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THE “PROGRESS OF THE SENTIMENTS” IN HUME’S POLITICAL PHILOSOPHY

by

ADAM BENJAMIN SHMIDT

Under the Direction of Eric Entrican Wilson

ABSTRACT

In this thesis, I argue that David Hume’s political philosophy is centrally focused on the prospect of social reform. The conception of justice and politics he develops out of his theories of virtue and moral psychology stresses the pervasive effects of institutions on individuals’ abilities to live decent lives and provides criteria for determining the relative success of such institutions. While Hume’s political philosophy has been interpreted as justifying a society’s *status quo*, I demonstrate that the principles of merit, need, and equality—commonly considered core principles of social justice—each play a vital role in his view of what constitutes a healthy, stable society. In particular, I contend that Hume’s emphasis on institutions guaranteeing equal protection of basic rights, the role of the common good in the moral justification of political institutions, and the material and social circumstances of equality that make the institution of justice possible, suggest that social reform is a central concern of his theory of justice and politics.

INDEX WORDS: David Hume, Justice, Sentimentalism, Ideal Theory

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ADAM BENJAMIN SHMIDT

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1. INTRODUCTION

This thesis argues that Hume’s moral and political philosophy is acutely concerned with the prospect of social reform. Recent Hume scholarship has begun to examine how his moral theory grounds a progressive politics by highlighting the utilitarian themes in his political philosophy¹ and exploring his influence on Rawls’s conception of “justice as fairness.”² These scholars provide compelling evidence to support the view that Hume is committed to the project of social reform, but they do not specify a particular approach that can be constructed from Hume’s views concerning morality and politics. While Hume could not have had a worked-out theory of “social justice,” since the concept of social justice in the modern sense and the framework of ideas it represents did not yet exist in the 18th century,³ he has a great deal to say about the importance of justice and equity in social relations, and, as I argue, he views government as a potential agent of social progress.

My primary goal in this thesis is to expand on the following claim Samuel Fleischacker makes in *A Brief History of Distributive Justice*: “Eighteenth-Century social scientists did not reject “distributive justice” in the way we today use that phrase because that notion did not yet exist. Once we recognize this fact, we will be able to see that, far from being cold amoralists who delighted in a realism that ruled out state aid to the poor, they helped lay the groundwork for such aid” (Fleischacker, 4).

While Hume’s views about human nature suggest a theory of justice and politics that emphasizes the importance of equity, his views concerning what is now called “social justice” are idiosyncratic for a number of reasons. His commitment to philosophical naturalism leaves

¹ See: Barry (1991), Hardin (2007).

² See: Coventry and Sager (2012).

³ See: Fleischacker, (2004), Johnston (2011).

him skeptical of the prospect of social reform grounded solely in abstract philosophical principles concerning ideal social arrangements. He therefore does not advocate radical social reorganization on the basis of ideal principles as some theorists of social justice do. Instead, he is sensitive to the complex features of actual social relations, and he argues that observation and experience are indispensable to the discovery of principles that might serve to encourage social progress. For this reason, to identify Hume's approach to justice and politics requires specifying the relationship between his metaphilosophical position concerning the limited role of philosophical theorizing and his own conception of moral and political life.

Though Hume seems to reject outright the main candidate principles of distributive justice—merit, need, and material equality—the broader context of his moral theory suggests that each principle plays a vital role in his conception of civil society. However, while Hume's identification of social inequality as a political problem indicates his concern for social reform, some argue that both the practical and theoretical conclusions at which he arrives are too narrowly conservative to leave any room for the possibility of social reform.⁴ Hume's remarks about property rights appear to conflict with the possibility of social justice. On one interpretation, Hume's major positions concerning the unconscious evolution of rules of justice and property, as well as his appeal to custom and tradition, seem to suggest that, for him, the redistribution of social advantages on moral grounds could not be a concern of justice, and, in fact, redistribution by the state would constitute a violation of justice. I will argue that the elements of Hume's political philosophy that lead commentators to interpret him as an advocate of the *status quo* of any society's existing practices say more about Hume's perspective on the role and value of the project of political philosophy than they do about his own moral and

⁴ See: Miller (1974), Hiskes (1977), Flew (1986), Ardal (1966).

political views.

In the first section of this thesis, I examine Hume's theory of morality in order to show that fairness, or impartiality, is the key component of his conception of moral judgment. This analysis illuminates Hume's emphasis on the psychological limitations that necessitate the implementation of government in his political theory. Subsequently, I argue that his politics relies on his moral theory to explain the origin and structure of social and political institutions, as well as their primary function, namely, the maintenance and improvement of the common interests of mankind. Finally, I consider particular passages that appear to conflict with the interpretation of Hume as an advocate of social reform, and I argue that an appreciation of his position concerning the relationship between philosophical theory and common life greatly mitigates these concerns.

2. HUME'S THEORY OF MORALITY

2.1 *Sympathy and Human Nature*

Hume argues that our moral distinctions are not originally produced by reason. He contends that the experience of moral approval or disgust excites our passions, thereby motivating us to act. Hume's famous claim, "reason is and ought to be the slave of the passions" expresses, among other things, his belief that reason, on its own, is incapable of the kind of influence moral evaluation has over our conduct and feelings. Since reason cannot be the sole origin of the passions and actions produced by moral appraisal, reason cannot be the origin of our moral judgments themselves. Thus, he argues that, "as reason can never immediately prevent or produce an action by contradicting or approving of it, it cannot be the source of the distinction betwixt right and wrong" (T 3.1.1.10). Furthermore, to observe that something is the case, according to Hume, provides no information, *on its own*, about what ought to be the case,

independently of psychological facts about desire and aversion. Therefore, Hume is skeptical of the claim that our faculty of reason could discover the truth or falsehood of moral evaluative claims independently of the presence of a desire.

However, the conclusion that reason cannot be the origin of moral evaluation does not entail that reason plays no role in moral determinations. Hume argues that, “*reason* and *sentiment* concur in almost all moral determinations and conclusions” (EPM §1.1.9). He contends that uniformity in moral judgment can be explained by “some internal sense or feeling, which nature has made universal in the whole species (ibid). However, Hume also argues that, in order to cultivate and refine the moral sense, “it is often necessary, we find, that much reasoning should precede, that nice distinctions be made, just conclusions drawn, distant comparisons formed, complicated relations examined, and general facts fixed and ascertained” (ibid).

To feel a sense of moral approval or disapproval is to be caused to feel pleasure or pain upon contemplation of a particular character trait. Hume argues that the identification of virtue is “nothing but to *feel* a satisfaction of a particular kind from the contemplation of a character. The very *feeling* constitutes our praise or admiration” (T 3.1.2.3). In other words, moral approval and disapproval are particular kinds of pleasure and pain, respectively. According to Hume, when we observe a particular action, our approval or disapproval of the merit of the trait that gave rise to the action determines our moral evaluation of the action: “If any *action* be either virtuous or vicious, ‘tis only as a sign of some quality or character” (T 3.3.1.4).

Since Hume aims to provide a naturalized, social-scientific account of moral behavior, he must explain why it is the agreeable and advantageous traits—the “virtues”—that are generally conducive to moral approval. According to what Don Garrett has called Hume’s “core virtue

ethics thesis,”⁵ an action produces moral approval because it is recognized as a sign of a particular virtuous motive. One possible answer that Hume rejects is that the virtuous motive can be accounted for in reference to the sense of moral approbation it engenders. He argues “that no action can be virtuous, or morally good, unless there be in human nature some motive to produce it, distinct from the sense of its morality” (T 3.2.1.7). It is impossible, according to Hume, that “the virtuous motive and the regard to the virtue can be the same” (T 3.2.1.10). Since the virtuous motive precedes the regard for the virtue, regard for virtue cannot explain the virtuous motive.

Hume also explicitly rejects the “selfish hypothesis,” namely, the view that virtuous conduct is motivated solely by rational self-interest. He claims that another motive to virtuous acts, distinct from a regard for virtue or rational self-interest, must be found. “Shou’d we say” claims Hume, “that a concern for our private interest or reputation is the legitimate motive to all honest actions; it wou’d follow, that wherever that concern ceases, honesty can no longer have place. But ‘tis certain, that self-love, when it acts at its liberty, instead of engaging us to honest actions, is the source of all injustice and violence” (ibid). Since, according to Hume, the regard for virtue or self-interest cannot account for moral motivation, he accounts for moral motivation in a particular feature of human sentiment, namely, the complex feature of human psychology he refers to as “sympathy.”

