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**Hobbesian Persons and Representation**

In *Leviathan* (1651), Hobbes offers a novel conceptualisation of the modern representative state as an incorporated person empowered to act on our behalf, but also *in our name*.[[1]](#footnote-1) This made any state’s pronouncements or actions ours and ours to bear. Insofar as the sovereign represents us both singularly and collectively, Hobbes combines true representation and representation by fiction in the making of the modern representative state. This chapter examines how this is done and to what effect.

Of Persons

A PERSON, is he, *whose words and actions are considered*, *either as his own*, *or as representing the words or actions of an other man*, *or of any other thing to whom they are attributed*, *whether Truly or by Fiction*.

When they are considered as his owne, then is he called a *Naturall Person*: And when they are considered as representing the words and action of an other, then is he a *Feigned or Artificiall Person* (Malcolm 2012, 244; 1651, 80).

To speak of a “person” is, for Hobbes, to speak of agency, or the capacity to speak and act. We can either speak and act for ourselves, as natural persons, or speak and act for others, as artificial persons. The artifice of artificial persons consists in the fact that they do not address others as themselves (that is, in their own person) but as representing someone or something else (that is, in the person of another). One should be cautious, however, of taking natural persons as devoid of artifice. For Hobbes, a “person” is always already of the order of artefact: her actions are acts of representation, either of herself or another.

Hobbes’s adoption, in the English *Leviathan* (1651), of a broad and elastic concept of person as an agent capable of speech and action marks a departure from his earlier works. In both *The Elements of Law* (1640) and *De cive* (1642) Hobbes had worked with a distinctively juristic understanding of “person” – with “person” referring in those works to an entity recognized by the law as a subject of rights and obligations, typically a civil person. In *Leviathan*, the natural habitat of the person shifts from law to theater. “Person”, we are told, originally referred to the ‘*outward appearance* of man, counterfeited on the Stage’ (Malcolm 2012, 244; 1651, 80). Stage actors, when constructing *dramatis personae*, commodify their verbal and gestural outputs. Words and actions are also the “outward appearances” that make up the Hobbesian person. Similar to commodities, they are amenable to transferral. This makes it possible for one and the same words and actions to have a distinct *causal* and *moral* source. For instance, in some jurisdictions, one can marry by proxy by making oneself represented by another, often a family member. And insofar as words and actions may be correctly attributable to one person (*moral* cause) on the basis of the words and actions of another person (*causal* source), the need arises “to consider” to whom or what responsibility for the observed words and actions is to be assigned.

The root meaning of “to consider,” the specific verb employed by Hobbes, is to believe someone or something to be, or think of her or it, as being something. The broader outlook of “person” in the English *Leviathan* becomes, if anything, more apparent once one recognizes that the perspective from which words and actions may be attributed ranges from social conventions, and theatrical conventions, to legal conventions. In patriarchal civil societies, men are understood to represent women and children in the wider society. In the theater, most spectators are familiar with the conventions of drama, such that when they hear the words ‘To be, or not to be: that is the question’ on the stage, they consider them correctly attributable to Hamlet. Legal conventions are especially designed to add certainty to beliefs about action attribution. In Hobbes’s time, questions of ownership and responsibility for common performative acts, such as entering contracts, were part and parcel of ‘an increasingly placeless and timeless market’, in which ‘new and often elusive forms of exchange’ depended on forms of surrogate agency and the legal fictions being developed to authorize them (Agnew 1986, x and 58). As such, it is not surprising to find that the technical meaning of “to consider” was ‘to understand as in the view or sense of the law; to construe, to hold legally’.[[2]](#footnote-2)

But law – and in particular the fictions of legal personality it sustained – was only one of the artifices that men used to expand agency. In *Leviathan*, Hobbes’s conceptualization of men as artificers capable of fashioning a social and political world that best suits their needs led him to turn instead to the person’s theatrical origins and her defining performative powers: ‘So that a *Person*, is the same that an *Actor* is, both on the Stage and in common Conversation’ (Hobbes 1996: 112). Persons are actors. In acting, they do things either in their own name (or their own person) or in the name (or person) of someone or something else. For to ‘*Personat*e, is to *Act*, or *Represent* himselfe, or an other’ (Malcolm 2002, 244). The notion of self-representation might first strike us as odd. And it is indeed unusual: it did not and still does not belong to the primary meaning of “to personate”.[[3]](#footnote-3) But it was not unfamiliar to Hobbes, nor frivolously used by him.[[4]](#footnote-4) For it is precisely because we are self-representors that we are able to have ourselves represented (or personated) collectively *in* and *by* multiple corporate persons, or systems constituted by representation, from states (the primary human association, and the only one representing us unconditionally), and trading companies, to families.

The word “person”, Hobbes further explains, was derived from the Latin word *persona*, which originally designated the mask worn by an actor on the stage. This definition of the “person” by reference to the mask, the social role, or the *persona*, is Ciceronian, and merits particular attention, since, as I have noted elsewhere, it inscribes a lasting ambiguity into the Hobbesian notion of person (Brito Vieira 2009, 168-169). The ambiguity emerges in the following way. Hobbes’s person is literally the mask ‘counterfeited on the Stage’ and by extension ‘an Actor’, that is, ‘a *Representer*, or *Representativ*e’ (Malcolm 2012, 244; 1651, 81). The chain of equivalences advanced by Hobbes – person/mask/actor/representative – is meant to be seamless, but it invites an immediate question: after all, the theatrical mask is not the actor or representative, but that which the actor represents. To be more specific, the mask is/signifies the *persona* – that is, the impersonated (fictional) role or character adopted by the actor on stage.

