

Reason Papers

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ON HOBBS'S ARGUMENT FOR GOVERNMENT

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HOBBS argues that it is reasonable to institute government. The argument, found in *Leviathan*,¹ may be reduced to, first, four propositions, then an inference drawn from them, then a sixth proposition and a final conclusion. I shall present these propositions and an explanation of each, using both direct quotes and paraphrases of relevant passages, all in a manner I hope will be fair to Hobbes. After I have presented the argument, I shall examine its soundness by questioning the truth of the first proposition. That proposition, it seems to me, is not only the most crucial one in his argument but is also one that, in varying forms, has found its way into some contemporary arguments in favor of government. "Without government there would be anarchy and chaos" might be the modern equivalent of Hobbes's first premise. I shall indeed be arguing in defense of anarchism, but only in the sense of disputing Hobbes's particular reasons for advocating government. Whether, on other grounds, government can be shown to be desirable or necessary, is not the concern of this essay. In addition, my discussion will not be fully detailed. I present instead a protocol argument—an outline of a plausible alternative to Hobbes, the potential complexities of which, I hope, future investigators will attempt to unravel.

1. *The absence of a common power is a war of all against all.*

"During the time men live without a common power to keep them all in awe," says Hobbes (p. 106), they can be expected to find no opposition to actions conforming to their natural passions, save whatever hindrances other men, acting similarly, present. Some important characteristics of man's natural passions are these: (1) men act according to their desires and aversions (pp. 52–53); and (2) men seek power, which is the means to the satisfaction of their desires (pp. 78, 86). That men are prompted to action by desires and aversions in response to external stimuli is plausible enough for the sake of this essay; it will not be necessary to accept

Hobbes's explanatory premise that such stimuli work physical pushes and pulls along the nerve strings (p. 25). The point of Hobbes's doctrine comes, roughly, to this: men seek to obtain that which they see as being to their own benefit and seek to avoid that which they see as being to their own detriment. Man is naturally concerned with himself, and a correct report of man's process of evaluation leads to a kind of egoism.

For these words of good, evil, and contemptible are ever used with relation to the person that uses them, there being nothing simply and absolutely so, nor any common rule of good and evil to be taken from the nature of the objects themselves—but from the person of the man. . . . [P. 53]

The value of all things contracted for is measured by the appetite of the contractors, and therefore the just value is that which they be contented to give up. [Pp. 124–25]

Values are subjective.

Although different people may have different desires, there are nevertheless some things which different people desire but which they cannot all have, and in such cases, men become enemies (p. 106). Under such conditions it is only reasonable, says Hobbes (pp. 105–6), to anticipate that whatever one wants, others may want as well. Anticipation will lead to a strategy of preemptive attacks: Strike first in order to master your enemy before he strikes you. Even when there are lulls in the battles, there will be preparations for and anticipations of future battles. Men are therefore either engaging in battle or preparing for battle, and both cases may be described as conditions of war (pp. 106–7). And since all persons are either actually or potentially involved in battle, this State of Nature—the absence of a common power—is a “war of all against all.”

2. *In such a state, it is reasonable to seek peace.*

In the State of Nature, because there is a war of all against all, men find it dangerous to engage in enterprises that may arouse the desires of enemies. War is an attempt to subdue one's enemies, and while some people might delight in the mere domination of others (p. 106), other people engage in war in order to rid themselves of the enemies who stand in the way of obtaining what would otherwise be available: in order that crops may be planted and harvested, in order that animals may be herded and kept, in order that the lesiure may be had to fashion tools for a more productive and comfortable existence, one ought to protect against the possi-

bility that enemies might invade and steal (p. 107). There is, then, a twofold motive for attaining peace: (1) a fear of death and (2) the desire for "such things as are necessary to commodious living" (p. 109).

3. *Peace is sought by making and keeping covenants.*

Men are at peace if they are not under actual or foreseeable attack (p. 107). If men were reasonably assured that they would not be invaded, they could get on with the business of pleasurable life. How does one find such assurances? One way might be simply to make a truce with one's enemies: if people agree, and can be expected to abide by that agreement, not to engage in acts of war, a condition of peace would obtain. Specifically, what Hobbes calls the second Law of Nature is

that a man be willing, when others are too, as far forth as peace and defence of himself he shall think it necessary, to lay down his right to all things, and be contented with so much liberty against other men as he would allow other men against himself. [P. 110]

4. *But it is reasonable to keep covenants only when there is a common power to compel performance.*

Agreements made in the State of Nature are null and void, says Hobbes. Why? Because if one is in the first instance concerned about subduing one's enemies, it would be a splendid advantage to have the enemy agree to lay down his arms first. One then has the choice of laying down one's arms in return, in which case one would be at the enemy's mercy, in case the enemy had cleverly kept a derringer up his sleeve or had confederates hiding in the bushes; and anyway, how far should one trust a person bent on one's destruction? Or else one could seize the advantage and slaughter the enemy thus caught unarmed. The strategy of preemptive attack must prevail (pp. 110, 115).²

Agreements are worthless in the State of Nature because there is no assurance that the parties to the agreements will perform as promised. If only such an assurance were given, however, agreements (most especially, agreements for peace) could be sustained. Such an assurance could be provided by the existence of a power that would hold the parties to the agreement in awe: a power, that is, that could impose sanctions so severe as to make performance of contract more desirable than nonperformance (pp. 111–12, 115, 118).

5. *Therefore, in a State of Nature, it is reasonable to institute a common power to compel performance of covenants.*

I shall assume, and ask the reader to agree with me, that this proposition follows from the first four.

6. *The only appropriate common power is government.*

and such power [to compel performance] there is none before the erection of a commonwealth.

where there is no coercive power erected—that is, where there is no commonwealth. . . .

the validity of covenants begins not but with the constitution of a civil power sufficient to compel men to keep them. . . .

[P. 120]

7. *Therefore, it is reasonable to institute government.*

I shall assume, and ask the reader to agree with me, that this proposition follows from the propositions above.

That is Hobbes's argument. I believe it to be unsound. Let us look again at the first premise. When Hobbes speaks of a State of Nature, where men, following their natural passions, find opposition only in the similar actions of other men, we may imagine three possible contexts in which such a State of Nature might be described. (A) Perhaps there was a time before which there were no governments on earth. Primitive men, egoistic but rational, realizing that they were in a miserable condition of unrestrained competition, began to acknowledge the possibility of an alternative mode of existence, one, namely, wherein some common power would be erected to restrain them. Hobbes does not explicitly endorse such a view; in fact he says,

It may peradventure be thought there was never a time nor condition of war as this, and I believe it was never *generally so over all the world*. . . . [P. 108, emphasis added]

Nevertheless, this passage is not so much a denial as a bit of hedging. Whether such a condition of war did at some time generally obtain is a question that a study of anthropology might answer. If the answer is in the affirmative, so much the better for Hobbes. If in the negative, never mind: an alternative context is at hand. (B):

there are many places where they live [in such a condition of war] now. For the savage people in many places of America, except the government of small families, the concord whereof depends on natural lust, have no government at all and live at this day in that brutish manner as I said before. [P. 108]

Once again, anthropological (and other) evidence may confirm or deny such a claim. But Hobbes is not keen on insisting that his doctrine hangs on whether or not there are or have been places or times in which men live or have lived in a condition of war on account of their never having been subjected to government control. His point is intended to be much stronger than that. (C) The third context may be illustrated by this passage:

Howsoever, it may be perceived what manner of life there *would* be where there *were* no common power to fear by the manner of life which men that have formerly lived under a peaceful government use to degenerate into a civil war.
[P. 108, emphasis added]

It is not clear whether Hobbes asserts that civil wars *are* States of Nature or whether they only come pretty close—close enough, that is, so that we can appreciate what a real State of Nature would be like. At any rate, I shall take Hobbes to be affirming that the absence of a common power would lead, even if only eventually, to universal war. And this conclusion is not based, as he presents it, on the existence of any historical example, which, in any case, he uses as illustration and not as proof; rather, Hobbes believes it to be a fine deduction from certain premises, premises having to do with the nature of man as an entity driven by appetites and fears according to his own self-interest. That conclusion is the first premise of his main argument. I shall reformulate it hypothetically: if any situation be given in which men are not in awe of some common power, then that situation will be a condition of universal, egoistic, unrestrained, and violent competition—or say, for short, a war of all against all.

The truth of the premises in support of that claim will not here be in question. Let it be granted that man endeavors to serve his own self-interest and that his self-interested actions are in the first instance generated by appetite and fear. I intend to question Hobbes's doctrine by reinterpreting the State of Nature. The success of my reinterpretation will lend considerable force to the denial of Hobbes's final conclusion, viz., that government ought to be instituted. I intend to give some measure of plausibility to the claim that a State of Nature need not be a state of war, that people in a State of Nature can with reason enter into and perform some kinds of agreements, and that, where some power is required in order to assure performance, such power need be neither absolute nor common over everyone.