According to Hume, we are naturally predisposed to sympathize with the happiness and suffering of others, causing us pain and pleasure that serves to motivate our conduct in particular ways. He defines the capacity for sympathy (what is now commonly referred to as empathy) as follows: “when I see the *effects* of passion in the voice and gesture of any person, my mind

⁵ Garrett (2007).

immediately passes from these effects to their causes, and forms such a lively idea of the passion, as is presently converted into the passion itself” (T 3.3.1.7). He claims, “the minds of all men are similar in their feelings and operations; nor can any one be actuated by any affection, of which others are not, in some degree, susceptible” (ibid). According to Hume, the mechanism of sympathy explains our tendency to be affected by the ways in which particular character traits affect the sentiments of others. Our natural reaction to character traits that have a positive effect on the sentiments of others is to approve of them because we are likewise emotionally affected by those same sentiments. Our natural concern for others, according to Hume, can be explained by sympathy, “and consequently ‘tis that principle, which takes us so far out of ourselves, as to give us the same pleasure or uneasiness in characters which are useful or pernicious to society, as if they had a tendency to our own advantage or loss” (T 3.3.1.11).

2.2 Impartiality and Moral Judgment: The “Common Point of View”

Hume points out that not just any feelings of pleasure and pain that arise from the sympathetic contemplation of character traits cause us to *morally* praise or condemn them. He uses the example of the tendency to praise certain traits even though they result in our harm: “The good qualities of an enemy are hurtful to us; but may still command our esteem and respect. *‘Tis only when a character is consider’d in general, without reference to our particular interest, that it causes such a feeling or sentiment, as denominates it morally good or evil*” (T 3.1.2.4, emphasis added). In other words, according to Hume, in order for a judgment to be a *moral* judgment, it must be made through the adoption of an impartial stance, “without reference to our particular interest” (ibid). Even though another’s virtues may be disadvantageous to us, we are capable of distinguishing between judgments derived from our own interest and those derived from a disinterested, imaginative contemplation of the trait itself. In order for a judgment

to be a genuine moral judgment, according to Hume, the imagination must “adhere...to the *general* views of things, and distinguish...betwixt the feelings they produce, and those which arise from our particular and momentary situation” (T 3.3.1.23). In order to explain the uniformity of moral judgment in his sentiment-based theory, Hume argues that moral evaluation is principally impartial:

Every quality of the mind is denominated *virtuous*, which gives pleasure by the mere survey; as every quality, which produces pain, is call'd *vicious*. This pleasure and this pain may arise from four different sources. For we reap a pleasure from the view of a character, which is naturally fitted to be useful to others, or to the person himself, or which is agreeable to others, or to the person himself. One may, perhaps, be surpriz'd, that amidst all these interests and pleasures, we shou'd forget our own, which touch us so nearly on every other occasion. But...every particular person's pleasure and interest being different, 'tis impossible men cou'd ever agree in their sentiments and judgments, unless they chose some common point of view, from which they might survey their object, and which might cause it to appear the same to all of them...And tho' such interests and pleasures touch us more faintly than our own, yet being more constant and universal, they counter-balance the latter even in practice, and are alone admitted in speculation as the standard of virtue and morality. They alone produce that particular feeling or sentiment, on which moral distinctions depend. (T 3.3.1.29).

According to Hume, the possibility of making and sharing moral evaluative claims relies on agreement concerning acceptable criteria. To take on a common point of view in moral evaluation corrects both sentiment and language, rendering the communication of moral attitudes possible. The possibility of moral judgment depends on the subject's ability to imagine herself as a “judicious spectator,” with the capability to approve and disapprove of traits in a judicious manner by imagining the qualities of the character independently of the way she might be affected by them: “in order...to prevent those continual *contradictions*, and arrive at more *stable*

judgments 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” (T 3.3.1.15).

2.3 *Natural and Artificial Virtues*

While the mark of virtue, according to Hume, is that it produces pleasure upon disinterested contemplation, not all traits recognized as virtues or vices produce pleasure or pain in the same manner. Thus, Hume asks “why any action or sentiment upon the general view or survey, gives a certain satisfaction or uneasiness?” (T 3.1.2.11). Since he thinks we have a natural tendency to approve of certain character traits that we recognize as useful and agreeable to their possessors or others, we feel the virtue of those traits independently of any moral instruction or education. Due to the mechanism of sympathy, certain character traits have the power to produce love and pride in the spectator immediately. These “natural virtues” include, among others, “meekness, beneficence, charity, generosity, clemency, moderation, [and] equity” (T 3.3.1.11). According to Hume, “the good, which results from...[the natural virtues]...arises from every single act and is the object of some natural passion” (T 3.3.1.12).

The difference between the natural virtues and those Hume calls “artificial” is that artificial virtues do not immediately cause sentiments of love and pride⁶ in the sympathetic spectator. In the absence of relevant experience, the untrained observer has no natural regard for the artificial virtues. The reason Hume gives is that the actions produced by artificially virtuous motives, considered in isolation, “may often be contrary to the public good; and ‘tis only the concurrence of mankind, in a general scheme or system of action, which is advantageous” (ibid). Approval of the artificial virtues, unlike the natural, cannot be explained by unconditioned

⁶ Although I agree with Lorraine Besser-Jones’s claim that the psychological effects of justice include the redirection of pride “to its proper fulfillment” (Besser-Jones, 2006; 266)

psychological reactions to pleasure and pain through the mechanism of sympathy. Not everyone will immediately recognize the artificial virtues as useful. Such virtues only produce pleasure because of “artifice or contrivance, which arises from the circumstances and necessities of mankind” (T 3.2.1.1).

However, the development of the artificial virtues cannot be explained fully by the institution of rules. The commitment to artificial virtues, such as justice, can best be understood as an amplification of the common point of view—a refinement of the judicious spectator’s judgments. While the motive to naturally virtuous actions is an immediate response produced by sympathy with a particular person, “the motive of [artificially virtuous] actions is *regard to public interest*” (T 3.2.1.11). Hume refers to justice and fidelity to promises as two prime examples of artificial virtues. While it is only in a system of socially instituted rules and conventions that justice and fidelity come to be observed, the psychological development of the artificial virtues is not fully explained by artifice alone, but is a product of human nature itself. He claims that, “as no principle of the human mind is more natural than a sense of virtue; so no virtue is more natural than justice. Mankind is an inventive species; and where an invention is obvious and absolutely necessary, it may as properly be said to be natural as any thing that proceeds immediately from original principles, without the intervention of thought and reflection” (T 3.2.2.19).

3. HUME’S THEORY OF JUSTICE AND POLITICS

Hume’s conception of morality and moral psychology provides the foundation to his theory of justice and politics. Just as he claims that experience and education are required in order for one to feel a sense of moral approbation for the artificial virtues, he emphasizes that the success of social and political institutions is predicated on individuals coming to feel that such

institutions are to their long-term benefit. Therefore, he argues that the sole merit of social and political institutions is their utility. If it were not useful to everyone that rules concerning justice and property, for example, be maintained and enforced in society, it would be impossible for justice to be regarded as a virtue at all. “Reflections on the beneficial consequences” of justice, according to Hume, “are the *sole* foundation of its merit” (EPM §3.1.1).

His writing, especially in the second *Enquiry*, suggests an acute awareness of the ways in which various advantages and burdens are dispersed among members of society and a sensitivity to the pervasive influence of institutions on individuals’ chances to live lives they feel are decent and worthwhile. This concern is motivated by a tension between the principle of utility—the claim that the function of social and political institutions is the common good—and his observations of the widespread poverty and inequality that characterized the social climate of his day. He laments that existing relations of property allow conditions of such severe inequality that, “the slight gratification of a frivolous vanity, in one individual, frequently costs more than bread to many families, and even provinces” (EPM §3.2.4).

What we might expect considering Hume’s sensitivity to the problem of social inequity is for him to provide an argument that establishes a principle that can be used to morally evaluate social institutions. As one commentator argues, concerning the project of theorizing about social justice, “at the center of all such theories – from Aristotle to Rawls – lies a preference for a certain principle or set of principles which dictates how advantages (goods, wealth, benefits, etc.) should be distributed” (Hiskes, 73).