Hence, while, in chapter 16 of *Leviathan*, Hobbes explicitly defines the person as ‘an *Actor*’ (or representative), the person’s root meaning as the theatrical mask opens up to the possibility that the person might (also) be the represented (that is, the *persona*). In effect, if one takes a closer look at that chapter, one sees that person is already being used to refer *both* to the representative and to that which is being represented (the *persona*). Upon reflection this much seems to be entailed by Hobbes’s basic understanding of person as a capacity for agency, and his treatment of representation as a matter of conferring agency *via* personation, or *via* – to use the Ciceronian expression Hobbes himself adopts – “bearing the person of”. To personate is for X to represent Y as (if) an agent, or the source of words and actions – that is, as a person – and X is the same person *qua* representer as Y is *qua* representee (Abizadeh 2013, 923). Hence, as chapter 16 draws to a close, and Hobbes expounds the process of incorporation whereby the state is generated, he does not hesitate in using person to designate both the party being represented and the representative: “the multitude of men found in nature are ‘made *One* Person [the person of the commonwealth], when they are by one man, or one Person, Represented [the person of the sovereign]” (Malcolm 2012, 248; 1651, 82). If there are any doubts about Hobbes’s interchangeable use of the term “person”, then chapter 42 dissuades them. For there, in an explicit cross-reference to chapter 16, “person” comes to be defined as ‘that which is Represented by another’ (Malcolm 2012, 776; 1651, 268). The cross-reference has sometimes been dismissed as a glitch, but as I have argued elsewhere (Brito Vieira 2009, 168), I think Hobbes means exactly what he says: that there is an identification between representer and representee in the register of representation.[[5]](#footnote-5) Peter and John are different natural persons. But if Peter gives John powers of attorney to purchase a house for him, then in negotiating and sealing the real estate contract John is the same person as representative as Peter is as represented. To return to the theater, actor and character are surely different persons (say, Kenneth Branagh and Hamlet, respectively). But the play – its roles and characters - properly exists first and only when they are played, and for the play’s duration Kenneth Branagh is the same person as *representer* as Hamlet is as *representee*. It happens similarly with the state: sovereigns are not identical to the one incorporated person they bear. However, while in power the sovereign *qua* representative is the same person as the state *qua representee*.[[6]](#footnote-6)

**SECTION BREAK?**

**Of Authors, Actors and Authorization**

The Hobbesian term “person” refers, in its most fundamental sense, to the capacity for agency. A twofold division thus emerges. Natural persons are persons whose words and actions are considered their own. Artificial persons are persons whose words and actions are considered as representing the words and actions of someone or something else – that is, artificial persons are representatives. Having established that artificial persons are representatives, Hobbes explains that the attribution of words and actions to someone/something other than the performing agent can be made either truly or by fiction.[[7]](#footnote-7) True attribution occurs when the entity represented has authorized its representation, which means that that entity is an author meeting the conditions of moral and legal responsibility, and has ownership of the words and actions uttered and undertaken in her name. By contrast, attribution by fiction occurs when the represented party cannot authorize its representation, but the actions of the representative are nonetheless held (by fiction) to be its own.

As the distinction between true representation and representation by fiction shows, at the core of Hobbes’s theory of representation lie the notions of authorization and attributed action. Hobbes articulates these notions with reference to the simpler agency relationship, true representation:

Of Persons Artificiall, some have their words and actions *Owned* by those whom they represent. And then the Person is the *Acto*r; and he that owneth his words and actions, is the AUTHOR: In which case the Actor acteth by Authority. For that which in speaking of goods and possessions, is called an *Owner*, and in latine *Dominus*, in Greek Kurios, speaking of Actions, is called an Author. And as the Right of possession, is called Dominion; so the Right of doing any Action, is called AUTHORITY. So that by Authority, is always understood a Right of doing any act: and *done by Authority*, done by Commission, or Licence from him whose right it is (Malcolm 2012, 244; 1651, 81).

Artificial persons are persons whose actions are attributed to the person being represented. True attribution occurs when the representative has been authorized by the person being represented and therefore the representative’s actions are really owned by the represented. In naming the representative and the represented engaging in true representation Hobbes resorts, once again, to a theatrically suggestive language of actors and authors: ‘And then the [authorized] Person [Artificiall] is the *Actor*; and he that owneth his words and actions, is the AUTHOR’ (Malcolm 2012, 244; 1651, 81). In the process, the meaning of authorization is being constructed, through an exploration of the ambiguity between two possible senses of “to own”, in the proprietary sense and in the liability sense: the person who authorizes makes herself the *owner* of that which her selected representative does in her name (Green 2015, 27).