I will not deal with context (A) described above nor with

context (B). The attention of this essay shall be directed to (C), which is Hobbes's main contention anyway. I shall argue that it is plausible that persons living under no common power could nevertheless live in peace. There are two ways of showing this: either (1) by citing a historical example of a peaceful anarchic society, or (2) by showing that such a peaceful anarchic society is plausible. I shall not deal with the first possibility, only the second. But the second way itself involves (at least) two alternatives: (i) showing that a peaceful anarchic society could plausibly evolve out of a situation wherein the persons involved are not already in contact with one another (this I shall call the Robinson Crusoe version); (ii) showing that a peaceful anarchic society could evolve out of a situation that is already one of universal, egoistic, unrestrained, and violent competition (this I shall call the Civil War version). Now, just to make the matter even more complex, there are two particularly interesting refinements to each of (i) and (ii), namely: (ia) the Robinson Crusoes have always been isolated, and (ib) the Robinson Crusoes have previously been members of some society or other (perhaps over which there ruled some common power); similarly, there are (iia) the people have always been in this condition, and (iib) the people used to be subjects of (ordered and restrained by) some common Sovereign.

Each of the four variations under (C2) represents a condition without a common power. According to Hobbes, each would either be or else degenerate into a state of universal war. If I can show that at least one of the variations either could be, or else could evolve into, a state of peaceful anarchy, I shall have won my point. In fact, I believe that all four states could either be or evolve into a condition of peaceful anarchy, though only (ib) and (iib) plausibly would. I elect, in this paper, to deal only with the Robinson Crusoe version, and variation (ib) in particular. But a few words can be said about (ia).

(ia) is, by hypothesis, a condition of peaceful anarchy at the outset. Whether war would erupt in such a situation would first of all depend on two things: (1) whether the Crusoes know of one another's existence, and (2) whether and how (either by design or by accident) the various Crusoes come into actual or imminent contact with one another. The sociology of apes might provide clues. Supposing primitive Crusoes to behave much like, say, modern chimpanzees, one would expect them to keep a discrete distance from one another as long as the necessities for their lives—such as food and shelter—were available to each of them in places or territories not already occupied by another. Two

strangers (chimps or Crusoes) might, on meeting, become alarmed and make elaborate and noisy displays. But would this not satisfy conditions of a so-called cold war and therefore count as a condition of war, according to Hobbes (pp. 106-7)? I think not. Should a long series of encounters generate between the "opponents" nothing more than warnings, and, further, should the "opponents" make in advance no *preparations* for possible future encounters, hot or cold, it would be difficult to justify calling that condition one of continual war. At most, I think, the Crusoes might be expected to keep their eyes and ears open for possible dangers, even when there is no present threat. But there is in that no basis for claiming that the Crusoes, during those times, have a reasonable fear of each other, or of anything in particular, any more than there is for saying that under the power of a Sovereign men still have a reasonable fear of each other because the Sovereign's power may not be quick or strong enough to stop *all* aggressive acts. If there is no such reasonable fear, then covenants can be made and kept. (I'm no longer talking about chimps.) And wherever covenants can be made and kept, there is no state of universal war in the sense Hobbes intends.

So much for variation (ia): peaceful anarchy *could* obtain, although I recognize that Crusoes might react differently from their animal cousins: they just might, on meeting, instinctively take to fisticuffs; they might, for all I care, be eager to do battle with anything they happened upon—lions, elephants, volcanoes.

A war of all against all is a type of violent interpersonal action: it is a type of disagreement. In order for there to be disagreements, there must be at least two persons, but there need not be more than two. In order to facilitate analysis of a state of affairs in which universal war is possible, but in which peaceful anarchy could nevertheless be shown to be plausible, I shall first deal with dyadic, or two-person, social interactions. When and if more persons are necessary to create other types of interactions, they shall be introduced. If I may be permitted to coin a phrase, I shall call this type of analysis Crusoe Political Science.³

Beginning, then, with dyadic interactions: Let there be two persons named Crusoe and Caruso, and let them be, either by design or by accident, the sole inhabitants of some inhabitable isle. Let them also be products of some civilization or other, though not necessarily both of the same society. There are a host of incidental details that might also be of some concern. For example, the two persons ought not to have previously known each other. For suppose they are close chums, shipwrecked on some

distant land. This would make for a plausible case for peaceful anarchy, and I should be content to rest my case here, did I not think that Hobbes would cry foul, and rightfully so. For a plausible case for peaceful anarchy, beginning with dyadic interactions, ought to maintain that any (or almost any) two individuals could, plausibly, coexist without war. Crusoe and Caruso, then, must be two typical persons, or two persons, chosen at random from one or two of the societies that have ever existed. No more need be said about them except what might be inferred from the fact that they are experienced in peaceful coexistence (whether under the eye of a Sovereign or not makes no difference). Their having already experienced various cases (and methods) of cooperation takes the place of a great deal of experimentation in attempting to cooperate peacefully, which experimentation they would have had to carry out under the adverse (according to Hobbes) conditions of a State of Nature and the successes of which (according to Hobbes) would have been minimal at best, except by the introduction of some common power. It is taken to be a further plausible inference that, in their own societies, the lives of both Crusoe and Caruso could have been characterized as essentially peaceful and not as essentially hostile.

Now, unless every instance of their experience of successfully peaceful relations had taken place under, and had been thought to be on account of, the immediate control of some common power—an implausible assumption—Crusoe and Caruso would realize that they have little to fear from the other unless some reason be given, such as an overtly threatening act. But it takes only a brief encounter, where neither Crusoe nor Caruso attempts hostilities (even though they might be geared up for defence), in order for each of them to realize that the other had obviously had no intention of attacking. It is against their very habits as socialized beings to be constantly prepared for attack. Not only have they no immediate and identifiable cause for fear,⁴ but they both have reason to expect that they might gain through cooperation. The mere knowledge, if they have it, of the value of the division of labor and the consequent increase in the standard of living it makes possible might be incentive enough to risk an immediate display of peaceful intentions—anything from the show of an open hand to the definite offer of a gift.

Hobbes might suggest that Crusoe would reason: "If I offer peace, I am open to attack. That is a risk I cannot take." But it is implausible to suppose that socialized people would reason in that way. Where they are used to gratuitous politeness—or, at

least, nonaggressiveness—they are bound to reason differently: “Let me see if this fellow wants company.” Not “What harm will he do to me?” but “What help can I induce him to give?”

Let there be but one instance of cooperation, or, even less, let there be but one encounter, howsoever brief, where there is no aggression, and peaceful cooperation will have a foothold. And where cooperation—or even mere nonaggression—has once occurred, there is a tendency in man, having witnessed its benefits, to endeavor a second occurrence, and a third, and a fourth. Each instance is reinforcing, and probably more so at the beginning. But by hypothesis Crusoe and Caruso, having been members of some society, have already experienced cooperation, and so their initial encounter is bound to be something far less than open hostility.

But now let there be a situation wherein both Crusoe and Caruso desire something that they cannot both have: suppose Crusoe has food and Caruso has none. Then, says Hobbes, they become enemies. That, I think, is possible, but generally implausible: Crusoe picks a banana. Here comes Caruso, his stomach aching for nourishment. He sets upon the poor Crusoe with fist and sword (ax, stone), subdues him, and devours the remains of the banana. Bravo Caruso! He is as stupid as he was hungry. Why did he not take the simpler course and pick a banana for himself? Suppose there were no other bananas. Then why did he not eat berries, nuts, coconuts; why did he not kill a small animal? Surely any risk in hunting rabbits, say, is far less than the risk in fighting an equal. But suppose there were no food other than Crusoe's lone banana?

I must call a halt to this. Hobbes and I are discussing a State of Nature, and there is nothing in this concept that requires a state of famine. Suppose, in a commonwealth, the Sovereign has a banana, and no one else has food?

That trivial incidents do not, plausibly, give rise to combat is no trivial matter. For while Crusoe and Caruso might, in the beginning, be unable to agree to lay down all their arms and stand defenceless in face of each other, they might eventually be able to keep such an agreement if they had previously made and kept a long series of less consequential bargains. When a pattern of peaceful coexistence in relatively unimportant affairs has been established, then more risky ventures can, by minimal steps, be approached.

No matter how earnestly they both seek peace, however, there may come a time when, out of ignorance or misunderstanding, or on account of a scarcity in the supply of some important good, a

disagreement arises. What shall they do? If the matter is unimportant, the consequences of a disagreement over it may be unimportant as well. A duel to the death is most unlikely, especially when both Crusoe and Caruso not only have experienced, but also presently desire, the continuation of peace. And if the disagreement is over some vital concern, it is implausible to suppose that both Crusoe and Caruso would immediately take to force of arms. Most likely, all avenues of negotiation and bargaining, especially if they have a foothold in relation to less important matters, would be tried first.

