon whether or not it can be
successfully demonstrated that Spinoza's conception of sovereignty is coherent. The exploration will proceed both by examining Spinoza's political theory and through important comparisons with Hobbes, from whose theory of sovereignty the model for the modern conceptualisation of sovereignty crucially derives. In examining Spinoza's engagement with Hobbes's theory of sovereignty, the conceptual presuppositions of his own conception of sovereignty are clarified. The argument will conclude that while Hobbes demonstrates the abstract logic of authority, the consequences he draws concerning sovereignty entailing a unitary and undemocratic state have been successfully challenged. While Spinoza expounds a coherent conception of sovereignty based on the logic of valuing social practice, the manner in which customary practice is ultimately unsusceptible of analytical justification also renders his notion vulnerable to challenge.

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Spinoza wrote two political treatises, the Theological-Political Treatise published in 1670, less than twenty years after the appearance of the English version of Leviathan, (14) and the unfinished Political Treatise published posthumously in 1677, around the same time as Locke's Second Treatise is now taken to have been written. Just as Spinoza's Ethics sets out the presuppositions of necessarily social existence, so his political treatises are concerned with establishing the preconditions and postulates of political society. Spinoza's central concern with political society is bounded on the one hand by excluding the claims of the super-natural (religion, theology, ecclesiastics), and so with demonstrating the independence of
philosophy from theology in the generation of the polity. It is bounded on the other hand by establishing that the constituents of political society - persons - require a morally-grounded 'free' social setting in order to flourish in their understanding and to use their potentialities and capabilities.

Spinoza's view of the relationship between rulers and ruled seems, at first, rather puzzling. Known to philosophers through the Ethics for his contribution to the development of Rationalist metaphysics, and having in mind the presumption of most commentators that his political theory, for the most part, follows that of Hobbes, (15) we are not led to expect the very important dimension of Spinoza's conception of governing which emphasises the value of social practice, expressed both in his theoretical approach and in his repeated and profound concern with the specific polity of the United Provinces.

Two features of Spinoza's theory of governing immediately strike the reader. First the discussion of the authority of the sovereign and the obedience of subjects (which draw heavily on Hobbes) is supplemented by a strong sense of the significance of customary practices, traditional legal principles, and the particularity of a political society's historical legacy. It is clear that Spinoza's aim in writing about politics was to defend and strengthen the existing practices and institutions of a polity, and not to present an appeal to a blank-slate, purely rationalist conceptual correctness. (16) This emphasis on the practice of existing institutions rather than on abstract conceptual analysis might suggest that Spinoza does not have a theory of sovereignty. The second feature, which follows from the first, is that Spinoza does not outline an abstract conception of governing
expressing the unity of the community.

Spinoza's approach to political theory is quite unlike Hobbes's in character. Whereas Hobbes's argument proceeds through a series of conceptual definitions designed to be watertight and unassailable, Spinoza's definitions of his terms is at times neither consistent nor systematic. Spinoza's lack of rigour, compared with Hobbes, again suggests that Spinoza did not have, and neither can we now attribute to him, a sustained account of sovereignty. Even the chapters following Hobbes most closely, with themes such as natural right, the rights and duties of subjects, and the powers of the sovereign, (17) all read like imperfectly remembered versions of Hobbes, recollected by a pragmatist.

For instance, for Spinoza the contract by which the commonwealth is formed may be explicit or tacit, (18) the ruler does not take over all the citizens' rights, (19) such that there is no sense of the tight bind between authority and obligation that is found in Hobbes. A commonwealth can do wrong (20) and citizens may resist if the ruler does not act in their interests. (21) Again, Spinoza's treatment of democracy in the earlier treatise is deeply ambiguous, given some of his Hobbesian strictures about undivided sovereignty, which he then turns on their head. (22) Again, while Spinoza subscribes to Hobbes's argument that sovereignty entails that there can be no source of authority beyond or as well as the sovereign, Spinoza also grants to "reason" the role of independent arbiter of a sovereign's actions (23) - a point which Hobbes would never have conceded. In addition Spinoza accepts that in practice the sovereign's power and the citizen's giving up of rights is never as universal as the ideal account of the formation of the state suggests. (24) His willingness to accept the
pragmatic dictates of practice against the ideal principle, is very striking and characteristic. (25) Hobbes would never have accepted this; what he lays down as a principle is what he fully expects to be expressed in practice.

Moreover, according to Spinoza it is perfectly feasible for sovereignty in the sense of ultimate authority to be mediated through other institutions and loyalties. This position reflects closely the United Provinces's medieval intellectual tradition, which persisted through the seventeenth century despite the United Provinces being surrounded by the emergent modern states of England and France. Furthermore, in a radical difference from Hobbes, in Spinoza's second political treatise, Spinoza emphasises that no-one can be regarded as being above the law in any of the three forms of dominion (monarchy, aristocracy, democracy). The king in a monarchy, and patricians, syndics and senators in aristocracies, are all bound by the law. (26) For Hobbes it is a defining attribute of sovereignty that a sovereign is not only the maker of positive law but is also above that law.