There is little doubt that, for Hobbes, to make oneself the owner of another’s actions implies to take them upon oneself or accept responsibility for them. This means that authorization allows us to identify who is responsible for the action. This is no minor matter. Certainty about ownership of actions is a necessary condition for the development of trustworthy relationships. This is because it is integral to how contracts are made to work: the state must be known to compel ownership of actions, so that no one may simply disown actions correctly attributable to one on the basis of actions performed by others when consequences following from them are unfavourable. Should disowning be an ever-present possibility, trust sustaining contractual arrangements – and *civility* itself – would be at risk. This is a risk greatly diminished, but never fully eliminated, in the civil condition. For as societies grow more complex, such a risk – which was paramount in nature – re-emerges to the extent that demands for surrogate forms of agency increase. These inevitably raise concerns of ‘identity, intentionality, accountability, transparency and reciprocity’ (Agnew 1986, 202), which must be assuaged by sturdy mechanisms for establishing and externally enforcing the ownership of words and actions: what may be considered an individual’s own, and what must be considered another’s. Even where these mechanisms are known to exist, however, one must make sure to take responsibility for one’s own part in availing oneself of them, by, for instance, inspecting the signs of authority before entering any transactions. For, as Hobbes gloomily warns, if the actor is unauthorized, or acts beyond his authority, there can be no distribution of responsibility to another, so ‘he that maketh a Covenant with the Actor, or Representer, not knowing the authority he hath, doth it at his own perill’ (Malcolm 2012, 246; 1651, 81).

While Hobbes is keen to stress that ownership of an action entails responsibility for that action, in the passage cited he quickly moves back from the understanding of ownership as owning up, or taking responsibility, to possessing *simpliciter*. The shift occurs through an extended analogy between ownership and authorship. An owner is she who owns ‘goods and possessions’, Hobbes tells us, and ‘an Author’ is she who owns actions (Malcolm 2012, 244; 1651, 81). Owning things, Hobbes tells us, presupposes having a ‘Right of possession’, just as owning actions implies ‘the Right of doing any action’, also called ‘AUTHORITY’ (Malcolm 2012, 244; 1651, 81).

Goods and freedoms, so the suggestion goes, are “owned” in the same way, so that our “property” in intangibles similarly to our property in tangibles is mediated by a right. The analogy between authorship and ownership sounds somewhat strained, however, since, as Hobbes stresses, ‘there can be no Propriety, no Dominion, no *Mine* and *Thine* distinct’ in nature (Malcolm 2012, 196; 1651, 63), and yet the unlimited ‘Right of doing any action’ (Malcolm 2012, 244; 1651, 81) he refers to in the passage has the unlimited remit of action of the right of nature (see Malcolm 2012, 198; 1651, 64). It is true that the analogy gains some traction in light of the encompassing notion of property Hobbes embraces in chapter 18, extending to goods, words, and actions. But this refers specifically to the civil condition, where exclusion-from-a-thing is framed around exclusive liberties to use that thing or indeed to do that action without being interfered with by others (Malcolm 2012, 274; 1651, 92). Since in the civil condition we have property in actions protected by exclusive rights, we can extend one such right in the sense of a liberty to a representative, and it then makes sense to say that we have property in what the representative does when acting on our extended right. Yet there are no such rights in nature, and if most of the sovereign’s rights are exclusive liberties, it is because we take on an obligation not to interfere by laying down our right to the same (Green 2015, 32-33). Returning to chapter 16, however, the fact remains that Hobbes is intent on drawing an isomorphism between the way we relate to possessions and the way in which we relate to actions as “things” we possess or have a claim to grounded on a right. This has a new implication for our understanding of authorization. Authorizing actions implies not one, but two things: as we have previously seen, it implies taking on responsibility for actions, which presupposes holding the power and capacities necessary for moral/legal responsibility; but as it has now been clarified, it also implies having or possessing a right to that action in the first instance. This much is spelled out by Hobbes in the conclusion he draws from the property analogy: ‘So that by Authority, is always understood a Right of doing any act; and *done by Authority*, done by Commission, or Licence from him whose right it is’ [[8]](#footnote-9) (Malcolm 2012, 244; 1651, 81).

Hobbes’s conclusion, that to act by another’s authority is to act on a right originally belonging to that other, supports the reading of authorization as an act extending rights to the representative (Gauthier 1969, 124; Copp 1980, 586; Skinner 1999, 9; Brito Vieira 2009, 152). This reading entails that: 1) an actor who has been authorized acts with the relevant right from the author; (2) who must therefore have owned that right in the first instance; and 3) that it is because of this original ownership that the author whose right it is must *own up to* what that other does when acting on his right. Even though Hobbes runs the notions of authorship and ownership close together, to the point of making them virtually indistinct, this reference to an original right is necessary to carry over the distinctive idea of “authorship”: that is, of the author as he who is the originator *of* – or he who gives existence *to* – the actions in question.