Failing that, war may, of course, break out. But to suppose that the circumstances in which Crusoe and Caruso first find themselves could be characterized as a state of universal war on account of the possibility of unresolved disputes on some important matters, is no more plausible, I think, than to characterize a commonwealth as a state of universal war, inasmuch as civil war is always a possibility. Still, since there do arise possibilities of armed conflict in dyadic interactions, the case for peaceful anarchy would be strengthened if such possibilities could be lessened. This can be done by introducing a third person, whom I shall name Clousseau.

Everything concerning dyadic interactions applies to triadic interactions, but the addition of a third person allows for the evolution of a new phenomenon, one that may be the single most important tool for a peaceful anarchy and one that, paradoxically, Hobbes considers the single most important step toward a commonwealth.

Crusoe and Caruso have a dispute. But instead of instantly engaging in combat, they seek first a peaceful resolution. Any resolution that they actually accept I shall call, following Hobbes, *just* (pp. 124–25). But in the absence of a just resolution, Crusoe and Caruso could, in place of, or in postponement of, combat, seek agreement on a *method* for arriving at a resolution. Any method would do, as long as both Crusoe and Caruso agree to it: a toss of a coin, a trial by strength (which is not the same as armed conflict), or, where a third person is available, the appointing of a judge or arbitrator.

It must be emphasized that in the first instance Crusoe and Caruso may have been attempting to decide which opinion should be the one acted upon—e.g., should Crusoe give up his plan to dam the river in return for Caruso's agreement not to hunt deer on this side of the island? Or should Crusoe build a dam only if Caruso also has access to some of the hydroelectric power

produced?⁵ But if they find no proposition that satisfies them both, they may now seek a means to pick out some proposition that they both must accept, regardless of which proposition it is. In the case of the use of a third person, Crusoe and Caruso are agreed that the opinion of the third person, whatever that judgment might be, shall be accepted. This is to say that they are agreed on who shall have the final say. It is no longer a question of which opinion (regardless of its author) should be acted upon, but rather of which person (regardless of his opinion) they should obey. The advantage of an arbitrator, who shall produce the final opinion, as opposed to other methods, such as trial by ordeal or the toss of a coin, is that even though the final say comes not directly from either Crusoe or Caruso it nevertheless need not be unrelated to arguments each might make in his own behalf. The toss of a coin is entirely unrelated to whatever reasons each person may be able to put forth in defence of his opinion, whereas an arbitrator's final say need not be arbitrary.

Initially, a third person, Clousseau, might be engaged in order to decide only upon whether action should be taken on Crusoe's plan or on Caruso's, no other or intermediate position being allowed. If Clousseau decides that Crusoe is to build no dam and that Caruso is nevertheless to be allowed to hunt deer, then both Crusoe and Caruso may understand that Clousseau's decision shall carry no weight, for it was not one of the alternatives among which he was to choose. But if the use of an arbitrator has become a trusted tool, and if there arose a situation wherein it was thought that some kind of compromise position should be allowed, then the arbitrator might be given more extensive powers.

But in any case, there are two problems as yet unaddressed: (1) Will Crusoe and Caruso, in a State of Nature, be able peacefully to engage the services of Clousseau? (2) What guarantee have they that each would obey the final decision of Clousseau? As to (1), the problem is no more difficult than the problems that Crusoe and Caruso had initially in any sort of peaceful encounter and cooperative action. The discussion of dyadic relations above allowed for the plausibility that Crusoe and Caruso could, with some frequency, coexist without war. A similar dyadic analysis holds between each of Crusoe and Caruso with Clousseau. As for (2), under many circumstances Crusoe and Caruso would be reasonably assured that each would obey the decision of the arbitrator, simply because each by now knows the other well enough (each has had dealings with the other often enough) to be able to understand what the other person is like and is likely to do. Each

has a reputation with the other. Both Crusoe and Caruso have a vested interest in the use of the arbitrator in the first place. To renege on the arrangement on account of, say, an unfavorable decision by Clousseau would be to rip the very fabric of trust woven so far out of their previously peaceful interactions and would be certain to generate some kind of animosity. In addition, humans—especially, perhaps, humans experienced in peaceful social relations—have, to a certain extent, a tendency to calculate the future status of their affairs on the basis of the consequences of their present actions. They are anxious to obtain peace in the first place, not only because it makes life more comfortable now, but also because it tends to reinforce an aptitude for peace later on. “If I break my word now,” Crusoe could reason, “how shall I get Caruso to trust me in the future?” Moreover, Crusoe has a similar incentive to establish a trustworthy reputation with Clousseau as well. And Caruso would reason along the same lines. And so would Clousseau, for he can expect that, in his dealings with Crusoe and Caruso, there may arise the need for arbitration. All three persons, then, have excellent incentives to abide by any agreements entered into.

But such an incentive may not always be enough to outweigh the possible immediate gains to be had by breaking the agreement. Hobbes declares that the natural passions of men drive them to choose the immediate advantages of nonperformance of contract over the long-range benefits of a reputation for honesty. For this reason, according to Hobbes, performance of contract cannot be insured without some common power to impose negative sanctions, the immediate results of which would be less desirable than the immediate benefits to be had by nonperformance. I have, above, disagreed that this will always be the case: men, concerned with their own interests, nevertheless need not be unable to appreciate what lies ahead for them in the long run of their interactions with others; this holds all the more for persons already experienced in peaceful society. But where present incentives for nonperformance might outweigh the appreciated values of honesty—where, that is, the stakes are very high and where a person may be willing to be an outcast for the sake of some present good—there Crusoe and Caruso may be more cautious to devise some method to insure performance. The first such method is an obvious one: a verbal threat. “Just remember,” says Crusoe, “that if you don’t abide by the decision of Clousseau, the stakes of the agreement are high enough so that I will hunt you down wherever you may be.” Caruso responds: “Yeah, and that

goes double for you." In addition, Clousseau would be wise to add force to each threat: "And both of you ought to know that I shall join forces with the injured party."

There is an additional tactic possible, and that is for both Crusoe and Caruso to give some of their power to Clousseau so that Clousseau could, by himself, impose sanctions. But, contrary to Hobbes, this power need not be absolute. If the mere joining of forces of Clousseau and the injured party against the person who breaks the covenant is thought to be an insufficient deterrent to nonperformance, then both Crusoe and Caruso might give up part of their military means to Clousseau: not as much as would make Clousseau more powerful than both of the others combined, but only so much as to make Clousseau somewhat more powerful than each separately and considerably more powerful when joined with one of them than the other would be alone. That both Crusoe and Caruso must retain power enough so that, with forces united, they stand a good chance of subduing Clousseau, is necessary in order for them both to retrieve, where it is possible to do so, any power that was earlier handed over to Clousseau and that Clousseau later refused to return.⁶

Hobbes's suggestion, that people (in this case Crusoe and Caruso) ought to put themselves wholly and permanently at the mercy of a Sovereign (in this case Clousseau), is fabulous. First, it is not necessary in order to create sanctions. And second, if these gentlemen would be willing to take such a risk with Clousseau, why do they not more simply take a similar risk with each other? Why does not Crusoe hand his weapons over to Caruso and say: "Here. You decide. And if I don't obey, kill me"?

The tool of arbitration allows for the making and keeping of risky covenants. Even if the risks were not so high, in a society of only three people, such risks would still be bound to occur in more populated societies where not everyone could establish a reputation for fairness with everyone else and where, as a consequence, people would have to make agreements with strangers. The institution of arbitration could, plausibly, facilitate cooperation, and all the more where there are arbitrators who themselves develop reputations for fairness.

There are other institutions that could, plausibly, evolve, given the beginnings of a peaceful anarchy. These institutions would perhaps be first of all of such a nature as to reduce the occasions on which arbitration would be necessary—they would be protective or preventative. Two such possibilities deserve at least brief notice.

1. In order to prevent harm, the restitution for which might require arbitration, more elaborate *defence services* might evolve. These could include anything from the use of sophisticated locks to the hiring of personal bodyguards. There is some risk in encouraging persons to excel at the art of war so as to be competent protectors, yet such a risk need be no more than, and would probably be far less than, the risk one would incur by following Hobbes's suggestion to put all military power into the hands of a single Sovereign.⁷

2. The considerations that led to the institution of arbitration point toward another institution. Even when dealing with fully reasonable persons, we cannot expect them always to be of the same opinion with regard to particular choices of actions. The judgments of reasonable persons may still differ on account of such things as availability of evidence, theoretical background, unexamined habits, and scales of value. This is more obviously so when circumstances do not permit a thorough discussion of the matter. Whether a particular person should or should not act in a certain manner is a question that may directly concern more than one person, and in such a case diversity of opinion may lead either to coercive interruption if the action is attempted or else to coerced performance if the action is neglected. Where there is a difference of opinions, we are, as a matter of practical action, anxious to find a resolution. Bringing about unanimity, of course, always resolves disputes. Although we may, in moments of optimism, hope that all reasonable minds will, given sufficient time and tools for investigation, tend to reach the same conclusions on a given matter, we can neither assume that such concurrence now exists nor take for granted that it will exist at any particular and practically useful time in the future.

