

The Concept of "Nature" In Liberal Political Thought

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The connection between a theory of human nature and normative political theory is a puzzling one. Despite the depredations suffered by naturalistic theories of ethics and politics at the hands of prescriptivist (and other) moral philosophers, the temptation to found a political theory on some allegedly unalterable facts of human nature is an abiding one for philosophers of differing political persuasions. Indeed, it is the promiscuity of the concept of nature, which appears to affix herself permanently to no one doctrine, that has encouraged hardheaded skeptics to be so critical of the attempt to connect values to supposed indubitable "facts" about man and society.

Nevertheless, it is still maintained that a coherent political theory must ultimately reflect certain views about the "person," individual autonomy, and rationality—even if there is no one unique conception of human nature that can arbitrate between rival political doctrines. This is because in the absence of such a conception, there are no constraints, apart from logic and consistency, on what may count as legitimate moral and political principles. For example, one common complaint against Nozick's rights-based theory of the minimal state is that since there is no sustained attempt to derive a compelling naturalistic foundation for those rights, there is no reason why one should accept the substantive conclusions of his reasoning, despite its admitted ingenuity.¹ Furthermore, neither such ingenuity nor the extended use of the criterion of *universalizability* has proved sufficient to save noncognitivist theories of ethics and politics from the charge that they evade the fundamental issues of man and society.

Of course, political and moral theorists whom we would describe as nonnaturalist would deny that normative arguments are consistent with *any* concept of the person, or that the social philosopher is completely unconstrained in his description of the agents who are to be the bearers of his principles: It is rather that those principles are adopted as a result of human *choice* and *decision*. In other words, they are not dictated to us by an objective nature. Thus, although the kinds of moral

and political principles recommended by nonnaturalist social philosophers will be influenced by their conceptions of human nature, what such conceptions cannot do is validate ethical convictions. Furthermore, in this view, which has become almost standard in twentieth century ethical and political thinking, reason has little or no role in the determination of value. Its role is calculative and instrumental—the manipulator, not the determinant, of human values.

While the disagreements between naturalists and nonnaturalists are well known, what is less familiar is the fact that similar disputes have occurred (and are occurring) throughout the history of liberal thought. Any sustained inquiry into the *foundations* of the doctrine of classical liberalism reveals a wide variety of opinions, many of them conflicting, which belies the unity the doctrine displays to the public.² Even in histories of political thought, differences within the liberal individualist tradition are presented as differences of degree rather than of philosophical principle.

An initial distinction, however, should be made between *deontological* and *teleological* theories of a free (in both an economic and political sense) society. The Kantian or deontological case for liberal individualism rests upon there being absolute side constraints on what one person may do to another, rather than the beneficial consequences, for anonymous society or for the individual, that follow from free action. As Nozick puts it:

Political philosophy is concerned only with *certain* ways that persons may not use others; primarily physically aggressing against them. A specific side constraint upon action towards others expresses the fact that others may not be used in the specific ways that the side constraint excludes.³

Kantian liberalism's lack of dependence on a particular concept of the person is nicely illustrated by the fact that the existence of side constraints limits our behavior toward nonhumans. Nozick shows, in an intellectually persuasive and morally uplifting passage, that such considerations should govern the way we treat animals, and this would imply that liberalism does not limit itself to the protection of human interests.⁴

However, a *purely* side-constraints approach is comparatively rare in the history of liberal thought. Rights-based classical liberalism has normally depended on some concept of nature, if only to establish the identity of those whom the doctrine classifies as rights-bearers. In fact, the more common liberal tradition is a utilitarian one, in which rights play a secondary rather than a decisive role; and in it purely ethical considerations are less important than the description of those natural processes that are said to characterize free societies.

II

The theories of classical liberalism that do call upon a concept of nature are of two distinct philosophical species, even though, in terms of political *ideology*, they might look pretty much the same. The one describes the liberal market order.

and the moral rules necessary for its efficient operation, in terms of coordinating and self-correcting mechanisms that can be predicted to emerge if men are left as individuals to pursue their private ends. It is "natural" because it is spontaneous. In contrast, the other justifies the typical liberal social and economic institutions, not in terms of their being the *natural* outgrowths of a spontaneous social order, but because they alone are consistent with an essentially metaphysical conception of man.