It is, of course, true that the reading of authorization as extending rights, rather than simply establishing ownership, seems to present insurmountable difficulties, most notably that of how to reconcile the authorization and alienation clauses of the covenant instituting the commonwealth, ‘*I Authorise and give up my Right of Governing my selfe*’ (Malcolm 2012, 260; 1651, 87). After all, it makes no sense to extend a right one has just alienated.[[9]](#footnote-10) In addition to this, the right available for extending on the part of the multitude of natural persons instituting the commonwealth, their natural right of self-government, is not only the right being laid down, but is also a right that the sovereign does not need to acquire *via* extension, as, not being a party to the covenant, it preserves it intact.[[10]](#footnote-11) But there might be a way to, at least partly, address the inconsistency. To act by authority, one must have been authorized, or granted a license or commission, by the person or persons who possessed the right to act themselves. In normal cases of authorization, the receipt of such a commission is *not* equivalent to the acquisition of the transferred right, since it involves no renunciation or transfer, in Hobbes’s technical sense. In other words, there is no alienation, but merely a “lease”. A caretaker I employed to look after my house, enters it on my right, but I can still enter it too, and will take away the right from him once the work is over. But commissioning takes a different form in the social contract. In this case, authorization is necessarily without stint – unlimited in remit and non-revocable. As such, then and only then, ‘the receipt of such a commission must be equivalent to the *acquisition* of the transferred right of performing the action’ (Skinner 1999, 9; emphasis added). Thus, even if the sovereign holds a right of the same extension, it is only now that he can be said to exercise it by the (irrevocable) authority of all his subjects.

For those unconvinced by my proposed solution, the difficulties exposed above will lend credence to the contention that authorization is best understood as establishing mere ownership (or responsibility for) the sovereign’s actions, without extending rights (Green 2015). But the textual evidence does not support this view. What is more, it is normally argued that the superiority of the authorization as ownership view lies in showing that it is possible to authorize and own (or bear responsibility for) actions that are unlawful or immoral (e.g., Malcolm 2012, 330; 1651,110) that is, actions that one could not have a right to do. This is important because only then will the sovereign have been rendered unaccountable for a broad range of wrongs he might (have to) do (Green 2015, 39). In other words, in a Hobbesian commonwealth, responsibility must be fully removed from the “shoulders” of state and sovereign, to be placed strictly on the shoulders of citizens. Citizens must own *all* actions of the sovereign, including those they themselves lack the right to do, because they are wrong (or violate the law of nature), such as the punishment of the innocent, or are lawful and done with right but not with a right that citizens could have, such as the arbitrary seizure of property (Van Apeldoorn 2020, 56).[[11]](#footnote-12) Even if the objective is to preserve the unrestrained freedom of the sovereign by releasing the sovereign from the burden of responsibility, as I agree it is, the alleged superiority of the authorization as ownership view in accommodating both types of action is not self-evident, since both would be authorized actions if the extended right by which the sovereign acts has an unlimited remit of action, such as is the case with the right of nature.[[12]](#footnote-13)

What seems to be undeniable is that, in elaborating the notion of authorization in chapter 16 of *Leviathan*, Hobbes specifies that to authorize is to take on ownership *by* extending a right, and that he seems to want to say this specifically about the social contract, given his explicit reference to ‘the Right of doing any Action’ (Malcolm 2012, 244; 1651, 81). Authorization as mere ownership might have been effective in immunizing the sovereign and lower officials from future complains from subjects (Green 2015, 38-46). It would even have sufficed to establish the state as a system of shared liability, distributing responsibility for the sovereign’s actions across the members of the commonwealth. But Hobbes seems to have still found it wanting. A few reasons for this can be suggested. Hobbes did not want subjects to simply accept ownership of state’s actions, even those that they might not have willed. He wanted them to consider themselves positively invested and actively implicated in a sovereign authority which they believed to exist by their rational acts of will. Hence, he made their continuing presence *in* the state activity manifest by suggesting that the state always acted by their authority, on their one fundamental right, ‘the Right of doing any Action’, for the protection of their one most fundamental end, self-preservation. This was necessary because a right of *self*-government, allowing everyone sovereignty, was as complete as it was self-defeating, unless there were one sovereign representative, a *unitary* centre of interpretation and enforcement of rights, shaping freedoms by means of laws and thus effectively protecting those freedoms from arbitrary interference. Their equal right to self-preservation would only be secure where a sovereign exercised it *for* them. The state’s activity in the exercise of its members rights could therefore be justly considered to implicate their will at all times. It was as owners of those rights that citizens individually bore and mutually shared responsibility for what their state did on their behalf, and in their name.

**SECTION BREAK?**

**Of the Person of the State**

Hobbes never explicitly tells us what kind of person the state is (Runciman 2000, 274). Disagreement over the nature and person of the state has been common amongst interpreters. Although many have come to agree that Hobbes’s state is best characterized as a person by fiction (Runciman 2000; Skinner 2007; Newey 2014; Brito Vieira 2009; Abizadeh 2013; Turner 2016), the argument has been recently advanced that this somewhat misconstrues Hobbes’s theory (Sagar 2018; Olsthoorn 2020), with some going so far as to question whether the state is a person at all (Pettit 2008, 56; Tuck 2016, 99-105).