In the absence of concurring opinions, we search for a method for establishing who shall have the final say. In this way we are no longer concerned with which opinion shall prevail, but rather with which person shall have the power of final decision, regardless of what opinion he holds. Now, someone's having the final say in no way settles differences of opinion; it only allows a certain action to be performed even though there remain conflicting judgments. The method of arbitration establishes a final say, but since the use of arbitration on every occasion on which disputes do or may occur would prove to be an unwieldy mechanism for a restlessly productive society, the institution of property rights could be a simplifying alternative. A property right establishes in advance who has the final say concerning the disposition of a certain speci-

fied good or territory, this right being invested in one person, called the owner of that good or territory.

I take the preceding pages to have outlined a plausible alternative to Hobbes's conception of the State of Nature. Whether the same or similar arguments would hold for unsocialized Robinson Crusoes, or for either variation under (ii), the Civil War version, will not, as I warned, be investigated here. There is, however, one more variation under (C2) that I did not mention earlier because it is on the verge of being unfair to what I take to be Hobbes's claim. That variation is this: Suppose a group of persons, all believers in the value and viability of a government-less society, agree to establish a colony somewhere or other (say on another planet). Must their attempt to maintain a peaceful anarchy necessarily fail? I think not. By means of the tools indicated in this essay it is possible, indeed, quite plausible, that they could lead a productive, commodious, and peaceful coexistence without recourse to a common power over them all.⁸ The possibility of war—among themselves—arises most particularly as the colony's founders become more and more of a minority group, i.e., by the addition of immigrants and offspring and by death of the original members. Even supposing such a free society to be successful in achieving a commodious life, new members might very well immigrate because of the good life there, not realizing that life was good *on account of* its being a free society. And persons born into such a community might not be socialized in such a way that the very freedom they have will be recognized by them. It is plausible to suppose, then, not only that they might organize coercive institutions in a misguided attempt to protect the good life they now enjoy, but also that they might later strengthen such institutions in an attempt to undo the harm that, unrecognized by them, had occurred as a result of their original coercive interference.

But it is also plausible to suppose that a free society as imagined above would be conscious of its motive principles, would be acutely aware of and loyal to the ideology that led to the establishment of the colony in the first place, and would be jealous of any attempt to pass off as a defence of that freedom institutions that would rely on coercive interference.⁹ The socialization of new members might take the form of explanation and persuasion by means of education available on a free market and propaganda by deed rather than wall-poster slogans, classroom chants, or presidential promises. It is expected that agreement through understanding generates a more solid defence against misdirection than does conformity through institutionalization.¹⁰

1. All page references to the *Leviathan* are to the Bobbs-Merrill edition (Indianapolis: Liberal Arts Press, 1958).

2. Disarming is not the only object of possible agreements, of course. But it is the paradigm case of the infelicity generated by being double-crossed and emphasizes the importance of the second half of what Hobbes calls the Fundamental Law of Nature: if you cannot attain peace, you ought to "seek all helps and advantages of war" (p. 110).

3. I have not fully coined the phrase. There is in economic science a type of analysis called Crusoe Economics. See Murray N. Rothbard, *Man, Economy, and State* (Princeton, N. J.: D. Van Nostrand, 1962).

4. This is not to say that they will be neither cautious nor on guard.

5. Their technology is somewhat more advanced, let us say, than that of mere brutes scratching for edible roots.

6. If it is possible to measure the power of each person, and if it can be assumed that each person begins with equal power, then Crusoe and Caruso ought to give up to Clousseau no more than one-fourth of their power.

7. For a discussion of the uses of and potential problems with protection services, as opposed to government protection, and for arguments for the desirability of the former over the latter, see especially Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), and John T. Sanders, "The Ethical Argument against Government" (Ph.D. diss., Boston University, 1976).

8. Enthusiastic presentations of the details of the machinery that might be used in such a society can be found in Morris and Linda Tannehill, "The Market for Liberty," in *Society without Government*, by Tannehill and Wollstein (New York: Arno Press and The New York Times, 1972); David Friedman, *The Machinery of Freedom* (New York: Harper & Row, 1973); Murray N. Rothbard, *For a New Liberty* (New York: Macmillan, 1973); and the Nozick and Sanders works already cited.

9. That such a society might be internally unstable in such a way as to evolve peacefully into what could be called a governed society is argued with some force by Nozick. For an interesting rebuttal, see Sanders, chap. 10.

10. I am especially indebted to John T. Sanders and Lawrence Haworth for their many valuable comments on an earlier draft of this paper.

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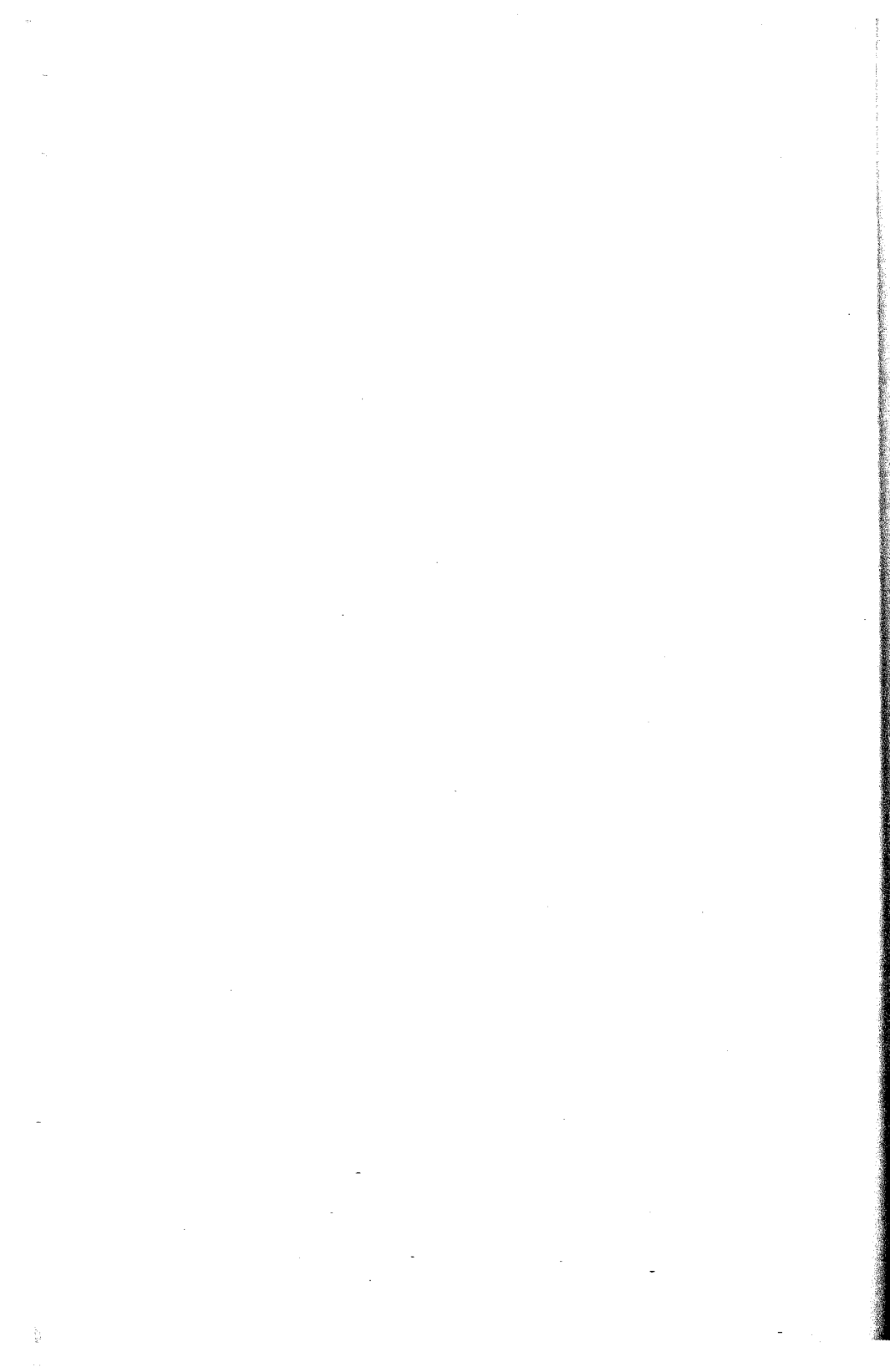
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RATIONALITY: MINIMAL AND MAXIMAL

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C ONTEMPORARY philosophy distinguishes two kinds of rationality. The first, *minimal rationality* (MnR), makes us aware of concepts, their implications, and the relationship among concepts. The second, *maximal rationality* (MxR), introduces normative principles to direct the development and sustenance of an internally consistent way of life. A currently popular way of stating this difference is to say that MnR is *descriptive*, while MxR is *evaluative*. MnR requires understanding and awareness in reasoning; MxR draws normative consequences from understanding and awareness.