However in the light of two further arguments these indications of the lack of a theory of sovereignty in Spinoza lose their force. The first is that it is also possible to give a positive account of sovereignty in Spinoza. The second is that there are two specific thrusts of Spinoza's political argument which draw upon principles of Hobbes's theory of sovereignty to great effect. In being able to argue very strongly that polities must be either democracies, aristocracies or monarchies, but not a mixture of all three (a live issue in seventeenth century political theory, and one with particular resonance in the United Provinces); and that the sovereign must hold civil and religious
authority, Spinoza is able to use Hobbes's theory of absolute indivisible sovereignty to contribute forcefully to two very local political debates.

These two usages of Hobbes are underpinned by a particular meaning of the notion of "absolute" rule for Spinoza. The term "absolute" rule has come to be regarded as synonymous with any incidence of a practice of arbitrary or despotic rule. However in the early modern period, in many absolutist theories sovereignty is generated from a grant by the people, albeit an irreversible grant. (27) For Hobbes the term "absolute" refers simultaneously to multiple meanings - to the nature of the abstract relationship of authority between rulers and ruled; to the fusion of authority and power; to the unlimited powers held by a single person or assembly; to the idea of being without exception, with no persons or circumstances outside the governing principle; and to the non-personalised quality of sovereignty. To Hobbes the consequence of sovereignty being absolute is that it cannot be shared or divided, while for Spinoza this does not follow. Spinoza agrees with Hobbes and is quite clear that the relationship between rulers and ruled must be absolute, in the sense that the transfer of the natural right of self-government in the social contract must be a wholehearted commitment, whether made through fear or hope or reverence. In Negri's terms, for Spinoza the power to command is fully identified with the powers of the constituent individuals who compose political society. (28) Geismann also lends support to the view that Spinoza means by "absolute" the same as one of Hobbes's primary meanings, noting that it 'has been held that, in comparison with Hobbes, Spinoza has strongly modified and moderated the absolute of State authority, which he supports by reserving to it a natural right'. But in Spinoza, '[t]here is,
however, no contradiction between "absolutism" and "reservation"'. (29)
Thus for Spinoza there is no contradiction between 1) discussing sovereign power as absolute, 2) considering that persons cannot transfer their rights entirely, and 3) depicting sovereignty as shared.

Spinoza argues that the primary requirement in order to achieve either a stable monarchy, aristocracy or democracy is that the relationship between rulers and ruled be absolute in the sense of establishing political authority. (30) In his uses of Hobbes's theory of sovereignty Spinoza in effect equates "absolute" with "indivisible", as a means of excluding contested political and religious claims to aspects of authority. As a result, as Den Uyl and Warner correctly observe, '[a]lthough it is well known that Spinoza defends democracy, he does not do so in order to limit the absolute power of sovereignty - a main reason Liberals have traditionally advocated representative government'. For 'Spinoza's advocacy of democracy is designed to enhance the absolute character of the sovereign'. (31)

Spinoza allied himself politically with the republican faction in United Provinces' politics, and his two uses of Hobbes's theory of absolute sovereignty were extremely valuable in opposing, on the one hand the challenge to political supremacy posed by the House of Orange's claim to monarchical status, and on the other the claim of the Calvinists to authority beyond the civil law.

Looking briefly at each of these arguments in turn, (32) the House of Orange's political aspirations had two strong supports. First, the Aristotelian notion of mixed government which dominated academic political theory in the United Provinces, happily accepted the Count of
Orange as the monarchical element in this mixed formula. And secondly, traditionally during the late medieval period, when the Netherlands were part of the Habsburg Empire, the Counts of Orange had occupied the official post of Stadholder, representing the distant imperial authority, particularly in foreign, diplomatic and defence matters. In practice this had not generally interfered with the internal self-government of the different provinces. But, by the middle of the seventeenth century, after the Revolt against the Spanish and the melting away of their obligation to the empire, the House of Orange's ambition to establish itself as the royal house of the United Provinces, conflicted with the desire of the provinces to maintain their independence, both from any form of monarchical or centralised authority, and from each other. The persistence into the seventeenth century (and beyond) in the Netherlands, of medieval legal structures and patterns remained the basis for defining legal liberties, specific and local ancient privileges and the rights of the individual in society. The persistence of these medieval patterns is reflected also in the continuity of expectation and assumption of feudal notions of rulership and sovereignty. Without a feudal monarch or emperor, sovereignty has come, almost by default, to be seen to reside in the separate provinces, who continued to send mandated delegates to the provinces-wide assembly called the States General.

Specifically Spinoza and the republicans asserted the principles of provincial autonomy, commercial and colonial aggression, combined with isolationism in Europe, all within a Holland-centric perspective in which Holland led but did not dominate the Union, and legitimised by a tradition-centred idiom of political language based on ancient
privileges and liberties validated by law. The United Provinces was successful as 'a network of commercial interests, not a (continental) machine for military expansion'. (33) In this political climate no theoretical or constitutional innovation was possible, except when framed as endorsing and sustaining the continuity of tradition. This definition of a republic held no place for an active monarchical element and Spinoza sought, by using Hobbes's conception of sovereignty, to secure the exclusion of the House of Orange from any such role. (34) In consequence, Spinoza's notion of sovereignty is crucially designed as an instrument to defend the constitutional tradition, and not as an instrument to unify and strengthen the state. Its purpose is to check the development of centralised government, not to promote it. In this way Spinoza inherited and enthusiastically defended a collection of feudal political patterns and medieval legal arrangements. Although the framework in which they now operated had been radically altered with the defeat of the empire, the changes could only be recognised by being absorbed into the constitutional tradition.

