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DAVID HUME ON NORMS AND INSTITUTIONS:  
CONFERENCE PROCEEDINGS

Wojciech Zaluski (editor)



**EUROPEAN UNIVERSITY INSTITUTE, FLORENCE**  
**MAX WEBER PROGRAMME**

*David Hume on Norms and Institutions*  
*Conference Proceedings*

**WOJCIECH ZALUSKI (EDITOR)**

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## Foreword

It is a pleasure for me to present the proceedings of the 18 April 2008 Max Weber Programme Conference on *David Hume on Norms and Institutions*. The academic year 2007 – 2008 was the second year of the Max Weber post-doctoral conference. This conference could also be labeled *The 2<sup>nd</sup> Max Weber Programme ‘Classics Revisited’ Conference*. Last year, our first year, we had a conference on *Max Weber in the 21<sup>st</sup> Century. Transdisciplinarity within the Social Sciences* (April 27-28, 2007) and we would like to give continuity to this conference series.

Our ‘*Classics Revisited*’ Conferences have two distinct characteristics that set them apart from other conferences named after one of the leading historical figures in the Social Sciences and Humanities. First, they are not conferences about ‘revisiting the life of...’ or ‘reassessing the contribution of...’, instead these are conferences that emphasize a specific theme – or more generally contributions – of the ‘named classic’ of interest to young researchers in the Social Sciences and Humanities in the 21<sup>st</sup> Century. Second, they are mostly organized by current Max Weber Fellows. This year has followed and reinforced this tradition. First, as the announcement of the conference stated:

The aim of the conference is to bring together leading international scholars, not so much to assess Hume’s contributions, but rather to explain and discuss how some of his different insights have persisted, and still pose open questions in current research in Economics, Law, History, and Political and Social Sciences. The conference will briefly review David Hume’s inquiry into the development and functioning of civil society, and it will concentrate on the role of **Norms and Institutions** as a recurrent theme from the Scottish Enlightenment to 21<sup>st</sup> Century research in the Social Sciences and Humanities.

As the proceedings of this conference show, we went beyond the strict discussion ‘on norms and institutions’, addressing other related issues, such as ‘the Science of Man,’ or Hume’s perspectives on Political Economy and Legal Philosophy. Being aware, nevertheless, that it is not possible to do justice to David Hume in one day, since he touched on an incredible number of issues of current interest to young scholars.

Second, even if a group of EUI Faculty (Christine Chwaszcz, Giovanni Sartor, Martin Van Gelderen, and myself) helped to design the conference, it was one of our post-doctoral Max Weber Fellows, Wojciech Zaluski, who took the lead in the organization of the conference. His Introduction to these Proceedings shows not only his leading involvement in the conference, but also his deep philosophical understanding of David Hume. His clear formulation of *Hume’s dilemma* and of two possible ways out (David Hume’s and Bertrand Russell’s), should we counted as an afterthought contribution to the conference.

I am sure that we will revisit David Hume and the other Classics of the Enlightenment with new cohorts of Max Weber Fellows (as we will revisit Max Weber), not just because much of their writings have been left untouched – there is much that is refreshing to go back to – but, in particular, because the Classics of the Enlightenment had no ‘disciplinary barriers’ (which was still true for Max Weber), and the Max Weber Programme is designed without ‘disciplinary barriers.’ The aim of the programme is not to have interdisciplinary research produced in one year, when Max Weber Fellows are just starting their ‘disciplinary careers.’ Inter-disciplinarity is most welcomed if it arises out of the interchange of ideas among Fellows, but the aim of the programme is more humble (or, I like to think, more meaningful): to achieve multi-disciplinary understanding among the Social Sciences and Humanities represented in the programme; that is, to simply ‘break the disciplinary barriers.’ It is in this perspective that reading David Hume is refreshing, and the conference certainly stimulated this interest ‘to go back to’... among post-doctoral fellows attending it.

Let me finish with few, well deserved, words of gratitude to those who helped organize the conference (from its programme to its logisitics), those who participated in it – in particular, to those who contributed with their presentations (most of them present in these proceedings) and discussions – and, specially, my thanks to Wojciech Zaluski, who has also done a superb job as editor of these proceedings.

Ramon Marimon

## Introduction: Five Striking Thoughts of David Hume

Wojciech Zaluski\*

This introduction is in two parts. In Part 1 I provide a brief report of the conference on David Hume organized within the Max Weber Programme (the output of this conference are the papers collected here). In Part 2 I provide some general information about Hume's philosophy.

### Part 1

David Hume (1711-1776) was one of the most versatile scholars in the history of human thought: his work embraces not only pure philosophy but also – among other areas – history, economics and literary criticism. This is why the idea of organizing a 'David Hume conference' within the inter-disciplinary programme which is the Max Weber Programme was natural and self-evident. The conference took place on 17 April 2008 in one of the magnificent buildings of the European University Institute in Florence, Villa la Fonte, the seat of the Programme. Its specific aim was to present David Hume's contribution to the analysis of the problem (understood very broadly) of norms and social institutions. The invited speakers are among the best experts on Hume's thought.

In the first morning session, presentations were made by Susan James (School of Philosophy, Birkbeck University of London) and Nicholas Phillipson (School of History, Classics and Archaeology, University of Edinburgh); the discussant of the session was Stephen Holmes (School of Law, New York University). In her presentation *Imagination and the Self in the Science of Man*, Susan James located Hume's view of the relations between reason and passion in a broad philosophical debate about the nature of reason and of passion, and – in this broader context – she presented Hume's conception of the science of man. Nicholas Phillipson, in his presentation *Hume, Smith and the Science of Man*, focused on the way two close friends – David Hume and Adam Smith – could have influenced each other's thought.

In the second morning session, the presentations were given by James Harris (Department of Philosophy, University of St Andrews) and Russell Hardin (Department of Politics, New York University); the discussant of the session was Giovanni Sartor (Department of Law, EUI, Florence). In his presentation *Hume on the Moral Obligation to Justice: the Argument of Treatise 3.2.2*, James Harris analyzed Hume's notoriously unclear view of human motivation to comply with the rules of justice, while Russell Hardin, in his presentation *Justice As Unintended Consequence*, reconstructed Hume's legal philosophy and pointed to the possible causes of the deplorable fact of neglecting Hume as a legal philosopher for such a long time.

In the afternoon session, the presentations were made by Margaret Schabas (Department of Philosophy, University of British Columbia) and Neil McArthur (Department of Philosophy, University of Manitoba); the discussant of the sessions was Martin Van Gelderen (Department of History and Civilization, EUI). In her presentation *The Evolutionary Context of Hume's Political Economy*, Margaret Schabas examined the extent to which the work of the 18<sup>th</sup> century evolutionists could have had an impact of Hume's thought, while Neil McArthur, in his presentation *Cosmopolitanism and Hume's General Point of View*, defended the claim that Hume's view of social institutions constitutes some form of cosmopolitanism.

At the end of the conference the speakers and discussants were asked by Ramon Marimon, Director of the Max Weber Programme, to explain why, in their view, 'Hume is worth reading today'. Among many interesting answers to this question, the least controversial was assuredly that of Martin van Gelderen: 'He is a brilliant writer'.

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\* Jagiellonian University, Krakow, Max Weber Fellow in 2007/2008

Even though David Hume was a truly versatile scholar – philosopher, historian, literary critic, economist, we should not forget that he was in the first place *philosopher*. Part 2 contains a brief presentation of his philosophy.

## Part 2

My method of presenting Hume’s philosophy is very simple: it consists in reducing the rich landscape of this philosophy to its *most striking* thoughts. Most striking, that is to say, in having the potential to awaken each reflective person, as Kant said in his own reaction to Hume’s writings, from her ‘dogmatic slumbers’. I suggest five thoughts of this sort. Thought 1 seems to be a general message of Hume’s philosophy, while Thoughts 2-5 justify or specify this message. After presenting these thoughts I formulate a certain fundamental dilemma that they seem to generate and two (of many possible) solutions to this dilemma.

*Thought 1. We are not rationally justified in accepting beliefs that go beyond our individual perceptions.*

David Hume belongs to the great tradition of British empiricism. He believed – like all empiricists – that the source of human knowledge resides in experience – in our individual perceptions (which he divided into impressions – perceptions which are direct, distinct, and simple, and ideas – perceptions which are indirect, i.e., based on impressions, indistinct, and often complex). However, unlike most empiricists, he maintained that the knowledge we can build upon this basis is extremely scarce. His conclusion can be stated precisely in the following way: we can have rational beliefs only about individual perceptions and about formal relations between ideas (these relations are described in analytical judgments *a priori* and are the focus of algebra and arithmetic). Hume claimed, then, that – as far as empirical knowledge is concerned – we are not rationally justified in going beyond our individual perceptions. He analyzed several contexts in which we are tempted to go beyond such perceptions and argued that we are not rationally justified in doing so. The following four thoughts present these contexts in some detail.

*Thought 2. There are no reasons to believe in the existence of objects in the world.*

We intuitively assume that our individual perceptions are the manifestations of objects existing in the world. But, as Hume argues, we have no reason to accept this assumption: our empirical premise – that we should not assume anything to be true if it cannot be grounded in our individual perceptions – does not allow us to make a transition from the statements about individual perceptions to the statements about external objects giving rise to them. In other words, what we have empirical access to are individual perceptions, e.g., the impression of greenness, the impression of roundness, not any kind of putative objects or substance ‘underlying’ or ‘giving rise to’ these perceptions, e.g., an apple. Accordingly, however self-evident the statement that external objects exist may seem, we have – as Hume stresses – no reason to accept it, *because we have no impressions of external objects*.

*Thought 3. There are no reasons to believe in the existence of individual selves.*

Descartes believed that our mental states (*cogitationes*) imply the existence of their subject – the thinking substance (*res cogitans*), i.e., the self. Hume claimed that no such implication holds: just as we are not justified in assuming the existence of external objects giving rise to individual perceptions, so we are not justified in assuming the existence of the self as something distinct from and underlying the constant flow of our mental states – *we have no impression of our self*. Thus, in Hume’s view, the human mind is just a bundle of individual perceptions. It may be interesting to note that that this counter-intuitive conception of the human mind entails the counter-intuitive conclusion

that the notion of human identity is meaningless (because, in this conception, there is nothing durable in the flow of our perceptions – no self – which could be the *locus* of such identity).

*Thought 4. There are no reasons to believe in the existence of causal relations in the world.*

Hume examined the question of whether we have any reasons to believe that causal relations exist between events. The commonsense answer to this question is in the affirmative: if billiard ball *A* hits billiard ball *B* and ball *B* begins to move, we naturally believe that ball *A* caused the motion of ball *B* – that ball *A* *puts* ball *B* *in motion*. In Hume's view, though, this answer has no rational basis. All we can say in this situation is that these two events are constantly conjoined: *we have no separate impression of the causal relation itself*. To the objection that we have never seen an exception to this regularity of the one event following the other (which is believed to suggest that causal relations do exist) Hume would reply that this is irrelevant, as there is no guarantee that such an exception will not appear in the future. To the further objection that since nature is uniform the exception *cannot* appear, Hume would retort that we do not know if nature is uniform: it may have been uniform in the past, but we do not know if it will continue to be so in the future; in order to assume that it will, we must previously assume that there exist causal relations in the world but thereby the problem of the existence of causal relations in the world re-emerges. To the objection that we *see* the causal relations between the events, Hume would reply 'do we?' and would add calmly that no causal relations are ever given to us in perceptions. As the above remarks show, Hume's critique of the belief in the existence of causal relations is strictly connected with his critique of induction.

*Thought 5. There are no reasons to believe in the existence of specific moral facts (as distinct from natural facts).*

Given the preceding thoughts, this thought should come to us as no surprise. If one assumes that the only source of our knowledge is experience, then one is naturally led to the view that there exist no specific moral facts described in ethical judgments. In Hume's view, ethical judgments are just the projections of our feelings onto the world: we call 'good' those things that are the source of our pleasure, and 'wrong' those which are the source of our pain. In Hume's philosophy, then, morality becomes a study of human nature rather than an inquiry into the putative universe of moral facts as distinct from natural facts. In the context of his account of morality Hume formulated, on logical grounds, the famous ban (called now 'the Hume guillotine') on passing from the 'is' statements to the 'ought' statements. It should be mentioned that there are many subtleties in Hume's account of morality (e.g., concerning the negligent role of reason in shaping our actions) but they cannot be discussed here.

*The fundamental dilemma that these thoughts seem to give rise to is that empiricism, if one understands it really deeply, proves to be self-destructive, as it does not provide us with reasons for accepting even the most – as it would seem – self-evident beliefs about the world. Therefore the dilemma consists in that we must choose between empiricism and the acceptance of these beliefs.*

In other words, Hume shows that if we treat the assumptions of empiricism seriously and thereby push their conclusions to their logical limits, it will turn out that our convictions both about the external world (e.g., that the world exists, that the world consists of objects giving rise to impressions, that the causal relations inhere in this world) and about our inner world (that there exist mental substances – individual selves) are *ungrounded*: we have no *reasons* to accept them, even though we can identify the psychological *causes* of our accepting them (e.g., Hume says that we believe in the existence of causal relations because the observed constant conjunction of events engenders in us the expectation of similar conjunction in the future; therefore even though this belief cannot be rationally justified, it is psychologically understandable).

The question arises of how the above dilemma can be solved. I shall present two solutions (of many possible): Hume's and Russell's. Hume's own solution consists in 'dissolving' the dilemma: he says that we should accept both empiricism *and* our traditional beliefs about the world *even though we*

*have no reasons for accepting them.* This solution can be motivated either by the conviction that the very fact that we understand the causes of our beliefs is a kind of reason for accepting these beliefs, by the conviction that it is futile to try to reject beliefs which we are naturally led to accept, or by the conviction that human reason cannot justify any kinds of belief (so that it is better to rest with our traditional beliefs than to rest with none). All these motivations seem to stand behind Hume's solution. Bertrand Russell's solution is different. Since he disliked, much more than Hume, the idea of accepting beliefs without having reasons for doing so (his faith in human reason was much greater than Hume's faith: Hume, in fact, displayed fundamental skepticism toward human reason rather than any faith in it), he solved the dilemma by introducing some rationalistic elements into empiricism. More specifically, he assumed that induction is an independent logical principle, and thus did not try to infer it – as Hume did – from experience. This assumption enabled him to reconstruct many of our traditional beliefs on rational grounds and to justify scientific knowledge. An attempt at evaluating these two solutions lies, of course, beyond the scope of this introduction.

By way of summary, let me just say that Hume's philosophy is one of those philosophies which have a particularly strong potential for awakening us from our 'dogmatic slumbers', as it constitutes a real challenge for anyone who believes that we can gain non-trivial empirical knowledge.

**Keywords:** science of man, reason, passion, volition, imagination, sympathy, impartial spectator, natural history, evolution, political economy, artificial virtue, sense of justice, convention, mutual advantage, spontaneous emergence of law.

## Imagination and the Self in the Science of Man

Susan James\*

One of the casualties of the philosophical view that Hume develops in his *Treatise of Human Nature* is a strong conception of the unity of the self. ‘When I enter most intimately into what I call myself’, he reports, ‘I always stumble on some particular perception or other, of heat or cold, light or shade, love or hatred, pain or pleasure. I never catch myself at any time without a perception, and never can observe anything but the perception.’<sup>1</sup> If we attend carefully to our everyday experience, Hume goes on to suggest, we find that it consists of sequences of distinct perceptions broken by periods of sleep; and if we then ask how we come by the idea that these sequences belong to a single self, we are forced to conclude that ‘the identity, which we ascribe to the mind of man, is only a fictitious one.’<sup>2</sup> Our psychological disposition to associate ideas imposes an imaginary unity on our perceptions, and moulds them into a self that endures through change.<sup>3</sup>

This analysis provides a vivid illustration of one of the young Hume’s central themes. In the course of the *Treatise*, he challenges a series of entrenched beliefs about the means by which individual human beings create and maintain their integrity, and gradually subverts a traditional conception of a self that is capable of exerting a degree of mastery over its thoughts and actions. In its place he sets a fluctuating array of ephemeral impressions and ideas, organised by the psychological dispositions of the imagination. While such a self may be capable of developing along orderly lines, it seems on the face of things to lack a reflective and self-conscious means of integrating its own impulses. One of the things that therefore needs to be explained is how we are capable of organising our ideas and impressions, and developing reasonably stable characters.

Hume’s description of inner experience embodies a challenge to a familiar analogy between a sovereign self, capable of controlling and unifying its disparate impulses, and a political sovereign whose task is to protect and discipline a body of diverse citizens. By refusing to model individual selfhood on political sovereignty, Hume implicitly raises the spectre of the self as state of nature, disorderly and unpredictable. This image heightens the sense of anxiety that already attaches to his interpretation, but also draws attention to what is lacking in the Humean self as so far described. Just as individuals in the state of nature need to extricate themselves from their predicament by creating a sovereign, so the self needs to escape fragmentation by finding a means to integrate and organise its own perceptions. The question therefore arises: how, if at all, can this be done? Must we settle for the conclusion that the self is a broken sequence of impressions and ideas, or can our natural dispositions generate something approaching sovereignty?

Hume’s discussion ultimately leans towards the latter view; but before he can address the issue on his own terms and begin to consider what the capacity for self-control consists in, he needs to shake his readers out of a comfortable conviction that the problem has an obvious and straightforward solution. Many of his contemporaries would have taken it for granted that what enables us to monitor and shape our perceptions is reason, the capacity to assess and direct our first-order beliefs, actions and passions. Rather as the political sovereign controls the state, sovereign reason controls the self, ordering its impulses into a coherent and preferably a virtuous whole. To subvert this complacency, Hume resorts to provocation. Dramatically inverting the established picture, he declares that reason is incapable of moving or controlling the passions, and instead of being their master is their slave. By challenging the generally accepted account of individual sovereignty, he opens up a space in which it is possible to think afresh about what, if anything, makes a unified self.

As Michael Moriarty has recently pointed out, the interest of twenty-first century readers in the history of the self is irretrievably marked by the work of those masters of suspicion, Nietzsche,

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<sup>1</sup> David Hume, *A Treatise of Human Nature* ed. L. A. Selby-Bigge (Clarendon Press, 1888), 252.

<sup>2</sup> *Treatise*, 259.

<sup>3</sup> *Treatise*, 259-62.

Marx and Freud.<sup>4</sup> So much so, that the early-modern period is sometimes depicted as an almost prehistoric era in which philosophers were oblivious of the problems attaching to a fractured and divided identity. If one accepts such a narrative, Hume figures as an innovator who confronts an uncomfortable truth, not only by drawing attention to the absence of a distinct idea of the self, but also by stripping reason of the capacity to control and shape the flow of our passions. Moreover, this assessment of his originality gains support from his own characterisation of the author of the *Treatise* as so ‘utterly abandoned and disconsolate’ that he no longer knows whether he or his opponents are the more monstrous and deformed. ‘I have exposed myself to the enmity of all metaphysicians, logicians, mathematicians, and even theologians; and can I wonder at the insults I must suffer?’<sup>5</sup>

Partly because Hume dramatises the contentiousness of his philosophy, and partly because his flamboyant turns of phrase give some of his pronouncements an air of audacious novelty, it is easy to take him at his own estimation as a writer whose views lie beyond the boundaries of existing philosophical debate. But this interpretation needs to be handled cautiously. By the end of the seventeenth century there was widespread discussion of the internal divisions and blind spots within the self, together with a lively appreciation of their tendency to curtail our capacity for rational self-control. In addition, as I shall argue, the dethroning of reason that Hume champions so epigrammatically had already been debated in philosophical circles for more than a generation. The recognition that in this case, as in a number of others, Hume’s claims about the self echo some of his predecessors does not diminish his extraordinary inventiveness. Rather, it guides our appreciation of his originality by helping us to see how he brings together a range of acknowledged problems about the self and turns them into a research programme for the science of man. To understand the history of the science of man we need to grasp the problems to which it was addressed; and some of these, I shall suggest, are embedded in Hume’s analysis of the relations between reason, sympathy and passion.

The moral and metaphysical power of reason is, according to Hume, generally taken for granted.

Nothing is more usual in philosophy, and even in common life, than to talk of the combat of passion and reason, to give the preference to reason, and to assert that men are only so far virtuous as they conform themselves to its dictates. Every rational creature, ‘tis said, is obliged to regulate his actions by reason; and if any other motive or principle challenge the direction of his conduct, he ought to oppose it ‘till it be entirely subdued, or at least brought to a conformity with that superior principle. On this method of thinking the greater part of moral philosophy, ancient and modern, seems to be founded; nor is there an ampler field, as well for metaphysical arguments, as popular declamations, than this suppos’d pre-eminence of reason above passion.<sup>6</sup>

It is against this background that Hume makes what he presents as the revolutionary claim that ‘Since reason alone can never produce any action, or give rise to volition, I infer, that the same faculty is as incapable of preventing volition, or of disputing the preference with any passion or emotion.’<sup>7</sup> The contention, however, that reason alone can neither generate action nor move the will echoes the substance of two long-standing and connected debates within seventeenth-century philosophy, one concerned with reason’s motivating power, the other with its effect on volition. Both these discussions are grounded on a shared set of assumptions about what makes the passions dangerous and in need of control. Passions, it is generally held, are part of our ordinary responses to the assemblage of sensory experience, memory and fantasy that early-modern writers regard as belonging to the realm of imagination. Although the passions are aroused by many types of experience, they are particularly responsive to the senses – to present imagery, sounds, smells or tastes that set off trains of association formed by our individual and collective histories. The power of the passions lies not only in the psychological hold that states such as joy, grief or fear exert over us, but also in the fact that they prompt us to act; unless something prevents it, a person in a rage will express their feelings in violent

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<sup>4</sup> Michael Moriarty, *Early Modern French Thought. The Age of Suspicion* (Oxford University Press, 2003).