The evidence for Hobbes’s treatment of the state as one person is compelling and predates the English *Leviathan* (Brito Vieira 2020, 315-16). From the early 1640s onwards, Hobbes conceived the state as a type of corporation, body politic or civil person, preserving its identity over time, enjoying capacity to perform actions, and entitled to hold rights and property. Accordingly, in *The Elements of Law* (1640), he stresses his surprise at the fact that the commonwealth has not been treated as a corporate person: ‘though in the charters of subordinate corporations, a corporation be declared to be one person in law, yet the same hath not been taken notice of in the body of a commonwealth or city’ (Hobbes 1969, 174). Hobbes’s surprise is clearly overdrawn, as he must have known he was following in the footsteps of medieval jurists in treating the commonwealth as a corporate person.[[13]](#footnote-14) Medieval corporate law maintained that a community was not a real person but a represented one (*persona non vera sed repraesentata*), and thus a fiction of the juristic mind – a person in law. Commentators such as Bartolus of Sassoferrato (1314-57) and his disciple, Baldus de Ubaldis (1327-1400), whose theories of corporate personhood stand the closest to Hobbes’s, insisted that a corporation was a body ‘composed of a plurality of human beings and an abstract unitary entity perceptible only by the intellect and thus distinct from its human members’ (Canning 1987, 186). In other words, by legal contrivance, an aggregate of individuals could be represented by a single abstract personality with a separate existence and real capacity to act. Variously qualified as “fictive” (*ficta*), “imaginary” (*imaginata*), or “represented” (*representata*), the representational and fictional person of the corporation was readily dismissed by nominalists like William of Ockham (c. 1280-1349): ‘what is only represented or imaginary is a fantasy’, claimed Ockham, ‘and does not exist in reality outside the mind’ (Ockham 2001, 428). For Ockham, fictitious persons existed entirely in the mind, and nowhere outside it. They were pure mental constructions – abstractions deprived of any capacity to be, let alone act. Nominalists were, of course, right if ‘we speak about reality properly’, Bartolus acknowledged; but, he immediately objected, ‘according to legal fiction they err[ed]’.[[14]](#footnote-15) For within legal systems, corporations were indeed persons, which the law invested with reality and with their respective duties and rights (Lind 2015, 87).

Of paramount importance for corporations *qua* single persons at law were their unity, distinctiveness, perpetuity and identity over time. These are concerns that we find echoed in *Thomas White’s ‘De Mundo’ Examined* (1642-3), where Hobbes maintains that ‘when any citizen dies the material of the state is not the same, i.e., the state is not the same *ens*’ but ‘the uninterrupted order and motion of government that signal a state ensure that, while they remain as one, the state is the same in number’ (Hobbes 1976, 141). Hobbes’s indebtedness to the doctrine corporate personality becomes, if anything, clearer in his early political treatises. In *The Elements of Law* (1640), the commonwealth comes to be defined as ‘a multitude of men, united as one person by a common power’ (1969, 104; see also 1969, 108). EL 19.8; see also EL 20.1. In *De cive* (1642), Hobbes reiterates that the person resulting from the incorporation is a civil person: ‘Union so made is called a *commonwealth* or *civil society* and also a *civil person*; for since there is *one will* of all of them, it is to be taken as *one person*; and is to be distinguished and differentiated by a *unique* name from all particular men, having its own rights and its own property’ (1998, 73) DCv 5.9; see also DCv 10.5. A civil person is an incorporated collective of natural persons from which one artificial will can be extracted (through a pre-agreed decision mechanism), and to which a single will can thus be attributed. The commonwealth was one such civil person, resulting from the multitude agreeing ‘that the will of some one man or the consenting wills of a majority of themselves is to be taken as the will of [them] all’ (1998, 76) DCv 6.1n. That is, in agreeing to submit to a common unitary external will (the sovereign’s), which they take as the will of all, the multitude incorporates itself into one person. It is the capacity to will and act in matters that are of common concern that make the commonwealth a person. The commonwealth’s or the incorporated people’s will is the sovereign’s will, and, as such, we see Hobbes using civil person interchangeably for the collective artificial person and for the sovereign (1969, 124) EL 21.11. But it would be wrong to conclude from this that the only person here is the sovereign’s (Tuck 2016). The multitude of particular men is that matter out of which the commonwealth is made; sovereignty is the form giving it unity (1998, 221) DCv 17.21. *De cive* already treats the sovereign as the essence of the commonwealth, but *Leviathan* puts the point across more forcibly by deeming the sovereign to be its ‘Soul’, the principle of its form, that which animates it, that which holds ‘all together within a single and specific form’: a person (Cavarero 2002, 172). Sovereign and commonwealth thus ‘coincide in life’ (Cavarero 2002, 176). But the commonwealth nonetheless constitutes a distinctive person, resulting from a union between form (sovereignty) and matter (subjects) (Abizadeh 2013, 133; Olsthoorn 2020, 6).

It is one thing to establish that the commonwealth is one person, and another to argue, as I do, that it is a person by fiction. According to Hobbes, representation by fiction is the only form of representation available to people, things or abstractions who ‘cannot be Authors, nor therefore give Authority to their Actors’ (Malcolm 2012, 246; 1651, 81-82). Some people, things or abstractions are in no position to authorize a representative because they cannot be held responsible for their actions and the consequences of those actions, including the act of authorizing. The possibility of their representation arises, nonetheless, from the existence of a third-party entitled to authorize a representative on their behalf. This will normally be a third-party with a right of ownership or governorship over the people or thing in question, or indeed the state itself can act as the third-party by directly appointing a representative (Malcolm 2012, 246; 1651, 81-82). The fiction here is that the actions of the selected representative are those of the represented, even though, in reality, the represented cannot normatively stand in an authorial relationship to them. Expressed in a different way, in the case of representation by fiction, unlike that of true representation, the very act of representation is constitutive of the represented thing’s, abstraction’s, or collective’s *persona*, which the representative is thus actively involved in bringing into being. The mediation of a third, authorizing party extends dramatically the range of things capable of being represented and thus of acting in the manner of a person by having an authorized representative’s actions attributed to them not truly, but by fiction (as they cannot truly author or own them). Hobbes’s list of candidates for representation by fiction includes: things inanimate, ‘as a Church, an Hospital, a Bridge’; people who have no or limited use of reason, ‘Children, Fooles, and Mad-men’; purely fictional entities, ‘[a]n Idol, or meer Figment of the brain’; and finally, the ‘true God’. This list immediately precedes – and builds up to – Hobbes’s account of the state as *one* person.