There are a number of principles that might be used to evaluate the distribution of social advantages and burdens among members of society. The common candidate principles of

distributive justice are the principles of merit, need, and equality. Each of these principles expresses a pervasive intuition about the factors relevant to an equitable distribution: it is fair for everyone to keep what they earn; it is fair for everyone to receive what they need; and it is fair for everyone to receive an equal share. A central difficulty of attributing to Hume a theory of social justice is that he seems to explicitly reject all three candidates as principles that could govern the distribution of social advantages, leading one commentator to remark that, “for admirers of Hume interested in theories of social (or distributive) justice, his failure to state a preference among these various ‘principle of distribution’ is downright depressing” (Hiskes, 72). Not only does Hume fail to indicate such a preference, he also seems to deny the possibility of government redistribution in accordance with any distributive principle.

However, it would be a mistake to conclude from Hume’s reservations about the possibility of generating a preference, or hierarchy, of such principles that his philosophical views are inconsistent with the possibility of social reform. In fact, Hume’s reservations about the reorganization of society in alignment with ideal moral principles is more revealing of his hostility to a particular way of conceiving of and engaging in philosophy than it is evidence of a moral and political theory that challenges the possibility of social reform. In the following subsections, Hume’s commitment to each principle is examined in relation to the feature of his political philosophy that best expresses that particular commitment.

3.1 Merit and the “Rules of Justice”

In this section, I argue that the rules of justice Hume discusses entail that merit plays a significant role in the distribution of social goods, not as a product of implementing rules like, “merit should always be rewarded proportionally to contribution,” but rather, through the activity

of a free market. It is not *prima facie* implausible to think that the rules that determine property rights serve as necessary means to achieving greater distribution according to merit, and many philosophers have followed Hume in defending equal protections of rights to property and voluntary exchange on the basis that it is the best method of ensuring that individuals receive compensation in accordance with their contributions.

In the *Treatise*, Hume's conception of justice is closely related to the institution of private property. He remarks that, "the external relation, which we call *occupation* or first possession, is not of itself imagin'd to be the property of the object, but only to cause its property. Now 'tis evident, this external relation causes nothing in external objects, and has only an influence on the mind, by giving us a sense of duty in abstaining from that object, and in restoring it to the first possessor. These actions are properly what we call justice" (T 3.2.6.3). He concludes from this understanding of the relationship between conventions of justice and property, that the "vulgar" understanding of justice as "a constant and perpetual will of giving each his due" cannot be accurate because it is only "on that virtue [i.e. justice] that the nature of property depends, and not the virtue on the property" (ibid).

Hume argues that the basic "rules of justice" that emerge in order to govern social relations include rules concerning the stability of possession, voluntary exchange, and contractual agreement. According to him, people agree to restrain themselves from each other's possessions only after they have "perceiv'd the disorders that result from following their natural and variable principles" (T 3.2.7.10). Since an individual's moral judgments are liable to vary significantly from situation to situation, the individual must "impose on himself general inflexible rules in his conduct with others," and only by doing so does he come to "consider...certain objects as their property, which he supposes to be sacred and inviolable" (T

3.2.6.10). Just as moral judgment requires taking on a common point of view, the widening of this common point of view extends the motivation to follow impartially certain rules regarding the property of other members of society. According to Hume, while the virtue is the product of artifice, its development is natural in economic relations, even those prior to the establishment of governments.

Since Hume believes that the function of society is to make individuals' lives better, he argues that, given only basic facts about the material conditions of human society (i.e. a finite amount of resources and a natural inequality in people's capabilities), a rational chooser would invariably assign the most resources to those whose use of such resources will produce the greatest good for mankind, in other words, those possessed of the "most extensive virtue." The reason Hume thinks such a chooser would view the principle of merit as the weightiest consideration is due to his belief about the function of private property. According to Hume, both the origin, and, more importantly, the sole merit of instituting and respecting rules concerning private property is the common good of mankind. Therefore, the rational chooser's calculation would take into account how the distribution of resources could make everyone better off than any alternative distribution. To apportion resources in such a way as to "give every one the power of doing good, proportioned to his inclination" (EPM §3.2.2) will render everyone better off than alternative rules of distribution by incentivizing productivity and mitigating conflict concerning what belongs to whom.

However, according to Hume, such a rational chooser is deprived of extremely pertinent facts about human nature and the external circumstances that enable and facilitate the cultivation of virtue. First, according to Hume, individuals are not likely to judge impartially what they deserve based on their merit. For example, we can imagine the disastrous consequences of an

economic system in which everyone was given the opportunity to determine her own income based on perceived effort or productivity. Hume claims that, to calculate individuals' merit would engender so much conflict that "no determinate rule of conduct would ever result from it." This insight seems even truer in today's complex, highly compartmentalized market economy, in which a measure of desert based on individual contribution is virtually impossible to calculate with any degree of assurance.

Hume's skepticism toward the principle of merit, coupled with his insistence on the necessity, due to facts of human nature, of developing a commitment to observe rules of private property, seems to eliminate the possibility that merit (or any other moral principle) could be a legitimate consideration in the distribution of social advantages. Rules securing private property, unlike a rule that straightforwardly dictates distribution based on merit, must serve to stabilize property and "cut off all occasions of discord and contention" (T 3.2.3.2), so that individuals can rightfully claim ownership to property and trade freely with one another. Hume emphasizes that "some method must be shown, by which we may distinguish what particular goods are to be assign'd to each particular person, while the rest of mankind are excluded from their possession and enjoyment" (Ibid).

Even though he thinks a direct distribution based on merit is impossible and ill advised due to basic features of human nature, it is plausible to interpret him as advocating a system in which individuals' "art, care, and industry" (EPM §3.2.5) play a significant role in determining the distribution of social advantages. While good fortune (e.g. birth rank, natural capabilities, etc.) has an unavoidable influence on the distribution of resources, given that a just society operates with rules protecting equal rights to property, fortune does not rigidly determine a fixed social hierarchy. The stability of possession, and the rights and duties thereby conferred, "leave

everyone in the peaceable enjoyment of what he may acquire by his fortune and industry” (T 3.2.2.9; emphasis added). In arguing that the equal protection of individuals’ rights to property and commerce is central to justice, Hume promotes a general framework of rules that allow industry, and not merely good fortune, to determine the distribution of social advantages.

3.2 Need and the Function of Justice

The “rules of justice” that secure equal basic rights are only one aspect of Hume’s theory of justice, and it is important to note that he does not view these rules as natural or God-given laws. The psychological responses to rules of justice and property more closely mirror those of religious superstition. According to Hume, neither is grounded in any matter of fact. It is more accurate to characterize the “rules of justice,” or “laws of nature,” as Hume often refers to them, as the basic organizing principles of civilization, which gradually emerge due to the material and psychological circumstances of civil life. The normativity of such rules depends on their function in civil life, which Hume argues is public utility. Since the standpoint of moral judgment is the reference to a common point of view, we judge the motive that produces adherence to rules of justice in the same way. Such a judgment requires reason and experience because our initial reaction to such rule following, in single instances, may not be an agreeable one.

For example, suppose my brother owes the bank a thousand dollars, but he needs the money to pay his rent. If he decides to keep the money, my natural response may be to condone his decision because I am likely to care more about my brother’s wellbeing than the bank being repaid. However, after learning about the importance of everyone keeping their promises to repay money on time and reflecting on the disastrous consequences that follow when people fail to do so, my sympathy is affected, and I am more likely to feel that there is something wrong

with my brother's conduct. Since what makes a judgment a moral judgment is impartiality, my attitude toward my brother's motive—from the perspective of a judicious spectator—will no longer be to praise him. I will subsequently be less likely to feel that his motive is an agreeable one because I recognize its detriment to the common good, to which I am now sensitive.

In Part III, Section II of the second *Enquiry*, Hume reiterates his thesis that the sole function of justice is ultimately “the good of mankind” or “public utility.” However, it is not easy to discern exactly what Hume means when he uses this phrase. While it is fairly difficult to deny that the common needs and interests of the members of society are of central importance to Hume's political philosophy, many have rightly argued against the interpretation that Hume advances an equivalent to the “principle of aggregate utility” defended by his utilitarian successors.⁷ It would be incorrect to assume that Hume has something like the utilitarian maxim, “the greatest happiness for the greatest number,” in mind when he discusses public utility. It is far more likely, and I follow Brian Barry's characterization, that what Hume means by “public utility” is “the interests people have in common, in public order, the carrying out of collectively beneficial public works, and so on” (Barry, 168). If this is what Hume has in mind concerning public utility, then the ways in which societies determine the scope of concepts such as “private ownership,” “consent,” “liberty,” etc., are subject to considerations of utility and may require revision and modification in order to serve the common interest.