Classical philosophy upheld MxR. This attitude is found in Aristotle, who laid the groundwork for MnR in his logical investigations but passed into MxR in his metaphysics. Contemporary philosophers, with some exceptions, reject MxR and uphold MnR.

The argument of this paper is that social-contract theorizing, which has been revived by John Rawls's *A Theory of Justice*, equivocates on the kind of rationality employed. It utilizes MnR initially but slips into MxR. Such reasoning is defective because its conclusion contains more than its premises contain. This fault is endemic because social-contract theorizing logically requires the use of MnR, yet MnR is too spare a tool to obtain moral or legal obligation. Consequently, only by introducing ad hoc normative principles can the desired conclusions be drawn.

The body of this paper will be divided into three parts. The first will contain an amplification of minimal rationality (MnR). The second will discuss maximal rationality (MxR) and disclose the proper uses of MnR and MxR in ethical theory. It will be argued that initially ethical inquiry is limited to the use of MnR so that speculations do not *beg the question*. The third part will consider John Rawls's *Theory of Justice* in the light of this distinction. Rawls's argument, it will be suggested, shifts from MnR to MxR when his theory runs into difficulty.

MINIMAL RATIONALITY

Minimal rationality (MnR) is the operation of the mind that

permits people to interact with their environment with understanding. MnR functions observationally and subjectively. There are five ways in which MnR functions observationally (MnR:O):

1. It distinguishes objects in the phenomenal field,
2. It compares and contrasts objects,
3. It perceives relationships between and among objects,
4. It recalls observed relationships,
5. It classifies objects and relationships.

I use the word "object" to refer to both animate and inanimate beings. I infer that observation involves more than receiving sense data. Observation, by distinguishing, comparing, and contrasting among phenomenal objects, interprets and interrelates data. When relationships are noted and classificatory systems are developed, understanding ensues.

The order in which the activities of MnR:O are given does not necessarily describe the order in which they occur in experience. For example, it might be argued that a classificatory system is logically prior to the act of distinguishing objects. The *raison d'être* of this claim is that without classificatory rules, the phenomenal field would be an oppressively complicated maze. This sort of reasoning lies behind much rationalist epistemology. Empiricists, on the other hand, note that knowledge grows as uninterpreted data are arranged *inductively* into classificatory systems.

MnR functions subjectively (MnR:S) in the following ways:

1. It produces awareness of emotional reactions (fear, liking, disliking, anger, etc.) to experience (the products of observation),
2. It distinguishes different emotional reactions (ER),
3. It compares and contrasts ER,
4. It perceives relationships between and among ER,
5. It recalls ER,
6. It classifies ER.

The term "subjectively" is not used as it is in the cognitivist-noncognitivist controversy. If subjectivity characterized rationalizing in this context, the implication of my argument would be that knowledge is private (in some respects) and, hence, noncognitivism (to some degree) true. In MnR:S, the term "subjectively" is used to refer to *inner experience*. I have divided MnR into that which gives us outer experience (MnR:O) and that which gives us inner experience (MnR:S).

In my lexicon, inner experience stands for emotional reactions (ER). It is obvious that one can be aware of nonemotional feelings, e.g., a pressure on part of the body. This sort of inner experience might be said to be a physical action or reaction, depending on whether it is produced in relative isolation from the external phenomenal field (as when blood vessels contract) or as a consequence of interaction with the external phenomenal field (as when a heavy weight is laid on a part of the body). Since value theory lurks behind our investigation, there is no need to discuss this kind of inner experience.

It should be noted that MnR:S (1) involves the person in *awareness*. Unquestionably, people can react emotionally to stimuli (fear, anger, love) without awareness. This sort of experience is not mentioned because it is nonrational.

MnR:S (6)—the classification of ER—should be amplified. People do not simply emote. They become aware of their feelings, apprehend similarities and differences in their feelings, and arrange them into groups. For example, a person might notice that when he is attacked by a large dog and when he takes an examination for which he is unprepared he undergoes comparable stimulation. This leads him to call both instances "fear." He also might notice that his reaction to criticism is not the same as the aforementioned reactions (being what we commonly call "anger"), but that anger, in common with fear, is among the feelings that he classifies as "unpleasant." And if we are not dealing with a masochist or a person in an unusual situation, he might classify these experiences as "undesired."

Classifying ER leads one to arrange feelings into a hierarchy of those that are more or less *desired* and those more or less *undesired*. So, a person might prefer eating large amounts of tasty (to him) food to looking trim and to being healthy. *Ceteris paribus*, he would place eating on a higher plane than appearance or health.

No reference has been made in this discussion to what is desirable or undesirable, i.e., what ought to be desired or ought not to be desired. Philosophers, with the possible exception of orthodox emotivists, agree that *liking* and *disliking* or *desiring* and *undesiring* are not *prima facie* examples of moralizing. In summary, I have talked only about the taxonomy of emotions. Following the received philosophical opinion, I treat moralizing as a logically subsequent activity.

Thus far, I have tried to provide the skeleton of humanness. The flesh of humanness is supplied by normative activity. The question of whether or not MnR logically entails moral judgments has been

avoided. I am asserting that rational activity exists without moralizing. This being so, the inference is made that MnR:O and MnR:S are the *tools* to be used in discovering rational *moral principles*—that is, if *rational* moral principles are realizable.

MINIMAL AND MAXIMAL RATIONALITY

There is another conception of rationality that provides an *ideal* of humanness. Unlike MnR, which takes people as they are, this conception considers people as they can be. In this tradition, Aristotle drew the distinction between *actual* man and *potential* man. Hereafter, *people as they are* will be referred to as Pa and *people as they can be* as Pp—the “a” and “p” standing for actuality and potentiality, respectively.

The noteworthy aspect of the ideal of humanness, Pp, is that it imposes a normative judgment on a description. Descriptions, as Hume has established (Hume’s Law), are value-neutral. It might be that rationality logically *implies* that Pp be realized, but the fulfillment of Pp is not part of a rational *description* of human nature.

This point is important enough to justify amplifying. Hume’s Law (to paraphrase and modify R. M. Hare’s interpretation of Hume) is that descriptions (represented by “is” sentences) do not straightforwardly entail moral judgments (represented by “ought” sentences). Hume’s Law stresses the integrity of descriptive language. It does not, however, straightforwardly prevent descriptions from being used to logically justify normative judgments. As Hume has said, the shift from “is” language to “ought” language is a “new relation” that requires justification. There is no *explicit* statement by Hume suggesting that a subsequent justification is impossible.

My intention in discussing Hume is to uphold his claim concerning the autonomy of descriptive language, without implying that his Law *necessarily* creates an unbridgeable chasm between facts and values.

As a consequence of the foregoing conclusion, Pa is that with which contemporary philosophers must deal. When we talk about rational people, we mean people *as they are*, people capable of MnR, people who can categorize their observations and subjective states. While still satisfying MnR, however, a person may act selfishly, altruistically, honorably, dishonorably, in the same life span. And we know that people who often express MnR creatively may be emotionally immature, behaviorally neurotic, and morally

corrupt. One familiar with the lives of Newton, Rousseau, Beethoven, and Wagner could not doubt this claim.

Pp, the ideal of human nature, requires that human beings fulfill their potential. To achieve this goal, people must act consistently and disinterestedly. I interpret this to mean that Pp entails the use of a *principle of consistency* (PC) and a *principle of disinterestedness* (PD). When these principles operate in human behavior, people act with maximal rationality (MxR).

First, MxR requires that people behave consistently. For example, if a person, A, requires another, B, to pay \$100 owed to him within 30 days because "promises ought to be kept," then the use of this principle requires A to pay \$100 owed to a third person, C, within a specified period of 30 days. It is argued that A must pay or irrationality (not "nonrationality") ensues.¹ The PC operates to direct people along a path to a specified end.² The force of PC is obtained by enjoining whimsical behavior.

Second, a principle of disinterestedness (PD) operates to enforce the widespread opinion of social scientists that all people are *essentially* alike, despite the fact that people are *individually* different, i.e., people vary intellectually and temperamentally. The force of PD is to certify that every person can be substituted for every other person in a rule whose subject is "all people." Exceptions to the rule must be sanctioned by another rule in which every person can be substituted for every other person who meets the special criteria stated in the rule of exception. This follows from the fact that the subject of the exception is "all people." Applying PD to the case under consideration, A, *ceteris paribus*, cannot avoid satisfying his debt to C if he requires B to pay the money that B owes him, A, because "all people should pay their debts." It is argued that, since A is essentially equivalent to B and C, the rules that obligate B and C, obligate A as well. Since A adopts the rules in regard to B and C, he cannot avoid applying the rules to himself for frivolous reasons.