One objection that has been recently raised against applying the “representation by fiction model” to the state is that – as the examples given by Hobbes seem to show – it does not involve a collective or its incorporation (Olsthoorn 2020, 9), which is obviously concerning if we want to use the model to make sense of how one person may be made out of many. But the objection fails to take into account the context of Hobbes’s examples. As the literature from which Hobbes must have drawn these examples makes clear, the personation of churches, hospitals and bridges did presuppose incorporation. Both *universitates personarum* (associations) and *universitates rerum* (foundations) were aggregates – of people and things/assets, respectively – endowed with juristic personality by the prescript of law or a special grant and gaining their capacity for action through the agency of representatives. Civil and canon law had long included cathedral chapters and hospitals as specific instances of *universitates personarum* – that is, as a group of individuals legally considered to be a single *persona* or independent entity, such as a corporation. Hence even though it is true that bridges are ‘personated, not incorporated, by an overseer’ (Olsthoorn 2020, 9), the capacity to ‘procure their maintenance’ (Malcolm 2012, 246; 1651, 81) presupposed incorporation. The bridgebuilding brotherhoods (*fratres pontis*) of Medieval Europe were corporations responsible for building and repairing bridges over rivers, and the hospitals, chapels and cemeteries associated with them, especially in Southern France (Boyer 1964; Skinner 2018, 21-22). Hobbes’s interest in the examples of ‘a Church, an Hospital, a Bridge’ (Malcolm 2012, 246; 1651, 81) seems therefore to betray a deeper interest in the process whereby a collection of individuals or things are incorporated into *one* whole ordered to one purpose: to procure the maintenance of something in their charge, which is thereby recognized to have interests of its own that need protecting over time.

Representation by fiction, we have shown, could be closely related to incorporation. The second, related objection, to treating the state as a case of representation by fiction is that the latter requires a legal framework, and this requires, in turn, an institutional framework – that is, a state. In other words, fictional personation cannot generate a state, because it is the creature of the state: a state is necessary to structure and authorize it. Most notably, representation by fiction requires third-party authorization as grounded on dominion of things or persons, rights of ownership or governorship, which have no place outside the state. As the previous example made clear, representation by fiction may even, in some cases, presuppose the establishment of subordinate systems, namely religious associations, similar to guilds, with authority to procure the maintenance of things incapable of acting themselves, such as bridges. These corporations are legal fictions, which only the state can ultimately authorize.

But while it is true that all of this makes it impossible for non-authors to be ‘Personated, before there be some state of Civill Government’ (Malcolm 2012, 246; 1651, 82), it does not necessarily rule out the possibility of Hobbes conceiving the state as a case of fictional representation. For Hobbes, someone/something is represented by fiction when it could not have authorized the representative to speak and act on its behalf, and in its name, but third-party authorization must intervene to make representation – and thus the attribution of secondary actions to the individual/thing represented – possible. The state could not have authorized its representation by the sovereign since the state does not pre-exist its representation – all there is then is an unincorporated multitude. But the multitude of natural persons who make up the state are also those who make it. They are ‘many Authors’, capable of authoring actions, including that of commissioning the sovereign to act on a right they *possess* to perform actions on their behalf, whose effects they take on themselves – thus sustaining the fiction that such actions are the represented *persona*’s. If the authorizing third-party is here the multitude, the question must be raised of whether the multitude can be said to stand in a relationship of ownership or governorship with the state. This seems an impossibility, since the sovereign is the state’s governor (Runciman 2000, 273). But ownership cannot be discarded as easily: for, as we have seem, Hobbes tells us that we *possess* the rights by which the state acts and he requires that we take *ownership* of any actions done by those rights. In conclusion, as owners of both, the rights by which the state acts and any state actions done by those rights, the multitude, severally considered, meet, after all, the conditions to act as the authorizing third-party, commissioning a selected common sovereign representative to ‘beare their Person; and every one to owne, and acknowledge himselfe to be Author of whatsoever he that so beareth their Person, shall Act, or cause to be Acted, in those things which concerne the Common Peace and Safetie’ (Malcolm 2012, 260; 1651, 87). As the singular form used by Hobbes indicates, the person that comes to be borne by the sovereign is a newly created *persona*, a unified corporate person, and it comes to have this unitary person on account of the ‘*Unity* of the Representer’ (Malcolm 2012, 248; 1651, 82). There is no unity without representation, or, as Hobbes puts it, ‘the Commonwealth is no Person [...] but by the Representative’ (Malcolm 2012, 416; 1651, 137). Only a unitary sovereign can represent them *as if* they were one – that is, as ‘*One Person*’ (Malcolm 2012, 260; 1651, 88), capable of acting with one will and speaking with one voice.