According to Hume's social scientific account of moral behavior, human beings possess natural virtues; we are predisposed to sympathize with the happiness and suffering of others. However, even though “sympathy interests us in the good of mankind” (T 3.3.1.19) and “we give the same approbation to the same moral qualities in *China* as in *England*” (T 3.3.1.14), moral

⁷ See, for instance, Wand (1962).

approval and disapproval does not always have the same influence on our sentiments or our conduct. “[T]hese sentiments, whence-ever they are deriv’d, must vary according to the distance or contiguity of the objects; nor can I feel the same lively pleasure from the virtues of a person, who liv’d in Greece two thousand years ago, that I feel from the virtues of a familiar friend and acquaintance” (T 3.3.1.15). Our natural capacity to sympathize with others is generally psychologically limited to the small sphere of immediate family and community. In these relationships, especially close familial relations, rules concerning justice and property seem out of place and largely irrelevant.⁸ Civilization only becomes possible because of the psychological development of the artificial virtues, which come to regulate civil life beyond the family and community. Gradually, as families, communities, and societies expand, individuals come to recognize that the maintenance of a system of private property and voluntary exchange is of great mutual advantage and, so, gradually extend their loyalty by maintaining their commitment to justice:

“suppose, that several distinct societies maintain a kind of intercourse for mutual convenience and advantage, the boundaries of justice still grow larger, in proportion to the largeness of men's views, and the force of their mutual connexions. History, experience, reason sufficiently instruct us in this natural progress of human sentiments, and in the gradual enlargement of our regards to justice, in proportion as we become acquainted with the extensive utility of that virtue” (EPM §3.1.21).

However, Hume argues that the particular norms and conventions concerning property that a society adopts over time do not necessarily achieve the goals that they are instituted in order to achieve, namely, social stability and utility. Hume explicitly rejects the possibility that

⁸ It has been suggested that children’s earliest intuitions about fairness are generally equality-based. Since parents are likely to teach their children that they ought to share with their siblings, children’s first intuitions about fairness (“everyone ought to get an equal share”) do not involve distinctions concerning private property. (Hoffman, 2000; p. 251).

specific rules and customs regarding property rights are absolute or inviolable, independent of the fact that their observance is requisite to the common good. While he claims that there must be “a separation or distinction of possessions, and that this separation be steady and constant” and also that “this is absolutely required by the interests of society,” he concludes that, “what possessions are assigned to particular persons...is generally speaking, pretty indifferent; and is often determined by very frivolous views and considerations” (EPM App III fn. 65). Since the sole merit of the conventions of property is “public utility,” the strict observance of rules of justice is morally justified not because of any inherent moral value in the following of a particular rule, nor because such rules are grounded in any natural facts. Rather, it is justified because of the independent and empirically-motivated claim that the maintenance of an existing system of private property better promotes public utility than any alternative: “not only is it requisite, for the peace and interest of society, that men’s possessions should be separated; but the rules, which we follow, in making the separation, are such as can best be contrived to serve farther the interests of society” (EPM §3.2.1). In other words, “though the rules of justice be artificial, they are not arbitrary” (T 3.2.1.19).

Hume argues that, “the moral obligation” to observe the laws enforced by government “is founded on the natural” (T 3.2.10.5). The natural obligation is derived from sympathy with the common interests of mankind and a refined perspective on one’s own interests. He contends that, “all men have an implicit notion of it, and are sensible, that they owe obedience to government merely on account of the public interest” (T 3.2.10.6). Hume’s defense of the claim that governments ought to preserve the property rights established through custom and habit relies on certain features of our psychology that are best served by the stabilization of property, such as our affection for specific things that, through our possession and enjoyment, we come to consider

“ours.” In this vein, Hume notes that, “what has long lain under our eye, and has often been employ’d to our advantage, *that* we are always the most unwilling to part with; but can easily live without possessions, which we never have enjoy’d, and are not accustom’d to” (T 3.2.3.4). Not only does the stability of possession appease our sentiments concerning that to which we feel we are entitled, but it also importantly incentivizes productivity. As the previous section argued, Hume claims that we are sensitive to considerations of merit when we evaluate claims to property, and these considerations are reflective of our endorsement of the rules of justice: “who sees not, for instance, that whatever is produced or improved by a man’s art or industry ought, for ever, to be secured to him, in order to give encouragement to such *useful* habits and accomplishments?” (EPM §3.2.7). Those who are swayed by Hume’s consequentialist arguments concerning property rights emphasize the incentives markets spontaneously produce and the increased productivity they make possible.⁹

However, even the principle of merit is only pleasing because of the useful consequences of having rules that function in order to give everyone what he or she deserves, not because of an inviolable right to the products of one’s labor. Hume argues that the observance of justice can only be explained in reference to public utility: a *sympathy* with the *public* interest is the source of the moral approbation, which attends [justice]” (T 3.2.2.24). According to him, some system of private property is necessary for the maintenance and promotion of public utility. The recognition that having social rules is very useful forms the original motive to comply with the rules. Presumably, if such a system or set of rules overwhelmingly fails to promote the common interest, Hume would be likely to conclude that a social or political institution would require revision and reform. As Brian Barry argues, “since the rules of justice are founded on nothing

⁹ See: Hayek (1973), Flew (1986).

but utility, and there is no independent and external criterion of justice, it would clearly be nonsensical to protest against redistribution in the name of justice” (Barry, 172). If individuals’ support of political institutions that maintain justice depends on sympathy with the common interest and the belief that such institutions actually serve the long-term common interest, then when this sympathetic response is no longer generally present, the same sympathy with the common interest will lead individuals to resent the institutions that structure and govern their social arrangements and demand reform.

Hume explicitly acknowledges that, if the institutions that dictate distribution are destructive to the public interest, such as may be the case under a corrupt political regime, the sense of obligation to obedience, and with it, the regime’s authority, is likely to disappear. He argues that, “where the tyranny of the governor removes this interest, it also removes the natural obligation to obedience” (T 3.2.9.5). Since Hume argues that the maintenance of the system of property is necessary for the preservation of society, a general lack of faith in the system’s promotion of the public good presumably requires that the system be reformed to restore individuals’ sense of natural obligation. Hume’s discussion of the “circumstances of justice,” (T 3.2.2) particularly his emphasis on the impossibility of justice in situations of extreme scarcity, makes it clear that it is unlikely, in circumstances of dire poverty and massive inequality, that justice will remain possible. Therefore, the stability of society depends on its rules and customs actually serving the common good.

However, in Hume’s view, utilitarian considerations regarding reform must be sensitive to the potential consequences of modification, such as the likelihood that they will be able to gain sufficient support, as well as the probability of their success. The only way to answer these questions, according to Hume, is cautious experimentation grounded in empirical observation of

current social conditions, coupled with a secure understanding of human nature. The moral psychological facts about the actual human beings that make up a society—facts that are also true of those with the political or social power—are the chief reason to approach efforts at social reform with caution. Hume notes that, “in order to establish laws for the regulation of property [and presumably, rules concerning voluntary exchange and contract as well], we *must* be acquainted with the nature and situation of man” (EPM §3.2.6; emphasis added).

According to Hume, what we come to consider private property is largely a matter of the social relations into which we are born. Thus, Hume notes that, while “the necessity of a separation and constancy in men’s possessions...is obvious, strong, and invincible,” “the rules, which assign particular objects to particular persons...may depend on a public utility more light and frivolous, on the sentiment of private humanity and aversion to private hardship, on positive laws, on precedents, analogies, and very fine connexions and turns of the imagination” (EPM App III fn. 65). As Russell Hardin puts it, “no one today would want to be governed by the laws of medieval Europe or feudal Japan—indeed, the very idea is revolting. But the laws of those eras probably made considerable sense in the conditions of their times and for the people they governed” (Hardin, 2007; 49). To be able to determine what belongs to whom with criteria that avoid conflict is a necessary feature of any large-scale human society. However, this fact says very little, if anything, about the actual criteria, just that there must be some criteria in place for establishing rightful owners. The same goes for our understanding of “voluntary consent” and “voluntary exchange.” The actual criteria depend in large part on public sentiments about what is useful. In other words, for Hume, the application of rules of justice in a particular society is subservient to the function of justice.