In England in the 1640s and 1650s, Hobbes was one of many who saw the breakdown of royal authority and the seizure of power by Parliament and the Army, as a terrible rupture in the desirable and traditional continuity of sovereign power, tangibly located in centralised and unified fashion in the monarch. This continuity was seen by him as being crucial to the wellbeing of civil society. Hobbes wrote in 1640 that power and rights were inseparably annexed to the sovereignty; he held that as Parliament did not dispute that sovereignty lay with Charles I, they should not maintain any rights or power against the king. (35) Spinoza, incidentally, sees the English Civil War as dreadful proof of what happens when a people try to change the nature
of the government to which they are best suited, in England's case monarchy. (36)

In the United Provinces however, the issue of the continuity of ultimate sovereign power, vested in the Emperor, had not been so crucial to the perceived wellbeing of civil society. Netherlanders were quite accustomed to seeing the issue of sovereignty as quite separate from that of the power and right to govern and administer, and indeed saw the two things as necessarily separate. The self-perception of Netherlanders in the seventeenth century was that the United Provinces was emphatically not an emergent modern European nation state, and it did not become one until the nineteenth century. The different frameworks in which political upheaval was conceptualised in England and the United Provinces, then, help to account for the very different understandings Hobbes and Spinoza have of the relationship between state and society, and the different roles which sovereignty had in sanctioning it. In Spinoza's theory sustaining the whole is not nearly as important as maintaining the integrity of the separate parts; there is no emergent nation state because there is no whole. Thus when Spinoza used Hobbes's notion of sovereignty, it was not in order to cojoin sovereignty with rights and power as such, in the sense Hobbes meant. The eighty-year period of the Revolt had been won by the United Provinces precisely in order to reaffirm and legitimate this separation, and even long after the end of the Revolt the two principles were not fully merged.

Spinoza's second use of Hobbes, in his argument designed to undercut Calvinist claims, (37) follows from the thesis developed early in the first political treatise, that the reason used in philosophy and the
faith on which scripture depends, are separate and distinct expressions of truth. For Spinoza, to pursue a life devoted to the love of God is man's highest goal. It follows that the state which allows man (and he means to exclude women) (38) to pursue such a life, is a state which has a sophisticated understanding of the need for religious toleration, and so necessarily holds sovereign (in the sense of ultimate) power and authority in both civil and religious affairs. The ruler's laws in both areas must be accepted as overriding any other law, and so dictate the terms of civil religious pluralism, though not, of course, of faith. (39) Spinoza sought to promote toleration and so in this sense a real religious alternative to the dogmatic view held by both the Calvinists in the United Provinces and the Puritans in England, that scripture provides all the answers and reason none.

The force of Spinoza's use of Hobbes's theory of sovereignty in this second usage is to support his argument that sovereignty should be indivisible in the sense that civil sovereign power in matters secular should not be divided from civil sovereign power in matters spiritual. Spinoza's purpose in using Hobbes here is fulfilled when he can argue that freedom to worship God as the individual's conscience dictates, within the dominion where the sovereign has power to make civil law over both secular and religious matters, can 'be granted without prejudice to the public peace, but also, that without such freedom, piety cannot flourish nor the public peace be secure.' (40) In this way, from the premise of absolute sovereignty, Spinoza's championing of toleration, conscience and individual judgment is therefore a very different outcome indeed, from Hobbes's advocacy of a compulsory state church.
Spinoza's successful use of Hobbes's argument in these two areas is not followed up by an analysis of sovereignty as a concept similar to that of Hobbes. For Hobbes, sovereignty provides at least four crucial political functions. It identifies the abstract locus of political authority; it establishes the corresponding political obligation of citizens; and it entails the sovereign's right and power most importantly to make and implement law. But, perhaps most crucially, sovereignty expresses for Hobbes the political identity and unity of a commonwealth, which is the basis for the fusion of authority and political powers. For Spinoza, however, such an enterprise—the analysis of sovereignty as a concept—is not required. Instead of consistently using the term "sovereign", Spinoza refers loosely and interchangeably to 'the authorities', 'the holders of sovereign power', 'the rights of rulers', 'the civil authority', 'legitimate rulers', 'him...who holds supreme dominion', and the 'supreme authorities'. (41)

In his chapter entitled 'The Best State of a Dominion', in the second political treatise, Spinoza notes that it should be independent, free and peaceful, but he does not discuss sovereignty in the sense of ultimate authority as one of its criteria.

For Hobbes, sovereignty crucially expresses the political identity and unity (42) of the commonwealth, such that the abstract concept could be, in theory, cashed out into a number of different forms of government, in which the sovereign is either a natural person or an artificial person in the form of an assembly. In contrast Spinoza's political thought is developed, particularly in the second political treatise, through an analysis structured around the three types of civil government. It is instructive, from the point of view of sovereignty, to look at what Spinoza does regard as the best state of a
dominion. For having used Hobbes to argue that the sovereign powers are indivisible and must not be shared, in the sense either of the mixed government formula or between separate civil and religious authorities, Spinoza then advocates two things, one of which is theoretical and one which is practical.