<sup>5</sup> *Treatise*, 264.

<sup>6</sup> *Treatise*, 413.

<sup>7</sup> *Treatise*, 414-5.

or aggressive behaviour, and even someone with a mild fear of heights will go out of their way to avoid hanging terraces or balconies. What makes the passions an object of suspicion is therefore their ubiquitousness, forcefulness, relation to action, and potential destructiveness. Unless they are to some extent checked, individuals will simply act on their strongest affects, and moral and social chaos will result.

Broadly speaking, the presumed ability of reason to modify or moderate the passions is explained in two ways. According to some writers, conclusions derived by rational steps from well-grounded or self-evident premises are peculiarly compelling, and this quality explains not only how they figure in our thought processes, but also how they shape our actions. The sheer rational conviction that injustice is wrong, for example, can be enough to make one put the generalisation into practice by acting on it. According to other writers, the process of deriving conclusions from premises is suffused with a form of delight, potentially more compelling than even the strongest passion. Because reasoning is itself emotional, it can motivate us to act as it dictates, thus providing a counterweight to our disposition to act on our passionate pains and pleasures. Our actions are therefore the fruit of negotiation or contest between our passionate responses to the sensible world on the one side, and what are known as the interior or intellectual emotions aroused by reasoning on the other. Each of these two views remained in circulation in the early eighteenth-century, and together they form part of the backdrop to Hume's argument.

Perhaps the most uncompromising critique of reason's power to affect passion, and thus action, had been offered by Thomas Hobbes. In *Leviathan*, Hobbes distinguishes prudence, the ability to relate means to ends on the basis of experience and memory,<sup>8</sup> from reason, the art of constructing definitions and inferring their consequences.<sup>9</sup> Reasoning, as Hobbes conceives it, consists in what he calls reckoning or adding and subtracting terms. Whether their subject matter is mathematics, logic, politics or law, reasoners work out the consequences of definitions and build up demonstrations, which may be certain but are sometimes only probable.<sup>10</sup> Demonstrations in turn contribute to science, defined as 'the knowledge of consequences, and dependence of one fact on another: by which, out of what we can presently do, we know how to do something else when we will, or the like, another time...'<sup>11</sup> As this last statement implies, and as Hobbes explicitly points out, the knowledge we gain through reasoning is conditional.<sup>12</sup> It is conditional on the correctness or appropriateness of the definitions that ground a demonstration and is in this sense 'knowledge of the consequences of words.'<sup>13</sup> In addition, as we just have seen, reasoning produces general knowledge of 'the dependence of one fact on another', and enables us to infer what to do 'when we will' or 'another time'. So it is also conditional in the sense that it gives us information of the form, 'If the figure shown be a circle, then any straight line through the centre shall divide it into two equal parts.' And this, Hobbes concludes, 'is the Knowledge required of a Philosopher; that is to say, of him that pretends to Reasoning.'<sup>14</sup>

Hobbes is clear that the ability to reason has to be learned, and that some people are better suited to acquiring the skill than others. The differences that determine whether or not a particular individual will take to reasoning lie in what he describes as types of wit, and these are in turn shaped by the passions. Although everyone acquires a certain degree of natural wit from their everyday experience 'without method, culture or instruction,'<sup>15</sup> people vary in the quickness of their imagination and their ability to direct their thoughts to a particular end: 'some men's thoughts run one way, some another; and are held to, and observe differently the things that pass through their imagination.' Furthermore, while some individuals tend to notice the similarities between their thoughts, and thus possess the rudiments of what is called a good fancy, others who fix on differences between thoughts

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<sup>8</sup> Thomas Hobbes, *Leviathan* ed. Richard Tuck (Cambridge University Press, 1996), 52.

<sup>9</sup> *Leviathan*, 35.

<sup>10</sup> *Leviathan*, 37.

<sup>11</sup> *Leviathan*, 35.

<sup>12</sup> *Leviathan*, 47.

<sup>13</sup> *Leviathan*, 48.

<sup>14</sup> *Leviathan*, 60.

<sup>15</sup> *Leviathan*, 50.

have the makings of good judgment or discretion,<sup>16</sup> a facility that lends itself to the cultivation of acquired reason or wit. However, as Hobbes repeatedly insists, ‘the causes of the difference of Witts, are in the Passions’ and ‘The Passions that most of all cause the differences of Wit, are principally, the more or less Desire of Power, of Riches, of Knowledge, and of Honour. All of which may be reduced to the first, that is Desire of Power.’<sup>17</sup> Without some passionate desire to direct our thoughts, the imagination can be neither quick and directed to some end, nor steady and capable of concentration. It is only strong passions that save us from stupidity on the one hand and madness on the other. ‘For as to have no Desire is to be Dead; so to have weak Passions, is Dulnesse; and to have Passions indifferently for everything, GIDDINESSE, and *Distraction*; and to have stronger, and more vehement Passions for any thing, than is ordinarily seen in others, is what men call MADNESSE.’<sup>18</sup>

In this discussion Hobbes is concerned with the antecedents of our ability to reason, but his account nevertheless undermines the view that this capacity stands apart from the passions and is independently capable of controlling them. As he presents the matter, desire and reason operate together, both insofar as desire prompts us to learn to reason, and insofar as it motivates us to use this skill. Without a desire to achieve a particular goal, nothing would move us to formulate new definitions and explore their consequences, ‘for the Thoughts, are to the Desires, as Scouts and Spies, to range abroad, and find the way to all things Desired.’<sup>19</sup> As this image suggests, Hobbes makes reason subordinate to desire, and his view that reason can only find the connections between one definition and another when it is directed by something other than itself is in turn grounded in his conception of reasoning as conditional or hypothetical. Because the conclusions of demonstrations are prefaced by an ‘if’ standing in the way of an imperatival ‘Do such and such’, something more than reasoning is needed to shift us out of this conditional mood, and generate thought or action. Viewed in this way, reason alone has no power to control the passions; instead, passion and reason together lead us to scientific knowledge.

Hume’s account of reason takes up two central elements in Hobbes’s argument. First, he shares the view that reason alone cannot motivate us to act; when it illuminates the relations between abstract ideas, such as those of arithmetic or mechanics, it only directs our judgment concerning causes and effects and remains cut off from the realm of action.<sup>20</sup> Secondly, he echoes Hobbes’s claim that desire is what moves us to reason and act. The prospect of pleasure or pain in a state of affairs constitutes an emotion of desire or aversion, and the presence of this emotion is what prompts us to work out how to gain or avoid the state in question. However, as well as being directed to specific ends, desire and aversion extend to their causes and effects ‘as they are pointed out to us by reason and experience.’<sup>21</sup> If, for example, I long to see a friend, I also long to hear the doorbell that heralds her arrival; or if you want to reach the conclusion of a mathematical proof, you also want to reach its penultimate step. Emotion therefore arouses our interest in causal sequences that are already known to us, as well as prompting us to discover unknown causes and effects. Furthermore, reason alone cannot achieve this goal. ‘Where the objects themselves do not affect us, their connexion can never give them any influence; and ‘tis plain that, as reason is nothing but the discovery of this connexion, it cannot be by its means that the objects are able to affect us.’<sup>22</sup>

Whether or not Hume was conscious of taking up a Hobbesian line of argument, his discussion of the impotence of abstract reasoning contributes to an existing debate, and revives an attempt to limit its contribution to controlling the passions. However, as well as opposing the view that reason can directly shape our affects and thus the actions that flow from them, Hume is keen to discredit another widely held claim: that reason or understanding has an effect on the will. His focus this time is on the common assumption that, by shaping our volitions and prompting us to act rationally, reason creates a counterweight to the passions and inhibits their ability to determine our behaviour. Ideally, rational volition outfaces passion, and prevents us from acting in ways that are ill-considered or destructive.

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<sup>16</sup> *Leviathan*, 50-1.

<sup>17</sup> *Leviathan*, 53.

<sup>18</sup> *Leviathan*, 54.

<sup>19</sup> *Leviathan*, 53.

<sup>20</sup> Hume, *Treatise*, 413-4.

<sup>21</sup> Hume, *Treatise*, 414,

The general view that reasoning shapes our volitions had been defended in a number of ways. Descartes, for example, had argued that, although clear and distinct ideas do not altogether constrain volition, they are nevertheless so intrinsically compelling that the will assents to them. When you understand that  $2+2=4$ , for example, it becomes impossible seriously to assert the contrary. Although one can still decide to act in a fashion that flies in the face of a clear and distinct idea, there is something perverse about refusing the benefit of understanding and thwarting the will's natural inclination to follow reason. Furthermore, the Cartesian method only works because we do not usually follow such a wanton course. By enlarging our stock of clear and distinct ideas, we are able to distinguish good from bad reasons for acting; and because this understanding normally shapes our volitions, it enables us to refrain from actions grounded on insufficient or misleading information.

Philosophers who maintain that reasoning affects our behaviour via the intermediary of the will are liable to be called on to explain how this is possible, and hence to elucidate the alleged connection between understanding and volition. How does a grasp of the general relations between words or ideas prompt us to act? Early-modern answers to this question tend to be shaped by the prior assumption that, regardless of what reasoning may do, we normally act on our passions, which incorporate an element of aversion or desire. To fear war, for example, is to be averse to it, and this aspect of the passion is what moves us to prevent or avoid it. With this model in mind, it seems to follow that, if reason is going to move the will, it must contain a motivating element comparable to a desire. Some writers take up this line of thought and argue that reasoning arouses what are known as intellectual emotions - intense desires and pleasures that serve to reinforce our commitment both to theoretical understanding and a correspondingly rational way of life. Others, however, are sceptical. In their view, reasoning simply consists in perceiving the relations between general terms. Comprehending a demonstration gives us what Hobbes calls conditional knowledge about the consequences of specified types of situation, but does not in itself incline us to do anything. However, if it remains cut off from willing or volition, and stands apart from the realm of action, the problem remains: how can reasoning have any effect on the will, and thus on action?

This question is directly addressed by both Hobbes and Locke, who between them articulate what would later become the Humean position that reason alone cannot give rise to volition. As we have seen, Hobbes characterises reason in a way that makes the difficulty perspicuous. He then goes on to offer a radical solution by reinterpreting volitions as appetites or passions. Since Hume does not follow him down this path, there is no need to explore it here. More relevant is the view developed by Locke, who retains a role for volition in the process, but argues that it is primarily responsive to passion. We know from experience, he maintains, that the will is 'a power to begin or forebear, continue or end several actions of our minds and motions of our bodies'<sup>23</sup>; but if we go on to ask what moves it, the answer does not lie with reason. Instead, 'that which immediately determines the will to every voluntary action is the uneasiness of desire, fixed on some absent good.' The immediate antecedent of a volition is thus a desire, that is, the passion we feel 'upon the absence of any thing, whose present enjoyment carries the *Idea* of Delight with it.'<sup>24</sup> Rather than the will controlling the passions, the passions control the will.

The effectiveness of Locke's argument depends on his definition of volition as what moves us to begin, continue or end a thought or action. In departing from the view adopted, for example, by Descartes, that the role of the will is to assent to judgments, Locke breaks an intimate connection between volition and reason, and creates a space between the two. If a volition causes a thought or action to begin or end, we can ask what in turn causes it; and Locke's answer returns to the deeply-rooted conviction that it is our passions, and in particular our desires, that have power to move us in this way. Implicitly taking up Hobbes's remark that 'to have no desire is to be dead', he emphasises the extent to which passion drives thinking and action. Not only is it irrepressible, despite the Stoic claim to the contrary; it is also as essential to our voluntary actions as to our instinctive animal existence.

As we have seen, Hume incorporates elements of Hobbes's position into his account of reason's inability to modify the passions by itself. He also takes up two central elements of Locke's

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<sup>23</sup> John Locke, *An Essay Concerning Human Understanding*, ed. P. H. Nidditch (Oxford University Press, 1975), II, xxi.

<sup>24</sup> *Essay*, II, xx.

argument. His interpretation of volition as ‘that internal impression we feel and are conscious of when we knowingly give rise to any new motion of our body or perception of our mind’ echoes Locke’s definition, as does his claim that the will is determined by both calm and violent passions.<sup>25</sup> So when Hume puts the two arguments together and announces that, because ‘reason alone can never produce any action, or give rise to volition,’ it is ‘incapable of preventing volition, or of disputing the preference with any passion or emotion,’ he is not saying anything particularly new. The force of his claim is rather to reiterate and underline a conception of the self championed by the two leading English philosophers of the previous century. Against the view that passion is an external force which needs to be kept under control by the two active faculties of intellect and will, Locke and Hume move passion to the centre of the self and make it the driving force of rational thought and action. In doing so, they replace the old puzzle as to how reason and volition can check the unruly passions with a different question. They ask how the passions can modify themselves or, to put the point another way, how some passions can modify others and thus shape individual and collective character.

Hume may therefore be said to have inherited the question he confronted when he set out to construct a comprehensive science of man: how is it possible to explicate the workings of what one might call an essentially passionate self, beyond the control of reason? One available model lay in the very analysis of the passions that he and other philosophers who shared his outlook were in the process of rejecting. As we have seen, authors who represented human beings as divided between reason and passion had explained the operations of the passions by appealing to a group of capacities associated with imagination. According to many advocates of this view, we are equipped with God-given abilities to feel passions that contribute to our individual and collective survival, and to develop sociable affective habits on the basis of our experience. So, to some extent at least, the passions are governed by well-adapted mechanisms. Moreover, once it is accepted that they work in an orderly fashion and play a vital part in human existence, it becomes natural to ask how far they need to be controlled. Perhaps the dangers they pose have been exaggerated by philosophers in the grip of an other-worldly conception of virtue, for whom a susceptibility to bodily pleasure constitutes a threat to the immortal soul. Or perhaps the conclusion that reason alone cannot control the passions need not condemn us to misery or anarchy, but can instead open the way to a more positive assessment of a self governed by imagination. This debate is played out in the intellectual relationship between Malebranche on the one hand and Hutcheson and Hume on the other.

Malebranche defines the passions as ‘impressions from the Author of nature that incline us toward loving our body and all that might be of use in its preservation’.<sup>26</sup> They consist in motions of the corporeal animal spirits, and are contrasted with the soul’s natural inclinations ‘to the Word of God, to eternal truth and wisdom, i.e. to sovereign reason.’<sup>27</sup> Since the Fall, the balance between these two types of inclination has been upset, and the body has overpowered the soul. Instead of humbly representing our material needs to the mind, the passions ‘continually draw us away from ourselves, and by their clatter and shadows, tear us away from God, to whom we should be inseparably united.’<sup>28</sup> We must therefore do everything in our power to resist their threats and endearments. However, even as he condemns them as a source of error and sin, Malebranche concedes that the passions have their uses. ‘Sensible pleasure is the mark that nature has attached to the use of certain things, in order that we might use them for the preservation of the body without having to bother with a rational examination of them.’<sup>29</sup> As this remark implies, the passions work mechanically, without the intervention of the rational part of the soul; in fact, ‘although the soul necessarily witnesses the operations of its machine, and although it is moved by its machine as a result of the laws concerning its union with the body, it has no part at all in its various movements, of which it is in no way the true cause.’<sup>30</sup> Humans are therefore equipped with corporeal dispositions to respond to certain types of stimuli, which operate via the pains and pleasures of emotions such as love or fear.

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<sup>25</sup> *Treatise*, 417-8.

<sup>26</sup> Nicolas Malebranche, *The Search After Truth*, ed. Thomas M. Lennon and Paul J. Olscamp, (Cambridge University Press, 1997), 338 (some translations modified).

<sup>27</sup> *Search*, 337.

<sup>28</sup> *Search*, 357

<sup>29</sup> *Search*, 359.

<sup>30</sup> *Search*, 351,

Foremost amongst these dispositions are the tendencies to compare oneself with others and to sympathise with them. The point of sympathy, according to Malebranche, is to incline us to pity and compassion, and thus to make us care for those in trouble. To illustrate his claim, he takes the example of what happens when someone is on the point of losing a great good.

A face takes on expressions of rage and despair so lively and unexpected that they disarm and immobilise even the most impassioned. This terrible and sudden view of death, painted by the hand of nature on the unhappy countenance, stops those motions of the enemy's spirits and blood which are sweeping him towards vengeance, as though he has been struck. At this moment, when the opponent is accessible and favourably disposed, nature traces a humble and submissive air on the face of the unhappy man ... and the opponent receives in his spirits and blood an impression that he was incapable of receiving before. He begins mechanically to experience the motions accompanying compassion, which naturally inclines his soul to charity and pity.<sup>31</sup>

Malebranche believes in addition that the disposition to compare ourselves to others, and to express admiration for their *grandeur* and contempt for their *petitesse*, has beneficial social consequences.

It is necessary ... to be humble and timid, and even to make a show of one's inward disposition by displaying a modest countenance and a respectful or fearful air, when one is in the presence of a person of high rank, or of a proud and powerful man. For it is almost always advantageous to the body's welfare if the imagination submits in the face of sensible *grandeur*, and shows it the exterior marks of submission and of its interior veneration. But this happens naturally and mechanically, without any action on the part of the will, and often in spite of its resistance.<sup>32</sup>

At least some of our passions are therefore the outcome of mechanisms that operate in a mechanical and automatic fashion, and are designed to ensure that we behave in ways that are calculated to improve our chances of avoiding conflict.

These two sets of mechanisms play a central role in Malebranche's account of the divinely-ordained functions served by the passions. By moulding our emotions, sympathy and comparison protect the weak from the strong and, by making us responsive to the affects of others, foster our individual and collective survival. Although the benefits of these arrangements are limited by the passions' sheer force, they nevertheless contribute to an economy that inclines us to sociability and makes social and political life possible. When Hume came to write the *Treatise*, he took over the positive part of Malebranche's position, and organised his account of the working of the passions around the processes of sympathy and comparison. Putting aside Malebranche's pessimism about the deficiencies of the body and imagination, he concentrates on the benevolent implications of our passionate dispositions and makes them central to his analysis of human nature. The fact that neither the reason nor the will are capable of controlling the passions therefore does not condemn one to a desolate vision of humanity mired in sin.

This reassessment of the imaginative dispositions governing the passions aims to shift attention away from their supposed destructive force, and to undermine the assumption that, without the intervention of reason, our lives are liable to be filled with painful and conflicting emotions. However, it brings with it a renewed worry as to whether and how we are capable of shaping and controlling our passions, and evokes the dispersed and centre-less self described by Hume. The workings of imagination may produce moderately regular patterns of thought and action, so that the strings of perceptions he identifies are explicable. But how are we to get a grip on these processes, and use them to soften the unsociable traits within our individual characters? This question hovers over Hume's analysis of the self, but also arises in the account of sympathy that he takes over from Malebranche. As we have seen, Malebranche is clear that sympathy operates mechanically. It create an encompassing, physical web of feeling, in which passions pass from one person to another without the intervention of rational judgement. An expression of desperation on a man's face 'automatically' arouses compassion, just as the sight of another person's suffering excites sadness. Hume adopts the central features of this view and, like Malebranche, holds that passions pass back and forth among individuals. 'As in strings

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<sup>31</sup> *Search*, 351

<sup>32</sup> *Search*, 376-7.

equally wound up, the motion of one communicates to the rest; so all the affections readily pass from one person to another, and beget corresponding movements in every human creature.’<sup>33</sup> Many of our emotions therefore come to us from outside, in the sense that we feel them ‘more from communication than from my own natural temper and disposition.’<sup>34</sup> Moreover, as we echo or reflect them, they are subtly transformed. ‘In general we may remark that the minds of men are mirrors to one another, not only because they reflect each others’ emotions, but also because those rays of passions, sentiments and opinions may be often reverberated, and may decay away by insensible degrees.’<sup>35</sup>

Sympathy, according to Hume, explains many of the patterns of feeling to which humans are subject.<sup>36</sup> By converting our ideas of other people’s passions into answering passions of our own, sympathy overrides individual interest and produces a system of largely benevolent, affective exchange. The passions it arouses are therefore stages in an interpersonal process to which we are unavoidably subject; and because it is part of our nature to be mirrors to one another, many of our affects arise more from passionate reflection than from our individual dispositions and character. To some degree, then, human beings are conduits of emotion. Passions flow through us in accordance with mechanisms over which we have little control, so that one can even ask how far a particular emotion is ‘really’ one’s own. For example, is my sudden feeling of pity a quasi-mechanical response to your suffering, or does it answer to something more stable and dependable in my character? Here, once again, we encounter a gap between the perceptions we observe when we look inside ourselves, and a sovereign self capable of shaping its own features.

Hume’s conception of our passions may thus be said to incorporate some of the major philosophical innovations of the two preceding generations. He makes the passions the fulcrum of a benevolent image of the self, and by doing so sets the scene for an optimistic and progressive science of man. At the same time, however, he poses some questions for this science to investigate, questions about the extent to which we can control our passions and the means by which we can do so. As we have seen, these problems are dramatised in Hume’s image of the absent self, but also exemplified in his discussion of two more specific themes, namely the role of reason and the nature of sympathy. They are then taken up by subsequent Scottish writers who recognise and appreciate Hume’s legacy, and are keen to advance the science of man by providing an acceptable interpretation of our individual capacity for self-control.