However, an important caveat is that Hume's moral psychology denies that individuals are capable of directly applying a principle of common need to the distribution of social advantages for a very similar reason they are incapable of applying a principle of merit, namely, because individuals are very bad at assessing which course of action will promote long-term utility. We are likely to identify the common good with our own good and that of those closest to us with whom we have the closest emotional attachments. We are also likely to overvalue short-term gains over long-term consequences. Hume's explanation of moral approbation of justice therefore has two stages. At the individual level, particular acts cannot be explained as directly promoting utility, but in reference to rules, which may not, on their own, appear to promote either individual or public interests. At the institutional level, rules and policies are explained by and derive their merit from public utility. The caution Hume emphasizes in surveying the possibilities for social reform comes from the fact that even those who are entrusted with policy decisions and have the common interest in mind suffer from the same psychological limitations; they are apt to mistake their short-term interests for long-term common interests when swayed by contrary passions. Furthermore, it is very difficult to impartially assess whether or not the application of a particular principle actually promotes the common good.

Hume believes that the rules he identifies best serve long-term public utility because any existing system of property rights that already has widespread acceptance is better than implementing an alternative, which would be vulnerable to contention and conflict. However, if the maintenance of existing property relations is responsible for widespread resentment and class conflict—failing to secure long-term common interests—cautious intervention and reform would not only be advisable from the perspective of utility, but also required for the preservation of justice and social stability. He seems to suggest this when he remarks that establishing laws for a

society requires, “search[ing] for those rules, which are, on the whole, most *useful* and *beneficial*” (EPM §3.2.6). The phrase “on the whole” suggests that neither abstract philosophical principles nor the natural rules of justice can fully determine what will make everyone best off in a particular society. “Questions of property are subordinate to authority of civil laws, which extend, restrain, modify, and alter the rules of natural justice, according to the particular *convenience* of each community. The laws have, or ought to have, a constant reference to the constitution of government, the manner, the climate, the religion, the commerce, the situation of each society” (EPM §3.2.13).

There are a number of examples of the need to “extend, restrain, modify, and alter the rules of natural justice,” grounded in psychological observations about actual human behavior.

Coordination problems involved in the procurement of what economists often refer to as collective goods provide a prime example of how it may sometimes be necessary to go beyond the natural rules of justice. Hume’s example of the meadow directly addresses the coordination problems endemic to large-scale society:

Two neighbours may agree to drain a meadow, which they possess in common; because ‘tis easy for them to know each other’s mind; and each must perceive, that the immediate consequence of his failing in his part, is, the abandoning the whole project. But ‘tis very difficult, and indeed impossible, that a thousand persons shou’d agree in any such action; it being difficult for them to concert so complicated a design, and still more difficult for them to execute it; while each seeks a pretext to free himself of the trouble and expence, and wou’d lay the whole burden on others. Political society easily remedies both these inconveniencies” (T 3.2.8.8).

There are many social goods that individuals are incapable of securing on their own, but that are necessary and extremely advantageous for everyone is society to produce and maintain. Take, for

example, the need for street lights. Everyone benefits from there being streetlights, and no one's benefit detracts from anyone else's. However, no one individual has any incentive to produce streetlights because, once they are produced, there is no way to extract payment from consumers based on how much streetlight they use. Large numbers of individuals, on their own, will likely fail to secure such fundamental collective goods because no one person has any economic incentive to produce them, and the burden associated with doing so is quite high. To secure such goods requires a collective effort that Hume's theory of moral psychology indicates we are largely inept at achieving on our own. The reason many collective goods are publicly funded and provided by a government is because these are goods from which everyone benefits but fail to be produced through market incentives alone.

A. T. Nuyen argues that the problem that the public provision of collective goods aims to solve is analogous to the coordination problems Hume thinks give rise to the need for justice and property. According to Hume, if everyone were perfectly benevolent, rules concerning what belongs to whom—rules of justice—would be irrelevant to governing social relations. Similarly, if everyone could be counted on to help provide and maintain collective goods from which everyone would accrue significant benefit, the need for rules concerning the provision of such goods would be unnecessary. Hume's notion of public utility plays an important justificatory role in his system. He therefore would have been likely to advocate efforts to reform institutions on the basis of common need in situations where market mechanisms are proven incapable of securing the common interest if he could have imagined a government capable of coordinating such tasks.¹⁰ The specific rules concerning what constitutes one's private property in a society capable of instituting such reforms would be very different from the rules in a society whose

¹⁰ Hardin argues that Hume's skepticism toward state redistribution stems from the fact that it was unimaginable to expect such coordination, given the political machinery of his day. (Hardin, 2005; 189)

infrastructure was inadequate to accomplish such tasks. As Nuyen argues, “had Hume considered the matter, he probably would have considered rules relating to paying for collective goods, in addition to the rules of justice and rules concerning promises, chastity and modesty, and polite behaviour” (Nuyen, 55). While Hume did not and could not have had a worked out answer to the question concerning the proper role of government in social reform, he seems to consider the possibility: “Government extends farther its beneficial influence; and not contented to protect men in those conventions they make for their mutual interest, it often obliges them to make such conventions, and forces them to seek their own advantage, by a concurrence in some common end or purpose” (T 3.2.8.8).

3.3 *Equality and the “Circumstances of Justice”*

In the previous section, I argued that Hume’s position concerning the justificatory role played by the common interest suggests that he does not contend that the basic rules of justice are likely to be sufficient to govern civil society, or that individuals’ moral obligations to promote the common interest can extend no further than abstaining from others’ property. It may be inferred that Hume’s approach to social justice is primarily utility or need-based. In this section, I discuss Hume’s account of the relationship between equality and justice and argue that his emphasis on social equality is evidence of this position concerning the moral and social importance of securing basic human needs.

Hume seems very sympathetic to the principle of material equality. He remarks that, “wherever we depart” from it, “we rob the poor of more satisfaction than we add to the rich” (EPM §3.2.4). While he suggests that material equality constitutes a moral ideal, he argues that relevant facts about scarcity and material inequality, as well as the natural inequalities in

individuals' actual capabilities, render perfect material equality not only an impracticable ideal, but also a destructive one.

Render possessions ever so equal, men's different degrees of art, care, and industry will immediately break that equality. Or if you check these virtues, you reduce society to the most extreme indigence; and instead of preventing want and beggary in a few, render it unavoidable to the whole community." (EPM §3.2.5).

One important reason Hume rejects a perfectly equal distribution is because it fails to take individuals' different degrees of "art, care, and industry" into consideration. According to him, to render possessions perfectly equal does not make a society equal. However, two aspects of his theory—the origins of justice in human psychology and the circumstances under which rules of justice become relevant to human society—lead to the conclusion that members of society standing in a relation of social equality is an essential component of a just society.

As was mentioned in the previous section, justice, according to Hume, is not always a virtue. Unlike a concern for the wellbeing of others, which is a brute feature of human psychology, a concern for justice only emerges because of certain material circumstances and psychological regularities in human nature. Only under specific conditions does justice become possible and useful to governing social relations. All things being equal, a society governed by man's natural virtues, according to Hume, would be far more advantageous. He asserts that, "a cordial affection renders all things common among friends" (T 3.2.2.17), and that "if every man had a tender regard for another...that jealousy of interest, which justice supposes, cou'd no longer have place; nor wou'd there be any occasion for those distinctions and limits of property and possession, which at present are in use among mankind" (T 3.2.2.16).

However, not all things are equal. Hume rejects the distributive principle of perfect equality because, if it were possible that social relations could be governed by such a principle, then the idea of justice—and the “jealousy of interest” involved in the need for a distinction between “mine and thine” (T 3.2.2.17)—would never have become useful or relevant in the first place. One reason justice is considered a virtue is because human beings are not sufficiently caring or benevolent. In matters of family or community, we are naturally motivated to act in a way that tends to the benefit the group with which we identify. In such situations, the rule of sharing—the principle of equality—is operative, and the rules of justice are largely irrelevant.

According to Hume, a concern for the wellbeing of others is a basic fact of our psychology, but the mechanism of sympathy that underlies this concern is susceptible to severe limitations. We are inclined to care far more about those with whom we are related in concrete ways than those with whom our relations are more abstract. The fact that we need justice in order to sustain human society points to a serious defect in human nature—the limitations of our natural capacity for generosity.

Not only do the limitations of natural generosity render justice essential to large-scale social life, the degree of material scarcity also partially determines whether or not justice is necessary or useful. If all resources were available in abundance, Hume argues that the rules concerning justice and property would be useless and irrelevant. Therefore, he claims that if it were possible to “encrease to a sufficient degree the benevolence of men, or the bounty of nature,” it would “render justice useless, by supplying its place with much nobler virtues, and more valuable blessings” (T 3.2.2.16). He concludes, “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” (T 3.2.2.18). For Hume, a perfectly just society is clearly not a social

ideal, though in practice, its establishment is essential to the organization and cooperation of large groups of individuals.