Spinoza's theoretical perspective is grounded in the idea that the fundamental basis of the authority and legitimacy of all governments, and the sovereignty of all dominions, rests upon their conformity with the spirit of traditional practice, a notion crucially entwined with that of liberty. Thus one could say that Spinoza's conception of sovereignty is based on a non-transcendent historically-embedded, natural law of custom and tradition, in direct contrast to Hobbes's notion of sovereignty as brought about by a hypothetical act of rational artifice. Spinoza argues that 'every dominion should retain its original form', (43) that 'I am fully persuaded that experience has revealed all conceivable sorts of commonwealth, which are consistent with men's living in unity', (44) and that political arrangements 'may be devised in every dominion agreeable to the nature of the situation and the national genius'. (45) These statements must be read in the light of his commitment to liberty, summed up in his phrase that 'it is exceedingly difficult to revoke liberties once granted'. (46)

The idea of traditional privileges which protect the people from the encroachment of monarchical or imperial power, expressing the civil and political rights of citizens under the law, is one of three distinct meanings of liberty for Spinoza in the political works. This meaning of liberty is connected closely with both the liberty of the individual and the liberty of the commonwealth. Individual liberty for Spinoza
means the personal freedom, borne of accepting one's nature, to pursue understanding - which requires religious liberty and toleration on the part of the civil government. And the liberty of the commonwealth requires independence and self-government. (47) The different meanings of liberty are also, additionally, interconnected, since for Spinoza both men and commonwealths are most free when in tune with necessity. (48) Citizens and states are most free when in tune with the necessity of custom and tradition.

At the practical level Spinoza advocates, in what can be taken to be his most consistent position, that his preferred form of government is a polycentric aristocratic republic where sovereignty would be shared between a number of cities and provinces. (49) Spinoza argues for this preference on several grounds, a key one of which is that power resting in more than one place results in a better political balance being achieved, and is therefore better able to defend liberty from tyranny, either from within or without.

Underpinning Spinoza=s preference for a polycentric aristocracy is the view that in the context of a republican politics, it is not a class interest group that is being represented. The aristocracy do not represent their own interest, and formal (for instance, electoral) participation is not necessary in order to ensure that the representation of all members of the republic is achieved. Spinoza advocates not elections but representation in terms of the dynamic tension established between the valid and competing interests of different provinces and different cities. He does not endorse an idea of liberal pluralism in the form of political parties or factions. He
condemns both, arguing that they dissolve the council’s ability to act as one. (50) Neither does Spinoza advocate limited government in the manner of Locke. He upholds the practice of strong government by the towns and provinces, and severely restricted confederal institutions to keep the others in balance.

This perspective corresponds closely to the political values of the United Provinces in the 1660s, where sovereignty in the sense of ultimate authority was seen to reside in a considerable number of self-governing cities ruled by aristocratic elites, in autonomous and independent provinces, held in constructive tension or balance in a formal but scarcely-acknowledged union. Again the outcome arrived at by Hobbes, from the idea of indivisible sovereignty, was very different, Hobbes's logical preference being for a monarchy, since a single person could most easily reflect the unity of an indivisible and absolute sovereignty.

Spinoza argues, again in terms which make sense in the light of traditional practice in the United Provinces, but not in terms of a theoretical analysis based on Hobbes's theory, that the liberty of the commonwealth is protected from the corrupting effect of power on particular men, more adequately by a 'sufficiently large council' than by one man. (51) According to Spinoza a dominion with a constitution that recognises a balance between (a few severely curtailed, limited and only instrumental) central and (a large number of) decentralised powers, with the emphasis on the latter, will be independent (in particular of the multitude) to rule, and will be well placed to establish a balance which is both dynamic and everlasting. (52) A
balanced institution, composed of the correct proportion of councillors to multitude, best represents its constituency, Spinoza contends.

It is clear from the political treatises that Spinoza estimates the basis of the political practice of the United Provinces more highly than he does the cogency of Hobbes's strictures that the primary reason for the weakness of a commonwealth is want of absolute power, or Hobbes's argument that 'powers divided mutually destroy each other'. (53) Spinoza's theory is a coherent theoretical vindication of the central practices of the political system and of the understanding of sovereignty operating successfully in Holland and the United Provinces at the time, and stands in this respect in direct contradiction to Hobbes's argument that supreme power must have a single unified location in every commonwealth.

But more than that, Spinoza's theory of sovereignty contains three important related parts. It contains a notion of the absolute basis of the relationship between rulers and ruled as the means of establishing political stability, in abstract Hobbesian terms, a notion which excludes Orangist and Calvinist claims. It contains the notion that legitimacy rests upon the recognition by rulers of the value of social practice, expressed in the form of respecting distinctive local honoured legal customs and traditions. And thirdly it contains the notion that in addition to stability and legitimacy a free state will be a republican one promoting the civic duty and free speech of its members.