One of the most revealing attempts to deal with the problems posed by Hume is to be found in Adam Smith’s *Theory of Moral Sentiments*. In the opening chapter, Smith reiterates the view that sympathy, a disposition to feel compassion for the suffering of others and to rejoice at their delight, is a principle of human nature. However, as he immediately goes on to clarify, it arises from our capacity to imagine what it would be like to be in someone else’s position. ‘For as to be in pain or distress of any kind excites the most excessive sorrow, so to conceive or to imagine that we are in it, excites some degree of the same emotion, in proportion to the vivacity or dullness of the conception.’<sup>37</sup> While Smith is far from denying the power of sympathy (when we imagine someone on the rack, he says, ‘we enter as it were into his body, and become in some measure the same person with him’), he is nevertheless emphatic that, because our senses ‘never did, and never can, carry us beyond our own person,’ sympathy depends entirely on imagination and not on any transfer of passion. Here, then, he endorses Hume’s view that sympathy consists in a causal sequence of impressions and ideas, but distances himself from Hume’s images of reflection and reverberation, and thus from the suggestion that passions are communicated from one person to another. While Hume retains some vestiges of Malebranche’s conviction that we are sometimes passive recipients of passion, Smith strengthens the boundary around the self and, by insisting that all its passions arise from its imaginative activity, guarantees that they are its own.

Smith’s argument can therefore be read as an attempt to resolve a problem left hanging in the *Treatise*. As so often in the history of philosophy, the vital shift he makes is only a shift in emphasis, and partly consists in a change of metaphor. Where Hume and Malebranche had illuminated the self

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<sup>33</sup> *Treatise*, 316-7.

<sup>34</sup> *Treatise*, 575-6.

<sup>35</sup> *Treatise*, 365.

<sup>36</sup> *Treatise*, 363.

<sup>37</sup> Adam Smith, *The Theory of Moral Sentiments*, ed. D. D. Raphael and A. L. Macfie, (Oxford University Press, 1976), 9.

by evoking mutual relationships in which each side depends on the other, Smith introduces a subject whose self-contained power to imagine the feelings of others reduces its dependence on the immediate contribution of the senses. Once this view is in place he is in a position to deal with the central problem bequeathed by Hume, and to explain how, given the impotence of reason, the self can nevertheless exercise sovereignty over its passions. His account of the process by which our natural imaginative dispositions create an Impartial Spectator or inner judge, who edges us in the direction of virtue through a mixture of discipline and encouragement, offers a direct and comprehensive solution. By restoring an internal division between our self-centred passions and the impersonal viewpoint of the Impartial Spectator, Smith introduces an imaginative and morally-sensitive replacement to reason. Here, then, we find one way of staving off the philosophical anxiety that the *Treatise* was partly intended to provoke, and carrying forward a central element of the project underlying Hume's science of man.



## Hume, Smith and the Science of Man

Nicholas Phillipson\*

In the introduction to the *Treatise*, Hume makes the famous claim that he has laid the foundations of a science of man, based on the observation of human nature as it appears in common life. It is, he says, the only 'solid foundation' on which such a science can be built. It is a science which will rescue the study of humanity from *a priorists* and the clergy, and because "there is no question of importance whose decision is not compriz'd in the science of man; and... none which can be decided with any certainty, before we become acquainted with that science" it will surely bring about a revolution in the understanding of politics, morals, religion and philosophy.

Hume's confident claim rested on the momentous demonstration that while reason might be instrumental in helping us to discover ways of gratifying our passions, it was incapable of providing us with incontrovertible knowledge about the natural and supernatural world or about the duties we owe to others, to ourselves and to any supposed deity. It made it possible for him to show that what he now calls the beliefs which regulate the passions, shape our understanding of the world and furnish us with our understanding of our duties have their roots in the imagination and our experience of life in the family, civil society and the state. In other words, this was a science which called for a analysis of the mind - the 'universe of the imagination' - and a study of the cognitive processes which make it possible for agents who are essentially selfish and capable of sympathy to acquire the arts of sociability and self-understanding on which their security and prosperity necessarily depends. It was an enterprise which would stress the importance of habit, custom, and education in shaping the human personality and the sheer historicity of human nature.

Put this way, it's not hard to understand the appeal of this Humean science of man for the modern social scientist, especially when we recall the brilliance with which Hume applied his principles to the analysis of the constitution and political culture of contemporary Britain, and it's equally understandable that scholars like Norbert Waszek should have wanted to see Hume as one of the first modern theorists of civil society. I don't have much to say about this line of thinking that is useful except to say that as a historian I would probably want to express myself rather differently to some of my colleagues in the social sciences. I have three concerns in this paper, first, with Hume's claim that his enterprise constituted something that could legitimately be described as a science, second, with the tacit challenge to this claim offered by Hume's close friend and disciple, Adam Smith, third, with the most curious and intriguing fact of all; the fact that having coined the phrase science of man in the *Treatise*, Hume promptly dropped it, leaving it to his readers to make up their own minds whether he was to be described as philosopher, historian or a man of letters, only insisting that his voluminous output was best regarded as literature.

Contextually and biographically one can see what Hume was doing in taking on a project of this sort and labelling it an exercise in developing a new science. As Duncan Forbes and others have remarked, the *Treatise* can best be regarded as a highly sophisticated contribution to a long-standing debate about the intellectual and challenges that natural jurisprudence presented to the modern world. So far as a young philosopher attempting to establish a position in the world was concerned, the challenge could hardly have been greater. By Hume's day natural jurisprudence was the dominant form of academic philosophy taught in the universities of northern Europe to prepare boys for public life and the church. The great architects of the project, Grotius, Hobbes and Pufendorf had set out to discover the laws, or principles, which rulers ought to observe if they were to restore and maintain political life in the factious, war-torn monarchies, principalities and republics of contemporary Europe, principles which hinged on the question of how to render factious peoples sociable. But what were the principles of sociability? How was one to explain how and why human beings were able to curb their natural partialities and passions and adopt those shared ideas of morality, justice, political obligation and natural religion on which peaceable life in organised societies necessarily depended? Grotius

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believed that the answer lay in reason and in our ability to recognise that our social duties were prescriptions which were to be regarded as the commands of the Deity – an explanation which could be criticised as being over-intellectualised and heretical in the eyes of most Calvinists, Lutherans and Catholics. Hobbes had replied that it was fear that made men willing to submit to the authority of a ruler and it was obedience to a ruler's commands that made him sociable – an explanation which was widely criticised by contemporaries for being egotistical and materialist. Pufendorf's elaborate attempt to reconcile these two extremes was generally regarded as incoherent and unacceptably Lutheran in its view of monarchy and the Church. And all three theories were criticised in England, Scotland and elsewhere for displaying a deep distrust of Calvinist ideas about the relationships between the church and civil society and for advocating absolute monarchy. It was this that had led Pufendorf's great editor, Jean Barbeyrac, to call for the development of a science of morals which would place the theory of sociability on secure foundations and serve as the basis on which the great project of discovering the laws on which the authority of governments rested and the prescriptions on which good governance ought to be based. Hume's decisive contribution to the debate was to show that none of this would be possible until the principles of knowledge themselves had been placed on empirical foundations. The science of morals in other words necessitated a science of man.

If Hume's science of man is seen as necessary to the hugely important problem of constructing a science of morals on which an understanding of politics and government could be built, it is worth noticing how careful he was to ensure that the parameters of the all important debate about the principles of sociability remained on his analytical radar. He takes careful note of recent French attempts – most notably Malebranche's – to develop a theory of the passions which would identify those aspects of human behaviour that could be regulated by reason. He takes account of Shaftesbury's and Addison's attempts to show that human beings were endowed with passions which were benevolent and sociable as well as self-regarding, passions which had been repressed in the cynical, self-regarding culture of the modern world and could best be released by cultivating taste, manners and the arts of politeness. He deals briefly but seriously with Hutcheson's attempt to show that we have been endowed with a moral sense which regulates these passions and inclines us to a love of society and virtue, even though he doesn't believe such a sense could have been implanted in us by the deity. For apart from anything else, Bernard Mandeville, Hutcheson's *bête noir*, had taught him to think of all the passions as self-regarding no matter how benevolent they might seem to be, and to think of sociability as something learned in the course of common life from parents, teachers and rulers; in Mandeville's witty argot, human beings were like horses, taught animals. That said, Hume, like Hutcheson had no time for Mandeville's famously cynical conclusion that our ability to learn these lessons was a function of our pride, gullibility and susceptibility to flattery. It was thinking of this sort that persuaded him of the need for a science of man which would be based on a careful analysis of the forms of experience which allow us to make sense of the world and discover how our appetites can be gratified.

But if Hume is seen as an ambitious young philosopher responding to a famous challenge to place the study of academic philosophy and the public culture of his own age on new and scientific foundations, he was notably imprecise and parsimonious in imparting his thoughts about the principles of this new science. He was clearly familiar with Hobbes' remarks about the difficulty of applying the experimental methods of the natural philosophers to the study of one's own species and famously concluded

We must glean up our experiments in this science from a cautious observation of human life, and take them as they appear in the common course of the world, by men's behaviour in company, in affairs, and in their pleasures. Where experiments of this kind are judiciously collected and compared, we may hope to establish on them a science which will not be inferior in certainty, and will be much superior in utility to any other of human comprehension.

For Hume, these were the precepts of the natural historian. But even so, they still had to take account of Hobbes' comments on the difficulty of exploring the behaviour of one's own species. Hume says nothing about this fundamental problem in the *Treatise* but does return to it from time to time in later essays and enquiries in characteristically pregnant and allusive ways.

For example, the second volume of the *Essays Moral and Political* (1742) opens with a short programmatic, Addisonian essay 'Of Essay Writing' in which he speaks briefly of the relationship between the 'learned' and 'conversable' worlds that seemed to be developing in the salons of Paris and the coffee-houses and taverns of London and of the significance this symbiotic relationship had for philosophy and society. He thought there was now a 'commerce' between them which was fertilising the conversation and culture of the conversable world and was furnishing the learned with valuable data about our cognitive behaviour. He points out that this was a very different scene of life to that which the learned men of earlier generations had known. In their day, learning had been an all-male activity, one that had been confined to the college, the cell and the theologians and its literary output had been correspondingly pedantic and chimerical. "And indeed, what cou'd be expected from Men who never consulted Experience in any of their Reasonings, or who never search'd for that Experience, *where alone it is to be found, in common Life and Conversation?*"[my italics] In the modern world, in which there was a free commerce between the sexes, the polite conversation of intelligent men and women would provide the raw material out of which a science of man could be distilled. Observation and the conversational experiments the polite philosopher could perform on his new companions would provide him with data about which he could generalise. For while "the Materials of this Commerce must chiefly be furnish'd by Conversation and common Life: The manufacturing of them alone belongs to Learning."

In this essay, Hume has begun to hint at what is involved in the study of common life. Language, conversation and discourse in which citizens engage with the opinions of the living and the dead will provide the philosopher with the only materials he needs to develop general theories of human nature. What is more, it is only in an age which is being transformed by commerce in the widest senses of the word, that such an investigation has become possible. In the first section of the first *Enquiry*, 'Of the Different Species of Philosophy' he admits that some aspects of the philosophy that will be generated by this sort of enquiry will probably be 'abstruse', in the sense that it will mean exploring the anatomy of the mind in a way which may 'disgust' the layman as much as the bloody business of his medical counterpart. However, as he was fond of pointing out, the job of the moral anatomist was to provide data which would be useful to moralists and to those who were anxious to refine their sentiments and manners because it would give them a more "exact" understanding of their sentiments and "a greater spirit of accuracy" in regulating their conduct and rendering it subservient to the interests of society. Above all, it will help to curb the spread of the ever-present cancer of superstition. He concludes

Happy, if we can unite the boundaries of the different species of philosophy, by reconciling profound enquiry with clearness, and truth with novelty! And still more happy, if, reasoning in this easy manner, we can undermine the foundations of an abstruse philosophy, which seems to have hitherto served only as a shelter to superstition, and a cover to absurdity and error!

It's interesting to compare the language Hume used in the *Treatise* in 1739 to announce the arrival of his new science with the language he used to explain his methods a decade later. The former holds open the possibility of developing a science which will yield up general truths about the world underwritten by observed facts systematically classified. To be sure Hobbes, who was always mindful of the problem of achieving certainty in the study of human nature by following the methods of the natural philosophers, had advocated following the 'mathematical' method of Euclid. This meant reasoning on the basis of axioms which could be developed and 'illustrated' in a way which would extend their reach, enhance their truth value and narrow the gap between the value of the initial axiom as opinion and 'knowledge'. The idea of science in either of these senses is entirely absent from Hume's later methodological remarks. In the first *Enquiry* of 1748 he speaks of the principles of understanding rather than the principles of knowledge and when speaking about the value of observing the way in which opinions and sentiments are exchanged in polite society, tells us that the value of the enterprise is not so much to extend understanding as to encourage philosophers and laymen and women to refine their language and sentiments. Indeed, if we were to read further in Hume's writing from this period, we should discover that he has come to regard those who make general claims about the principles of human behaviour as dogmatists in the making and a potential menace to human understanding and social cohesion. For in these later writings, Hume seems to regard his anatomical

experiments on the sentiments, disgusting or otherwise, as of ethical rather than scientific value in the sense that they are to be seen as means of refining our manners and enhancing our capacity for sociability. He gives us no sense at all that their primary value is of laying the foundations of a science of man.

Now I have pursued this discussion of Hume's claims to have developed a science of man thus far in the uneasy knowledge that it would be perfectly proper for you to turn around and object that "it all depends on what you mean by science." In eighteenth-century terms, any view of science presupposed a unitary view of nature and one which presupposed nature's origins in an act of creation that could be conceived in Christian or non-Christian – and probably Epicurean – terms. What I find interesting about Hume is that by quietly abandoning the claim that he was laying the foundations of a science, he was also silently questioning whether it was possible for anyone – particularly himself – to do so and was asking whether there weren't more useful tasks for a philosophically-minded historian like himself to perform.

I want to sharpen this question up a bit by turning to Adam Smith's views of Hume's theory of human nature and to the question of whether or not that theory could be legitimately regarded as the basis of something contemporaries could regard as a science of man. And in doing so I am mindful of the fact that Smith was Hume's greatest disciple and one of his closest friends. Indeed, I have come to think of him as the most intelligent and best informed reader that Hume ever had. I want to suggest that he be considered as a Humean who really did believe that it was possible to construct a genuinely Humean science of man by pressing Hume's profound insights into the theory of human nature harder than their author had chosen to do. In Smith's view, I think, Hume's initial project was perfectly realisable. It was just that he had chosen not to do so.

Smith was born in 1723 and was thus twelve years younger than Hume. Like Hume he came from the middling ranks of Scottish society and, like Hume was to remain at ease with the professional, clerical, landed and literary world and with those preoccupations with improvement which provided the Edinburgh enlightenment with its social and ideological foundations. Smith was a student at Glasgow when the *Treatise* was published in 1739-40 and while it is just possible that he read it there, it is more likely that he did so while he was studying at Balliol College Oxford as a Snell Exhibitioner between 1740 and 1746. He returned to Scotland in the wake of the Jacobite rebellion and the slaughter at Culloden in 1746, was taken up by the Edinburgh *literati* and, rather unusually, was invited to deliver two series of public lectures on Rhetoric and Jurisprudence to the young lawyers, ministers and men of letters in the city. These lectures were delivered between 1748 and 1751 and it's clear that it was during this period – and probably in 1750-51 that he first met Hume. This was the period in Hume's life when he was working on the texts of the two *Enquiries*, writing his *Political Discourses* and, preparing to relaunch his career as a philosophical historian.

Smith was in his late twenties when he delivered these Edinburgh lectures and although we do not have texts of the courses given in Edinburgh it is pretty clear that the very full sets of student notes of the courses as they were given at Glasgow in 1762-3 can be used to throw light on the foundations of Smith's thinking in the 1740's. It cannot be stressed enough how deeply Humean the foundations of Smith's thinking are. Human beings are to be considered as self-regarding, necessitous agents whose minds are regulated by the imagination, by the habits, customs and education we acquire in the course of common life and above all by that capacity for sympathy which gives us access to the conventions in which the culture of the worlds to which we are exposed is embodied. His understanding of the principles of justice and political obligation are pure Hume. Justice is what Hume had called an artificial virtue made necessary by the invention of property. Government and political obligation become necessary to maintain the property of the rich from the envy of the poor, as Smith sardonically puts it. Morality and the sense of justice on which it ultimately depends is possible only in societies with regular forms of government.

Hume is of course aware that his principles of human nature presuppose what I have called a historicised view of the human personality, one which attaches importance to the processes by which we are rendered sociable and come to rejoice in the business of perfecting our personalities. But it is Smith and not Hume who is the true theorist of the *process* of socialisation. Take for example Hume's thinking about language. As one would expect, Hume is well aware that language plays a crucial, even determining role in shaping our understanding and the culture of the worlds we wish to inhabit; words like discourse and conversation are used freely in the *Treatise* and in later writing. But Hume has no

developed theory of language, no account of the processes by which we acquire the capacity for language, no account of the evolution of language itself. Smith does, and it is of the first significance that his debut as a philosopher should have been devoted to developing a theory of language and a corresponding theory of rhetoric which will lay the foundations for a general theory of the principles of social interaction on which his own philosophy will come to depend. His conjectural account of the origins of language theorises the assumption that Hume and others had made, that human society and the civilising process are responses to the deep necessitousness of human nature and it offers a remarkable set of conjectures about the progress of language as an institution and as a skill we acquire in response to the necessitousness of our social existence. It is equally significant that Smith published a developed version of this theory in 1763 and attached it to every subsequent edition of his *Theory of Moral Sentiments*. For his ethics and the theory of sociability on which it rests, and indeed the project for developing a Humean science of man, requires a developed theory of communication to sustain it.

Then take Smith's use of Hume's theory of justice. Hume is of course perfectly aware that the rules of justice will differ fundamentally in societies which have different systems of property and both in the *Treatise* and in the *Essays* and the *History of England* it is clear that he is thinking of the different situations that will obtain in pastoral, feudal and commercial societies. But at no point does he show any interest in taking the foundational step that Smith takes in the *Lectures on Jurisprudence* by positing or even hinting at the need for a formal, stadial theory of property which could be used to explore the principles on which Smith thought that the different systems of justice and government known to history had rested, principles which it was essential to understand if the axioms on which Smith's system depended were to be illustrated and validated.

But perhaps the most interesting comparison concerns Hume and Smith's respective views of the imagination, that most fundamental concept in both their philosophies. For both, it was the imagination which was ultimately responsible for furnishing us with the ideas on which our understanding of the world, and our understanding of our interests and duties depend. They also shared an enlightenment awareness of the ease with which the imagination can generate those illusions and superstitions which disturb the progress of civilisation and disgrace the human personality. In the *Treatise* Hume seldom misses an opportunity to emphasise the paradoxes to which the imagination gives rise and to emphasise its delusive properties. Smith, however, seems much more interested in the anatomy of the imagination and its consequences for a general theory of sociability. In the *Theory of Moral Sentiments* he is able to show precisely how the imagination generates those ethically absurd and even contemptible delusions which lead us to admire and sympathise with the fortunes of the rich and powerful and the consequence of these delusions for maintaining the system of inequality and deference on which society depends for its existence. In his remarkable essay on the history of astronomy, he develops and illustrates a strikingly close-textured set of conjectures to explain how we deploy the imagination to develop or make use of philosophical systems to provide us with coherent and credible accounts of the principles which explain the workings of the world. In what is probably the most influential example of all, in the *Wealth of Nations*, he develops an extraordinary set of conjectures about the origins of modern superstitions about wealth and power and illustrates them with a densely and meticulously deployed erudition which is needed to make them persuasive.

For in the last resort Smith is writing as the architect of an essentially Humean science of man which will analyse and illustrate the general principles which explain the processes by which the members of an indigent, self-regarding, sympathetic species deploy their imaginative resources and the understanding of the world they have acquired in the course of everyday life to survive and prosper in the worlds in which they find themselves. It is an enterprise which demands the skills of the mathematically-minded philosopher and the philosophical historian if it is ever to claim the status of science. But as I think both Hume and Smith realised, it is a science that is and will always remain conjectural.



## The Evolutionary Context of Hume's Political Economy

Margaret Schabas\*

Hume reminisced of his *Political Discourses*, published in Edinburgh in 1752, that it was the only one of his works that was met with immediate acclaim. It was republished, along with his earlier *Essays*, a year later, and within a few years circulated widely due to three French translations. By the time Hume died there were over twenty editions, in several different European languages. When François Quesnay, a physician at Versailles renowned for his blood-letting techniques, decided at the ripe age of 67 to turn to a study of the subject, he first read Hume's *Political Discourses*. Hume had carefully positioned his works in a trajectory that could be embraced by the French, paying attention to the ideas of Jean-François Melon, Charles-Louis de Montesquieu, Charles Ferrère Du Tot, and the Gournay circle. Arguably, Hume was the most widely read and influential political economist of the eighteenth century, or at least from 1752 up till circa 1790.

Although Hume had a voracious appetite for factual knowledge—his essays make note of everything but the price of tea in China—there is little evidence to suggest that he took up a systematic reading of political economy until the 1740s. As Ian Simpson Ross has shown, Hume's correspondence from the 1730s while in France shows some attention to population, commerce, and market activities, and he may have read Mandeville or Melon while in Reims, given his access to the library of Noël-Antoine Pluche. This would fit with his broader aim of forging a 'Science of Man' manifest in his *Treatise*, but the specific insights on economic theory and analysis were mostly devised at Ninewells, in the years 1749-51. Certain later correspondence and observations prompted revisions, particularly on the subject of the consumption of luxury goods and the issuance of paper credit. But for the most part, the economic writings by Hume (with the exception of one essay, "Of the Jealousy of Trade" published in 1758), were the product of a brief and concentrated spurt at the very middle of the century.