The first of these liberal approaches is associated with David Hume, Adam Smith, and the eighteenth century antirationalist tradition—although the first systematic description of the natural, coordinating properties of private action is in Mandeville's *Fable of the Bees*.⁵ In the twentieth century, it has continued with the work of Hayek.⁶ In this tradition, the customary contrast between *nature* and *convention* is modified in important ways. Instead of the world being described exclusively in terms of natural events of a physical kind (over which man has no control) and social phenomena, such as rules and moral practices, which are entirely a product of the (ultimately arbitrary) will of man, a "third world" of "natural" or spontaneous processes is postulated.⁷ These "third world" phenomena—exemplified in natural languages, equilibrating markets, and common law systems—are in an obvious sense the product of human action, yet they are clearly not arbitrary and are not alterable at will (at least not without great damage being done to the social fabric); they consist of *regularities* that are amenable to the same type of scientific investigation (in principle) as the regularities of the physical world.⁸

The writers in this tradition inevitably structure their normative liberalism on utilitarian foundations, although it is an *indirect* utilitarianism that sees beneficial social consequences as the accidental outcome of individual action rather than the activist, rationalistic utilitarianism of Bentham.⁹ Also, they regard ethical and political judgments as subjective decisions derived from sentiments and feelings rather than as the conclusions of an objective reason. A major achievement of theirs has been the demonstration that just because moral and political judgments are subjective, it does not follow that the rules by which a society lives are necessarily arbitrary or that we cannot discriminate between differing normative principles.

In the second view, however, "nature" is given a rather different role. Instead of being used in a descriptive sense, i.e., to indicate that there are social regularities and uniformities of which normative theory must take account, nature itself becomes the source of ethical values. Furthermore, reason is not confined to a calculative role of adjusting objective means to subjectively determined ends, but plays a substantive role in the objective demonstration of those ends themselves. Thus, reason becomes crucial in understanding what a moralized conception of nature implies for social conduct.

This conception of nature leads to a rights-based rather than a utility-based liberalism. Rights are interpreted as the criteria by which existing social orders and evolving legal systems should be evaluated rather than as the accidental and, therefore, *valued* outgrowths of these processes. In this view no violation of these rights is permitted, even if there should be clear benefits to an anonymous society from such an abridgement. *Order* can have no intrinsic value: Only the experiences of individuals have value.

The difficulty in presenting an overall understanding of this latter doctrine lies in the fact there is no one coherent and unambiguous statement of it in the history of political thought. Indeed, there are at least two startlingly different uses of nature as the source of liberal morality. In one, the broadly "Lockean" view, nature is used simply as a grounding for rights, and no complex teleology of man is presupposed. This is the familiar natural rights tradition of classical liberalism, and although perhaps little progress has been made in the way of the intellectual establishment of such a grounding, most writers agree that it is an essential element in the liberal credo. It is often held in conjunction with a utilitarian position, as it is, for example, in the case of Bastiat.¹⁰

However, there is an obscure, almost underground, tradition in liberal thought that has an implicitly teleological element. This is most prominent in the work of the twentieth century laissez-faire thinkers, Ayn Rand¹¹ and Murray Rothbard.¹² Surprisingly, in these authors explicitly Aristotelian and Thomist foundations are constructed and used to support extreme libertarian political and economic ideologies. In Rothbard's case, a political and economic philosophy of private-property anarchism is derived, ultimately, from a Thomist teleology. In these doctrines, we find a remarkable similarity in philosophical underpinnings to the work of J. Finnis and Alasdair Macintyre¹³—although, of course, in these writers, reflection on man's nature and purpose is used to buttress a much more communitarian and, indeed, explicitly (in the case of Macintyre) anticapitalist social philosophy.

In what follows, I shall be mainly concerned with an explication of a broadly utilitarian naturalistic liberalism. However, in exposing some clear deficiencies in this doctrine, I shall indicate in what ways the alternative classical liberal naturalistic foundation may be said to repair these deficiencies.