In sum what Spinoza advocates is, in Hobbes's terms, neither absolutism or proto-state sovereignty on the one hand, nor popular sovereignty on
the other. Spinoza propounds a shared sovereignty which reaffirms the separateness of the parts and holds them in dynamic tension. Thus he uses the terms sovereign powers, civil authorities, civil rulers etc. interchangeably, precisely because his thinking operates in the context of a shared sovereignty model. Shared sovereignty is of course one of Hobbes’s primary examples of things that tend to the dissolution of commonwealths, for if it is shared it is necessarily divided. (54) Spinoza does not have a modern distinction between state and society, and he defends an implicit view of ancient constitutionalism, dependent on law, (55) rather than a notion of the sovereignty of the modern centralised state. But Spinoza’s conception also differs from another seventeenth-century model of governance – Locke’s constitutionalism – in consisting in a recognition of existing practice, rather than in entrenching a limited and purely contractual state. In doing so Spinoza expresses the values of Dutch practice. This implicit constitutionalism, as opposed to a modern rationalist written constitution, draws upon customary notions of its institutional ‘foundations’ (which are static) and law, and on the values of ‘proportion’ and balance. Spinoza’s constitutionalism provides the key to the accurate expression of the relationship between right and power at three levels, namely between the ruling council and the multitude, and between cities, and between provinces. Underpinned by his notions of national genius and liberty, for Spinoza it is the defence of traditional practice, as embodied in the legal and administrative arrangements of the constitution, that is vital. He lays great emphasis on the practical arrangements which will ‘see that the constitution of the whole dominion is preserved unbroken’, (56) and later argues that ‘if any dominion can be everlasting, that will necessarily be so, whose constitution being once rightly instituted
remains unbroken. For the constitution is the soul of a dominion. Therefore, if it is preserved, so is the dominion.' (57)

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In considering whether or not Spinoza has a conception of sovereignty, it is pertinent to bear in mind that the Hobbes-based definition of the concept does not provide an analytically-uncontested bedrock. The key problematic for the discussion of sovereignty in Hobbes revolves around Hobbes's fusion of authority and power, such that the holder of authority must also control the exercise of political power, though not necessarily the delivery of the policies deriving from those powers. Several commentators highlight problems which follow from Hobbes's fusion of authority and power.

For instance King demonstrates that Hobbes's argument is unnecessarily constrained by the 'stark choice [which Hobbes constructs] between untrammelled authority and unbridled anarchy', (58) for 'it is clear...that some disorder does not mean no order'. (59) King also registers that Hobbes's argument, that sovereignty could be held by an assembly as well as by an individual, 'is quite impossible': (60) 'plural sovereigns cannot be regarded as absolute in the manner prescribed by Hobbes', because 'the minimal prerequisite of group rule is that some principle of decision-making be adopted', and 'as such a principle constitutes a group it must also be said to bind it'. (61) The logic of Hobbes's absolutist argument requires, King shows, that the sovereign himself, through his commands, replaces the need for any such external principle. (62)
Similarly Goldsmith argues that Hobbes's fusion of the concept of sovereignty with a sovereign ruler rests on a fallacy, on the grounds that it is not logically necessary that an absolute and 'independent system of authority must be possessed by some identifiable part of the system'. (63) Hobbes's confusion of order and legitimacy (64) also relates closely to Okin's discussion of the unresolved ambiguity in *Leviathan* between the sovereign as private and as public person. (65)

Another serious problem arises from the over-dependence of the modern idea of sovereignty upon Hobbes's conception. Hobbes insists that his conception contains a necessary set of conceptual relations. But his equating of conception with concept raises questions about the criteria involved. For instance there is the issue of the basis on which it can be specified which features of Hobbes's theory are necessary to the concept, and which can be considered as only contingent parts of the theory. For example the consequence Hobbes draws from the logic of authority for sovereignty entailing a unitary state does not necessarily follow. Moreover our exclusion of a feature which Hobbes regarded as crucial - the "epistemic power" of the sovereign "to determine the meaning of words in the public language" (66) - supports the view that at least some of the criteria come from outside the logic of the concept itself. Furthermore there are strong grounds for arguing that the standard definition of the modern conception contains an insoluble tension arising from the imperfect accommodation of the later incorporation of liberal and democratic principles, to the absolutist foundation which is specifically designed to preclude claims to public accountability. (67)

The key problematic of the discussion of sovereignty in Spinoza is the
issue of self-justifying practice. But the central obstacle to our understanding of Spinoza's conception of sovereignty is the absence in Spinoza of a "modern" distinction between external and internal state sovereignty, in which the independence of the political community from external control or allegiance also corresponds necessarily a sense of a single location of internal ultimate authority. No such necessary reciprocal relation in the political community is envisaged by Spinoza, who propounds a republican polity of a type which is even looser than a confederal settlement, in essential respects exhibiting an absence of state-centrality. It was only with the later emergence of the dominant meaning of sovereignty as state sovereignty that sovereignty came to be defined as something which had to have two separate but matching dimensions, such that the internal and external dimensions came to be regarded as two sides of the same coin. For Spinoza it simply does not follow that external sovereignty (what had been fought for in the Revolt - freedom from interference in its internal arrangements) must be accompanied by a notion of unified and centralised internal sovereignty. (68) It follows from his republican stance that the political freedom of the polity, political liberty in the sense of the independence and autonomy of the dominion from external interference (rather than in terms of the political rights of the individual) was the crucial issue, and that the republic's primary task internally was to reaffirm the way in which power and authority are shared amongst multiple aristocratic ruling groups. No centralising hierarchical focus of ultimate authority, resembling a monarch figure, could be tolerated.