Let me reiterate the points made. As an operation of rationality (MxR), it is (sometimes) said that people (1) must act consistently, i.e., not change the use of rules capriciously, and (2) must treat all persons alike unless a rule of exception is invoked. These are *principles of consistency and disinterestedness* (PC and PD).

The contention of this paper is that the inclusion of PC and PD in rationality can be justified only by normative decisions. And, as has been said, normative decisions are questionable rational tools. Let me discuss this claim initially in relation to PC. I will proceed by showing what sort of consistency satisfies MnR and follow by

giving reasons for believing that PC involves a normative act.

A minimal conception of rationality, i.e., one that is uncontroversial, requires that A, the promisor in our example, understands what promising is and what actions he has to perform to fulfill his promise. Rationality also requires that, *ceteris paribus*, consistency should prevail between our utterances and our feelings. So, if I desire to spend an evening with Alice, it is reasonable for me to ask her to spend the evening with me. If she is married to another, however, it might be reasonable for me to remain silent. A correlation between our language and our feelings is rationally essential because language is a principal public tool by which we satisfy the human desire to communicate and interact with others. We can conclude, then, that rationality requires consistency between our feelings and our verbal expressions so long as the communication of our feelings is desired.

A principle of consistency requires more. It demands that we consistently uphold our intentions; for example, once expressed as part of a contract, an intention must be upheld. Such a requirement clearly goes beyond the consistency required to obtain awareness and understanding. A principle of consistency here is meant to regulate behavior and is a ground of moral and legal censure if violated. "Regulation" entails normative activity. We say, "You promised to pay C the money borrowed from him, you didn't, and you ought to be ashamed of yourself!"

But what is our justification for this enjoinder? That it is irrational to be selfish and capricious? I don't think so. Capricious, inconsistent behavior can be rationally prohibited only if rationality requires that people live harmoniously. But this is a moral opinion that must be separately justified. Furthermore, it is an opinion that has not obtained universal assent among rational, intellectual people.

A principle of consistency cannot be the product of an agreement. Here, I am considering the possibility of the promisors developing ground rules prior to promising. If they agree to keep their promises, the desired principle of consistency does not emerge because the agreement is subject to the *open question*: "Are those who agree obligated to keep their agreement?" Because a principle of consistency overrides any agreement, an infinite regress ensues.

A principle of consistency is logically anterior to agreements and promises because it would be meaningless to ask of someone who has broken a promise, "Did you promise to keep your promise?" Nor could the principle come after an agreement or promise. It would make no sense to add to the assertion, "I

promise to pay you \$100 in 30 days," the statement, "Now let us negotiate about whether I will keep my word or not."

Lastly, it might be maintained that PC is incorporated in the logic of language. I have already agreed that the logic of saying "I promise to pay C \$100 in 30 days" implies that I intend to pay \$100 to C in 30 days, no special circumstances operating. As R. M. Hare has rightly argued, an *intention* to keep a promise establishes a moral obligation. Therefore, it would be irrational for me to intend to pay \$100 to C in 30 days and not intend to keep my promise. This follows from the operation of MnR. But, there is nothing inherently irrational in my saying, "I *intended* to pay C \$100 in 30 days because I desired to do so; now I no longer intend to pay C \$100 in 30 days because my desires have changed." This is not *prima facie* irrational because people who meet a neutral test of rationality often change intentions as their feelings change.

I say that inconsistency of the kind cited, which is really moral inconsistency, is not *prima facie* irrational. The brunt of proof is on the supporters of MxR, since we have a perfectly usable conception of rationality without the inclusion of a principle of consistency. One other point: I am not stating that moral inconsistency is *prima facie* rational; it may be nonrational.

Similar arguments are relevant to a discussion of PD. Such a principle is a more obviously normative principle. Therefore, this aspect of our discussion can be brief. Using the promising case again, rationality requires that A recognize that he is no different from B and C. This is established by MnR:S (6); i.e., A recognizes that he belongs to the same class as B and C without special qualities. The enjoinder against special treatment is justifiable on the moral principle "all people should be treated similarly." But this principle is not logically entailed by the statement "All people are essentially alike." Hume's Law establishes this point.

In the absence of a moral principle being part of rationality, PD is logically independent of acts of promising. A promise establishes a relationship between two or more people. There is no ensuing entailment indicating how the parties to the promise are *generally* to be treated. That is, the promise presupposes nothing more about the people than that they will be related in a specifiable way during the period in which the promise is in effect. In this case, A is enjoined to pay \$100 in 30 days, and C will receive \$100 from A in 30 days. That nothing is said in general about people in promising follows when we consider that unequals, along with equals, are believed to be bound by a promise. So if a nobleman (N), who is entitled to special social and political privileges, promises to pay

\$100 to a lowly serf (S), it is generally thought that N ought to pay \$100 to S. This follows from the moral principle that *all people ought to act disinterestedly when they assess their obligations*. The catch is that the aforementioned moral principle must be rationally justified.

APPLICATIONS

It is necessary to reaffirm the integrity of rationality because a new assault has been made on it by John Rawls in *A Theory of Justice*. He attempts to rationally establish liberal principles of justice on the basis of an agreement or social contract. Because his work is well known, I will only discuss aspects of his theory that relate to the thesis herein expressed. In a hypothetical original position (the place where contractors meet), mutually disinterested persons come together under a veil of ignorance to adopt principles that will guide their future social conduct. Agreement on guiding principles is reached so that an ubiquitous fear of oppression is assuaged. A veil of ignorance limits knowledge of people's social positions, strengths, weaknesses, natural abilities and debilities, conceptions of good, specific psychologies, plans of life, and the present state of society. The settled agreement will produce two principles of justice that will harmonize future social intercourse. The emergent principles guarantee that each person obtains a maximal liberty and social and economic opportunity consonant with maximal liberty and opportunity for others. Distribution of social advantages and disadvantages is made without special privilege or prejudice. As a matter of social fact, presently disadvantaged peoples will obtain social advantages, but this is to equalize their social position with others.

The unusual conditions of the original position are hypothesized so that the agreement is made fairly.³ Rawls believes that these conditions are necessary because people, operating with knowledge and being mutually disinterested, will exploit their own interests. This is the reason the veil of ignorance is used. It is needed to nullify "the effects of specific contingencies which put men at odds and tempt them to exploit social and natural circumstances to their own advantage."⁴

In the original position, people are said to be rational in the ordinary way.

The concept of rationality invoked is the standard one familiar in social theory. Thus in the usual way, a rational person is thought to have a coherent set of preferences between the

options open to him. He ranks these options according to how well they further his purposes; he follows the plan which will satisfy more of his desires rather than less and which has the greater chance of being successfully executed.⁵

Irrespective of the agreement, rationality is employed to develop a "plan of life." Rational people use acquired knowledge to construct means to ends that they desire, identify conflicts between what they desire and their behavior, and recognize conflicting goals. In short, a rational person arranges acquired information into coherent patterns. Ultimately, personal interests are harmonized.

As I hope can be seen, Rawls's rationality corresponds to MnR. What I refer to as the categorization of personal goods, MnR:S (6), Rawls calls "having a coherent set of preferences." I account for the construction of means to ends by MnR:O and MnR:S. People must adequately characterize the environment (MnR:O) and self (MnR:S) so that they can find their interests and devise means to the fulfillment of their interests. This aspect of MnR is also accounted for in the quoted passage from Rawls.

Thus far, I have discussed the skeleton of Rawls's thesis. I have left out many of his conditions, not to transform his argument into straw, but to separate two parts of his thesis that are strained bedfellows. I will enlarge my discussion of Rawls's conditions after the implications of the first part are drawn.

Before I proceed, I want to devote a few words to the meaning of "mutual disinterest." Rawls uses this expression to account for the fact that people do not always harmonize their behavior and, often, go about their pursuits selfishly. It might be inferred that "mutual disinterest" is a euphemism for "self-interest." But Rawls shies away from the stronger expression because he wants to leave the door open for altruistic behavior. While his initial conditions are broad enough to permit altruism (which I will stipulate to mean "helping others for their sake"), the need for a "veil of ignorance" implies that some rational people will be *resolutely selfish*. Resolutely selfish people will place the fulfillment of self-interest first among desires. If there were no resolutely selfish contractors, then there would be no need to hypothesize special circumstances preventing people from abusing their social advantages. People would be advised to act rationally. It can be inferred, then, that Rawls initially postulates both altruistic and selfish contractors.