Adam Smith, of course, is much better known for his contributions to political economy. It would be almost as difficult to measure who is better known in his secondary field, Smith for philosophy or Hume for economics, as it would to arrive at this calculation for their principal field, Smith as a philosopher or Hume as an economist. But given that Smith's *Wealth of Nations* (1776) was slow to gain favour, not until circa 1790 did it achieve wide recognition on the Continent, notwithstanding its physiocratic appeals, it was Hume who dominated the subject for roughly forty years. Hume's economic thought was most ascendant in the 1750s and 60s, when Smith was struggling to complete his magnum opus. It may well be that Smith played Brahms to Hume's Beethoven. The significant gap between the *Lectures on Jurisprudence* (1750s) and the publication of the *Wealth of Nations* (1776) may have been in part shaped by Smith's sense of awe and subordination toward Hume. Reading just their correspondence in isolation there is a sense in which Smith becomes increasingly guarded about his economic theorizing. This seems perfectly understandable given the reprimands Hume issued to Smith from time to time. In a letter of August 20, 1769, Hume wrote: "I am positive you are in the wrong on many of your speculations, especially where you have the Misfortune to differ from me" (Smith 1987, 155). Hume urged Smith to find a way for them to meet to discuss the promised book on political economy, but Smith did not cooperate. Letter after letter from Hume gives the impression that Smith was avoiding Hume, wishing, it seems, not to benefit from his proposals. "You say nothing to me of your own work," Hume complained to Smith in 1772 (Smith 1987, 161). Thinking the book was nearly done (and perhaps it was), Hume offered to forgive Smith for avoiding him if he would but move back to Edinburgh and share in his company. Even after he read the WN, Hume had to prevail upon Joseph Black to prompt Smith to reply to his written reactions.

Commentators have long emphasized the dissimilarities between Hume and Smith on economic theory. This is, of course, an overstatement, but not a bad point of departure since it is all the harder to find points of overlap than points of difference. Certainly Hume is hard to pigeonhole;

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he was neither a mercantilist nor a classical theorist espousing a labour theory of value. He was much more hostile toward physiocracy than was Smith, though both shared an admiration for Turgot who was himself nonsectarian.

My aim is to propose that there was much more common ground, and that it derives from an evolutionary framework. And since I will only have time to explore this theme with respect to Hume, let me here just submit at the outset that in Smith the case is far easier to make. We know that Smith had cultivated an interest in natural history in the 1750s if not earlier. He was instrumental in promoting the ideas of René-Antoine Réaumur and the Comte de Buffon, noting in his 1756 *Letter to the Edinburgh Review*, that “none of the sciences indeed seem to be cultivated in France with more eagerness than natural history” (Smith 1980, 248-9).<sup>38</sup> This and what we know about the contents of Smith’s library point to a keen and sustained interest in the subject. He much admired Linnaeus and had read the *Systema Natura*, for he makes use of it in his essay “Of the External Senses” (most likely written before 1752).<sup>39</sup> He also had in his library Benjamin Stillingfleet’s 1759 translation of Linnaeus’s *Oeconomy of Nature*, and may well have read the original 1749 Latin version. Smith also notes the adaptiveness of species, and makes an oblique reference to classification by genera and species in his essay on the history of astronomy. This supports the view that he had perused this tract in his formative years (Smith 1980, 38). I will not explore here the many aspects by which his political economy was shaped by natural historical modes of thinking, but suffice it to say that he positioned wealth as part of the more extensive oeconomy of nature.

My proposition here, that natural historical and evolutionary modes of thinking shaped Hume’s political economy, is bolstered by attending to the chronology of his *oeuvre*. There is firm evidence that he wrote his “Natural History of Religion” in 1751, although it was not published until 1757, as one of the *Four Dissertations*. Here he analyses religion as a trait that is shared by all members of the species *homo sapiens*. The title is not in the least a misnomer. More significantly, we have good evidence to suppose that Hume drafted most of his *Dialogues Concerning Natural Religion* [published posthumously in 1779] in the same few years, 1749 to 1752, that he composed his *Political Discourses*. In short, his most concentrated efforts on the two subjects of natural history (for the *Dialogues*, I would argue, is essentially a critique of natural theology looking to the adaptation of species) and political economy were in the same three year span. He also repackaged his *Treatise* into the two *Enquiries* over this same quiet retreat at Ninewells. As M. A. Stewart has observed, this period brought to a close Hume’s philosophical career (with the exception of a few essays written later on; *Impressions of Hume*, 2005, p. 47). Hume only revisited his work on natural theology and political economy in brief concentrated spurts that never again matched the original period of composition of 1749-52.

As Paul Wood has observed, thanks to Gladys Bryson “it has now become something of a truism that Scottish savants like [Adam] Ferguson were natural historians of human societies” (Wood 1989, 90). Insofar as Hume (and Smith) subscribed to the four-stages theory, it is readily easy to cast them into this mould. Eugene Rotwein (1954) and Andrew Skinner (1967), likewise, emphasized the strong historical predilections of Hume’s economics. Rotwein, for example, suggested that the many threads of Hume’s analysis congeal as a kind of “natural history” (p. lxxviii), but as with Skinner and Wood, there are no substantive details. Stefano Fiori is one of the first to explore the links between Smith and Buffon, specifically Buffon’s idea of the *moule intérieure* or internal formal cause that guides the individual development of specific organisms (Fiori 2001) but apart from Rotwein’s conjectures, little to nothing has been said about Hume.

This is partly, I believe, because for much of the twentieth century it was the received view that Hume was more or less impervious to the developments of natural science of his day, and that his expressed objective to cultivate an experimental method in the study of human nature was mostly superficial rhetoric. Smith, by contrast, had long been acknowledged for his excellent essay on the

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<sup>38</sup> Stefano Fiori links Smith to Maupertuis and Buffon for their respective appeals to invisible orders, notably Buffon’s *moule intérieure* (internal formal cause) which guides the individual development of organisms. This would prove to be an additional source for Smith’s distinctions between nominal and natural price and, as I have argued, his grander scheme of moral deception (see Fiori 2001, esp. 442; Schabas 2005).

<sup>39</sup> Wightman (1980, 15, 133-34) makes this argument, based on the presence of Berkeley’s and the absence of Hume’s ideas in the essay.

History of Astronomy, and known too for his close ties with William Cullen, Joseph Black and James Hutton (the first was his personal physician, and the latter two his literary executors after Hume, his closest friend, passed away). But thanks to the efforts of Michael Barfoot (1990) and Eugene Sapadin (1997), among others, we have acquired a different picture of Hume. The evidence is now quite substantial to the effect that Hume had a solid grounding in natural science as a student at Edinburgh, that he most likely received further training from the Jesuit natural philosophers such as Pluche during his two-year sojourn in France (1735-7), and that he sustained an interest in science throughout his later years. There are two mathematical papers that are allegedly by Hume, and also, as Marina Frasca-Spada has argued, considerable scientific depth to Hume's analysis of space and time (and the vacuum) in his *Treatise*.

Hume and Alexander Monro (*secundus*), following the directions of the recently deceased Colin Maclaurin (1746), served as joint secretaries for the Philosophical Society of Edinburgh from 1751-63. This meant that Hume oversaw the publication of a number of scientific papers, and cultivated friendships with a significant number of naturalists and physicians both in Edinburgh and through correspondence. And again, his appointment came a year before he issued his essays on political economy, suggesting all the more that there was a close link. Alas, there is only one extant letter during the critical three-year period that gives even a hint of this, to William Cullen in 1752, but then a fair amount of Hume's correspondence is lost (we have but 3 volumes).

Paul Wood has provided considerable historical evidence to the pervasive reach of natural history among the Scottish enlightenment philosophers. As he observed, "the moralizing of the Scots ultimately rested on the natural history of the human species, which they modelled on the practices of the natural historians of the vegetable and animal kingdoms, and pieced together from a variety of sources including personal observations, travel reports and, most importantly, works by Buffon, Linnaeus, and other naturalists" (Wood, 2003). This is exemplified in John Gregory's *A Comparative View of the State and Faculty of Man with those of the Animal World* (1765), a book that Aaron Garrett observes has "surface similarities with Hume" (Garrett 2003, 84). It is also evident in the four stages approach to history that was fostered by a number of Scottish thinkers, Adam Ferguson, John Millar, etc.

Hume, however, was more inclined to emphasise cyclic processes in his account of the ebb and flow of wealth, and there is certainly a sense of eternalism, that there is no terminal point. It would be easy to ascribe these to Hellenistic sources rather than the more immediate French proto-evolutionary thinkers. But it would also be possible to accept both sources as influential, and recognize a possible indebtedness of the natural historians to Epicurean eternalism as well. Attention to cycles was rife in early modern natural history, whether of organisms, populations, or the meteorological and geological frames in which life forms were positioned. In many respects, it was the point of departure for any attempt to form systems or reach more general levels of abstraction. Reproduction is also a kind of cycling, or circulation, and the fact that it served as the lynchpin for the Linnaean taxonomic system was not accidental. Quite the contrary, it was well entrenched in early modern discourse on natural history, whether in the work of Rudolph Jacob Camerarius or John Ray.

For Hume, all creatures, animal and vegetable, partake in the process of "corruption or dissolution, from one state or order to another" (Hume 1985, 377). Moreover, "the life of man is of no greater importance to the universe than that of an oyster" (Hume 1985, 583). This sense of detachment is present throughout much of Hume's writings, especially ones that bear on difficult religious issues. All creatures, man, animal and vegetable, partake in these cycles of advancement and decline.

These appeals to growth and decay are also true in the moral realm. Wealth, the arts and the sciences, flourish in one place, then decline, only to flourish elsewhere (Hume 1985, 378; Skinner 1993a, 244). Moreover, the cycles reinforce one another. Hume claims that one does not encounter flourishing arts and sciences where there is not also flourishing commerce. And commerce only comes if the various activities--agriculture, manufacturing, and trade--coincide in one region. Furthermore, each region's apotheosis is short-lived: "*when the arts and sciences come to perfection in any state, from that moment they naturally, or rather necessarily decline, and seldom or never revive in that nation, where they formerly flourished*" (Hume 1985, 135). The justification of this claim is based on an analogy to plants: "the arts and sciences, like some plants, require a fresh soil;

and however rich the land may be, and however you may recruit it by art or care, it will never, when once exhausted, produce any thing that is perfect or finished in the kind" (Hume 1985, 137).

Hume also argues that one cannot encourage flourishing arts and sciences without flourishing commerce and a liberal government, and that they all move in tandem. Hume's political economy is evolutionary through and through. As Andrew Skinner observed, Hume's eye is continuously on the "interplay between economic growth and liberty." Commerce also fosters greater learning, polite conversation, civility among strangers, and peace among nations. The lower orders are less rude and barbarous, disciplined by regular labor and a desire for material well-being, and the aristocrats are less prone to their passions and more subject to the disciplined frugality of the merchants who for Hume were the heroes of the modern age. Refinement and emulation also factor into this dynamic of global economic development. As nations look to each other for novel fashions in consumption and new methods of production, merchants cultivate networks of commerce and trade that enable a more rapid flow of wealth from one region to another. This expansion of trade brings people of different nationalities, religions, and political persuasions together, thus fostering greater mutual respect.

In his analysis of money and prices, Hume outlines a mechanism that allows a more rapid flow of wealth from one region to another. When domestic labour becomes too costly, manufacturers move on mass like a flock of birds, almost "flying" to other countries where wages are lower, till they "are again banished by the same causes" (Hume 1985, 283-4). Money readily adjusts in order to restore domestic prices to their "natural level." It is again only over larger chunks of time--centuries given his analysis on population growth--that wealth really intensifies or diminishes in a given region. There are, in short, built-in checks to the tendency for wages and prices to rise, just as urban centres tend to reach a saturation point (which Hume, incidentally, suggests is already the case for London; Hume 1985, 448).

There is also a natural progression by which the flourishing of one region is followed by that of another. In a well-known letter to Lord Kames of 1758, he wrote:

It was never surely the intention of Providence, that any one nation should be a monopolizer of wealth: and the growth of all bodies, artificial as well as natural, is stopped by internal causes, derived from their enormous size and greatness. Great empires, great cities, great commerce, all of them receive a check, not from accidental events, but necessary principles (Rotwein, 201).

It is hard to know where this idea came from, one named appropriately by Rotwein as the migration of economic opportunity. Certainly it calls for justification, one which Hume does not fully provide. Possibly it owes most to Hume's interest in the decline of Rome and Greece, but insofar as he also looks well into the future, there is a sense that the locus of wealth will continue to drift around the globe.

Note, too, that Hume readily equates the natural and the artificial, implicitly comparing animals and nations.<sup>40</sup> Hume maintains that "the universe, like an animal body, had a natural progress from infancy to old age" but since it is uncertain whether we have reached middle age as yet, "we cannot thence presuppose any decay in human nature" (Hume 1985, 378). He also argues at length that population now exceeds that of ancient times, and that this is correlated with happier and more virtuous conditions (Hume 1985, 382). And he puts much faith in the growth of trade and commerce, despite the paucity of records to that effect. Our ignorance, Hume conjectures, favours optimism: "it is not fully known, what degree of refinement, either in virtue or vice, human nature is susceptible of; nor what may be expected of mankind from any great revolution in their education, customs, or principles" (Hume 1985, 87-8). Mankind, he retorts, may not yet be at the midpoint of its history.

Hume held a similar view on natural evolution, that the "order of nature" was "still unfinished" (Enquiry, Sect. XI). Or to put it rhetorically, "why may you not infer a more finished scheme or plan [for nature], which will receive its completion in some distant point of space or time?" (Ibid). Insofar as he also insists that humans are governed by laws of nature (a point that hardly

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<sup>40</sup> Recent assessments of Hume's endorsement of economic growth in recent European times can be found in Brewer 1995 and Berdell 1996. Berdell also points to Hume's appreciation for what we would now label technological innovation. Indeed, Franklin's lightning rod was one of the first cases of a scientific theory inspiring a practical device with clear economic benefits.

needed emphasis in his age), it follows that our evolution is intertwined with that of nature. Notwithstanding Hume's famous appeal to understand the actions and motives of Britons by the study of Roman history, Hume is much more inclined to emphasize the evolution of human nature. The shifts Hume focuses upon take place over long stretches of time, over centuries and are thus, he submits, imperceptible to any contemporary analysis (Hume 1985, 378). Three thousand years of written records are all too brief "to fix many general truths in politics" (Hume 1985, 87), and given the advent of modern commerce but a century or two ago, Hume conjectures that we can only begin to assimilate its significance and full implications. Certainly human nature, while stable and robust in certain respects, undergoes an evolution over time. Certain traits, such as politeness or scientific curiosity, are induced by favourable material circumstances. Trust among strangers is more deeply entrenched in the modern era, as is evident in the increase in the number of cartels and use of fiduciary money (Hume 1985, 406). He also sees this in the increase of gallantry, in the decline of political rivalry and vicious slaughter, and in the diminution of slavery and petty tyranny (see Schabas 1994, 128-32). Genuine friendship, however, may be diminishing with the rise of a mercantile culture.

Hume also downplayed the role of reason in his depiction of economic activity. Our actions always stem from a sentiment or passion, and while accompanied by reasons, the latter can never be the sole source of the agency. Most of our actions are in fact pre-rational or non-deliberative. Economic phenomena, money, the interest rate, commerce and trade, proceed from traits that function at the level of groups or types of individuals (Schabas, 2007). Hume seeks (and finds) laws in the moral realm, but they pertain to social institutions rather than individual rational choice. This fits well with his famous account on the reason of animals (Treatise 1.3.16). Our method of induction is one we share with other animals and in that sense, we act more by instinct than by reason pure and simple.

Nevertheless, there are important differences. In his essay "Of the Dignity or Meanness of Human Nature," Hume proposed that we come to understand our own human nature by comparison to other animals. He came to the conclusion that "Man falls much more short of perfect wisdom, and even of his own ideas of perfect wisdom, than animals do of man; yet the latter difference is so considerable, that nothing but a comparison with the former can make it appear of little moment" (83). We are more like apes than angels.

In sum, Hume is thinking both inter-specifically and intra-specifically. There is some evidence that Hume was already well disposed to the nascent evolutionary schemes that emerged in his day. In the library attached to Steuart's course at the University of Edinburgh are nine books on the theory of the earth's creation, as well as a much larger collection on natural history. Whether Hume read some or all of them is still open to question, but certainly by the 1740s he had reflected on such questions when drafting his Dialogues Concerning Natural Religion.<sup>41</sup> Roy Porter has argued that theories of the origins of the earth gained in popularity in the late seventeenth- and early eighteenth-centuries because of their secularizing and even political implications. Moreover, earth histories were formulated partly to motivate prelapsarian accounts and thus lend credibility to appeals to the state of nature (see Porter 1979). Although Hume eschews that analytic device categorically, his Dialogues easily fits into the broader schema adduced by Porter. Certainly, given Hume's keenness to expose the fallacy of the argument from design, it would be a natural step to want to know more about natural history and geological accounts of the earth's origin. Aaron Garrett has argued that "for Hume animals functioned not as a mark of the richness of providence and our pre-existent teleological duties but rather as a sceptical razor" (Garrett 2003, 85). Insofar as Hume emphasized our animal sensibility, the imperfection of nature's order, and the sheer insignificance of our existence, it is but a short step to accept that the broader context was one of natural history.

The 1740s and 50s marked a watershed in the development of theories of generation and natural history more generally. Charles Bonnet's work on aphids (1740) and Abraham Tremblay's study of hydra (1744), by lending evidence to spontaneous generation, had intensified debates on the origin and nature of life. Both Julien La Mettrie and Denis Diderot embraced Tremblay's mechanistic theories which in turn inspired Pierre de Maupertuis and the Comte de Buffon, by the late 1740s, to

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<sup>41</sup> Paul Wood 1989 has made the same observation regarding Hume's writings on religion, and also suggested that in Hume's Enquiry (1748) there is evidence of "natural historical methods of description and classification in the science of the mind" (p. 99).

broach evolutionary hypotheses. These ideas circulated widely with the publication of the first two volumes of Buffon's *Histoire Naturelle* (1749).<sup>42</sup>

It is hard to believe that Hume, who had such a strong affinity with the secular French philosophers and who was at the centre of Enlightenment debates, did not hear about these ideas at least in their simpler versions.<sup>43</sup> Adam Smith, in a lengthy letter to the *Edinburgh Review* (1756), explicitly addressed the importance of Buffon's work on generation, and conveys the impression that it was already well known and controversial for its materialist and atheistic implications (see Wood 1989, 99-100). Alas, there is no concrete evidence that Hume had read Buffon until a decade later, when they met in Parisian salons during the 1760s. But Buffon's gift to Hume of a personal copy of some volumes of his *Histoire Naturelle* suggests that they conversed on scientific issues (see Mossner 1980, 480). Hume also expressed a strong liking for the French naturalist, and sounds distinctly Buffonian in the passage that opens his lengthy essay on population:

The continual and rapid motion of matter, the violent revolutions with which every part is agitated, the changes remarked in the heavens, the plain traces as well as tradition of an universal deluge, or general convulsion of the elements; all these prove strongly the mortality of this fabric of the world (Hume 1985, 377).

James Hutton, arguably more than any other Enlightenment figure, stretched our estimate of geological history (see Laudan 1987). In defiance of the biblical account, Hutton proposed that the earth's geology displayed "no vestige of a beginning, -no prospect of an end" (Hutton 1788, 304). Hutton was a deist, and this might well have been partly why he and Hume formed a bond starting in the late 1740s. It is difficult to know if Hutton held these views at that point in time, since his geological findings came later, in the 1760s. Moreover, his views were not widespread until he published the *Theory of the Earth* in 1795, two years before he passed away. He had studied medicine at Leiden, where the Boerhaavian school was still in ascendance, and then befriended Black, Hume and Smith. A direct influence is thus difficult to establish, although Hume's appeals to eternal cycles is resonant with Hutton's geology. Hutton aside, if Hume was aware of new currents in French biology this would suffice to account for his emphasis on economic evolution, and the relatively unprecedented temporal element in his essays.

Most scholars know of Smith's effort to establish a monetary measuring rod based on bushels of corn from century to century, but few know that this was preceded by Hume, who may have been the first in that discourse to adopt century-by-century comparisons. In Hume's essay "Of Money," the most prevalent temporal interval is three centuries (Hume 1985, 281, 289, 292, 294). He draws comparisons not only between the English and German economies, but between the European and the Chinese and refers back to ancient Rome in three passages (282, 285, 294). Thus, when he points to the "happy concurrence of causes in human affairs, which checks the growth of trade and riches" and prevents any one country from prolonged dominance, he could only have several centuries in mind, if not the thousand-plus years that separated the fall of Rome and the now comparable state of wealth in Western Europe, circa 1700 (see Hume 1985, 283). Elsewhere, he compares the British level of industry from the present to a state two centuries ago (Hume 1985, 328). No mercantilist or physiocratic writer has the same temporal sweep. I would submit that Enlightenment naturalists such as Linnaeus and Buffon served to awaken Hume's mind to this mode of thinking.

Human action takes centre stage for Hume, but the backdrop throughout is that of a natural and orderly world, one that is configured so as to foster human prosperity. On reading Hume's many essays, say "Of the Rise and Progress of the Arts and Sciences," or "Of the Populousness of Ancient Nations," one is struck by his immense sweep over global history. Hume unfolds a tale of passions

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<sup>42</sup> For a good overview of Enlightenment natural history, see Hankins 1985, Ch. 5.