Spinoza's particular form of republicanism also includes the view that the components of the republic are not autonomous and pre-political
liberal individuals, but persons whose understanding and potential are indviduated but occur within common social practices. As West notes, in 'Spinoza's system rationality or understanding is not merely a symptom of freedom, but also a means of attaining it. The improvement of the understanding is a form of emancipation'. (69) The exercise of understanding 'is something the individual is unable to achieve alone', (70) for the commonwealth provides the security and the social practices through which the scope and range of things to be understood is increased, and so is much more than 'a necessary evil, a constraint which inevitably limits the negative freedom of individuals'. (71) Blom and West both emphasise the importance of recognising that for Spinoza freedom takes place in a necessarily social setting. West notes that the 'self, as Spinoza describes it, is sociable but resists being absorbed into the social', (72) while Blom comments that '[f]reedom being the core concept of the Ethica refers as by local necessity to the social and political conditions of its realisation'. (73)

Hobbes's and Spinoza's conceptions of sovereignty also involve very different conceptions of politics and political activity. Spinoza has a view of the crucial importance of political practice as the means of embracing and dynamically negotiating disputes within the framework of a constitution embodying tradition and custom. Political decisions in Spinoza's political framework are subject to negotiation - this means that politics is a vital and valued activity in a dynamic and active sense. As Spinoza argues, 'by consulting, listening, and debating, they grow more acute, and while they are trying all means, they at last discover those which they want, which all approve, but no one would have thought of in the first instance'. (74) Moreover instead of a
designated individual or assembly who is entitled to make sovereign decisions, a number of assemblies are involved in bargaining and deliberating over each major decision. These assemblies are entitled to participate in decision-making, and it can not be known in advance which voice will carry decisive weight. For Hobbes, however, the 'power that sets the limits must itself be the supreme power and hence must be sovereign'. (75) Hobbes is keen to create a theory which specifically disallows politics, outside of court politics concerned with gaining the attention of, and attempting to influence and advise the sovereign. Politics in the broader sense of conflicting views expressed in institutionalised participation in formal political activity, is abolished by Hobbes's theory of sovereignty.

These two different views of politics are reflected in two different answers to the question, "sovereignty gives the authority to do what?"

For Hobbes the answer is principally a legalistic one: having defined the meanings of words, with sovereignty comes the authority to make law, to legislate. (76) For Spinoza the answer is a political one: sovereignty provides the authority to enter into discussion and negotiation with other provinces (or towns). It follows that for Hobbes the vesting of sovereignty is very much an alternative to constitutionalism in Elster's sense, (77) whereas for Spinoza sovereignty is vested in the several provinces (or towns), who have authority by virtue of the recognition of the ancient constitution to negotiate on behalf of their province (or town).

The abstract character of Hobbes's conception of sovereignty has encouraged the view that this feature of it, along with its substantive content, must define the concept of sovereignty. The argument
developed here has sought to challenge that view, in part by demonstrating the value of the categories of Spinoza's conception. In Spinoza's theory while sovereignty is absolute, it is not a necessary feature of the concept that it is in every sense indivisible. Spinoza puts forward a theory of sovereignty as conditional, limited and shared. It is constituted differently in the three forms of political organisation. It is shared by being located in dynamic tension in multiple places at once. (78) It exists only as long as it has utility; it gains its validity from its utility, and so is not binding in perpetuity. It is limited by the natural right of individuals, which in the absence of "modern" dichotomies between the natural and human worlds and between mind and body, is co-extensive with their power, and which cannot be wholly transferred. Spinoza's theory of sovereignty is coherent when it is understood in the light of his republicanism, which sees persons as operating in common social practices and which highlights the values of customary practice and dynamic politics.

Spinoza's approach to sovereignty is attractive in that it does not posit a gap between theory and practice in his politics such as for instance tends to plague liberal politics. The drawback of Spinoza's conception is that the analysis of it reaches an impassable barrier of self-justifying practice which is open to no further conceptual evaluation. (79) Another problem is that Spinoza regards the meanings of those general values by which political society should be guided, namely 'justice' and 'charity', (80) to be self-evident whereas these terms are in practice deeply contestable. Hobbes and Spinoza both expound important but contestable conceptions of sovereignty. Hobbes elucidates the logic of authority but his extension of this logic to
the sovereignty of the necessarily unitary state is flawed. Spinoza delineates a coherent conception of shared sovereignty but the logic of customary practice on which it is based is ultimately in danger of rendering the argument circular.

NOTES

1. Insight can be usefully gained into Spinoza's theory of sovereignty through a contextualisation drawing upon comparisons with a number of other authors, including Grotius and other Dutch writers. However the comparison with Hobbes is especially relevant, not only because of the dominance of the model of sovereignty drawn from Hobbes in the modern period, but also because the comparison highlights particularly pertinent problems in both theories, namely Hobbes's abstraction and Spinoza's analytically unfinished justification of a naturalised social practice.