However, a puzzle emerges from the contemplation of the two circumstances of justice. It is possible to imagine a society that is subject to scarcity and the limitations Hume attributes to the natural capacity for generosity, but in which the rules of justice and property still fail to be useful to a significant portion of its members. If justice is a virtue because of its usefulness to the cooperating parties, in situations in which one party can act unjustly with impunity, it seems that justice would no longer be a virtue. According to Hume, parties must also consider one another as having moral status. They must feel as though other members of society are subjects of justice. Hume expresses this necessary feature of his view as a third circumstance of justice in an infamous passage in the second *Enquiry*:

Were there a species of creatures intermingled with men, which, though rational, were possessed of such inferior strength, both of body and mind, that they were incapable of all resistance, and could never, upon the highest provocation, make us feel the effects of their resentment; the necessary consequence, I think, is that we should be bound by the laws of humanity to give gentle usage to these creatures, but should not, properly speaking, lie under any restraint of justice with regard to them, nor could they possess any right or property, exclusive of such arbitrary lords. Our intercourse with them could not be called society, which supposes a degree of equality; but absolute command on the one side, and servile obedience on the other. Whatever we covet, they must instantly resign: Our permission is the only tenure, by which they hold their possessions: Our compassion and kindness the only check, by which they curb our lawless will: And as no inconvenience ever results from the exercise of a power, so firmly established in nature, the restraints of justice and property, being totally USELESS, would never have place in so unequal a confederacy (EPM §3.1.17).

The circumstance of justice outlined in this passage has been the subject of much criticism. A common interpretation suggests that, if some beings lack the power to resist being ruled over, justice does not apply to them. If this is the case, Hume's theory of justice is essentially equivalent to Thrasymachus's position in Plato's *Republic*—"the just is nothing else than the advantage of the stronger"¹¹—and open to the same objections. Hume's contemporary, Thomas Reid, criticizes this feature of his conception of justice, arguing that, "there cannot be better evidence, that a theory of morals...is false, than when it subverts the practical rules of morals. This defenceless species of rational creatures, is doomed by Mr. Hume to have no rights. Why? Because they have no power to defend themselves. Is not this to say, That right has its origin from power; which, indeed, was the doctrine of Mr Hobbes" (Reid, 649).

From a contemporary standpoint, Martha Nussbaum adopts the same line of criticism against Hume's conception of the relationship of equality to justice, arguing that "despite [Hume's] emphasis on the kindly affections in human beings, he believes that the behavior of the much stronger to the much weaker must always be lacking in basic decency: a mere despotism of force" (Nussbaum, 48-9). Nussbaum argues that, for Hume, it is only possible for justice to be observed if the parties engaging in transactions are of roughly equal power. "The much weaker," she claims concerning the implications of his position, "are simply not part of political society, not subjects of justice" (ibid, 49).

According to Hume, individuals learn to care about engaging with one another under fair terms of cooperation by taking on an impartial standard of evaluation, a common point of view. Justice, therefore, can only become a virtue in human society when most people are committed to acting justly with one another, having developed this particular social virtue and a

¹¹ Plat. *Rep.* 1.338c

commitment to following certain social rules impartially. To return briefly to the example mentioned in 3.2, only if my sympathy with the common good is more powerful than my sympathy with my brother's unfortunate situation will I be likely to disapprove of my brother's unjust motive when he decides to keep the money he owes the bank. Along these lines, Hume remarks that, "nature provides a remedy in the judgment and understanding, for what is irregular and incommodious in the affections" (T 3.2.2.9). In society, individuals cultivate habits that expand and refine their sympathy, such that their behavior is more conducive to the preservation and betterment of the group as a whole.¹² Hume uses his famous rowboat analogy (T 3.2.2.10) to provide an explanation of how this cooperation occurs spontaneously at the individual level, and attributes the institution of moral education to account for how it expands to larger-scale social relations.

Through moral education and public praise of just conduct, individuals develop an impartial sense of duty—an artificial passion—for justice and feel a sense of disapprobation when it is violated, regardless of one's particular interests (T.3.2.1.9). Hume notes that, "when the injustice is so distant from us, as no way to affect our interest, it still displeases us; because we consider it as prejudicial to human society, and pernicious to every one that approaches the person guilty of it. We partake of their uneasiness by sympathy" (T.3.2.2.23). He argues that it is this sense of duty—grounded in sympathy with the public interest—that turns promises into moral obligations (T.2.3.5.3).

The relationship between the psychological origins of justice and the sentiment of resentment supplies the context in which to understand the implications of the "degree of

¹² This is independent of the degree of altruism attributed to individuals' actual motivations on any particular occasion.

equality” passage. As Arthur Kuflik rightly points out, Hume’s circumstances of justice do not aim to provide a test for discerning who the true subjects of justice are. The circumstances delineate the conditions under which justice is possible. Hume’s point about the inferior creatures is not that justice is unlikely when parties are not of equal strength, but that, in relations between humans and fundamentally inferior creatures, “it is not possible to be either just or unjust in our dealings with [them]” (Kuflik, 59). But what, for Hume, constitutes a fundamentally inferior creature? He claims non-human animals are a paradigmatic example. The reason is that, since non-human animals are incapable of learning how to sympathize with the common good, they cannot express (and arguably, do not experience) resentment.

In order to express resentment for being wronged, one must feel moral disapprobation for a perceived injustice. The capacity to experience resentment presupposes sophisticated cognitive faculties; it entails that one apply moral principles and recognize that one is the victim of another’s violation of a rule. This leads to a desire for the other’s punishment, “independent of all consideration of pleasure and advantage to [oneself]” (T.2.3.3.9). The condition of equality that makes justice possible in human society is the receptivity to others’ resentment and a sense of pride in one’s not being the cause of another’s resentment. Such a concern is an outgrowth of the adoption of the “common point of view” that makes genuine moral judgments possible.

Hume famously remarks that, “the minds of men are mirrors to one another” (T.2.2.5.21). Our capacity for sympathy makes us particularly attuned to the emotional states of other human beings with whom we are in contact, and the refinement of this capacity causes us to express an impartial sympathy with the public interest, grounding our sense of moral obligation to justice and feelings of disapprobation when injustices occur. This basic fact about our psychology indicates that it is always possible to feel the effects of another’s resentment, but our capacity for

sympathy is limited in a number of ways, the most relevant to the discussion being sympathetic bias. It is difficult for us to recognize those who are different from us as members of “society” to whom our impartial assessments apply. However, that does not mean that justice is impossible or irrelevant among groups of human beings of unequal power.

The “might makes right” interpretation of the passage fails to explain the remark Hume makes directly after the lengthy quotation above. He claims that, “the great superiority of civilized Europeans above barbarous Indians, tempted us to imagine ourselves on the same footing [as with inferior creatures] with regard to them” (EPM §3.1.18). If Nussbaum is correct, and according to Hume, the weaker are not subjects of justice, why were the Europeans merely tempted to imagine that the Indians were not subjects of justice? If the condition refers to equality of strength, it seems that the Europeans really were on the same footing with the Indians as they were with non-human animals. The condition of equality in the absence of which justice would not be capable of governing social relations is the capacity to be emotionally affected by the imagined resentment of a judicious spectator. This entails that the possibility of causing resentment matters to us even when we only imagine how society will be affected by acts of injustice.

Hume explicitly addresses the problem that gross inequalities in power have the unfortunate result that the more powerful are likely to “throw off all restraints of justice,” and to treat the less powerful like non-human animals (ibid). In his essay, *Of Commerce*, he argues that, “every person, if possible, ought to enjoy the fruits of his labour, in a full possession of all the necessaries, and many of the conveniencies of life. No one can doubt, but such an equality is most suitable to human nature, and diminishes much less from the *happiness* of the rich than it adds to that of the poor” (*Essays*, 265). According to Hume, it is much more likely that

individuals will cooperate with one another to advance their common interests when they come to feel an emotional attachment to the common interests of mankind.

For example, if I am unmoved by the common interests of mankind, I will be unlikely to advise my brother to return a loan when he can benefit from failing to repay it and knows he will not be caught. The reason I recognize something wrong with my brothers' motive is because I sympathize with the greater society of which I am a part. If I don't care about society, or do not feel any emotional ties to those to whom my brother owes money, it is unlikely that I will disapprove of my brother's unjust motives or even recognize them as such. The question then becomes, what conditions are necessary to the development of an emotional attachment to the common interest and a motivation to avoid conduct that one imagines the members of society would resent?