**CONCLUSION**

As I hope to have shown, the making of the commonwealth constitutes a specific case of representation by fiction. But the fiction of their corporate person is ultimately sustained by the true representation of each and every natural person comprising it (Brito Vieira 2009, 180-82; 2017, 39; 2020, 318-19, 322-23). To explain: in authorizing the sovereign, subjects agree to give the sovereign the right to represent them, bear them, or act in their name. “Them” means here them both severally and jointly considered, which means that two distinct things are packed into granting the sovereign the ‘right to present’ (Green 2005, 37): *first*, that the sovereign shall represent all its prospective subjects; *second*, that the sovereign shall represent the collective person into which they incorporate. This is done by giving themselves in representation to one – and just one and the same – representative, who, being one (person), enacts them as capable of words and actions, and moved by one singular will, that is, as if one person. While their collective person can only be represented by fiction, their individual persons are represented truly: they all agree to grant the sovereign authority to act by their rights and thus to be taken for authors of the sovereign’s actions and liable for their effects. In Hobbes’s own words, every sovereign’s act is ‘done in the Person, and by the Right of every one of them in particular’ (Malcolm 2012, 266; 1651, 89). It is the system of shared liability constituted through a reciprocal agreement to enter relations of true representation with a common representative that underpins – or lays the most solid foundation for – the fiction of the state’s personality.[[15]](#footnote-16)

Hence, we see Hobbes speaking of the multitude as granting the sovereign authority ‘to represent them every one’ (Malcolm 2012, 286; 1651, 95) *and* of them as a unitary person. Given that representation by fiction is held together – so to say – by the ties of true representation, Hobbes sometimes runs both processes close together. What is more, given the way Hobbes constructs these processes, there is no possible conflict between them (Brito Vieira 2008, 180-182), for in representing each and every one, the sovereign is not representing them in what differentiates them from one another, but in as much as they are the same as each other (persons desiring self-preservation, but caught up in the dilemma of self-sovereignty) and have a stake in a common purpose (coordination for the sake of security and peace), which only a state, acting by their right of sovereignty, can oversee and enforce. In sum, it is only when united in the one person which establishes their political will ‘from an outside’ (Downes 2015, 58) that they can see their freedoms, and indeed any interests and private satisfactions they may aspire to, protected and enabled to a degree that is incomparable with anything they could achieve as self-sovereigns (Brito Vieira 2017, 43).

Should we conclude from this that the ‘commonwealth is simply all the citizens united’ (Olsthoorn 2020, 13)? To borrow Bartolus’ words, this would be right if ‘we speak about reality properly’, but dangerously reductive if one follows Hobbes in admitting how real – and necessary – a coordinating fiction, or an intersubjectively shared political imaginary, are (Brito Vieira 2020).[[16]](#footnote-17) In *Leviathan*, Hobbes makes it patently clear that ‘people must save themselves from themselves’ by collectively living by ‘representations of themselves’ which ‘do not simply and wholly coincide with themselves’ (Downes 2015, 58).[[17]](#footnote-18) This implies two distinct senses (Fossen 2019) in which representation works in *Leviathan*, as the action of speaking and acting for others, on which we have been focusing, and as imagining or portraying something *as* something, the meaning to which I want to turn now. Both, I submit, combine in bringing into being a commonwealth. On the one hand, Hobbes tells us that the state is nothing but us acting in union through a common representative. On the other hand, he requires us ‘to believe in the ‘person’ of the commonwealth as something outside [us] and greater than any of [us]’ (Malcolm 2002, 228) and even greater than all of us together. Hobbes was convinced that our individual authorization of the sovereign and the relationship of mutual accountability and shared ability in which this placed us sustained the state but did not sustain itself. Representation was equally necessary, now understood as the representation of the commonwealth itself as a formidable image of unity that transcended the mere sum of its authorizing parts. The latter was, of course, a fiction of the mind, not a true person but a person represented to the collective imagination. But Hobbes believed in the unique power of fictions to make the world in their image and elicit a ‘passionate obedience’ whereby naturally enthroned individuals (“self-sovereigns”) would take on the *persona* of the subject and the ‘logic of authorisation’ would effectively ‘come into play’ (Malcolm 2002, 228). The fiction of a *Leviathan* state, with power to (con)form the wills and actions of its subjects, for the sake of the commodious benefits of peace, and to avert any fall back into the wretchedness of nature, could not ‘have reality for us without us doing the work of imagining it as such, and without us engaging in the practices that keep that imaginary alive’ (Ferguson 2012, 74). A failure to hold a simultaneous vision of the state as us *and* as something different and bigger than us (i.e., as ruler), and to perform accordingly, could easily slide into a failure of state. Our best protection is to stick with it.