<sup>43</sup> Paul Wood (1989), drawing on the work of Gladys Bryson and Andrew Skinner, has suggested that interest in natural history, Buffon most notably, rivalled interest in Newtonian physics among the intellectual elite of the Scottish Enlightenment. Simon Schaffer (1997) has explored the infusion of agrarian culture and natural history into Scottish moral philosophy.

and human frailty based on a vast temporal and geographical scale, drawing numerous lessons from the rise and fall of the empires of Greece, Rome and Spain among others. Wealth and virtue wax and wane in accordance with a complicated morality tale. Hume even peers well into the future, conjecturing in his essay "Of Public Credit" that in five hundred years, servants and masters will have changed stations (Hume 1985, 357).

Hume's general approach to human activity, economic and otherwise, was consistently made with an eye to the physical context by which the world was put together. There are a sufficient number of metaphysical and epistemological points of similarity to suggest that Hume did not take economic processes to be cordoned off from the physical world. His conjecture that there exists "a kind of pre-established harmony" (Hume 2000, 44) between our minds and nature offers the single bedrock from which all knowledge, including knowledge of economic phenomena, emanates. If both are in a state of flux, of evolution, then it seems all the more important to treat economic features of our world, the interest rate, the money stock, the level of trade and commerce, with natural historical modes of thought.

To conclude, there is a strong predilection in Hume to view economic phenomena developmentally, and to think in large chunks of time. Such an approach was relatively novel in the history of economic thought--not the reference to historical events per se, but the effort to think of the flow of wealth from nation to nation at the rate of a few if not several centuries. More importantly, Hume's account is epigenetic and not just one of augmentation (preformation). The various mechanisms that enable commerce and trade to flourish bootstrap one upon the other, passions, virtues, instincts, institutions. They are woven into a complex account that suggests a mind deeply steeped in the proto-evolutionary accounts of his contemporary natural historians.



## Cosmopolitanism and Hume's General Point of View

Neil McArthur\*

Hume was a cosmopolitan by temperament. "I am a Citizen of the World," he says in a letter, and his diverse friendships and correspondences show that he considered himself part of a European-wide republic of letters.<sup>44</sup> But I propose to argue that cosmopolitanism also plays an important role in his philosophy. Hume's *Treatise of Human Nature* outlines an original and important theory of how humans make moral judgments, by means of what Hume calls the general point of view – a neutral, disinterested perspective that eliminates the natural biases to which our natural moral sentiments are subject. But I shall suggest that Hume's theory also, apparently inadvertently, points to a limitation to our capacity for moral judgment. His account implies that, while it corrects for certain kinds of biases, the general point of view imports others. Specifically, it brings with it an inherent tendency to parochialism. It is only by looking at the works Hume wrote after the *Treatise*, works dealing with politics and society, that we can find his solution to this problem. In these works, he makes the case that certain sorts of societies allow their inhabitants to transcend the risk of parochialism that is built into human nature: specifically, those societies with particular kinds of legal and political institutions.

Hume wrote his great philosophical work, *The Treatise of Human Nature*, as a young man, publishing it when he was only twenty-seven. Remarkably, for the remainder of his life he largely seems to have ignored the issues covered in that book, except to revise their presentation in order to appeal to a wider audience. He devoted the major part of his working years to writing a series of essays on art, politics and society, and to composing his monumental *History of England*. The multi-volume *History* and his several collections of essays were all best-sellers, and scholars have always acknowledged them to be dazzling displays of erudition and style. The suspicion has lingered, however, that they lack the kind of philosophical brilliance that Hume deploys in the *Treatise*, and that they do not develop its ideas in any important ways. As a result, these writings have been relatively neglected. I think this is a shame, both because these later writings offer a theory of law and politics that is interesting and important, and because they contribute to making Hume's moral theory, as presented in the *Treatise*, more coherent and compelling. It is on their contribution to his moral theory that I wish to focus here.

Hume explains in the *Treatise* that moral judgments involve a sentiment of approval or disapproval towards certain traits of character – specifically, those that produce actions that tend to be useful or agreeable either to their possessor or to those affected by her actions. Take a case where an agent acts in such a way as to benefit another person. As a spectator, we view certain "effects, and . . . external signs" on the beneficiary of the action, and based on this we infer that the beneficiary feels a certain passion as a result of the action.<sup>45</sup> Through the mechanism of sympathy, which is innate in all of us, this passion is communicated to us as observers and gives rise to a pleasant or unpleasant sentiment. This sentiment is then associated with one of the so-called conative passions, love or hatred, which move us to approve or disapprove of the trait of character within the agent that we think has given rise to the action.<sup>46</sup> As the mechanism by which passion is communicated from the beneficiary of the action to us as observers, sympathy is both powerful and unreliable. It can be general and extensive, but it can also be partial and limited. It can, for instance, lead us to privilege qualities in others that are not morally salient, such as proximity or resemblance to ourselves. Hume thinks that to compensate for these natural partialities, we learn to govern these reactions in such a way that they accord with those of a competent and detached observer reflecting coolly on the situation. He calls this perspective the general point of view. In order, Hume says, to "arrive at a more

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<sup>44</sup> Letters 1: 470.

<sup>45</sup> T 2.1.9.4: 317-318.

<sup>46</sup> See T 3.1.2.4: 471; T 3.3.1.3: 574-5.

stable judgment of things, we fix on some steady and general points of view; and always, in our thoughts, place ourselves in them, whatever may be our present situation.”<sup>47</sup>

For Hume, our moral sentiments are, like all our feelings, involuntary. From the perspective of the scientific observer, they appear as a brute, unexplainable fact. As Professor Hardin points out in his book *David Hume, Moral and Political Theorist*, benevolence is a preference like a “desire to enjoy a hike in the hills [or] . . . an opera”.<sup>48</sup> We might think that our tendency to assume a general point of view is equally a brute fact about our nature, not subject to further analysis. But Hume says something different about it. He claims that “reason requires such impartial conduct.”<sup>49</sup> It is, to say the least, curious to see Hume suggesting that reason somehow imposes an obligation on our passions, given that he has told us, elsewhere in the *Treatise*, that it is a mere slave to these passions. This is an important theme running through the *Treatise* – that reason serves only to help guide us towards the ends that are the result of our passionate impulses. Yet here we have him saying explicitly that the general point of view is the result of that “reason which is able to *oppose* our passion.”<sup>50</sup> He does concede the passions often win this contest. He says that in trying to take the general point of view “it is seldom we can bring ourselves to it, [as] our passions do not readily follow the determination of our judgment”.<sup>51</sup> But clearly we do succeed at least some of the time in making considered moral judgments. So apparently we must conclude that when we do make such judgments, they are the result of some kind of imperative of reason, acting in opposition to our natural sentiments. Hume here seems to take a disturbingly un-Humean, and even proto-Kantian, position.

To rescue Hume from this apparent inconsistency, we need to look more closely at his use of the term “reason”. He uses the word in a number of different ways over the course of the *Treatise* and his other works, but here he tells us explicitly how he intends it to be understood. He calls it “nothing but a general calm determination of the passions, founded on some distant view or reflection.”<sup>52</sup> On first blush, this is not especially helpful, since it comes close to being circular. Hume seems to be saying that reason requires us to assume the general point of view because it is that faculty that naturally causes us to assume the general point of view. We can escape this circle if we follow a solution first explored in detail by Tito Magri: that by “reason” Hume means the sort of prudential, practical deliberation that allows us to discern our long-term, considered goals in cases where these conflict with our momentary and ill-considered impulses. Reason requires the general point of view because its assumption is in the service of these long-term goals. The “distant view or reflection” of which Hume speaks is not just the perspective of some neutral observer; it is also the perspective of a self-interested actor giving due consideration to her interests over the long term.<sup>53</sup>

The natural correspondence of disinterested judgments with those in our long-term interest gives Hume a convenient way of solving the problem, but the equation is far from obvious. It needs justification. The necessary link between self-interest and the general point of view is indicated by a phrase Hume repeatedly uses in discussing moral judgment: “society and conversation”. “The intercourse of sentiments . . . in society and conversation,” he says, “makes us form some general inalterable standard by which we may approve or disapprove of characters and manners.”<sup>54</sup> Similarly, and more expansively, he says: “When we form our judgments of persons merely from the tendency of their characters to our own benefit, or to that of our friends, we find so many contradictions to our sentiments in society and conversation, and such an uncertainty from the incessant changes of our situation, that we seek some other standard of merit and demerit, which may not admit of so great variation.”<sup>55</sup> This explains how the general point of view could be both natural and indeed inevitable to self-interested actors such as ourselves. It is part of the process by which we make our way in the world, by trying to resolve the apparent contradictions between our sentiments and those of others, the same way we correct our perceptions of the physical world. “Experience soon teaches us this method

<sup>47</sup> T 3.3.1.15: 581-2.

<sup>48</sup> Russell Hardin, *David Hume, Moral and Political Theorist* (Oxford, 2007), 62.

<sup>49</sup> T 3.3.1.18: 583.

<sup>50</sup> *Ibid.*, emphasis added.

<sup>51</sup> T 3.3.1.18: 583.

<sup>52</sup> *Ibid.*

<sup>53</sup> See Tito Magri, “Natural Obligation and Normative Motivation in Hume’s *Treatise*”, *Hume Studies* 22 (1996): 231-254.

<sup>54</sup> T 3.3.3.3: 603; exactly reprinted in EPM 5.2.27: 228.

<sup>55</sup> T 3.3.1.18: 583.

of correcting our sentiments,” he says, “or at least of correcting our language, where the sentiments are more stubborn and inalterable . . . . Such corrections are common with regard to all the senses; and indeed it were impossible we could ever make use of language, or communicate our sentiments to one another, did we not correct the momentary appearances of things, and overlook our present situation.”<sup>56</sup>

Because our moral sentiments are natural and inevitable, moral language is bound to be an integral part of any social vocabulary. Yet because these sentiments are also subjective, they are potentially a barrier to communication and interaction. By correcting them by means of the general point of view, the latter serves as an essential technique by which we integrate ourselves, volatile and impartial creatures that we are, into the larger society in which we live. The obligation to take the general point of view, which reason imposes, is therefore neither mysterious nor Kantian. We are motivated to assume it for the same reason we adhere to the artificial virtues: because we want to reap the rewards of being part of society, as a means to achieving our own interests. We are not as strongly motivated to assume the general point of view as we are to adhere to the artificial virtues – we know that society itself is not at stake in such mundane moral questions. But the same explanatory account applies.

By connecting the general point of view with our prudential investment in society, Hume accomplishes his stated “anatomical” purpose in the *Treatise*: to explain the observed facts about human behaviour without recourse either to the supernatural or to “reason” as some sort of autonomous faculty. Hume’s other writings, however, reveal a concern about the effectiveness of this basic tendency in guaranteeing the kind of true universality that morality seems to require. In the essay “Of the Standard of Taste”, he worries about the way in which apparent agreement over moral terms, the desire for which (as we have seen) motivates the assumption of the general point of view, may in fact conceal profound differences of opinion. It is noteworthy that in this essay he does not mention the general point of view, which is a subjective phenomenon, talking instead of a more objective entity, the moral standard. The problem is that the analogy asserted in the *Treatise*, between moral terms and those describing material features of the world, is imperfect. The latter tend to have fairly obvious objective referents. This is why in matters of science, Hume says, “an explanation of terms commonly ends the controversy.”<sup>57</sup> But the referents for moral language are more elusive. A term such as “good” in itself indicates no more than “whatever is to be praised”, and so an apparent consensus – around the fact that good things are worthy of praise – often conceals deep disagreement about the actual referents for such terms. Thus, Hume tells us, when we probe the meaning of moral language, “the difference among men is really greater than at first sight appears.”<sup>58</sup> He uses the example of the Koran, where we find the Arabic equivalents of such terms as equity, justice and charity, which we all seem to understand. However, these words are actually given entirely different meanings, and “every action is blamed or praised, so far only as it is beneficial to the believers.”<sup>59</sup>

Disagreement over the meaning of such terms could of course merely be the result of an individual somehow failing to make the right sort of moral judgment – that is, of failing to use terms in a way that corresponds to our common experience. Early in the *Treatise* Hume takes note of our tendency towards prejudice, which is a rule of inference “derived from general rules, which we rashly form to ourselves.” Though he intends the point to be taken more broadly, to encompass all sorts of judgments, his examples of prejudice are drawn specifically from the moral realm. “An Irishman cannot have wit,” he says, giving examples of common prejudices, “and a Frenchman cannot have solidity; for which reason, though the conversation of the former in any instance be visibly very agreeable, and of the latter very judicious, we have entertained such a prejudice against them, that they must be dunces or fops in spite of sense and reason. Human nature is very subject to errors of this

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<sup>56</sup> T 3.3.1.16: 582. Cf: “Besides that we ourselves often change our situation . . . we every day meet with persons who are in a different situation from ourselves, and who could never converse with us on any reasonable terms, were we to remain constantly in that situation and point of view which is peculiar to us.” T 3.3.1.16: 582. See also Nicolas Capaldi, “Some Misconceptions About Hume’s Moral Theory,” *Ethics* 76 (1966) 208-211, at 208; Rachel Cohon, “The Common Point of View in Hume’s Ethics,” *Philosophy and Phenomenological Research* 57 (1997), 827-850, at 840-2.

<sup>57</sup> *Essays*, 227.

<sup>58</sup> *Essays*, 228.

<sup>59</sup> *Essays*, 229.

kind.”<sup>60</sup> In the “Standard of Taste” essay, he notes how fragile our faculty of judgment is. “Those finer emotions of the mind are of a very tender and delicate nature,” he says, “and require the concurrence of many favourable circumstances to make them play with facility and exactness, according to their general and established principles. The least exterior hindrance to such small springs, or the least internal disorder, disturbs their motion, and confounds the operation of the whole machine.”<sup>61</sup> In this essay Hume tells us that we can improve our aesthetic judgments through practice. “But though there be naturally a wide difference in point of delicacy between one person and another,” he says,

nothing tends further to encrease and improve this talent, than *practice* in a particular art, and the frequent survey or contemplation of a particular species of beauty. When objects of any kind are first presented to the eye or imagination, the sentiment, which attends them, is obscure and confused; and the mind is, in a great measure, incapable of pronouncing concerning their merits or defects . . . . But allow him to acquire experience in those objects, his feeling becomes more exact and nice: He not only perceives the beauties and defects of each part, but marks the distinguishing species of each quality, and assigns it suitable praise or blame.<sup>62</sup>

I think we can expect an almost identical process takes place with morals. As we spend more time in the company of others, we are forced to consider counter-examples to our prejudices, and we also compare our moral language with theirs in an on-going way, thus ensuring that our words do in fact mean the same thing. This explains why Hume frequently speaks up in his essays in praise of sociability: if we refine our moral judgments through society and conversation, then the more of this we do, the better we will become at making such judgments. I do not think this is enough, however, to dispel the concern raised by Hume’s example of the Koran. I take it from the context that he is worried not just about how the book itself distorts moral language, but about the way it has created a closed community of believers who all speak this same distorted language, and whose judgments are as a result systematically biased. Specifically in this case, and Hume presumably chose it because he saw it as a extreme case of a more general problem, they differentiate between in-group members and out-group members. There is no individual failing here – an individual Muslim would, in following the Koran, be using the terms in just the way the faith prescribes. And long-term prudential reasoning will not lead her to challenge the in-group/out-group dichotomy. The social world of the faithful is large enough to offer Muslims the rewards for which society evolves in the first place: security, companionship, the gains from cooperative enterprise, et cetera. And membership in that society *depends* in fact on them orienting their judgments around the in-group/out-group distinction. If they fail to do so they risk incurring the costs of social exclusion. Increased sociability would thus intensify rather than dispel our commitment to these distorted meanings. Far from being a failure of moral judgment, such parochialism thus seems a natural consequence of the general point of view as laid out in the Treatise, and perfectly consonant with its prudential motivation.

Let us call this sort of systematically-biased moral judgment the parochial point of view: a cool, disinterested perspective we are motivated to take by our desire to be part of society, but which, due to the prejudices built into that society’s moral language, causes us to fail to give equal consideration to all human beings. In the Treatise Hume seems little concerned about parochialism, as he is generally about the sources of moral disagreement. He says that “there is such a uniformity in the general sentiments of mankind, as to render such questions [as that of a right or a wrong taste in morals, eloquence, or beauty] of but small importance.”<sup>63</sup> I think that it is possible to see Hume’s turn in his later works towards history and sociology as motivated at least in part by his realisation that the study of human nature cannot on its own explain how we make truly universal moral judgments. Whatever the biographical facts, it is the case, I believe, that a Humean analysis of moral judgment, based on a prudential account of individual motivation, provides an attractive explanation of the way in which we make moral judgments, but it cannot explain when we do or do not fall victim to the

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<sup>60</sup> T 1.3.13.7: 146.

<sup>61</sup> Essays, 232.

<sup>62</sup> Essays, 237.

<sup>63</sup> T fn. 80: 547; Hume’s promise to take up the question “afterwards” presumably refers to the projected sixth book, on “criticism,” which never appeared.

parochial point of view. The problem, as Hume seems to have realised, is that the individual is simply the wrong unit of analysis to answer this question. If we are to determine who will escape the parochial point of view and make truly universal moral judgments, and under what circumstances, we have to look, not to the basic mechanisms of human nature or to the logic of self-interest, but to the empirical facts about an individual's experience and the broader context of the society in which she lives. This is why Hume so frequently makes note of the difference in levels of moral development between different nations and between different eras. He told Horace Walpole: "I beg you . . . to consider the great difference in point of morals between uncultivated and civilized ages."<sup>64</sup> In his essay "Of Refinement in the Arts" he gives the example of the "refined GREEKS and ROMANS," who "justly . . . presumed" that the inhabitants of the "uncivilized ages" that preceded them, like those of the "barbarous nations" that surrounded them, were "as much inferior to their posterity [i.e. the Greeks and Romans themselves] in honour and humanity, as in taste and science."<sup>65</sup>

The way to escape the parochial point of view is quite simple. We need to come into contact with people outside of our own narrow circle, ideally outside of our home nation, so that we can subject our moral judgments to on-going scrutiny and correction. The way to do this is obviously to travel more and thus to broaden our range of social experience. Hume speaks dismissively of those who "live with their fellow-citizens in that distant manner, which is peculiar to ignorant and barbarous nations."<sup>66</sup> I propose to use the term cosmopolitanism to describe the universal-mindedness that brings us closest to a truly general point of view. It is, however, cosmopolitanism of a particular kind, quite different from that of Kant. It does not stem from an abstract conviction that all human beings form a single moral community. Rather, it is the product of the specific experiences we have, actually meeting and talking to people from cultures different from our own. I call this "engaged cosmopolitanism". Unlike Kantian cosmopolitanism, which is the product of individual thinking and reflexion, engaged cosmopolitanism depends on a certain sort of political and institutional environment, to make these sorts of experiences possible.

Hume often uses the terms "civilised" to describe societies with high levels of moral development. But he also frequently describes such societies as "refined", saying for instance that "the ages of refinement are both the happiest and most virtuous."<sup>67</sup> The link between refinement and moral development is intimate but not analytic. People and societies become less parochial as a *result* of refinement, where this specifically entails the pursuit of certain kinds of intellectual and creative activities – as Hume calls them, "the arts and sciences". This pursuit has the indirect effect of stimulating our sociability and pushing us into wider social circles. "The more [the] refined arts advance," Hume says, to give the full quote from which I excerpted above,

the more sociable men become: nor is it possible, that, when enriched with science, and possessed of a fund of conversation, they should be contented to remain in solitude, or live with their fellow-citizens in that distant manner, which is peculiar to ignorant and barbarous nations. They flock into cities; love to receive and communicate knowledge; to show their wit or their breeding; their taste in conversation or living, in clothes or furniture.<sup>68</sup>

Note here that Hume tells us specifically that people in refined societies choose to uproot themselves and move out of their home environments so they can "flock into cities" and interact with strangers. This interaction will naturally lead them to transcend the parochial point of view, which explains why

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<sup>64</sup> Letters 2: 111.

<sup>65</sup> Essays, 278.

<sup>66</sup> Essays, 301

<sup>67</sup> Essays, 269.

<sup>68</sup> Essays, 301.

Hume says in his *History of England* that the inhabitants of refined ages are “better men” than those from less enlightened ones.<sup>69</sup>

If Hume is correct that refinement and cosmopolitanism are closely connected, his next task is obviously to establish what factors determine a society’s level of refinement. It is thus no surprise that he devotes an entire essay to the factors that determine “The Rise and Progress of the Arts and Sciences”. There he warns that because “those who cultivate the sciences in any state, are always few in number . . . chance . . . or secret and unknown causes, must have a great influence on the rise and progress of all the refined arts.”<sup>70</sup> However, he is prepared to make certain generalisations about the conditions that allow such people to thrive. He says that “a share of the same spirit and genius must be antecedently diffused through the people along whom they arise”.<sup>71</sup> And for this to happen, the society must possess certain kinds of institutions. Specifically, Hume emphasises the connexion between refinement and forms of government. “The first growth . . . of the arts and sciences,” he says, “can never be expected in despotic governments . . . Free governments [are] the only proper nursery for the arts and sciences”. This is because the growth of refinement requires a climate of “security and law”.