Let me suggest that, given Rawls's imagined conditions, there is no reason to suspect that rational people (MnR-operating) would be motivated to keep the contract. Since rational people agree

out of fear and at least some rational people are resolutely selfish, these are the only two factors, personal interest and fear, that are relevant to the sustenance of the contract. Since we have no reason to expect human nature to change, it can be stated that at least some rational people will remain resolutely selfish after the agreement is made. While resolute selfishness will be found after the contract is ratified, fear will be dispelled among those rational people who discover, when the veil of ignorance is lifted, that they are socially advantaged. Since there is a high probability that some resolutely selfish people will be socially advantaged, we can infer that their behavior subsequent to the agreement will be motivated by their selfish desires. We would expect these resolutely selfish people to abuse the principles to get more of what they desire at the expense of the disadvantaged. Rationally, they would discover not only that they are advantaged but that a social system permits people to become *entrenched* in social and political advantages. For example, during the devastating American depression of the 1930s, the richest people (the Rockefellers, Vanderbilts, etc.) increased their wealth at a prodigious rate. This being so, once the veil of ignorance is lifted, rational resolutely selfish people will be motivated to lie and cheat and abuse the principles in every way. As Brian Barry expresses this point, if want-regarding people are hypothesized as contractors, then the principles that emerge will be means by which people will achieve their wants.⁶ In so behaving, rationality (MnR) is not violated one whit.

What Rawls needs to force people to uphold their contract are principles of consistency and disinterestedness. PC would require that people keep their promises unless excusing conditions intervene. PD would lead people to treat everyone's interests alike.

Rawls introduces these factors by moving from the original, neutral conception of rationality (MnR) to a morally loaded conception of rationality (MxR). This shift is accomplished (1) by introducing an Aristotelian moral thesis, the thin theory of good, to justify the use of "primary good," and (2) by asserting that people have a "sense of justice."⁷ The thin theory of good provides PC, and a sense of justice obtains PD.

A word on "primary goods": Originally, primary goods are said to be those things that people need so that they can attain their personal goals and live with others in society. Among the primary goods are money, a greater rather than a lesser freedom of movement, etc. The primary goods are not intended to invoke substantive moral principles. They make use of the generally accepted

belief that people and social environments have common features that permit cultural and personal contact. I have no quarrel with this conception of primary goods, but, as shall be seen, Rawls subsequently compromises their moral neutrality.

The Aristotelian moral thesis asserts that people, all things being equal, enjoy exercising their realized capacities, tend toward increasing their capacity or the complexity of the activity, and, consequently, obtain greater enjoyment. Given that this is a generally observed fact about people's motivation and given the ubiquity of social interdependence, there is a tendency for social action to incline in the same direction. To exemplify this thesis, Rawls claims that if people can play chess and checkers, the former being a more complicated game than the latter, people would prefer playing chess.

As I have said, Rawls uses the Aristotelian principle to support primary goods—and, most importantly, to give first place among the primary goods to “self-respect.”

But by assuming the [Aristotelian] principle we seem able to account for what things are recognized as good for human beings taking them as they are. Moreover, since this principle ties in with the primary good of self-respect, it turns out to have a central position in the moral psychology underlying justice as fairness.⁸

The dubiousness of Rawls's maneuver is clear. Rawls recognizes that many people as they are do not seek mastery of complex skills or obtain greater enjoyment by engaging in complicated activities. Some people are content to play checkers even if they can play chess. And others are content to play chess badly. Still others would sell their souls for a piece of bread, as Dostoevski's Grand Inquisitor noted long ago. Since people act in these undesired ways, rationality performs the job of leading people to realize that they *ought to* strive for greater mastery of skills and to value more complex activities. Rawls must be implying that these goals are not discovered ordinarily because people *stop* reasoning before they apprehend the *termini* of their activity. It is to obtain this end that Aristotelian teleology is employed.

It is obvious that Aristotelian teleology is not invoked to urge people to prefer chess to checkers or even Bach to Bacharach. The terminus that Rawls is concerned with is the primary good of self-respect. Self-respect is desired because it enjoins the contention that we anticipated to be the consequence of the agreement. Self-respect serves to uphold the agreement by making

virtues of steadfastness and honesty and by eschewing capriciousness and duplicity.

For rationality to achieve this end, PC must be employed so that people persevere in their reasoning until they discover that they really value self-respect. It overcomes the observable tendency of people to reason (and to act, as a consequence of their thinking) whimsically. It prevents people from excusing their inconsistent behavior by saying, "I choose to think no more about the problem; I am content to act as I do because my actions are based on my thoughts at the moment." Such language is echoed in the great Rousseau's *Confessions*. He explained the paradoxes that plagued his readers with the comment that he said what he felt at the moment but that he could not expect his feelings to remain the same for very long.

So PC operates to assure the discovery of self-respect by overcoming the tendency of people to think capriciously as their moods vary. Once self-respect is valued, people are led to uphold the agreement. The rationality entailed herein is MxR, for it goes beyond people as they are to people as they ought to be.

Let us now turn to Rawls's use of a "sense of justice." First, let me amplify the conception. Having a "sense of justice" implies that rational people will discover that they care not only about the attainment of their own goals but about the attainment of other people's goals. They will desire not only that they maximize their capabilities and enjoyments (the Aristotelian principle) and achieve self-respect but that other people maximize their capabilities and enjoyments and achieve self-respect. This is altruism engendered for its own sake. Here, we have the introduction of a *principle of disinterestedness*.

As pointed out earlier, Rawls's conditions imply that some people are resolutely selfish. By definition, to say that people are resolutely selfish is to say that these people are incapable of selflessness (unless selflessness is a means to a selfish end). It is also true, on Rawls's definition of a "sense of justice" that a sense of justice is a sufficient condition of selflessness (selflessness for the sake of the other person). Therefore the initial conditions, supposing that some rational people are resolutely selfish, rule out the possibility of all people having a sense of justice.

The means by which the transformation from selfishness to selflessness takes place is that rationality uncovers altruistic potential. Rawls cannot be making an observational claim, because the weight of empirical evidence indicates that highly informed people are often resolutely selfish. (The expression "highly

informed," rather than "fully informed," is used because we experience the former, not the latter.)⁹ This being the case, the implication must be that rational people will discover that their selfish feelings *should* be rooted out. A value judgment is introduced, because rational people will not cease feeling selfish; they would have to conclude that their selfish feelings should be overcome. In other words, instead of merely categorizing attitudes, Rawls must be saying that rational people make only certain attitudinal choices. In consequence, people are taken ideally.

One of the lasting impressions I have of Rawls's use of rationality is that PC and PD serve the same purposes that natural law did for early contract theorists like Hobbes. Hobbes realized that self-interested people might continue to clash unless some rule of law assures adherence to the agreement. Natural law guarantees the agreement. Since contemporary philosophers doubt the existence of natural law, arguments like Rawls's must be more circum-spect. It is no accident that Rawls gradually abandoned the Hobbesian bias in the first expression of his thesis (the essay "Justice as Fairness") in favor of a Kantian turn. In his early work, he tried to do with self-interest and rationality unaided by natural law. This effort ran against the familiar argument that it is sometimes in a person's rational self-interest to abuse others. Something more is supplied by the Aristotelian principle, the inclusion and priority of self-respect among the primary goods, and the sense of justice.

In closing, I might ask, If rationality discloses the aforementioned factors, why invoke a social contract? Why not simply say, rationality requires that people treat each other fairly, distribute social inequalities so that the least-advantaged people be benefited, etc.? The social-contract mechanism has intrinsic problems that render it dubious regardless of the theoretic framework in which it is used. For example, the assertion that the social-contract mechanism is a hypothetical device requires that its hypothetical nature and heuristic value be amplified and justified. Few contract theorists go beyond asserting that the mechanism is hypothetical. It seems to me that, since Rawls's thesis must eventually use MxR, he has doubled his difficulties by invoking a social-contract mechanism.

A final note: Throughout this paper, I have tried to be coldly critical. My own substantive moral theory has been suppressed. In fact, I find Rawls's principles of justice very attractive. But the settlement of these or similar principles of justice must wait for a justification of maximal rationality. That justification must be

elaborate and complex, because it involves rejecting a philosophical movement that has gained momentum since David Hume's ethical writings. In the process of reconsideration, the insights of that movement should be retained. Finally, I believe that the defense of maximal rationality as the guarantor of a set of principles of justice must be straightforward. An elliptical or indirect method of justification will not work, because some but not all of the basic axioms of the Humean-empiricist ethical tradition must be replaced. A kind of Hegelian process is at work here. Moral absolutism (thesis) was replaced by radical moral relativism (antithesis) in the early through mid-twentieth century. The radical moral relativism that culminated in the emotive theory was said to be the working out of Hume's moral theory. I believe, like many others, that this claim is false. Now, we are gradually working toward a new paradigm (synthesis). Besides containing faults, it is clear that Rawls's *Theory of Justice* has many insights and brilliantly constructed arguments. His greatest contribution to philosophy may be that he has revitalized normative ethics.