III

The eighteenth century "Scottish Enlightenment"¹⁴ is the primary source for our utilitarian theory of classical liberalism: It was the systematic exposition of the spontaneous, self-correcting mechanisms of commercial society that made possible the original inference that no central planner could improve on the outcome of a market process. Of all the thinkers in this "movement," Hume and Smith are clearly the most important; for although they destroyed the traditional

rationalistic theory of natural law, they founded a liberalism that nevertheless relied on a theory of natural processes.

Hume is perhaps less easy to place in the classical liberal tradition, since most commentators maintain that his general skepticism drives him into a conservative traditionalism.¹⁵ However, it seems to me that the foundations of morality and law that Hume produces are remarkably similar to those of twentieth century utilitarian classical liberals, most of whom would be described as radical rather than conservative.

Hume's argument for the subjective nature of moral judgments is well known. Morality is a matter of feelings and emotions; for it is these that move us to action, not reason.¹⁶ Reason is limited to the manipulation of analytic truths and the cool evaluation of empirical data. As for the ends that men *ought* to pursue, reason cannot pronounce upon them. As Hume said, "It is not contrary to reason to prefer the destruction of the world to the scratching of my finger." All our political and moral judgments must ultimately rest upon sentiment or, indeed, prejudice, and none can claim to be rationally persuasive. Yet the curious thing is that Hume proceeded to show that certain sorts of moral and political rules (of a basically classical liberal type) were not only *demonstrably* superior to those of doctrinaire "enthusiasts" and "zealots," but also had a universal validity. This superiority was not derived from formal, deductive reasoning but from an understanding of the nature of man and of social processes.

Hume's claim is that the behavior of men can be explained by laws of cause and effect—just as the rest of the natural world is explained. This is so because he regarded the nature of man as more or less unchanging. Therefore, he argued that plans of government that suppose a "great reformation in the manners of mankind are plainly imaginary,"¹⁷ and that all ethical and political rules must be founded on the fact that men "cannot change their natures. All they can do is change their situation and render the observance of justice the immediate *interest* of some particular persons."¹⁸

What Hume wants to show, then, is that a proper understanding of *man as he is* and not some chimerical notion of *man as he might be* lies at the heart of correct moral and social theory. Although no conception of man, no matter how factually correct, can of itself generate a moral principle, we can discriminate between subjectively determined principles in accordance with how they cohere with what Hume regarded as universally true facts of man and society. The superiority, then, of Hume's liberal-conservative principles rests not on their higher "rationality" but on their consistency with certain unalterable natural facts of the human condition.

These facts are quite simple. First, men show a natural partiality to their own interests.¹⁹ This is not a statement of a Hobbesian egoism which implies that the "natural" world is a war of all against all, out of which man can escape only

by reason and artifice, but an empirical statement to the effect that while men do have a capacity for benevolence, this is too fragile a sentiment on which to found a social order. Second, that they have a tendency to prefer their present to their more remote interests²⁰ (the universal feature of time preference). Thus, while one passion might direct men to their long-run interests, a more powerful passion is always likely to deflect men away from them. In his discussion of this issue, Hume anticipates the modern liberal theory of state action for the production of public goods. Add to these features the universal fact of *scarcity*,²¹ and therefore the necessity for some property laws, and we have those technically contingent but pretty much unalterable features of the human condition or natural regularities out of which a proper concept of natural law should be constructed.

Hume's liberal theory of society emerges when he explains how men hit upon those "conventional" rules that prevent their natural passions from damaging their long-run interests. However, these rules are not *merely* conventional and they are certainly not arbitrary; and though Hume does speak of them as a product of reflection, they are not the product of artifice or an unaided reason. They are the result of natural processes when *natural* is defined in a special way. What Hume tries to show is that the rules of justice and property emerge by a process of spontaneous evolution and therefore constitute examples of the "third world" of social phenomena discussed above. The rules of *commutative* justice described in the phrase "stability of possessions, of its transference by consent and the performance of promises"²² provide for those unchanging natural facts of scarcity and limited generosity. In contemporary language Humean justice would be described as "procedural" rather than "end-state", since it is concerned not with the desirability or otherwise of particular *total* social and economic arrangements, but with individual conduct. Thus, the rules of *commercial* society are held to be superior to other rules, to egalitarian rules, for example, because they are more consistent with the facts of human nature. Their attraction lies not in their superior rationality but in the fact that they are approved of.