Hume contends that, "as the multitude of mechanical arts is advantageous, so is the great number of persons to whose share the productions of these arts fall" (ibid). A degree of material equality brings with it tremendous social benefits. The greater the equality in the distribution of wealth among the members of society, the greater their individual contribution to the social product will be. More importantly for the discussion of the principle of equality, social equality fosters a more equitable distribution of social responsibilities that has tangible effects on individuals' psychology. Concerning the practical implications of the necessity of a degree of social equality among the members of society, Hume remarks that, "where the riches are engrossed by a few, these must contribute very largely to the supplying of the public necessities" (ibid). Such inequality in social responsibility is apt to perpetuate grave inequalities in respect, as those whose burden is highest are likely to feel more entitled to the advantages of society than those whose share of the responsibility is smaller. Hume acknowledges this worry in the same

paragraph, observing that, “where the riches are in few hands, these must enjoy all the power, and will readily conspire to lay the whole burthen on the poor, and oppress them still farther, to the discouragement of all industry” (ibid).

To cultivate sympathy with the members of society sufficient to view them *as members*, with all of the rights and duties membership entails, requires not only moral education, but also a certain measure of material and social equality. It could plausibly be suggested that the public necessities to which Hume refers must include the basic goods that make it possible for individuals to become motivated to treat one another as possessing the rights and duties associated with membership. If some individuals lack access to basic necessities required in order for them to be viewed by others as possessing moral standing, they will fail to be seen as subjects of justice. Since Hume identifies such inequality as self-perpetuating and destructive to the common interest, it seems plausible that his theory would support the public provision of the material bases of social equality.¹³

4. OBJECTIONS AND REPLIES

4.1 *Property Rights and the “Hierarchical Order”*

Hume’s theory of justice and politics relies on an account of the psychological and material conditions of common life in order to delimit the possibility of the improvement of social conditions. However, some have interpreted his theory of justice and politics as a justification of the *status quo* of any society’s existing customs. David Miller, for example, argues that, “the work of David Hume illustrates how a conception of justice as the protection of rights is

¹³ Hume’s comments on the importance of access to social necessities to one’s moral standing in society and the possibility of being considered as a moral equal are echoed in his friend, Adam Smith’s famous remarks concerning social necessities in *The Wealth of Nations*. See: WN, Part 2, Article 4.

supported by the model of society as a hierarchical order. He identifies justice with respect for the property rights of other people—an unusually narrow version of conservative justice” (Miller, 1974; 391). One passage in particular that seems to support this view concerns how the institution of justice and property gives rise to “different ranks of men.”

The skin, pores, muscles, and nerves of a day-labourer are different from those of a man of quality: So are his sentiments, actions and manners. The different stations of life influence the whole fabric, external and internal; and different stations arise necessarily, because uniformly, from the necessary and uniform principles of human nature. Men cannot live without society, and cannot be associated without government. Government makes a distinction of property, and establishes the different ranks of men. (T 2.3.1.9).

While the above quotation can be understood as an observation about how social and economic inequalities inevitably arise because of the institution of property, Miller argues that it also serves as Hume’s ideological justification of a society’s *status quo*. On this interpretation, Hume defends the *status quo* because he rejects the principle of moral equality on which efforts at social reform and improvement are predicated. Miller argues that Hume’s theory of justice does not express a commitment to merit, need, or equality, but rather, solely to the protection of acknowledged rights—what he refers to as “conservative justice.” Miller claims that Hume’s commitment to conservative justice rests on an ideological conception of society as a “hierarchical order.”

However, Hume explicitly rejects the possibility that justice can be understood merely as the protection of any pre-established rights. The notion that there are any pre-established rights, such as natural rights to property or political power, or that these rights could serve as standards of justification independent of the common good that results from their observance is a notion of

justice that Hume thoroughly rejects. His reasoning is as follows: the rights and obligations associated with justice are akin to superstitions. Independently of being brought up in society, individuals do not understand “why another’s articulating certain sounds implying consent...should change the nature of my actions with regard to a particular object,” any more than “why the reciting of a liturgy by a priest...should dedicate a heap of brick and timber, and render it, thenceforth and for ever, sacred” (EPM §3.2.17). The key difference between justice and superstition is not that justice and property are natural, while superstition is invented. Justice originates in just the same way, but unlike superstition, justice is “absolutely requisite to the well-being of mankind and existence of society” (ibid). In other words, the establishment of rights and duties is justified by the fact that justice is essential to advancing the good of mankind.

Hume argues that material inequality is an inevitable feature of civil society because the stabilization of property (i.e. the rules of justice) is “requisite to the well-being of mankind” (ibid). It is a basic feature of social organization that some individuals have more, and others less, but this fact does not, by itself, provide any reason for the institutional protection of massive inequalities that severely detract from the common good. Since the fact of material inequality—the hierarchical order present in actual human society—is explained by the common human need to stabilize property and “cut off discord and contention,” it would be a mistake to think that Hume attempts to *justify* the protection of property rights *because* he conceives of society as a hierarchical order.

In contrast to Miller’s interpretation, Hume’s emphases on the *equal* protection of rules of justice among members of society, the utilitarian justification of private property, and the importance of individuals’ possession of a measure of social equality, indicate that, in Hume’s view, one’s place in society need not be “determined largely by his birth” (Miller, 1974; 390).

Through the gradual progress of civil society, claims stemming from personal merit, collective need, and social equality are able to play a larger role in the way in which the benefits and burdens of social cooperation are divided.

4.2 Metaphilosophical Skepticism

The relationship between moral principles and the actual distribution of benefits and burdens among the members of society is of central concern to Hume's theory of justice and politics. However, not only does Hume give little indication concerning which principle ought to be given moral priority when conflicts arise, as many contemporary theorists of social justice do, his remarks suggest that he is skeptical of the possibility that any moral principle could dictate the distribution of social advantages. On one account of what it means to possess a theory of social justice, the theory provides an argument for the preference of one distributive principle over the others or for ordering the principles in terms of their moral priority in order to provide a definitive answer to the question: how ought the advantages and burdens of social cooperation be distributed among the members of society. John Rawls, for example, expresses his commitment to this conception of the project of theorizing about social justice in the following passage:

A set of principles is required for choosing among the various social arrangements which determine this division of advantages and for underwriting an agreement on the proper distributive shares. These principles are the principles of social justice: they provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of the benefits and burdens of social cooperation (Rawls, 4).

If this notion of a theory of social justice is correct, then, not only does Hume not have a theory of social justice, he seems extremely skeptical of the very possibility of arriving at such a

theory, or that such a theory of the ideal principles of justice, on its own, could have any normative relevance to actual human society.

In numerous passages, Hume argues that the realm of theory should never be detached from the empirical facts about society and psychological facts about the actual ways in which human beings engage in moral judgment and decision-making: “in order to establish laws for the regulation of property, we must be acquainted with the nature and situation of man; must reject appearances, which may be false, though specious; and must search for those rules, which are, on the whole, most *useful* and *beneficial*” (EPM §3.2.6). Not only in the establishment of rules, but the rules that present themselves as candidates “depend entirely on the particular state and condition, in which men are placed, and owe their origin and existence to that UTILITY, which results to the public from their strict and regular observance” (EPM §3.1.12).

However useful ideal principles may be *in theory*, such principles (Hume cites the principle of perfect material equality as a prime example) are likely to be both impracticable and pernicious if they are arrived at through abstraction that idealizes away actual social circumstances. For Hume, what determines the correctness of a theory is inseparable from its usefulness and practicability to addressing the problem for which the theory was designed. Does it make a reasoned prediction of the actual results of its enactment on peoples’ actual lives? Do the benefits of those results outweigh the costs? When we reflect on social circumstances in actual common life, Hume argues that these are the kinds of questions that matter to us: “What must become of the world, if such practices prevail? How could society subsist under such disorders?” (EPM §3.2.26). These questions cannot be addressed properly by a theory aiming to arrive at ideal foundational principles independently of facts about real human beings and their actual social relations. According to him, to arrive at universal principles is “a question of fact,

not of abstract science...we can only expect success, by following the experimental method and deducing general maxims from a comparison of particular instances” (EPM §1.1.10). To borrow a phrase from Nozick, for Hume, the *status quo* of a society, not an ideal model, is “the rest (or rectilinear motion) position of the system, deviation from which may be caused only by moral forces” (Nozick, 223). However, since Hume rejects the notion of natural rights to property, he would have no reason to find such moral forces *prima facie* impermissible.