Hume is not worried about the way in which monarchs themselves oppress the people directly. Rather, as he explains in this essay, it is the “barbarous policy” of delegating “full power to all inferior magistrates” that undermines law and security, and thereby impedes the society’s moral development. Hume is acutely aware about the local theatres of justice undermining the stability of the law, as magistrates render judgments according to their own discretion. He thinks that such magisterial discretion is at best unpredictable, and at worst brutally oppressive. To be truly secure, a society must have a system of what Hume calls “general laws” that restrict such discretion. I have talked more about how general laws offer protection in my book *David Hume’s Political Theory*. Here I would like merely to point out that for Hume there is a tight connexion between the legal system and a state’s cultural development. Hume offers only an elliptical explanation in this essay. “From law arises security,” he says, “From security curiosity; And from curiosity knowledge.”<sup>72</sup> But in his essay “Of Refinement in the Arts” he provides a fuller explanation. There he argues that the general climate of intellectual discovery – “curiosity” as he puts it – that is a precondition to the arts and sciences results from a certain kind of economic development. Hume thinks the “creative spirit” that fosters knowledge exists symbiotically with the “improving spirit” – that is, the desire to innovate in the sphere of material production, what Hume calls the “mechanical arts”. Neither the mechanical nor the liberal arts can, he says,

be carried to perfection, without being accompanied, in some degree, with the other. The same age, which produces great philosophers and politicians, renowned generals and poets, usually abounds with skilful weavers, and ship-carpenters. We cannot reasonably expect, that a piece of woollen cloth will be wrought to perfection in a nation, which is ignorant of astronomy, or where ethics are neglected. The spirit of the age affects all the arts; and the minds of men, being once roused from their lethargy, and put into a fermentation, turn themselves on all sides, and carry improvements into every art and science.<sup>73</sup>

As he explains, an effective and equitable system of law is in turn the pre-condition to this sort of economic development. People will only be motivated to unleash their “improving spirit” where property is secure, such that they have the freedom to enjoy the material rewards of their industry in comfort. Economic development will refine the society in other ways as well, most notably through the increased contacts with strangers that come with trade. So while general laws can never be sufficient on their own to explain the progress of refinement, they are certainly a *sine qua non* in

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<sup>69</sup> “It must be acknowledged, in spite of those who declaim so violently against refinement in the arts . . . that, as much as an industrious tradesman is both a better man and a better citizen than one of those idle retainers, who formerly depended on the great families; so much is the life of a modern nobleman more laudable than that of an ancient baron.” *History* 3: 76.

<sup>70</sup> *Essays*, 113.

<sup>71</sup> *Essays*, 114.

<sup>72</sup> *Essays*, 118.

<sup>73</sup> *Essays*, 270-1.

creating the right environment for the small number of talented individuals to emerge and thrive, through the general climate of economic development that they make possible.

I cannot here dissect the reasons Hume thinks refinement depends on republican government. I do, however, want to insert a caveat. He thinks that while this thesis has been generally true historically, his own age has produced a phenomenon that is almost without precedent: the enlightened monarch, who understands the need to restrict the power of his inferior magistrates and rule through an equitable system of general laws. Hume is therefore able to explain what he sees as the dramatic improvements in moral development that had taken place in his own time, even within countries still under monarchies, and he can look forward confidently to such improvements continuing into the future.

I have presented my reading of Hume as a way of interpreting his motivation for turning towards history and society in his later writing. It is meant to allow us to see Hume as a writer who not only addressed an incredibly broad range of topics, but who did so as part of a coherent and interesting philosophical programme. Though I have given evidence for my thesis, it must inevitably remain speculative. For those with no interest in such speculation, my argument can be re-cast in purely philosophical terms. I have argued that, while Hume's doctrine of the general point of view provides an attractive way of understanding the process of moral judgment, the threat of parochialism looms as an inescapable one if the doctrine is psychologically accurate. My examination of what I called the engaged cosmopolitanism found in his later works allows us to see that Hume himself possesses the resources to explain how we can, under certain circumstances, escape such parochialism. As we have seen, this explanation appeals not just to individual moral choices, but also to the crucial role of institutions.

Cosmopolitanism has become a central topic of discussion for political philosophers, and in these discussions Kant's influence is pervasive. Following Kant, cosmopolitan philosophers have sought to provide arguments that make a sense of moral obligation towards all human beings rationally compelling. While I do not want to suggest that such attempts are mis-guided – I believe that on the contrary they are valuable – I think that Hume provides us with another perspective on the issue of cosmopolitanism. He reminds us first of all that for such a sense of universal obligation to truly take hold, it must be rooted in our experiences learning about and encountering people different from ourselves. And secondly, he shows that institutions have a crucial role to play in creating an environment where such engaged cosmopolitanism can thrive.



## Does Hume Think Justice a Virtue? Some Reflections on *Treatise* 3.2.2

James A. Harris\*

1. At the opening of his account of justice in the *Treatise*, Hume appears to commit himself to three inconsistent propositions:

(I) Justice is morally praiseworthy, and injustice is morally blameworthy.

(II) The morality of an action lies in a motive different and distinct from the conviction that that action is what is morally required.

(III) There is no motive to acts of justice other than the conviction that such actions are what is morally required.

Hume does not argue for (I), but simply takes it for granted. His argument for (II) is that there is a vicious circularity to the idea that the virtue of an action lies in acting from the conviction that that action is what is morally required. His argument for (III) proceeds by eliminating all likely rival candidates for the role of being a natural motive to acts of justice. I shall assume for present purposes that the arguments for (II) and (III) are familiar and do not need to be rehearsed.<sup>74</sup>

Some interpreters have argued that of these three inconsistent propositions, (I) is the one that Hume turns out not to believe to be true. Thus Marcia Baron and David Gauthier have suggested that Hume's view is that in fact there is no moral obligation to justice. Other interpreters have argued that Hume is not really committed to (III).<sup>75</sup> Some -- for instance, Annette Baier -- have suggested that Hume's view of self-interest is elastic enough to provide a non-moral motive to justice when 'redirected' by the assurance that others will act likewise.<sup>76</sup> Others -- for instance, Stephen Darwall and Don Garrett -- have suggested that Hume's view is (or at least could be) that the emergence of conventions regarding property gives rise to a new kind of non-moral motive to justice, in the form of a disposition to regulate one's conduct by the relevant rules.<sup>77</sup> Only a very few interpreters have argued that Hume's position is that, in the case of justice and the other 'artificial' virtues, (II) does not hold. John Mackie made such a suggestion, and Rachel Cohon has since developed it at greater length, but it is definitely a minority view.<sup>78</sup> Nevertheless, it is, or so I shall argue here, the right view.

By the end of 3.2.1 Hume has set up the kind of puzzle that in the *Treatise* he delights in solving: just as it is both undeniable and apparently unaccountable that we believe in the uniformity of nature and in the continued and distinct existence of objects of perception and in personal identity through time, so also it is both undeniable and apparently unaccountable that we take there to be an obligation to respect rules regarding property. It is undeniable that ordinarily we applaud justice and

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<sup>74</sup> See David Hume, *A Treatise of Human Nature*, ed. David Fate Norton and Mary Norton, Oxford University Press, 2007, 3.2.1.1-17.

<sup>75</sup> Marcia Baron, 'Hume's Noble Lie: An Account of his Artificial Virtues', *Canadian Journal of Philosophy* 12 (1982): 539-55; David Gauthier, 'Artificial Virtues and the Sensible Knave', *Hume Studies* 18 (1992): 401-27.

<sup>76</sup> Annette Baier, *A Progress of Sentiments*, Harvard University Press, 1994, ch. 10, and 'Artificial Virtues and the Equally Sensible Non-Knaves: A Response to Gauthier', *Hume Studies* 18 (1992): 429-39.

<sup>77</sup> Stephen Darwall, *The British Moralists and the Internal 'Ought': 1640-1740*, Cambridge University Press, 1995, ch. 10; Don Garrett, 'The First Motive to Justice: Hume's Circle Argument Squared', unpublished MS.

<sup>78</sup> J. L. Mackie, *Hume's Moral Theory*, Routledge and Kegan Paul, 1980, pp. 79-81; Rachel Cohon, 'Hume's Difficulty with the Virtue of Honesty', *Hume Studies* 23 (1997): 91-112, and also *Hume's Morality: Feeling and Fabrication*, Oxford University Press, 2008, ch. 6.

regard injustice with abhorrence. That we do so is unaccountable given that there appears to be no non-moral motive to justice: that is, no motive other than the belief that such actions are what is morally required. The question, then, is why we praise justice and blame injustice, when the usual basis of praise and blame, a non-moral motive, is not to be found. In this paper I shall put forward some proposals as to how to understand the answer given by Hume to this question in *Treatise* 3.2.2, 'Of the origin of justice and property'. I take these proposals to be in the spirit of Cohon's way of reading Hume on justice, though I do not know whether she would endorse them all. I shall then address the concerns of those who believe that Hume could not dispense with (II) without ceasing to be the kind of moral philosopher they believe he is: I shall argue that, when it comes to justice, Hume is not helpfully regarded as a virtue ethicist at all. And I shall conclude by situating Hume's account of justice in the context of the project of replacing Hutchesonian moral sense theory with a sympathy-based theory of moral judgment, and shall suggest that seeing the matter in that context helps with the question of whether and to what extent Hume's moral philosophy is Epicurean in character.

2. Hume has in fact set up two puzzles by the end of 3.2.1. First, given the lack of a natural, non-moral, motive to respect for rules regarding property, how was it that such rules came to be developed at all? How is it that there is such a thing as a 'sense of justice'? This Hume describes as a question '*concerning the manner, in which the rules of justice are establish'd by the artifice of men*' (3.2.2.1). Secondly, given the lack of a natural, non-moral, motive to respect rules regarding property (and given principle (II), that the virtue of an action lies in a motive different and distinct from the conviction that that action is what is morally required), how is that we regard being just as a *moral* matter -- as opposed to being, for example, merely a matter of prudence? This Hume describes as a question '*concerning the reasons, which determine us to attribute to the observance or neglect of these rules [i.e., the rules of justice] a moral beauty and deformity*' (3.2.2.1). I believe that, contrary to what most interpreters have assumed, the answer given to the first question is irrelevant to answering the second. When it comes to explaining why we regard justice as a moral virtue, I suggest, it just does not matter how it was that the conventions of justice were established.<sup>79</sup> Here are five reasons for such a reading.

Hume's first question is sometimes rephrased as if it were a question about why any human being, regardless of time and place, might find reason to obey the rules of justice. Thus Marcia Baron construes it as the question, 'Why are we motivated to act justly?'<sup>80</sup> But the answer Hume gives to his question makes it plain that the question is a historical one, to be answered by a series of conjectures about human beings as they were in the state of nature and how such beings might have learned to live in society with one another. The conclusion he takes himself to establish is '*that 'tis only from the selfishness and confin'd generosity of man, along with the scanty provision nature has made for his wants, that justice derives its origin*' (3.2.2.18). The 'origin' in question is the origin of justice as such. Hume is presenting a hypothesis as to how human beings first devised rules by means of which possession is turned into property. There is no sign that he takes himself to be describing a process of thought that each of us goes through as we come to grasp the concept of justice and its proper application. The development described is that of human beings considered as a species, of 'men', not of each of us individually. And the development described took place a long time ago. The society whose conditions of possibility Hume is analyzing is the very most basic form of society. This is society prior to the development of promising and contracts, and prior also to the development of government and magistracy. There is no reason to assume that Hume holds that the motive which generated the creation of such society is what we take people to act on now when they respect the rules of justice.

Closely related to this is a second reason to keep Hume's account of the origins of justice separate from his account of its moral obligation. The origins of justice lie in self-interest and recognition, first, that we human beings need to live in society with others, and, secondly, that society is only possible where there are laws protecting property. The 'natural' -- that is, the selfish -- obligation to justice is very salient at the beginning of society. But in society as we know it now,

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<sup>79</sup> Similar points are made in Michael Gill, 'Hume's Progressive View of Human Nature', *Hume Studies* 26 (2000): 87-108 and Jacqueline Taylor, 'Justice and the Foundation of Social Morality in Hume's *Treatise*', *Hume Studies* 24 (1998): 5-30.

<sup>80</sup> Baron, 'Hume's Noble Lie', p. 540.

where the conventions of justice are well entrenched, to the extent that almost all people follow them more or less unthinkingly, it is no longer obvious that it is in every one's interests all the time to obey the rules of justice. As Hume says, 'when society has become numerous, and has encreas'd to a tribe or nation, this interest is more remote; nor do men so readily perceive, that disorder and confusion follow upon every breach of these rules, as in a more narrow and contracted society' (3.2.2.24). And yet for the most part they respect those rules, even while they lack an understanding of the connection between the rules and self-interest. What explains general adherence to the rules of justice is a matter we will return to below, but the important point for present purposes is the distinction being drawn between motives acted upon at the origin of society and those acted upon now. It may remain true that there is a standing obligation to justice imposed by self-interest, but it is surely not true that recognition of such an obligation is what prompts each and every just act. Nor do we condemn the unjust because they fail to understand how it is that acting justly is really in their interests.

A third reason to take the answer to Hume's first question about justice to be irrelevant to his second question is that Hume makes it very clear that there is nothing morally admirable about the motive that resulted in the development of conventions regarding property. Note the 'only' in "*'tis only from the selfishness and confin'd generosity of man, along with the scanty provision nature has made for his wants, that justice derives its origin'*", and the 'merely' in 'the rules of justice are establish'd merely by interest' (3.2.2.22). Of course it is not true that Hume thinks that human beings at the beginning of the history of society, or at any other time, are purely selfish: they are generous to a degree, but in a 'confin'd' manner, only to those they take themselves to be related to, and the generosity here is of a kind that (given the scanty provision nature has made for our wants) sets families against each other and causes them to steal from each other and worse. Even if someone acts justly out of a perception of the manner in which justice serves his interests (and those of his dependents), it is hard to see how such an action manifests anything more than the virtue of prudence, and, as Rachel Cohon has pointed out, there is no sign that Hume regards what is morally admirable in a just person to be his prudence.<sup>81</sup>

A fourth reason to take the origins of justice as irrelevant to the moral obligation to justice is that to do so connects Hume's account of justice with his account of the equally artificial virtue of allegiance. Hume's agenda in his treatment of political obligation, in the *Treatise* and in the essays, is explicitly that of severing the question of how there came to be such a thing as political society from the question of the ground of our obligation to obey our governors. Both those who defend the absolute rights of the monarch and those who ground political right in the consent of the people claim that their position finds its justification in how government was first instituted, whether in a divine donation of power, or in an original contract. Hume's message is that it does not matter how government came into existence when it comes to understanding our obligation to obey it. Most forms of government in fact have their origins in conquest, and are afforded legitimacy by a combination of sheer endurance and the capacity of governors to provide conditions of peace and stability. By the same token, there would be a moral obligation to respect the rules of justice were those rules not, as a matter of historical fact, the end-result of gradually developing conventions, but instead revealed by God or laid down by some kind of quasi-divine Rousseauian legislator.

It might be wondered why, if I am right, Hume thought he needed to explain how justice came into existence before he explained why it is a virtue. I think Hume came to see that he did not in fact need to do the first thing before he did the second, and that that is why, in the account of the morality of justice given in Section 3 of the second *Enquiry*, no mention is made of the origins of justice in artifice and convention. The origins of justice are described in Appendix 3, of course, but there is no suggestion that anything said in the main body of the text hangs on what is said in the Appendix. This is the fifth reason to take the answer to the first question raised in *Treatise* 3.2.2, concerning the natural obligation to justice, to be irrelevant to the answer to the second question, the question of the moral obligation to justice.

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<sup>81</sup> Cohon, 'Hume's Difficulty with the Virtue of Honesty', pp. 104-5.

3. If I am right, then the moral obligation to justice as Hume understands it need not be regarded, as it has been by interpreters such as Baron and Gauthier, as hostage to the fortunes of an attempt to show how justice really is in the interests of a rational deliberator. The existence of a moral obligation to justice does not depend on the ability of refined or 'redirected' self-interest to supply a constant natural motive to justice. What, then, is the source of that obligation? I have already mentioned Hume's first move when he comes to address this question, in 3.2.2.24: his drawing attention to the fact that in large societies we tend to find it less than obvious why we ourselves should always in every case obey the rules of justice. Hume then notes that this never prevents us from finding it very obvious indeed that *other* people should obey those rules, especially when our own interests are damaged as a result, but also when they are not. Why is it that we are 'displeased' by an action 'so distant from us, as no way to affect our interest'? Hume's answer is that it is 'because we consider it as prejudicial to human society, and pernicious to every one that approaches the person guilty of it'. Why is it that we are affected by this? Hume's answer is that it is because '[w]e partake of their uneasiness by *sympathy*'. Sympathy with how people are harmed by injustice gives rise to an uneasiness in us, and since anything that produces uneasiness 'upon the general survey' is naturally regarded as vicious, the injustice is condemned as a moral evil. In the same way, we partake through sympathy of the satisfaction produced by justice, and, so long as that satisfaction is one that we believe would be generally shared, the just act is praised as a moral good.

One obvious thing to say about this explanation of why we attach moral praise and blame to how people act with respect to the property of others is that its focus is upon the *consequences* of actions. Sympathy does not, so to speak, tune us into the motives people act on when they act justly or unjustly, but rather, in the first instance, to the effects of what they do. Unjust actions are not condemned because they make manifest a particular kind of character or motivational set, or because they indicate the absence of the character or motivational set of the just person. Initially what sympathy concerns us with is how the action has affected a particular individual. Then there is the question of the consequences of the *particular* action to society at large. Then there is the question of the consequences of *actions of that type* to society at large. Harm to an individual's property is not sufficient to generate moral condemnation, nor is harm to society's interests in this particular case. The view taken when it comes to property is a very general one indeed: actions are seen as instances of conventions, and the question always concerns the value for society of such conventions. But it would seem that at no stage of this process whereby instinctual sympathetic reactions are refined and corrected does the motive of the action matter.

A further thing to draw attention to in 3.2.2.24 is how complicated the process is whereby a sense of the moral significance of justice and injustice comes reliably to influence, not how we judge others, but how we act ourselves. In large societies, an agent's first-person sense of being obliged *himself* to act justly, and refrain from injustice, has its origins in an application to self of judgments that in the first instance are directed at others. We extend the sense of moral good and evil 'even to our own actions' by means of the inherent generality of the moral point of view. Presumably this is to say that we come to see that it makes no sense for us to blame others for the harmful consequences of their actions and not blame ourselves when our actions have the same consequences. And at the same time sympathy ensures that we cannot help but be affected by praise and blame directed at us as a result of our actions. The result is a sense of moral obligation -- but not, Hume is careful to point out, a reliable disposition to *act* on that sense of obligation. In the next three paragraphs (3.2.2.25-27), Hume describes how 'the artifice of politicians', 'private education' and 'the interest of our reputation' are all needed to ensure that the sense of justice is able to control our passions. Mandeville was wrong about the *origins* of the ideas of virtue and vice; but, it seems, he was right about what is necessary to make us *act* in line with those ideas.

Hume sounds this variation on the Mandevillean theme again in his discussion of the moral obligation to promise-keeping, where he says that 'This sentiment of morality, in the performance of promises, arises from the same principles as that in the abstinence from the property of others. *Public interest, education, and the artifices of politicians*, have the same effect in both cases' (3.2.5.12). And he returns to it when summing up his account of justice at the end of 3.2.6. Given the obvious interests of all in the maintenance of conventions of property, he says, the sense of moral obligation, as provided by sympathy, 'follows *naturally*, and of itself; tho 'tis certain, that it is also augmented by a new *artifice*, and that the public instruction of politicians, and the private education of parents,

contribute to the giving us a sense of honour and duty in the strict regulation of our actions with regard to the property of others' (3.2.6.11). Getting people to refrain from the property of others is, as Hume sees it, a difficult and complicated business. It is certainly not the case that the unarguable fact of a 'natural', 'interested', obligation to justice is sufficient to make most of us respect the rules of property.

The implication of the invocation of Mandeville is, I think, that Hume holds that, in the normal case, when we refrain from the property of another, we do so out of a sense that acting that way is, simply, what we ought to do. But Hume is, of course, not saying that a just action is morally admirable just in so far as it is done out of a sense that it is obligatory. That would be to reason in a circle. A just action is morally admirable in so far as it is an instance of a convention general adherence to which brings beneficial consequences to society at large. Nor, of course, is he saying that an unjust action is morally despicable just in so far as the agent is without a disposition to act in light of his sense of the morally obligatory. Again, an unjust action is morally despicable in so far as it is a violation of a convention general adherence to which brings beneficial consequences to society at large. The consequences of just and unjust actions are sufficient to explain their praise and blame. It has turned out that no explanatory problem is created by the fact that there is usually no motive to justice other than a regard to the virtue of the action.

4. When it comes to the virtue of justice, then, Hume finds he has to dispense with (II), the principle that the virtue of an action lies in a natural motive different and distinct from the conviction that that action is what is morally required. In the normal case, a just action is done out of a conviction that that action is what is morally required; but, *pace* Baron and Gauthier, this does not mean that the just action is not *really* virtuous, for the virtue of such actions lies not in their motives but in their consequences. Rachel Cohon has suggested that Hume regards (II) as a piece of pre-philosophical common sense that applies well enough to the 'natural' virtues, but turns out not to apply to the virtues such as respect for property and promise-keeping:

The natural virtues have nonmoral motives which generate approval, just as we expect. The artificial virtues do not; they depend upon the sense of virtue or the sense of duty, which in them is generated in a different way. In the artificial virtues we do not need a nonmoral motive to give us a basis for approval. Socially beneficial conventions identify types of actions by their outward form and our approval is then directed toward these. If all goes well, this approval is then strengthened to become a motivating sentiment. So our approval of honest action, instead of depending upon the motive of honest action, ultimately provides it.<sup>82</sup>

This seems to me exactly right. What I want to do now is to consider two reasons why this way of reading Hume has not won general acceptance.

