The Mutation of the Right of Resistance in Grotius and Hobbes

FROM THE COLLECTIVE RIGHT OF THE PEOPLE TO THE RIGHT OF THE INDIVIDUAL

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The question of the right of resistance in Grotius and Hobbes permits us to tackle a particularly important moment in the history of that right: a moment of mutation. Indeed, the theoretical treatment to which these two thinkers subject the notion of the *jus resistendi / right of resistance* is such that it involves a modification, not only of its definition, but also of the conceptual framework within which it found its meaning from the Middle Ages right up to the Renaissance.

To show this, it is important first of all to recall briefly the problematic which the medieval tradition formed and renaissance juridico-political thought inherited. This traditional problematic had two sides: it required the principle of legitimacy on one hand and that of the public good on the other. In this way the question of legitimate resistance to the political power took its meaning, on one side, to the extent that there existed an illegitimate power, and on the other to the extent the exercise of power not for the public good but for the private good of the one exercising it. We can recognise the two forms of tyranny against which the right of resistance is called to act: the tyrant ‘defectu tituli’, by defect of title – that is to say, the usurper – and the tyrant ‘ex parte exercitii’, that is the ruler who is tyrannical in the exercise of his power. This double image of tyranny and the problematic of tyrannicide which it evokes were already to be found in _Policratus_ of John of Salisbury. It is to be found, with important inflexions concerning tyrannicide, in Aquinas. Even though Aquinas modified his position between _Commentary on the Sentences_ of Pierre Lombard, _De Regimine Principum_ and _Summa Theologica_, where some articles in _Secunda Secundae_ tackle the problems of tyranny and tyrannicide, if only indirectly, the problematic context remains identical. To put it briefly, we can say that for Aquinas only the usurper can legitimately...
be deposed or killed by anyone; on the other hand the ruler who is tyrannous in the exercise of his power can only be the object of legitimate disobedience by his subjects. Revolt, or the putting to death of such a tyrant, require the consent of the qualified representatives of the people, that is, of a public authority, and only after a proper judgement. The right of legitimate resistance to the tyrant is thus considerably reduced in Aquinas compared to the positions of John of Salisbury.

This problematic of the right of resistance was maintained, with a few modifications, up to the end of the sixteenth century and, in particular, up to the moment when Bodin opposed his doctrine of absolute sovereignty to the theses of the protestant monarchomachs. The reference to Bodin is important here, since it seems that Grotius and Hobbes took up Bodin's conception of sovereignty and drew similar conclusions from it concerning the right of resistance, namely: such a right cannot be attributed to the people, nor to lower magistrates. This justifies, at least partly, such an identification of tradition. Thus we shall see that, in Grotius and Hobbes, the right of resistance in its traditional sense remains only in a residual form, to which it had already been reduced by Bodin. However, this continuity is only partial, because it masks a more fundamental mutation in the problematic itself: the passage from the conception of a public resistance to an illegitimate or unjust power towards the idea of an individual right of resistance. The new idea of this individual right of resistance refers partly to a definition of natural right as an absolutely inalienable right (because it is linked to the constitution of the sphere of human individuality) and partly to the idea of legitimate individual resistance to all political power – even legitimate, legal power – whenever that which is proper to the individual is placed in danger.

In the development of this mutation in the right of resistance, we shall see that Grotius only represents one stage, since he was still thinking within the traditional framework. On the other hand, Hobbes was to accomplish a decisive transformation on the basis of a critical reading of De jure belli ac pacis. To show this we shall deal with three points: 1) Grotius and the residual right of resistance; 2) Hobbes and the right of resistance reconsidered; 3) From an organic people to an instituted people.

1 Grotius and the residual right of resistance

In De jure belli ac pacis, the notion of the jus resistendi appears most frequently in Chapter IV of Book 1. There is nothing surprising about this, because the question in this passage is that of a mixed war, that is, war which