Furthermore, the rules of justice and property emerge in an undesigned manner through the mechanism of *personal* interest: "Those rules, by which property, right and obligation are determined . . . have all of them a direct and evident tendency to public good" but it is "self love which is their real origin."²³ Thus for Hume, liberal morality is utilitarian: The rules of justice and property are not designed for the protection of individual rights, for which reason can provide no grounding, but they emerge naturally for the benefit of anonymous members of society. What distinguishes them from *mere* prejudice and superstition is precisely this utilitarianism. Thus Hume claims, "Though the rules of justice be artificial, they are not arbitrary. Nor is the expression improper to call them laws of nature, if by natural we understand what is common to any species."²⁴

Alasdair Macintyre doubts that those features of natural man that Hume delineates have a genuine claim to universality. He writes: "What Hume iden-

tifies as the standpoint of universal human nature turns out in fact to be that of prejudices of the Hanoverian ruling elite."²⁵ It is, of course, true that Hume cannot show in any *formal* sense why a "prejudice" in favor of established property rights and common law rules of exchange should be superior to any other "prejudice." What is important here is that Hume's attempt to discriminate between different "prejudices" on purely utilitarian grounds would be rejected by those classical liberals who, like Macintyre, envisage a more expansive role for reason and nature. Here, the claim is not that Hume's conception of human nature lacks universality, but that it is inadequate to establish a moral case for a private property liberalism that defeats *all* interventionist claims.

IV

Adam Smith, Hume's friend and contemporary, sometimes comes close to such a conception, but ultimately his argument for liberalism is a utilitarian one and to that extent must be, like Hume's, *provisional*. The antirationalism and reliance on sentiments and feelings as the source of our moral judgment is just as emphatic as in Hume. In *The Theory of Moral Sentiments* he writes: "It is altogether absurd and unintelligible to suppose that the first perceptions of right and wrong can be derived from reason."²⁶ And in a famous passage he condemns the rationalist philosopher for failing to understand that morality is based not on abstract reasoning but on certain mechanisms that determine human action.

He seems to imagine that he can arrange the different members of a great society with as much ease as the hand arranges the different pieces on a chess board. He does not consider that the pieces upon the chess board have no other principle besides that which the hand impresses upon them; but that, in the great chess board of human society, every single piece has a principle of motion of its own, altogether different from that which the legislature might choose to impress upon it.²⁷

Furthermore, the division of labor, on which economic prosperity depends, is not the product of some omniscient mind operating in advance of experience, but is a "gradual consequence of a certain propensity in human nature to truck, barter and exchange one thing for another."²⁸

The whole of Adam Smith's thought is suffused with the idea of a beneficent nature that is the source of value. The system of "natural liberty" means that every man, as long as he does not violate the laws of justice, should be "left perfectly free to pursue his own interest in his own way, and bring both his industry and capital into competition with those of any other man."²⁹ Social systems are self-correcting mechanisms and to that extent constitute "natural" phenomena. Although most attention in the history of economic and political thought has been directed toward Smith's description of the natural order of the market, as described in *The Wealth of Nations*, it is clear that logically similar natural processes are at work in his account of the moral order given in *The Theory of Moral Sentiments*.

In Smith's morality, the pursuit of self-interest is not of itself immoral. There is no necessary dichotomy between virtue and commerce, as Mandeville supposed, and a self-regulating and consistent moral order can be constructed out of individuals motivated primarily by self-love. Only if self-love is uncorrected and unrestrained is it harmful.

This partiality to our own affections is the source of prosperity and progress in economics because it is assumed that here self-interested behavior is constrained by the rules of just conduct. However, in a wider context of moral behavior it is, on its own, an unreliable sentiment. Our initial moral judgments are necessarily *partial*, and, says Smith, this "self-deceit, this fatal weakness of mankind, is the source of half the disorders of human life."³⁰ But our initial judgments are in a sense hypotheses, which are constantly checked against and corrected by increasingly less *subjective* interpretative criteria. Such criteria are natural to the extent that they are understood by every human moral agent, and their intrinsic morality precedes their utility.