4. The third of Elster's three key features of a (written) constitution (its protection of rights, its distribution of institutional political powers, and its measures for constitutional amendment), adverted to by Bellamy and Castiglione, is particularly noteworthy in this respect. R Bellamy and D Castiglione, 'Constitutionalism and Democracy - Political Theory and the American Constitution', British Journal of Political Science, 27, 1997, p597.

The endeavour of specifying whether sovereignty is translatable into constitutionalism or not, is made more complex by the distinction between ancient and modern forms of constitutionalism. While the ancient view regards a constitution as only 'describing the characteristics and form of the body politics' (an example being the constitutional crisis engendered by the overthrow of the king in England in the 1640s), the modern view sees the constitution as itself 'embodying a pre-political higher law' (Bellamy and Castiglione, 'Constitutionalism and Democracy', p602), a notion much more readily translatable into a conception of the location of sovereignty. A modern constitution is a rule-governed procedure, containing a basic norm which defines the highest authority, which is separate from the power to act (in legislation, or in executive government). However Lloyd's view that 'constitutions were sets of...fundamental laws' (H Lloyd, 'Constitutionalism', in J H Burns ed., Cambridge History of Political Thought 1450-1700 (Cambridge, 1991), p255), and Tully's argument concerning the 'constitutional structure of lawfulness' (J Tully, 'Placing the "Two Treatises"', in N Phillipson and Q Skinner eds., Political Discourse in Early Modern Britain (Cambridge, 1993),
p261), both indicate definitions of a constitution which apply to a range of principles of political order, not just one based on sovereignty. Furthermore the neat distinction between ancient and modern constitutions collapses in the light of a definition of constitutionalism as the 'advocacy of a system of checks upon the exercise of political power' (Lloyd, 'Constitutionalism', p254), which can be taken to refer to either an ancient or modern notion, depending upon whether the checks are understood as being provided by natural law or by the rule of positive civil law.


6. I Hampsher-Monk, A History of Political Thought (Oxford, 1992), p47-8. See also R Kraynak, History and Modernity in the Thought of Thomas Hobbes (Ithaca, 1990), p168-9. However one of the problems with specifying a universal concept of sovereignty is that there is a diversity of views about whether the central powers it implies are legal and political constitutional powers, or powers which override the constitution. For instance Mendle argues that Bodin regarded 'legislation as the central act of sovereignty' while English writers emphasised 'the king's unfettered right to tax his subjects, an English...preoccupation for which Bodin had considerable distaste' (M Mendle, 'Parliamentary Sovereignty: a Very English Absolutism', in Phillipson and Skinner, Political Discourse in Early Modern Britain, p105). Pocock argues that in the Civil War period in England, 'both "sovereignty" and "absolutism" must be read as denoting extraordinary power, not a system of ordinary, normal or perpetual government' (J G A Pocock, 'A Discourse of Sovereignty: Observations on the Work in Progress', in Phillipson and Skinner, Political Discourse in EARly Modern Britain, p389).


8. As developed by Hobbes in the course of Part 2 of Leviathan.


10. My thanks to James Tully for reminding me that modern constitutionalism was explicitly committed to avoiding the idea of sovereignty. Sovereignty was initially associated with absolutism, born of a justification for bolstering the power of a French king over his subjects, and from alarm that without absolute political control the commonwealth in England could not survive. However Burgess makes a strong case that the 'concept of sovereignty was developed - and this is particularly clear in Jean Bodin's Six Books of a Commonwealth - to provide an analytical concept that could be used in the analysis of all legal-constitutional systems...in general terms'. Burgess argues that for both Bodin and Hobbes sovereignty was 'not a normative recommendation but an analytic characteristic of all stable polities', a feature of 'what underlay the diversity of laws and institutions' (G Burgess, The Politics of the Ancient Constitution: An Introduction to English Political Thought 1603-1642, Basingstoke, 1992, p123). Moreover Franklin's argument that the lack of recognition in the
sixteenth century of the notion of mixed sovereignty was due simply to theoretical confusion among jurists who were in consequence 'readily misled' (J Franklin, 'Sovereignty and the Mixed Constitution: Bodin and His Critics', in Burns, Cambridge History of Political Thought 1450-1700, p303), undermines the view that sovereignty was necessarily associated with absolutist government.


14. It is known that Spinoza read Hobbes, including Leviathan, though possibly only after the Dutch translation became available in 1667 or after Hobbes's Latin version was published in 1668. Spinoza is reported to have had De Cive in his library (S Hampshire, Spinoza (Hammondsorth, 1951), p179), and is reputed to have read De Cive and possibly Leviathan during the construction of his two political treatises. In Letter L, in R H M Elwes, Benedict de Spinoza. On the Improvement of the Understanding, The Ethics, Correspondence (New York, 1955), p369, Spinoza emphasises the difference between his conception of natural right and that of Hobbes. In a note to chapter XVI of the Tractatus Theologico-Politicus, in R H M Elwes ed., B de Spinoza. A Theologico-Political Treatise. A Political Treatise (New York, 1951), p276n27 (hereafter referred to as TTP and TP), Spinoza differentiates between his notion of reason and Hobbes's. In turn, Hobbes is known to have read Spinoza, and is reported by Aubrey as describing his as a brave man.