The first is that Hume never explicitly says that he does not in fact believe (II) to be true. On the contrary, having argued for it (using the circle argument), he says that 'it may be establish'd as an undoubted maxim' (3.2.1.7). And he uses it again in his treatment of the virtue of promise-keeping. But it should be borne in mind that what drives commitment to (II) is the more general thesis 'that when we praise any actions, we regard only the motives that produc'd them' (3.2.1.2). And it should be borne in mind also that this as a thesis that Hume introduces as an item of generally-held belief, rather than as something that there is an obvious and good reason to endorse. Hume is describing what it is that we tend to regard when we praise actions: we tend to regard the motive, 'and consider the actions as signs or indications of certain principles in the mind or temper'. And for as long as we do that, we are going to find it difficult to know why we praise acts of justice, and condemn acts of injustice. This is because it has turned out that normally what motivates an act of justice is a regard to the virtue of the action, and that is not the kind of motive that we find it pleasing for people to act upon. For the same reason, there is a puzzle about why we praise people for keeping their promises and blame them for not doing so. I think that what Hume is doing is leading his reader to the conclusion that, when it comes to the artificial virtues, we do not understand very well what we are doing when we praise and blame. We might think that we regard only the motives that produce acts of honesty and fidelity, but in

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<sup>82</sup> Cohon, 'Hume's Difficulty with the Virtue of Honesty', p. 102.

fact what we regard are consequences. And we misunderstand ourselves in this way because we do not appreciate why it is that these actions give us the pleasures and pains they do. That is, we do not appreciate the role played by sympathy in these moral judgments. Once sympathy is seen to be the means by which we make moral estimations of actions, there is demanded a revision of our understanding of the basis of our first-order moral attitudes (though not necessarily of those attitudes themselves).

Another reason why Hume has been taken to be committed to (II) is that it expresses a thesis apparently fundamental to what is supposed to be his kind of moral philosophy. Stephen Darwall has said that the claim 'that the direct object of moral approbation and disapprobation is always some trait of character' is 'the fundamental principle of his virtue ethics'.<sup>83</sup> Similarly, Don Garrett has called (II) Hume's 'Core Virtue Ethics Thesis'.<sup>84</sup> I am not sure, though, that when it comes to the artificial virtues, at least, Hume is helpfully regarded as a virtue ethicist of any kind. As we have seen, moral approbation of the following of rules regarding property is understood by Hume to have its source in consideration of the consequences of general adherence to those rules for society at large. As Hume says again and again, the rules define the nature of justice, in the sense that prior to the establishment of those rules, there is, quite literally, no such thing as justice and injustice. An agent is just, then, to the extent that he adheres to those rules; an agent is unjust to the extent that he violates them. What moves an agent to adhere to the rules has no bearing on the justice of the action. The implication is that justice is not, for Hume, a state of character. There are states of character -- created by the way in which educators and politicians mould our sympathetic reactions -- which make it more likely that we will obey the rules of justice. But there need be, and in most cases is in fact, nothing morally admirable in those states of character considered in themselves. Hume is thus to be seen as part of the transition from the traditional conception of justice as a state of character to the modern notion of justice as a property of institutions and laws.

There is a further point to be made in this connection. Justice, for Hume as later for Smith, is primarily a virtue of abstention. One acts justly when one does not take what belongs to another. On this view, as Knud Haakonssen has put it, just actions are 'pieces of inactivity'.<sup>85</sup> Being just does not involve doing anything at all. *A fortiori*, it does not involve being motivated so as to act in a particular way. It involves, simply, not breaking the law. And when one acts unjustly -- which is to say, when one breaks the law -- there is no particular motive that one shows oneself to lack. One has simply given in to the various standing temptations that there are to try to get away with what the law forbids. What one shows oneself to lack, perhaps, is self-control. And there might be a sense in which justice as a state of character might be said to be a matter of self-control, in the form of an ability to master the inclination to break the law when one thinks one could do so with impunity. But this would make it the case that in order to be said to be just, one needs to be strongly tempted to be unjust. For most people most of the time, presumably, there is no such temptation as they go about their daily business within the bounds of the law; and they are surely properly said to be acting justly as they do so. Of course there is nothing very admirable about them, but that, again, is precisely the point: justice as Hume conceives of it is *not* admirable when thought of as a property of individual human beings.

5. In conclusion, I'd like to situate Hume's account of the moral obligation to justice in the context of the larger project of his moral philosophy considered as a whole. The agenda of Book 3 of the *Treatise* is the delineation of a theory of moral judgment which is, as Hume puts it in 3.1.2, 'conformable to the usual maxims, by which nature is conducted, where a few principles produce all that variety we observe in the universe, and every thing is carry'd on in the easiest and most simple manner' (3.1.2.6). Sympathy is the key to this project. What sympathy offers is a single means whereby a wide variety of moral judgments can be explained, thereby obviating recourse in every case to 'an *original* quality and *primary* constitution'. Although Hume is not explicit about it, what he is in effect trying to do is to provide a better, in the sense of more naturalistic, account of moral judgment than is provided by

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<sup>83</sup> Darwall, *The British moralists*, p. 290.

<sup>84</sup> Garrett, 'The First Motive to Justice', p. 1.

<sup>85</sup> Haakonssen, *The Science of a Legislator: The Natural Jurisprudence of David Hume and Adam Smith*, Cambridge University Press, 1981, p. 18.

Hutcheson. Hutcheson tried to present all of our moral judgments as operations of an innate and instinctual moral sense: in every case, what is at work is, precisely, an original quality and primary constitution, for -- and this is the crucial point -- there is no means of explaining why the moral sense operates as it does. It is a given of our nature that we are pleased by benevolence, and every moral judgment, even the approbation of justice, is to be understood as excited by benevolence. The point of departure for Hume's theory of justice is that this is not true to the analogy of nature. He forces the argument home in 3.2.6, with its three-pronged assault on the idea that nature might have 'plac'd in the mind any peculiar original principles, to determine us to a set of actions, into which the other principles of our frame and constitution were sufficient to lead us' (3.2.6.1).

Sympathy concerns itself with the effects of actions, not with their causes. Hutcheson's moral sense concerns itself with motives, with the causes of actions, not with their effects. It is of course true that the motives it approves of are those that produce the greatest happiness for greatest number, but there is no necessary or conceptual connection between benevolence and approval. It is just a brute (which is to say, divinely ordained) fact of our nature that the actions are approved of are the ones that happen to have that effect. Actions are approved of in so far as they are signs or indications of benevolence. And there is no sense to asking what is good about benevolence: benevolence is what we must regard as good in itself. What Hume is saying about justice, by contrast, is that just actions are not good in themselves. Usually, being more often abstentions than actions, they have no moral value at all. And it is quite possible that they might be abhorrent considered in themselves, as when a poor and virtuous man is obliged by law to repay a loan to someone rich and dissolute, and when he is punished when he cannot. They are good only in light of the consequences of general adherence to rules enjoining them, which is to say, only as means to the end of a peaceful and stable society. This is the markedly Epicurean conclusion of Hume's theory of justice. In Part 3 of 'Of Morals' Hume proceeds to extend this conclusion to the natural virtues of 'meekness, beneficence, charity, generosity, clemency, moderation, equity'. It turns out that while there are natural motives to these, those motives are also approved because of the consequences of the actions they cause, rather than giving immediate pleasure via the exercise of a moral sense.

The price of a more naturalistic moral philosophy is thus, according to Hume, an acceptance of utility as the determinant of the distinction between the just and the unjust. Hume pays this price with enthusiasm in the second *Enquiry*, where all of virtue is analyzed in terms of the useful and the agreeable, the *utile* and the *dulce*, with no place left for the *honestum*, for what is good in itself, good even if no one regards it as good. Hutcheson signalled the importance he attached to the notion of the *honestum* by putting a passage about it from Cicero's *De officiis* on the title page of his first book, the *Inquiry into the Original of Our Ideas of Beauty and Virtue*. Hume's position is that, when rigorously developed, the sentimentalism correctly espoused by Hutcheson evacuates morals of the notion of the good in itself. Not everyone agreed, of course. Smith's project in *The Theory of Moral Sentiments* is to show that this need not be the direction in which a sympathy-based moral philosophy leads.<sup>86</sup>

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<sup>86</sup> I would like to thank audiences in Fiesole, Akureyri, and Cambridge for valuable discussions of this paper. I am especially grateful to Ann Levey for her thoughtful response prepared for the 2008 Hume Society Conference in Iceland, and to Michael Gill. The questions that have been put to me have made it clear that much more needs to be done in order to make the line of interpretation sketched here seem plausible. I intend to answer those questions in a wholly new formulation of my interpretation, entitled 'Hume on the morality of justice'. But it seemed worthwhile to publish this version of the argument, in the hope that it will generate further discussion and criticism. I am grateful to Wojciech Zaluski and Ramon Marimon for presenting me with the opportunity to put this paper in the public domain, and for inviting me to the symposium at the European University Institute for which I wrote it.



## Justice As Unintended Consequence

Russell Hardin\*

One of the most neglected of all major legal philosophers is David Hume. His neglect as a specifically legal philosopher has followed from at least two unrelated causes. First, Hume's work on ethics and on political philosophy was widely opposed and even dismissed in his own time. Second, a generation or so after his death, the positive law tradition of Jeremy Bentham and John Austin took center-stage in legal philosophy and dominated the Anglo-Saxon tradition for more than a century thereafter. This latter phenomenon might not have occluded attention to Hume except that Bentham ([1789] 1970) and Austin ([1832] 1954) took over a continental and quasi Hobbesian principle that was not necessary for their approach but which came to define it in the view of many. That principle is that there must be a primary law giver who is above the law.

One could read this principle as analogous to the Aristotelian assumption that there must be a first mover, in this case, a first mover to get law started. Or one could read it as a Hobbesian assumption that we require an all powerful sovereign who is above the law but who gives and enforces the law for all other citizens. Hobbes sees his requirement as both logically and causally necessary. With a better sociological grasp of social organization, he might have recognized that this assumption is causally unnecessary for reasons that Hume grasps. At the time of Bentham and Austin, it was an utterly retrograde principle that a reading of Hume should have blocked. Hume gives us an account of how law can govern even without draconian force — indeed, even of how it can govern the governors themselves. This account is grounded in Hume's analysis of convention and how it can control us more or less spontaneously without a system of official sanctions (see Ardal 1977; 59-67; Haakonssen 1981, 16-18; Hartogh 2002, especially chapters 1 and 11). In the case of a legal system in a large modern nation, furthermore, those who make the system work and who contribute to its content number in the thousands or millions.

Hume introduces another important innovation here, however, that flies against the entire positive law approach. That approach is definitionalist. Bentham, who could be called the greatest definitionalist, Austin ([1832] 1954), Hans Kelsen ([1934] 1967), and H. L. A. Hart ([1965] 1994), among many others, start by defining law or a legal system, the concept of law, and they often never get far beyond definition. Their claim for a sovereign then seemingly becomes part of the definition of a legal system. If Hume the empiricist were asked to comment on that move, he would presumably say it was contrary to sense because we first have to know how such a system can be made to work. Ought implies can, and if an apparently wonderful rationalist system cannot work, we should take no interest in it. It is pointless to define law without connecting it to the human world it is to govern.

The background normative assumption in Hume's practical account is that law is facilitative, that it serves a coordination function (Fuller 1981). This is a pleasing vision because it opens onto the prospect of constructing and maintaining law as a convention in Hume's technical sense. Through helping us coordinate our activities, law serves mutual advantage. It is concerned, for example, not with whether we make a particular exchange but whether, if we wish to do so or stand to gain from doing so, the law will facilitate our doing it. Lon Fuller argues that contract law, tort law, and much of the rest of law are part of the facilitative branches of law. He even wants to say that laws that are not facilitative but that attempt to block voluntary mutual choices, such as laws against crimes without victims, fail because their "morality" as law is wrong. Law can be very well used, however, to enforce contract fulfillment, which serves mutual advantage at least *ex ante* in every case and systematically in general. The difficulty and the reason for the seeming failure of laws against crimes without victims is that those laws do not serve the mutual advantage even *ex ante*.

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### Collective Provision, Individual Welfare

Much of modern political theory has focused on the problem of collectively providing for individual welfare. This move defines the modern theory of law. We might even say that this focus is the core contribution of Anglo-Saxon political theorists. It was *de facto* the whole point of Thomas Hobbes's political theory and it is the central point of Hume's. Both of these philosophers assume that social order will serve mutual advantage. Even the theory of justice of John Rawls, which is supposedly rationally mandated for anyone with a modicum of risk aversion, is mutually advantageous (Rawls [1971] 1999, 66, 110; see also Barry 1989). Rawls (111-12) assumes what he calls the mutually disinterested nature of citizens. The central move of such theory is typically to create an institutional structure that will guarantee the welfare of individuals who act sensibly, which is commonly to say, who act according to the simple canons of rational choice. We create institutions that will secure collective results through individualistic actions by citizens. Such political theory therefore does not require a specific moral commitment from citizens.

We might ask two major questions of this approach. Why should we go this way? And should we argue for law in the same way? The first question might be answered with another question: why not build political theory on normative commitments that are not individualistic? After all, we know that people often do behave morally against their own interest, for example, when acting on behalf of their families or larger groups, when following moral rules of some kind, when being altruistic, or when being religious. In general, however, these motivations — perhaps apart from religious motivations — are sporadic and particular; they do not govern all behavior and we could not expect to achieve high levels of, for example, altruistic action if we designed our institutions to work well only if altruistic motivations were common or pervasive. Hume argues that we are in fact relatively generous and altruistic, but primarily toward our close associates, such as family members. Indeed, he supposes that the sum of all our concerns for others might even over weigh our self-love. But our concern for others is highly partial. Hume's (T3.2.1.12; SBN 481) formula for declining concern as others fade into the distance of our relationships recalls the quip of the geneticist J. B. S. Haldane on the evolution of altruism: I would lay down my life for two of my brothers or eight of my cousins.<sup>87</sup>

One might aspire to create a society of people for whom other-regarding motivations are very strong, as in the desire to create a new, publicly oriented Soviet man, a few of whom probably were created, or in the desire to create devout Muslims in Iran and Afghanistan, where many of whom surely have been created. But, in a mild variant of Hume's ([1741] 1985) dictum that we should design political institutions that would work well even if they were staffed with knaves, we can say that we should design social institutions that would work well even for citizens who are not generally and pervasively altruistic.

To the second question — whether law has a similar grounding with political theory — it seems implausible for us to have a dramatically different normative foundation for law, whose purpose is largely to secure our political lives as well as our private lives, than we have for politics. Hobbes, Hume, and many other political theorists essentially put the two together without any argument for doing so. I think their instinct is right and I will do likewise, although I think we can actually reinforce the argument for politics from that for law.

We commonly can expect non-interested motivations to accomplish relatively specific and idiosyncratic — and usually local — purposes, but not to accomplish systematic public purposes. Moreover, we can generally expect individuals to see public interests or welfare as analogous to own-interests or welfare. That is, public welfare is merely the aggregation of individual welfares, especially when a particular action serves the welfare of virtually all. Much of what we must want of our political institutions is that they provide the collective equivalent of own-welfare. In an ordinal assessment, this is simply mutual advantage, which is own-welfare generalized to the collectivity. When altruistic and other ideal motivations enter, they can produce results that mutual-advantage considerations could not produce, and some of us may be grateful for such motivations in helping to eliminate racial inequality before the law and in attempting to reduce economic inequality through welfare programs. But we should also be grateful that general social order and much of the vast array of welfarist policies do not require such motivations. Indeed, we might even be grateful that interests have generally displaced

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<sup>87</sup> See further, Hardin 2006.

passions in public debate and policy in many societies, as they did in England a couple of centuries ago (Hirschman 1977) and as they generally had done in the US until recently, when passions have made a grim and divisive return.<sup>88</sup>

There presumably are and often have been societies that were governed relatively systematically by religious views, so that on many matters individuals might act for collective purposes or altruistically out of religious conviction. It is the initial legacy of liberalism that it cannot be grounded in the hope of any such resolution, because it was historically a response to religious division and deep disagreement. The first and still a central tenet of liberalism in politics is the toleration of varied religious beliefs (Locke[1689] 1950), as enunciated especially forcefully in the US constitutional provision of the separation of church and state. Moreover, much of the religious conviction at the time of Hobbes and John Locke, who were among the progenitors of liberal thinking, was specifically other worldly and antagonistic to welfare in this world. The seventeenth-century English Diggers, for example, preferred that people live the brutally poor life of subsistence farming because, they believed, one could attain proper Christian humility only in such a life (Winstanley [1652] 1973). If we do not share their religious views, we will not share their political views.

Virtually all of political philosophy in the rational choice mode has been directed at achieving relatively high levels of welfare, and Hobbes was very forceful in refusing to allow the focus of his concern to depart from welfare onto religious qualifications. Indeed, Hobbes's starting point is to found an all powerful government to secure the safety of individual citizens and to secure their possibilities of furthering their own welfare. We seek "not a bare preservation, but also all other contentments of life, which every man by lawful industry, without danger or hurt to the commonwealth, shall acquire to himself" (Hobbes, [1641] 1994) 30.1 [175]; see also 13.14 [63]). Few western political theorists since Hobbes have looked back from this stance, which is essentially foundational for modern western political theorists. Indeed, the nearest competitors with welfare as a moral political concern have been fairness and egalitarianism, which are themselves generally about the distribution of welfare and the resources for providing welfare, and consent, which is a procedural or an *ex ante* concern and is often about welfare, fairness, or egalitarianism.

The rise of welfarist political theory was accompanied and stimulated by the rise of individualistic economic theory, as developed by Mandeville ([1714] 1965), Hume, Smith ([1776] 1976), and many others.<sup>89</sup> Some of these theorists simultaneously presented rational choice political philosophies and individualistic market economic theories. Perhaps no one integrated the two better than Hume and J. S. Mill, for whom the two are clearly of a coherent piece. Most of these writers were utilitarians in political philosophy and more or less laissez faire market economists in economics. The development of economic theory and of moral philosophy largely separated over the course of the nineteenth-century in Anglo-Saxon thought, and economic theory left political theory and utilitarian moral theory far behind in their technical developments in the twentieth-century. Terence Hutchison (1988, 355) quips that Smith, who insisted on the joint enterprise of moral, political, and economic philosophy, was led as if by an invisible hand to bring about an end that was no part of his intention: "establishing political economy as a separate autonomous discipline." This was a disaster for political philosophy. The greater damage was done a century later by philosophers themselves, especially by G. E. Moore (1903) and his influence. The last major theorists who gave relatively equal consideration to moral and political theory on the one hand and to economic theory on the other were the philosopher Henry Sidgwick (1907) and the economist F. Y. Edgeworth (1881).

The value theory of this entire school of economic and political theory has been welfarist or mutual-advantage. Just as he does not lay out his strategic analysis as an abstract theory, so too Hume does not lay out his value theory as a whole apparel for the body of his moral psychology. He makes points about values almost always only in the context of whatever argument is at issue. It is therefore instructive to try to pull his views together, at least on the more important issues that seem to drive his major conclusions.

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<sup>88</sup> In the short run of the past decade, passions seem to be gaining ground in the US as American politics has become vitriolic and vile. Oddly, however, one might argue that the real conflict is over interests with massive redistribution upward from the middle and poorer classes contributing to the wealthy class.

<sup>89</sup> Although he did not add major new insights, Mill ([1848] 1965) gives an articulate survey of economic theory in his time and essentially joins it with his utilitarian moral theory.

## Unintended Consequences

A substantially neglected major argument of Hume is that social institutions are largely unplanned, they are products of social evolution. Hume's editors do not include this idea in their indexes.<sup>90</sup> In the phrase of Adam Ferguson ([1767] 1980, 122), writing a quarter-century after Hume, many of our institutions are "the result of human action, but not the execution of any design."<sup>91</sup> In the twentieth-century, the strongest advocate of the thesis implicit in this phrase is F. A. Hayek with several discussions, including the paper "The Results of Human Action but not of Human Design."<sup>92</sup> This principle is fundamentally important for Hume because he insists on naturalistic mechanisms against rationalist and teleological arguments for the creation of institutions of justice, the convention of promise-keeping, and the maintenance of social order, which are his three main explanatory concerns. Because there cannot be a single supreme authority making and securing all social arrangements over the centuries, the rationalist project is misguided. Hume's theory of law begins with the world of the ordinary people he analyzes in his moral and political philosophy and it immediately proceeds to explanation. His theory is therefore more a political-sociological explanation than it is a normative theory.

Hume (T3.2.6.6; SBN 529) repeatedly says such things as that the system of justice, "comprehending the interests of each individual, is of course advantageous to the public; tho' it be not intended for that purpose by the inventors." It is a social institution to be judged for its overall social benefits, but it is the product of individual contributions to its structure and content. It is also true that even the maintenance of the system depends on individual actions taken for reasons other than concern for the public or collective benefit (see further, Hardin forthcoming, 49). This relationship is arguably the central issue in making Hume's political theory coherent and relatively complete and it would serve any legal theory that he might have devised equally well.

Implicit here is some device for the conversion of individual inputs into systematic structures, a device that is necessary if we are to avoid supposing that individuals in their own private interactions seek the overall justice of society. Surely they generally do not. Knud Haakonssen (1981, 20) says that, "to see justice in this way, as an unintended consequence of individual human actions, must be one of the boldest moves in the history of the philosophy of law." The irony is that this bold move sounds like mere common sense. Law is not planned, it evolves from the inputs of thousands of people over centuries. Other social norms grow and develop in like manner. Again, however, Hume had almost no impact on the development of British legal theory, which passed under the sway of continental rationalist legal theory. Hayek (1967a, 109) thinks Hume the greatest legal philosopher in Britain before Bentham, but his contributions are sorely neglected. The situation is better today.<sup>93</sup>

Haakonssen (1981, 18) argues that the insight into unintended consequences allows Hume to escape the rationalism of Hobbes.<sup>94</sup> And it lets him maintain his naturalist program of explanation of our sense of justice. He replaces natural law, in both its religious and its teleological variants, with a fully secular and empirical conception. These prior visions make law static, as though what is right today has always been right. Hume's evolutionary understanding allows us to fit today's law with today's conditions. Whereas killing in vengeance was once not merely legal but honorable, today it is murder. Property law under simpler conditions was simpler than it is today, when, among other things, it must take into consideration the external effects of the ways you might use your property. In essence, Hume sets the agenda for a modern understanding of law only to have his move blocked, however, by the positive law tradition with its often deadly definitional approach to law.