This independent theory of a natural morality is explicated through the concept "propriety" (or "rightness").³¹ That is to say, an action is right or wrong, just or unjust, by reference to a natural moral sentiment, not by reference to known consequences—although this is, of course, quite consistent with the moral censor or legislator being concerned mainly or even entirely with utilitarian considerations.

Propriety is determined by natural "facts," ultimately the approbation of the members of a community. It is the approval of their fellow citizens that individuals seek. Thus people do not merely maximize self-interest in an economic sense, they desire *to be well thought of*.³² A further crucially important idea is the Smithian notion of *sympathy* in the process of moral evaluation.³³ Now, to sympathize with a person does not mean that we act in his interests in some altruistic sense. It is not equivalent to benevolence, and the stress on sympathy in *The Theory of Moral Sentiments* does not mark any inconsistency with the economic self-interest described in *The Wealth of Nations*. In Smith's moral theory, sympathy is a property of the understanding. Sympathy, or fellow feeling, is the capacity to imagine oneself in another's position and to see things from his point of view; and it is this that transfers a selfish response into a genuine moral judgment.

In a similar way, the concept of the "impartial spectator" widens the sphere of morality. The judgments of a spectator represent a more comprehensive morality because they represent the ideal of *detached* opinion.³⁴ The conclusions of an impartial spectator, however, do not reflect a substantive morality but rather an idealized procedure for the making of moral judgments—although, of course, it could be argued that classical liberalism's concept of procedural justice does embody that notion of impartiality implicit in the deliberations of a spectator. The final corrective process, or the completion of the distilling out of *pure self-*

interest, is provided by the idea of “conscience” or the “voice within.”³⁵ This is simply the notion that a naturalistic ethic must account for those inner feelings and sentiments that drive us, however imperfectly, to act morally.

These mechanisms make the description of a moral system not unlike that of an economic one. The only rules that require positive enforcement are the rules of justice, interpreted in a strict commutative sense; all other moral sentiments are self-generating. But the rules of justice, and here Smith departs from Hume, have a natural, not a utilitarian, foundation: People immediately sympathize with the resentment a person feels at an act of injustice, and the propriety of that resentment would be ultimately sanctioned by a spectator.³⁶ The principles of justice are imprinted on the human personality; they are not the conclusions of our reason, although our reason is an important aid to the understanding of how rules are selected out in a natural process.

The question that arises concerns the connection between this naturalism and the foundations of classical liberalism. The theory is normally interpreted merely as a description of the making of moral judgments rather than a demonstration of the value of any particular kind. Yet there is a clear connection between liberalism and morality in the sense that both economies and moralities are examples of spontaneous orders, of automatically adjusting processes that require little in the way of conscious direction and control.

But why should we value spontaneity? In economics Smith’s answer would, superficially, seem to be utilitarian. The system of natural liberty leads to better outcomes than a planned system. The efficient order of the market is brought about naturally through the interaction of the participants in their endeavors to better themselves. Any intervention is, in fact, self-defeating:

No regulation of commerce can increase the quantity of industry in any part of society beyond what its capital can maintain. It can only divert a part of it into a direction which it might otherwise not have gone.³⁷

Such an order can function with the minimum of morality—in fact, the rules of just conduct imposing negative obligations is all that a commercial society requires. There seems to be little suggestion that the system protects *rights* or that economic freedom is a legitimate expression of the human personality irrespective of its socially beneficial consequences.

While these considerations have often been thought to be decisive indications of Smith’s utilitarianism, an argument could be made that within the structure of Smith’s naturalistic morality, there lies not merely a description of the making of moral judgments but an implicit natural law and natural rights position. Could not the notion of “propriety” and the role of the impartial spectator, despite what was said above, reflect substantive ethical principles? We know that the propriety and impropriety of human actions are determined independently of utility, and sometimes the voice of the spectator speaks with rationalistic overtones in a

decidedly unHumean manner. For example, in *The Wealth of Nations*, although apprenticeship laws are refuted on utilitarian (efficiency) grounds because they distort price signals in the labor market, they are also condemned as a "manifest encroachment upon the just liberty of both the workman, and of those who might be disposed to employ him."³⁸ The problem, however, is that the rules of natural justice, and even of the sacred rights of man, of which Smith speaks in *The Wealth of Nations*, may just be exotic expressions of ordinary traditional standards; and that the "impartial spectator" is an early version of the man on the Clapham omnibus rather than spokesman for the immutable standards of an individualist morality.