1. I use the term, "nonrationality" rather than "irrationality" to render my statement philosophically neutral. I define "nonrationality" as (1) behavior that cannot be rational or (2) behavior about which its rational possibilities are undetermined.

2. R. M. Hare has made a well-known argument along these lines. While I will not discuss his work hereafter, it can be seen that his reasoning is guilty of the flaw (if I am right, that there is a flaw) that I will attribute to John Rawls's theory of justice in section 3. It has been noted by a number of commentators (Brian Barry, for example), as well as Hare himself, that there is a family resemblance between Rawls's theory and Hare's theory. It is obvious that I endorse this claim.

3. To assure fairness already begs the question. The fundamental philosophical question is: Given human nature, can principles of fairness be generated?

4. John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, Belknap Press, 1971), p. 136.

5. *Ibid.*, p. 143.

6. Brian Barry, *The Liberal Theory of Justice* (Oxford: Clarendon Press, 1973), pp. 23-24.

7. Rawls, pp. 426-29.

8. Rawls, p. 433.

9. We might discover that rational people are altruistic. This would mean that the evidence thus far obtained is misleading. While a surprising shift in evidence is possible, we have no reason to expect it. Therefore, we are better off treating some men as immanently selfish.

THE STUDY OF NATIONALISM: A METHODOLOGICAL INQUIRY

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THESE have been few subjects in politics and sociology to which so much time, paper, and verbiage have been devoted as nationalism. Although the varieties of interpretation seem endless, they can easily be divided into two opposing camps, henceforth called objectivist (or structuralist) and subjectivist. These distinctions roughly correspond to the two disciplines of sociology and history, but this is more accidental and unfortunate than inherent in the nature of the disciplines themselves. Unfortunate, because most sociological analysis has, hitherto, been afflicted by the "scientistic" disease, which holds that the only type of valid explanation is one that refers to general laws.¹ Thus it has been left to historiography—and not all historiography at that—to provide a nondeterministic, nonstructuralist account of nationalism. This is not to say that sociology is inherently incapable of analysing that doctrine, but until it rids itself of the misapprehension that human phenomena can be treated in the same mechanistic and quantifiable way as inanimate objects, it will never succeed in recovering the wellsprings of human behaviour.

In this paper I will discuss three accounts that have been offered as explanations of nationalism: Ernest Gellner's *Thought and Change*, which contains a chapter on the subject; Elie Kedourie's *Nationalism*; and volume one of J. R. Levenson's *Confucian China and its Modern Fate*.² These works are representative of three types of explanation of human phenomena, which I call structuralism, idealism, and intellectual history. By comparing them, I hope to make apparent the defects of, on the one hand, explanations that are methodologically holistic, ignoring the primary existence of acting individuals who are independent centres of consciousness; and, on the other hand, explanations that are methodologically idealistic, that, while taking human consciousness as their primary datum, consider thought as abstracted from both its object (the world) and its purpose (action to change that world). This

essay is, therefore, a qualified defence of intellectual history against the claims of sociology—qualified, because I will stress throughout the danger of considering ideas in isolation from their context; indeed, such an enterprise would not be intellectual *history* at all but an exercise in conceptual analysis. My comments on the general approach of an author should not be taken as approval or disapproval of that author's actual conclusions. In this essay I am concerned only with the *manner* of attacking the problem and not with the account's substance.

A subjectivist interpretation is so-called, not because it is arbitrary or relativist, but because it focuses on the "knowing subject" as the "causal" force in history. As Dilthey was eager to point out, the difference between the human and the physical sciences is not so much one of methodology but of subject matter. Both aim at "objectivity" in the sense of *truth*, but that aim is far more difficult to achieve in the contingent human world than it is in the determined physical world. The subject matter of the human "sciences" is *man*. Therefore it is *subjectivist* in its approach. For the historian, subjectivism does not mean that he must analyse the psychic makeup of his actors, despite Collingwood's doctrine of "self-knowledge of mind."³ It means merely that he should place primary emphasis on the revealed thoughts and actions of people in given historical situations—not empathetic identification, which implies that if we cannot "become" a Hitler or a Stalin we can never hope to understand them, but a close analysis of the perceptions, world views, ideologies, philosophies, and problems of the actors in question. The premise that underlies such an injunction is, in Gordon Leff's words,

individuals as the irreducible units of history . . . the agents of their own creations even if not of the circumstances which occasioned them.

It follows that

since individuals acting upon one another are the irreducible unit of history, its study can never go beyond their individuality.⁴

Thus all good history is, to a certain extent, "idealist," because all human beings are continually exercising judgment and choice in even the most mundane activities: "there has to be a new volition each time habit is translated into act."⁵ The acts of choosing and judging involve a process of evaluation, so that the more significant a historical event, the more important are the values, ideas, and ideologies that must be assumed to motivate the actors. For

the historian, then, beliefs are as much historical data as are "brute facts." Moreover, this idealism should not be interpreted as merely the history of abstract theory. People think and act in response to specific situations, and it is the recovery of the context, and hence of the *problems* facing historical actors, that the historian should be interested in. As Collingwood points out in his *Autobiography*, we do not think in simple, unprovoked propositions, but in response to specific problems to which our theories are answers.⁶ To return to Leff's formulation of the issue, in human action there exists a "dialectic between what happens in men's minds and what happens outside them, between what was the case and what men took it to be."⁷

Because the historian's primary datum is the acting individual, contingency must be the guiding principle of his explanation. Given a certain situation, there is never a definite course of action that *must* be taken, but as many alternatives as there are actors pursuing different ends and as few alternatives as the nature of the situation allows. The context may provide a *necessary* cause, but it can never be *sufficient*. The individual as a responsible agent is his own "cause" and as such is not reducible to another determining force.

In what ways do these generalities about historical explanation affect our discussion of nationalism? It is because so much analysis of this ideology has been nonindividualistic and deterministic that the foregoing clarification was necessary. The study of an ideology is surely the province of the intellectual historian, not the social scientist. Indeed, sociology has much to offer to the analysis of nationalism, but it can never tell the whole story because it is forced to remain on the level of supraindividual generalities that, as we shall see, are never sufficient to explain that doctrine. Only intellectual history is able to treat nationalism as a *human* event—as volitional, contingent, and hence an individual phenomenon. Only intellectual history deals with those "causal" factors that make nationalism what it distinctively is. As Raymond Aron has pointed out, to consider an event historically is to admit the possibility that it need not have occurred and, at the very least, need not have occurred at the time it did.⁸ Contingency is the first principle of human events, as determinism is the first principle of physical events.

Keeping this in mind, we can, first, look at Ernest Gellner's treatment of nationalism. His analysis hinges on the two anthropological concepts of structure and culture. A society ordered on

a structural basis is held together by mutually dependent roles, each involving a different function. The individual is completely sunk in the "niche" into which he is born, and his behaviour follows certain traditional and circumscribed lines. A society held together by a culture is based, not on the reciprocity of objective needs, but on a perceived similarity of habits and beliefs in the community. In contrast to the structured society, the cultural community is socially mobile, the individual possessing no fixed identity and following no fixed patterns of behaviour. Thus, such an individual faces problems of social communication. In a structured society his relations with others are predetermined by custom, and a shared language is not necessary in order that two people understand each other. All they need know is each other's role. Hence in feudal England a lord speaking only Norman French and a peasant speaking only Anglo-Saxon could live together in complete mutual understanding. When such a rigid structure breaks down, so does social communication. A *cultural* identity is now needed to hold isolated and mobile individuals together—a common language to replace the speechless communication of a structured society. This, argues Gellner, is the negative reason for the nation-state. Modern society is a cultural community demanding a new cultural identity to replace its lost mechanical structure (Gellner seems to have in mind Durkheim's distinction between "mechanical" and "organic" solidarity). But, as Gellner recognizes, this explanation begs the question—Why the *nation*-state? Why not some other type of cultural unit, say one founded on a religious identity? Gellner's answer is his "positive" explanation for nationalism.

Cultural unity, he argues, presupposes universal literacy, which can only be achieved in a social unit of a certain size—a unit capable of supporting an educational system. Hence, through sheer utilitarian *necessity*, the administrative unit and the linguistic community coincide in the nation-state. The raising of vernaculars into languages of literacy both brings into being an expanded clerical class and at the same time limits its horizons. In medieval times, the tiny clerical class could range across vast territories because there were universal languages of literacy—Latin and Arabic. But, paradoxically, universal literacy necessarily involves linguistic parochialism. Latin and Arabic have been supplanted by a myriad of new "national" languages raised from the vernacular. Thus, we have the reverse situation of that which existed in the Middle Ages—a vastly expanded literate class of persons who cannot communicate beyond their political units.