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<sup>90</sup> The editors are Norton and Norton, Beauchamp, and Selby-Bigge and Nidditch.

<sup>91</sup> Ferguson, writing nearly three decades after Hume's discussion, attributes this insight to Cardinal de Retz's *Memoirs*, which are available online from Project Gutenberg, where they can be searched for each of the main words in Ferguson's formula. I cannot find any near equivalent of his phrase there. The nearest is a strictly individual-level, not societal-level, claim: "With a design to do good, he did evil."

<sup>92</sup> Hayek, checking the *Memoirs* of de Retz, finds only Cromwell's supposed claim that one never climbs higher than when one does not know where one is going (Hayek 1967b, 96n). One would not have wanted to quote that line to Sir Edmund Hillary.

<sup>93</sup> For example, see Haakonssen's (1981) treatment of the jurisprudence of Hume and Smith.

<sup>94</sup> As argued in Hardin (forthcoming, chapter 9), this is one of three ways in which Hume's understanding of convention resolves a problem in Hobbes.

Incidentally, it is in this developmental sense that we have to understand Hume's so-called laws of nature. As with Hobbes, these are sociological laws, not moral or "natural" laws (Hume, T3.2.1.19; SBN 484; T3.2.4.1; SBN 514). They therefore change as the sociological context changes. No one today would want to be governed by the laws of medieval Europe or Japan. Indeed, the very idea is revolting. But those laws probably made considerable sense in the conditions of their times and for the people they governed.

### **Mutual Advantage**

The ultimate collective value for an ordinalist is mutual advantage, which is, again, *the collective implication of self interest*. It is also the ordinal utilitarian principal of value or welfare. To say that an outcome of our choices is mutually advantageous is to say that it serves the interest of each and every one of us in comparison to the status quo ante. One could say that, in this view, collective value is emergent, it is merely what individuals want. But one could also say that this is what the value is: to let individual values prevail. To speak of collective value in any other sense is to import some additional notion of value into the discussion beyond the interests of individuals. Hobbes may have been constitutionally oblivious of any such additional notions of value; Vilfredo Pareto ([1927] 1971, 47-51) evidently believed them perverse. Hume does not assert a position on this issue, but the central concern of Hume's vision is the interests and the psychologies of individuals, because understanding their interests and psychologies yields explanations of their social and moral views.<sup>95</sup>

Incidentally, mutual advantage is the *only* plausible collective analog of self interest. Consider a cardinally additive measure, for example. More utility to you can compensate for less utility to me in such an additive measure. Of course, it cannot be my interest for you to benefit at my expense. Hence, a cardinally additive measure is not a collective analog of individual-level self interest.

When Hume generalizes beyond the individual it is from the individual's limited sympathy with the general run of the populace that he can say individuals would tend to approve general laws and institutions that would be in the interest of everyone. That is to say, his public vision is of the mutual advantage of all. Very few specific programs are likely to serve the interests of everyone, but the general creation of social order is a mutual-advantage program. In the first instance, of course, the creation of government is to the mutual advantage. This is a vision that Hume shares with Hobbes, for whom this is the only purpose of government: to create order in which individuals might by their own efforts come to prosper and, of course, in which individuals might be protected against violent harm from their fellow citizens. Similarly the general appeal of contract theories of government is that a contract to which all assent must inherently be expected *ex ante* to serve the mutual advantage.

Pareto combined the normative principle of mutual advantage with marginalist concern. Indeed, Pareto formulated what are now called the Pareto principles to avoid interpersonal comparisons and attendant moral judgments (Pareto [1927] 1971, 47-51). Hence, Pareto was Humean and Hobbesian in his motivations, at least in part. The criteria were introduced by Pareto not for recommending individual action but for making ordinal value judgments about states of affairs. They might therefore be used by a policy maker.

Hume states the vision of mutual advantage often. In his summary comparison of justice and various personal virtues and vices. For example, he says of justice that its distinguishing feature is that it serves the mutual advantage, and not merely the utility or interest of particular individuals: "The whole scheme ... of law and justice is advantageous to the society and to every individual" (Hume T3.3.1.12; SBN 579). The final phrase, "and to every individual," might clarify for many readers, but it merely defines mutual advantage, which is Hume's central motivating social principle. We all want the mutual advantage to be served because we all gain thereby. Brian Barry rightly characterizes

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<sup>95</sup> Frank Knight (1956, 267) says, "The supreme and inestimable merit of the exchange mechanism is that it enables a vast number of people to co-operate in the use of means to achieve ends as far as their interests are mutual, without arguing or in any way agreeing about either the ends or the methods of achieving them." Mutual advantage does not entail agreement on ends. Exchange requires either differential efficiency in producing things or differential tastes in consuming things. It also does not entail interpersonal comparisons of our valuations of things we exchange. Without such comparisons, we can have only mutual advantage, not equality, as a measure of improvement of our joint state of affairs.

Rawls's theory of justice as being a blend of mutual-advantage and egalitarian elements. He attributes to "Rawls as well as Hume the idea that justice represents the terms of rational cooperation for mutual advantage under the circumstances of justice" (Barry 1989, 148).

Mutual-advantage theories, however, have a major flaw that they share with the Pareto criteria: They are radically indeterminate. As in a claim for a Pareto improvement from some state of affairs to another in which everyone is better off or at least some are better off and no one is worse off, the principle of mutual advantage gives no criterion for selecting one of many possible mutual-advantage forms of government. For Hobbes, the order brought by any sovereign is better than the disorder in his awful state of nature. This is the only determinate claim one can make for any particular mutual-advantage resolution: that it is better than the world with no resolution. Moreover, indeterminacy is desirable in our theory here because it is the world of strategic interaction, which is indeterminate in general. We can achieve much greater determinacy in combining individuals' values only by use of crude devices that would be far more objectionable than indeterminacy (Hardin 2003).

Both Hobbes and Hume suppose that any extant government is likely to be better than what would happen if we try to change the government because the change is apt to involve a chaotic and destructive period of transition. For them, this is not a conservative reluctance to see change or a mere prejudice in favor of the status quo, but is a deeply theoretical concern about causal relations. For Hobbes the hostility to changing the form of government would apply to a democratic as well as a draconian monarchical government. The problem is the costs and difficulty of re-coordinating from a present regime to a new one. One might suppose that these costs would seem even more difficult to Hume because it is not merely re-coordinating that is required but the creation of a new convention to replace a present convention.

Hume has a resolution of the general problem of normative indeterminacy. He supposes an actual government is an unintended consequence of actions taken for many reasons. We did not sit down to design our political order, and we therefore missed the opportunity to quarrel over exactly which form we should adopt. This dodge is especially apt for Hume because he will not make any normative argument in favor of a form of government beyond its serving mutual advantage, which includes the protection of individual liberties and the consequent enabling of economic creativity and progress. What he wants is explanation, not justification. And the evolution of government from earlier stages of social organization is explanation.<sup>96</sup>

One could make mutual advantage a normative principle, as it arguably is in Rawls's theory of justice. But for Hume mutual advantage is sometimes merely functional in that it satisfies our interests to some degree. He often argues for mutual advantage not because it is utilitarian but because it is the aggregate implication or version of self interest — he is evidently explaining, not evaluating. Mutual advantage is a value only in the sense that it gives each of us what we want in comparison to some other state of affairs. It is just self interest in the sense that I get the improvement in my own state of affairs only through the mutual-advantage move that also makes others better off. I therefore can be motivated for the mutual advantage entirely from my own interests. If I view the fates of all others with at least mild sympathy and I also see that the improvement in their fates is coupled with improvement in my own, then I have very strong reason to support a mutual-advantage move for all of us. Moreover, because I know that others will not favor special treatment of me that is not coupled with mutual advantage, I am likely to see any mutual-advantage move as about as good a public choice as I can expect.

Incidentally, contractarianism in Hobbes's limited variant, in which the compact does nothing more than select a government, is a mutual-advantage theory. It becomes a normative theory only if it is further assumed, as by Locke and many contemporary contractarians, that our agreement to the social compact gives us an obligation of the kind that promising is also thought to give us. Hobbes

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<sup>96</sup> There is a branch of game theory that partially assumes away the problem of Hobbes's state of nature. In cooperative game theory it is assumed that players can make binding agreements. Of course, if we can make binding agreements, we can resolve ordinary exchange in two-person prisoner's dilemmas. The problem that provokes Hume's and Hobbes's concern when there is no government is the inability to make binding mutually beneficial agreements or exchanges. The creation of government makes it possible for us to reach such agreements in many contexts, so that it enables us to reach far better outcomes for ourselves. Hume recognizes additionally that we can be fairly bound by the incentive structure of ongoing relationships and of conventions and their norms. This works in small societies and in subgroups of large societies.

supposes that the agreement has no binding force over us but that the regime, once in place, does have. Hume ([1748] 1985) rightly thinks the whole exercise of asserting an argument from a social contract is absurd.

In debates on these arguments, by far the most common query or challenge is to pose a particular case in which a person is a loser from the application of the law, the rules of property, or some other convention that is justified by an argument from mutual advantage. Such an objection is based on a fundamental misconception. The argument for a mutual-advantage convention is that having the overall system — for example, of law — makes us better off than we would have been without the system of law. This is an *ex ante* argument. Moreover, the formulation of the commonplace objection is wrong-headed in that it typically supposes a one-off example. To be a credible objection it must be formulated as a whole-cloth assertion of the idea that the chaos of an unordered society would be preferred by at least one person over a well-ordered society. *Ex ante* it is virtually inconceivable that this is true. Even a dedicated criminal who wishes to live by theft must want the society to be well ordered enough to lead to great productivity.

What is true, of course, and what might be objectionable, is that any change of current rules or institutions is likely to have losers who would have been better off keeping the old rules or institutions. But if the possibilities for change are themselves part of the old system, this objection does not work either. One can object that replacing the former Soviet system with a developing market economy and an open democracy has produced many losers. That is true — indeed, a large fraction of those over age fifty at the time of the initial change must have been losers and must have little hope of ever being winners. But one probably cannot design the institution that would have guaranteed the permanent stability of the prior system, which, as static as it may have been, was inherently subject to endogenous change, including the possibility of collapse that would have produced more and bigger losers.

Hume lived before the age of the democratic revolution,<sup>97</sup> which we could date with the Declaration of Independence of the US colonies from Great Britain in the year Hume died. But his political philosophy is democratic in the sense that it commends aggregation of the individual interests or welfares of citizens into a mutually advantageous outcome under mutual-advantage political institutions. Of course, even in liberal nations actual political institutions often fail to represent mutual advantage because they are, for example, captured by well organized groups or corporations that can use the institutions to their own advantage. Seeking one's own welfare is not equivalent to seeking mutual-advantage outcomes. Institutional design can mitigate these problems by channeling the urge to enhance own-welfare in less destructive ways. Contemporary Humean political philosophers should put such design issues at the core of their applied theory.

### **Growth of a Legal System**

If justice or, more accurately, the institutions of justice as order are unintended consequences of our actions primarily for our own interests and the interests of our near associates, should we expect them to produce such justice? And why? Hobbes gives us half of a solution to the problem of social order with his all-powerful sovereign, and the positive law theorists give us half of a solution to the problem of the establishment and maintenance of a legal system with their sovereign law-giver who is above the law. Hume rejects their half solutions and gives a complete solution to both problems with his argument from convention. Indeed, we can frame his argument as the dual convention theory of social and legal order. The populace follow the convention of acquiescing in what government does, and the personnel of government follow the convention of supporting that government by fulfilling their roles in it. The power of convention is such that we have no need of an all-powerful sovereign or a law-giver above the law to constrain either of these groups. Members of both groups are fully subject to law.<sup>98</sup>

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<sup>97</sup> Palmer ( ).

<sup>98</sup> Although they might use their power of office to delay or subvert efforts to bring them to account.

Once we have resolved the traditional problems of the sources of social order and of a stable system of law, we face a new and more complex problem: Why does law grow, as it seems to do in relatively well ordered societies? This is similar to the question posed in law and economics of why we should expect the common law to become increasingly efficient in any realm to which it is applied (Priest 1977; Rubin 1977). But it is more general than this question. If it is accepted that law typically (although not always) serves the mutual advantage, then we may have the beginnings of an answer to the question.

In postwar Anglo-American legal theory, perhaps the most persistent voice in favor of seeing law as serving the mutual advantage has been Lon Fuller (1981, 72-3), who speaks of the coordination function of laws in certain branches, which serve "to order and facilitate interaction." To say that such branches of law as contract, agency, marriage and divorce, property, and rules of court procedure "would be unnecessary if men were moral is like saying language could be dispensed with if only men were intelligent enough to communicate without it." Fuller implicitly carries the argument further: having certain laws helps us to coordinate, hence to produce further laws, hence to coordinate better. Not surprisingly, because a legal system is established as a convention, this is a functional explanation of legal development. Define: X is the legal system (even a very primitive one); F is the growth of law to coordinate the populace; P is the populace. Now F is an effect of X; F is beneficial for P; and F maintains X by a causal feedback loop passing through P:

1. Growth of law (F) is an *effect* of the legal system (X);
2. Growth of law (F) is *beneficial* for the populace (P);
3. Growth of law (F) maintains the legal system (X) by a causal *feedback* loop passing through the populace (P) who in their own interest bring cases or support legislation that pushes legal development.

Note three aspects of this model of the growth of law. At least piecemeal, the changes have a direction toward greater complexity and detail in the law. And, by settling details, they will tend to increase the refinement of expectations for the outcomes of future interactions. But this means that they will typically contribute to the mutual advantage in at least one simple if limited way. The more each of us can act according to stable expectations, the better we can organize our activities and interactions to best serve our interests. Given this value, one may sensibly say that in the adjudication of any legislation, the judicial focus should be "not the resolution of the immediate dispute but its impact on the future conduct of others" (Scott 1975, 938). This sounds like a variant of Judge Learned Hand's dictum (the Hand rule) that, when a judge decides a case that goes beyond settled law, the most important part of the resolution is the effect of the ruling on future behavior, on the expectations and therefore the plans and actions of many people. Hence, judges should be deliberately concerned with this future aspect of their decisions.

To go much further and to say that adjudication and litigation generally push law in ways that serve mutual advantage will be very difficult, but that is the program we must undertake if we are to settle the issue whether law grows in good ways through natural, unregulated inputs. Hartogh discusses a Dutch legal case that almost fits the functional model here. In bare outline, this is the case. Maring's farmhouse burned down and he expected his insurance to cover the costs of rebuilding it. His insurance company wished to pay the lesser amount of the value his farmhouse would have had in the market, and its choice was supported by insurance law. The Dutch high court ruled that restrictions in the law that limited recovery to the market value ran against the larger public interest of customs that had developed in the rental market. Those customs had developed to fit the mutual advantage in accepting the risks of renting out one's property.

To produce the wanted growth of law in a good direction, however, the Dutch high court had to specifically take the mutual advantage of a social practice into account. Hume suggests why this seemingly public interested motivation might prevail. Just because the judges have no stake in the present case, they can rule in a public spirited way. And if their legal system favors mutual advantage, they will rule for the mutual advantage rule in the present case and will therefore likely affect action to block future cases of the same kind. (We might also suppose that if law does not develop in the face of experience and changing circumstances, it will begin to break down.)

To argue for the tendency of the system to grow in beneficial directions might seem to require a less overt mechanism than judicial commitment to that value. An obvious candidate is the supposition that, when the system does not produce mutually advantageous rules for future

interactions, those at a disadvantage will challenge those rules. But we might also invoke a quasi interested reason for judges to rule in this way. Insofar as the present case is one in which they have no interest, they can rule in the way that would most likely serve their interest in the future. That would commonly be in favor of a mutual-advantage rule, especially if they have no reason to expect that they will far more likely fall on one side of the rule than the other.

We may neither intend nor recognize the secondary coordination benefit of the development of laws. Moreover, our system of law will grow in various ways in response to contingencies along the way, so that it will likely be quite different from the system that grows in similar ways in a neighboring jurisdiction. As Hume (T3.2.3.n17¶13; SBN 513n) says, it is the proper business of municipal law to fix what the principles of human nature have left undetermined, which is virtually all of the detail of the law. Fixing the law happens by trial and error and further fixing.

What is important, again, is that we have a structure within which to build stable mutual expectations. It is less important whether we have a French or English legal system than that we have some well-developed legal system. Which of a vast array of possible structures we come to have is a matter of convention and of happenstance. Overall what we have after a generation or more will be an unintended consequence and not a “rational” design. For example, as Hume (EPM3.42; SBN 202) notes, the words “*inheritance* and *contract*, stand for ideas infinitely complicated; and to define them exactly, a hundred volumes of laws, and a thousand volumes of commentators, have not been found sufficient.” Such complexity argues against a rationalist account of the rightness of these detailed laws. “Does nature, whose instincts in men are all simple, embrace such complicated and artificial objects, and create a rational creature, without trusting any thing to the operation of his reason?” No, and therefore these laws are artificial devices for regulating social order.

To argue that a particular system is “necessary” or “right” is very hard, because there is commonly evidence that other possibilities are attractive, plausibly even superior in principle. But it may also be clear that to change from a system that we already have in place to some in-principle more attractive alternative would be very difficult and plausibly too costly to justify the change. The more pervasive, articulated, and important the system is, the more likely this will be true. Swedes could change their convention of driving on the left to driving on the right at modest cost; they could not change their system of jurisprudence at low enough cost to justify serious thought to select superior systems. To this day, the people of the state of Louisiana, formerly part of colonial France, live under a legal system that is based on the Napoleonic Code, while the US Federal system and the systems of the other forty-nine states are based on the British common law. The only thing that might make an extant system right in such cases is that it is extant. We could not expect to design an ideal or even a much better system, if we include the costs of transition as a liability of the supposedly superior system. This is merely an instance of Hume’s general claims that rationalist theories of morality and government are inherently irrelevant to our lives (Hardin forthcoming, chapter 1). We might, however, be able to revise our system by drawing on the experience of others.

Self-reinforcing conventions can be harmful as well as beneficial. For example, the very strong Chinese convention of foot-binding was horrendously harmful and the still surviving convention of female genital mutilation is similarly horrendously brutal. If we could redesign government, law, norms, practices, and so forth, we might immediately choose to do so when they go this badly wrong. The foot-binding convention was deliberately changed (Mackie 1966), and the practice of female genital mutilation is being eradicated in some parts of Africa. Both cases have involved substantial efforts to re-coordinate a population’s beliefs about beauty and the role of women.

In the light of such harmful norms, we must grant in general that it is possible to contest whether some pervasive convention costs us more than it harms us. This fact fits Hume’s general view that conventions do not have a normative valence per se (almost nothing does). Some are beneficial and some are harmful. Some may be generally beneficial when they get underway only later to turn less than optimal or even fairly harmful. But then a particular convention might have power to reinforce itself through the functional feedback system that has been operating for it. The Swedish driving rule is an obvious case in point.

To replace an extant self-enforcing convention can be extremely difficult. It will most likely have come into existence spontaneously, through piecemeal individual-level coordinations that finally induce virtually everyone to join the coordination, so that then its resolution is a convention. Re-

coordination on a new convention cannot be that easy because it will require the virtually simultaneous switch of almost everyone to the new coordination. In the Swedish driving case, this was accomplished by a powerful central government that could mobilize massive resources, coordinate many activities of officials across the nation, and simply mandate that all traffic stop one early morning while traffic signs and signals were instantly switched over, all at once, across the entire city of Stockholm and the entire nation. When the British took their driving convention to India and Australia, they could impose it with no significant cost because there was no pervasive convention to be replaced.

Hume places such value on legal stability that he supposes it is necessary for us to accept the finality of judges' decisions in court cases: "Judges too, even though their sentence be erroneous and illegal, must be allowed, for the sake of peace and order, to have decisive authority, and ultimately to determine property" (Hume, EPM3.43; SBN 202). He must have at least two related reasons for this conclusion. First, we generally benefit from reaching conclusive resolutions. In advance of our involvement in any particular legal conflict, we would all prefer to have a system that reaches conclusive resolution without too great delay or cost. Having such a system is *ex ante* mutually advantageous. Second, we benefit from having designated agencies that reach finality. The buck should stop somewhere, preferably without too long a trip getting there. Again, this is a claim of mutual advantage. We all must want, *ex ante*, to have a system in which it is clear to all where and when a dispute is over so that we can move on with our lives.<sup>99</sup> Knowing that there will be conclusive resolutions and that there are final authorities gives all of us at least some stable expectations that enable us to have greater control over our own lives. If we were saying what features we most want from our legal system, such stable expectations would rank high in the list.

### Concluding Remarks

What many theorists want is system-level justification and assessment of law and a legal system. What we have in its production is individual-level inputs with occasionally middle-level revisions that are relatively systematic for small pieces of the system. The conversion of these inputs into anything systematic is our biggest burden in understanding law. This is not a claim of legal theory but of the sociology of law. We can occasionally step back and draft or revise some major part of the law, as various "restatements" have done in the US. But we cannot generally escape the fact that the system as it comes to us is a vast unintended consequence whose overall structure we cannot grasp.

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<sup>99</sup> General Leslie Groves, who directed the Manhattan Project, reputedly gave a final speech at the end of the program and the war, saying to his employee-colleagues, now it is time for all of us to go back to the rest of our lives.

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