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1. Hobbes’s treatment of persons changes considerably from the English *Leviathan* (1651) to *De Homine* (1658) and then from *De Homine* to the Latin *Leviathan* (1668). My discussion is in this chapter refers exclusively to the English *Leviathan*. [↑](#footnote-ref-1)
2. OED, s.v., IV.16 [↑](#footnote-ref-2)
3. The English verb ‘to personate’ appeared around the turn of the seventeenth century, with the first example of its use registered in the OED dating from 1597-8. It commonly referred to the action of passing oneself off as someone else for fraudulent purposes. [↑](#footnote-ref-3)
4. In 1649, Hobbes’s friend, the poet John Hall, wrote about personation in terms that put one in mind of Hobbes’s formulations in the English *Leviathan*: ‘Man in business is but a Theatricall person, and in a manner but personates himself’ (Hall 1953, 37). [↑](#footnote-ref-4)
5. For a similar position, see Abizadeh (2017, 923). [↑](#footnote-ref-5)
6. The sliding seen in Hobbeswas not uncommon. Sir Edward Coke and William Blackstone used person for both representative and representee. Coke wrote “‘Parson’, Persona. In the legall signification it is taken for the rector of a church parocchiall and is called *persona ecclesiae*, because he assumeth and taketh upon him the parson of the church: he only is said *vicem feu personam ecclesiae gerere*” (Coke 1797, III.9.528: 300b). This is taken up by Blackstone, for whom “A parson, *persona ecclesiae*, is one that has full possession of all the rights of a parochial church. He is called parson, *persona*, because by his person the church, which is an invisible body, is represented; and he is in himself a body corporate, in order to protect and defend the rights of the church (which he personates) by a perpetual succession. He is sometimes called the rector, or governor, of the church: but the appellation of parson, (however it may be depreciated by familiar, clownish, and indiscriminate use) is the most legal, most beneficial, and most honorable title that a parish priest can enjoy; because such a one, ( Sir Edward Coke observes) and he only, is said *vicem seu personam ecclesiae gerere* (‘to carry out the business of the church in person’)” (Bl. Comm. I.11.V, p. \*372). [↑](#footnote-ref-6)
7. In equating the artificial person with the representative, rather than the represented, Hobbes is at variance with its common use in law from medieval times onwards. To the legal mind, artificial persons were, and still are, entities represented, namely collectives that are treated as persons in law, such as corporations.

   [↑](#footnote-ref-7)
8. And it is, if anything, made clearer in *De Homine*, where Hobbes writes: ‘They are said to have authority who do something by the right of someone else’, so that ‘unless he who is the author himself possesses the right of acting, the author has not authority to act’ (Hobbes 1999, 15.2, 131). [↑](#footnote-ref-9)
9. As Hobbes explains in chapter 14, rights can be laid down by being renounced or transferred. Transferred, when one deprives oneself of the freedom of ‘hindring another of the benefit of his own Right to the same’, that is, when one obliges oneself to stand out of his way (Malcolm 2012, 200; 1651, 65). Renounced, when one obliges oneself not to interfere with anyone in the exercise of that right. [↑](#footnote-ref-10)
10. As Michael Green, citing Hobbes, rightly puts it, “the social contract does not give the sovereign any new liberty of action but rather reduces ‘impediments to the use of his own right original’” (Green 2015, 33). [↑](#footnote-ref-11)
11. It has been argued on the basis of *Leviathan* 18.4 (Lloyd 2016) that the problem of authorized wrong actions could be resolved if the right extended from subjects-to-be to sovereign were the right to bear their persons, or act in their names. However, the right explicitly mentioned by Hobbes, prior to the conclusion that any act ‘done by Authority’ is ‘done by Commission, or Licence from him whose right it is’ is ‘the Right of doing any Action’ (Malcolm 2012, 244; 1651, 81). [↑](#footnote-ref-12)
12. It should be noted that Hobbes frees the sovereign of two burdens of responsibility: for actions it does and towards the authors of those actions, its subjects. In Hobbes, (sovereign) authority equals perfect unanswerability. [↑](#footnote-ref-13)
13. Although in *Leviathan* he will avoid defining the state as a corporation - as subordinate systems could be inspired to ask for more autonomy so that they could grow into almost commonwealths – and will instead put corporations in their (subordinate) place by defining them as ‘lesser Common-wealths’. (Malcolm 2012, 516; 1651, 175) [↑](#footnote-ref-14)
14. Bartolus, *Commentary* on D. 48.19.16.10. [↑](#footnote-ref-15)
15. On this aspect my position has been unchanging over the years, and I am therefore in agreement with the claim that ‘personation occurs at two levels’ (but not that they are sequential) (Olsthoorn 2020, 2). Insofar as I nonetheless hold to a “fictionalist interpretation”, and want to hold to the claim that the state does not exist before its representation by the sovereign as if one person (as underpinned by authorisation and thus ownership of this person’s actions by subjects), it is worth noting that this position is misunderstood when said to mean that the commonwealth comes into existence *solely* ‘by being represented by the sovereign’ and thus ‘existing apart from the multitude of individuals who compose it’. (Olsthoorn 2020, 2). [↑](#footnote-ref-16)
16. Bartolus, *Commentary* on D. 48.19.16.10. [↑](#footnote-ref-17)
17. Downes speaks of the people as “generating” these representations, but Hobbes wants to keep control over the representations by which we live; hence my deliberate alteration of the quote (for which I need to apologize). [↑](#footnote-ref-18)