However, Wernham, 'Introduction', Spinoza's Political Works, p1, p35-6, provides a more nuanced account. Blom, Morality and Causality, McShea, The Political Philosophy of Spinoza, p137-55, and especially Den Uyl, Power, State and Freedom, outline a much more richly-textured picture of Spinoza's theory.

16. TP p339. However this is not to say that Spinoza advocates an unreflective conservatism, for he promotes specific reforms (TTP p189, TP p376), and is actively valuing practice. Thus he is not, in a crude manner, perpetuating the force of a naturalised social practice.

17. TTP chs.16, 17, TP chs.1-4.

18. TTP p10, p209.

19. TTP p214.

20. TP p310.

21. TTP p204, p205.


23. TTP p257, p259, TP p303.

24. TTP p214.

25. TTP p242-4, p247, TP p289.


27. Sommerville argues that there 'was no single absolutist theory' (J. P. Sommerville, 'Absolutism and Royalism', in Burns, Cambridge History of Political Thought 1450-1700, p348). Even 'Bodinian sovereignty allowed absolutist conclusions to be drawn from contractualist premises' (Sommerville, 'Absolutism and Royalism', p362). Moreover Sommerville notes that, '[a]bsolutist thinking in the early seventeenth century was divided and often imprecise on exactly what constituted a
valid title to the crown. In England after 1649 some erstwhile royalists were...able to accommodate themselves to the new regime without sacrificing their old principles', on the grounds that a usurper can be legitimate if protection follows obedience. This position demonstrates that one could be at one and the same time an absolutist but not a monarchist. Sommerville concludes that in the Civil War period, 'not all royalists were absolutists. Nor were all absolutists royalists' (Sommerville, 'Absolutism and Royalism', p340). At the same time '[p]rovidentialists could construe the commonwealth as providentially ordained', on the grounds that a usurper's success testified to divine approval, while '[c]onsistent supporters of Stuart rule, on the other hand, might find themselves forced to alter their doctrines' (Sommerville, 'Absolutism and Royalism', p366). Furthermore, in the tradition of absolutist thinking in the seventeenth century, absolutist rule in the sense of an irreversible grant of sovereignty from the people, such that the ruler was understood as accountable to God but not to subjects, did not necessarily mean unlimited or unconditional rule. Sommerville outlines four important sources of limitation accepted by different absolutist theorists, namely taxation and personal property, divine law, fundamental law such as Salic law or natural law, and the canons of the church (Sommerville, 'Absolutism and Royalism', p367-373).


30. TP p326, p347, p385.


34. TTP p244, TP p376.

36. TTP p243.

37. TTP p6, p264.

38. TP p326, p386-7.


40. TTP p6, p10.

41. TTP p6, p10, p260, p265, TP p301-10. The term "sovereignty" was first used in French in the sixteenth century, and then in English. Spinoza wrote in Latin, in which there is no single equivalent for the modern notion of sovereignty. Instead there are terms meaning absolute power, authority, and right, which are the components of sovereignty (this again raises the issue of whether the component parts of sovereignty need necessarily be vested in the same place). Commentators on Spinoza who routinely discuss his conception of sovereignty, assume that a theorist can use a concept without having to explicitly use the term. Spinoza's self-conscious uses of Hobbes's conception of sovereignty strengthen this view.

42. Hobbes, Leviathan, p107. King emphasises the importance of unity when he notes that in Hobbes's argument, 'men aim to achieve peace and security; these they can only achieve through unity; the only path to unity is authority...where that authority is contested or withdrawn there can be no unity', P King, The Ideology of Order. A Comparative Analysis of Jean Bodin and Thomas Hobbes (London, 1974), p274.

43. TTP p243-4.

44. TP p288.

45. TP p382.

46. TTP p74.

47. TTP p258-63.

48. TP p295, p303.

49. TP p348, p370, p383, p384. The arguments sustaining this reading are fully developed in Prokhovnik, 'From Democracy to Aristocracy'.

50. TP p368.

51. TP p346.

52. TP p347, p356-7.

54. Hobbes does, incidentally, refer directly to the situation in the United Provinces in *Leviathan*, and roundly condemns the victory of the Netherlanders in their Revolt against the Spanish (Hobbes, *Leviathan*, p213).

55. TP p364.

56. TP p374.

57. TP p383.


59. ibid, p277.

60. ibid, p276. Franklin identifies Bodin as the one 'primarily responsible for introducing the reductive but erroneous notion that sovereignty is indivisible', (Franklin, 'Sovereignty and the Mixed Constitution: Bodin and his Critics', p288), and notes that it is clear that sovereignty can also be 'mixed either by sharing or by distribution' (ibid, p303).


62. ibid, p276.


64. I owe this cogent restatement to Noel O'Sullivan.


68. In the English Civil War the issue was that the relationship of authority between rulers and ruled was broken, while in the United Provinces the issue revolved around the despotism of the distant and absent emperor interfering in established local law and privileges.


70. ibid, p295.

71. ibid, p296.

72. ibid, p296.

74. TP p376.


77. See note 6 above.


79. My thanks to Kathleen Lennon for discussions on this point.

80. TTP p246.