Hume’s conception of the circumstances of justice makes it clear that justice is not of absolute value. The reason justice emerges in human society, as a social virtue, is due of a set of coordination problems among smaller social units. Therefore, he argues that these problems ought never to be overlooked or idealized away in the search for a theory of justice. While there is some uniformity in the kinds of coordination problems that people encounter, determining the right principles is contingent upon using knowledge and experience of the particular social circumstances to construct the theory. Even the principle of utility will not provide an adequate guide independently of facts about the particular rules and customs a society utilizes. A theory of social justice will therefore always be “local” in the sense that it will aim to help determine whether or not an institution is serving common interests by taking many facts about how the institution actually affects people’s lives into account, not how the results of a theory would affect people’s lives in comparison with *ideal* social conditions. As I have pointed out, according to Hume, under ideal social conditions, justice would be useless entirely. In other words, the facts that make up the content of a theory of justice are not facts about how people would act or what they would choose in ideal conditions, but what they really choose and do in actual social conditions.

For Hume, there are no context-independent facts about the necessary and sufficient conditions for a just society, just as there are no context-independent facts about the necessary and sufficient conditions for what constitutes a good house. “Men, in different times and places, frame their houses differently: Here we perceive the influence of reason and custom” (EPM §3.2.23). Hume uses this example to illustrate that asking for necessary and sufficient conditions as to what constitutes a just society is as nonsensical as asking for the necessary and sufficient conditions for what constitutes a good house. As Livingston puts it, “Hume never takes rights, original contract, or utilitarianism as foundational for the simple reason that his critique of philosophy entails that there are no philosophical foundations at all for judging the prejudices of common life independent of those very prejudices” (Livingston, 1995; 157).

However, Livingston’s case seems overstated. Hume explicitly argues that reason and experience are immensely useful tools in comparing various methods of social organization and determining the relative success of political and social institutions. The natural appeal to the common good that grounds our moral judgments serves to place moral constraints on the theories we develop. Despite the fact that men in different ages frame their houses using different “shape, figure, and materials...directed to the conveniencies of human life” (EPM §3.2.24), all houses share certain structural similarities (e.g. a roof, walls, etc.) because they share a common end, namely, to be useful to their occupants (by keeping them warm, dry, etc.). Hume’s commitment to the principle of utility, as he construes it, indicates a basic constraint, but the particular content of such theories are determined by facts about the specific features of the actual environment.

Hume’s skepticism of ideal theory is also accounted for in his theory of moral judgment. He argues that there are no independent standards that we can use to assess the justice of social institutions. When we make moral judgments in common life, we frequently find that our

psychological commitments to various principles pull us in many different directions. To come to a conclusion about what is just is always a matter of compromise because, according to Hume, a theory of justice is not a set of necessary and sufficient conditions that can be plugged into a situation to determine the correct procedure. Rather, a theory is a tool that can be employed in a particular domain for the sake of resolving a particular conflict. While there are methods we can use to eliminate a number of tools that are clearly not right for the job, we may be left with a number of plausible candidates that cannot be eliminated through reason alone.

The fact of conflict indicates that not everyone will be willing to comply with a particular principle. Hume argues that, in a world of full-compliance, the establishment of rules of justice, as well as the psychological impulse to justice, would never have been necessary or relevant in the first place. Unlike the rules of a game, which constitute and define the practices involved and are therefore necessary even if everyone complies with them, social rules emerge in order to regulate behavior that must already exist prior to the rules. Hume's discussion of the origin of the artificial virtues makes it clear that the rules of justice "arise...gradually, and acquire...force by a slow progression, and by our repeated experience of the inconveniencies of transgressing it" (T 3.2.2.10). While the rules of justice facilitate certain kinds of social arrangements, there is no set of rules that constitutes or defines the boundaries of social life. Therefore, according to Hume, a theory of justice that assumes full-compliance is not a theory *of justice* at all.

In common life, one person or group may have a claim that appeals to our sense of the normative importance of need, another to our sense of the importance of merit, etc. When we adjudicate the dispute, we must take many contextual factors into consideration about the actual lives of the individuals whom such judgments affect. Not only that, but different judicious spectators may come to different conclusions about what principles to adopt and apply. In this

vein, Hume argues that, “the science of politics affords few rules, which will not admit of some exception, and which may not sometimes be controlled by fortune and accident” (*Essays*, 477). We cannot expect that everyone will converge on the same theory about what justice is or what it requires. To make an impartial judgment, according to Hume, is to be aware of and sensitive to facts about pluralism and reasonable disagreement (and even the fact of one’s own prejudices), as well as relevant facts drawn from experience about the way people actually behave and what is likely to make them better off.

For Hume, virtues are those dispositions that are most pleasing to us. However, what we find pleasing changes based on the information we have. When we make impartial assessments, even virtues as noble as charity may be considered vices when we gain knowledge of the effects particular acts of charity actually produce: “giving alms to common beggars is naturally praised; because it seems to carry relief to the distressed and indigent: But when we observe the encouragement thence arising to idleness and debauchery, we regard that species of charity rather as a weakness than a virtue” (EPM §2.2.13).

However, Hume’s skepticism toward ideal political philosophizing does not entail that idealization has no role to play in political and social reform. He argues that, “in all cases it must be advantageous to know what is the most perfect in the kind, that we may be able to bring any real constitution or form of government as near it as possible, by such gentle alterations and innovations as may not give too great disturbance to society” (*Essays*, 512). Hume does not disapprove of the activity of imagining an ideal society, and in “Idea of the Perfect Commonwealth,” he does precisely that. What Hume finds problematic are the further claims that society ought to be radically restructured in order to materialize the conclusions drawn from ideal theorizing or that the conclusions of such theorizing express the constitutive rules of a well-

ordered political society. Hume argues that such conclusions will be no more uniform than the practical recommendations drawn from them. The value that idealization has is primarily that it is emotionally evocative and will potentially resonate with his intended audience.

The degrees to which we respond empathically and internalize the various principles of need, merit, and equality vary depending upon context. Due to this fact about our psychology, the correctness of a theory used to determine the right principle to apply in a particular circumstance depends on the features of the particular circumstance, which is necessarily outside the scope of an ideal theory. Therefore, asking which principle of social justice is the ideal (or correct) principle for addressing social injustices is akin to asking which tool is the ideal tool. We can reasonably ask which tool is ideal when we need to put a nail in the wall (and even then, people might disagree), but we cannot reasonably ask which tool is *the* ideal tool. Whether or not the tool is ideal likewise depends on features specific to the particular context in which something needs to be fixed.

However, Hume's skepticism concerning the weight we ought to give to abstract philosophical principles does not entail that he is skeptical of the possibility of social reform. Rather, what he is skeptical of is the possibility of reform grounded in a "complete" theory of justice. Hume's observations of his own society led to a particular set of conclusions that we might deem inapt if we imagine them as applying unconditionally to our own society.¹⁴ However, the same method that led Hume to the particular conclusions concerning the demands of justice for his society is likely to generate different conclusions when applied to our own. In this vein, Hume notes that, "it is not fully known, what degree of refinement, either in virtue or

¹⁴ See: Hardin, (1988); 40-1.

vice, human nature is susceptible of; nor what may be expected of mankind from any great revolution in their education, customs, or principles” (*Essays*, 87).

5. CONCLUSION

I have shown that Hume’s theories of virtue and moral psychology provide the foundation for a theory of justice and politics that is concerned with the prospect of social reform. I have argued that his political philosophy is sensitive to issues of justice and equity in social relations and that he aims to justify the gradual progress of political and social institutions in providing individuals with the necessary conditions of human flourishing. As shown, he offers this justification at the institutional level, emphasizing the importance of securing a framework of basic rights and liberties, appealing to social welfare as the chief function of political and social institutions, and highlighting the material and social conditions of equality necessary to social stability. These features of Hume’s thought indicate that it is hasty to conclude that, “in rescuing us from the grasp of rationalistic systems, Hume thrusts too far in the direction of uncritical acceptance of existing practice, toward affirmation of a society that takes stability of possession as its leading principle” (Scaff, 108). While Hume’s metaphilosophical skepticism and moral psychological observations suggest a modest and cautious approach to social reform, such features of his view do not commit him to an understanding of political society as merely concerned with the protection of pre-social rights. Importantly, my interpretation explains how Hume’s understanding of the need for the protection of property rights does not render his theory of justice and politics inconsistent with the possibility of social reform.

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