From what little we know of Smith's jurisprudence,³⁹ it is clear that his model of law is one in which a legal order is the product of natural processes. Hence his opposition to the command theory of law and his commitment to a spontaneously developing common law system. His admiration for the common law appears to be not only a consequence of the fact that it produces a more stable and predictable order of events than does statute, but also because it is more likely to meet with the standards of "natural justice." Hence much of his criticism of the command model is of a moralistic kind, and the last part of *The Theory of Moral Sentiments*⁴⁰ is concerned with explaining how existing systems of positive law fail to meet with general standards of natural justice. Thus, although it is clear that for Smith justice precedes law, it is not clear whether a departure of positive law from natural justice means a departure from an existing consensus as interpreted by the impartial spectator or whether reflection on the nature of man and society gives us genuine moral knowledge that transcends this.

V

Despite the enormous influence exerted by the Hume-Smith tradition in liberal thought, certain obvious deficiencies within it have encouraged a rival and more rationalistic version of the doctrine.

The first and obvious objection is that the whittling down of the role of reason could lead to the disintegration of liberalism into traditionalism and conservatism. In fact, this charge could be leveled at the foremost contemporary exponent of the Smithian approach—F. A. Hayek. In Hayek's later work, the doctrine of spontaneous order has become a neo-Darwinian theory of cultural evolution in which the mere *survival* of an institution appears to guarantee its appropriateness. The limitations of reason dictate that "*All progress must be based on tradition*" (italics in original).⁴¹ Furthermore, all rules and moral principles are relative to a particular stage of evolution, and our capacity to alter them is severely limited by the fact that we can never know the consequences of such alteration. In fact, Hayek goes further than Hume down the conservative path because the latter's persistent skepticism precludes those rules that have "survived" being entitled a priori to greater reverence than any others. Hume's constant appeals to certain *universally true*

facts of the human condition would make even him rationalistic by Hayek's standards.

The second point is that any form of utilitarianism leaves open to doubt all claims to property. Since, as a matter of logic, an exchange process must begin with objects that are themselves *not* the product of exchange, some moral grounding for entitlement is required. Clearly, a utilitarian demonstration of the benefits of exchange is quite inadequate. Although Hume has a complex theory of entitlement to property, it not only is ultimately utilitarian but has a marked bias toward present possession.⁴² This must be so since Hume's antirationalism precludes any Lockean natural law claims to property. Yet contemporary classical liberals have been (rightly) concerned with the morality of claims to particular pieces of property and not just with the utility of the private property *system*.

The third problem is that the concern with an empirical conception of man as he is may be destructive of the liberal order. This is because the economic and political advantages of a free society have *public good* characteristics. That is, the benefits of the market system, free international trade, private property, and the rule of law accrue to the anonymous members of the public at large; therefore, it does not pay any one person or group to produce them. Each group will have an incentive to exempt itself from the rule of law and the system of commutative justice and, of course, to invest in politics rather than production. Now Smith and Hume were certainly aware of this problem, but their philosophy of *man as he is* precludes its solution. Their concept of natural man as virtuous and socially productive is compelling *only* within a certain institutional framework—a framework that is itself threatened by their "minimalist" concept of man as a maximizer of subjective utility.

VI

It is in this context that our other theory of liberal naturalism must be considered. Unfortunately, an exposition of this must be sketchy, incomplete, and garnered from a number of disparate sources. There is no one complete, self-contained statement of classical liberalism based on a naturalistic theory of human rights, and laissez faire theorists have tended to buttress their economic philosophies with moral arguments drawn from philosophical traditions not necessarily associated with free markets and (strictly) limited governments.

As indicated earlier, these philosophical arguments tend to be either an intuitively determined rights theory or a neo-Aristotelian naturalistic theory. Both versions would fall foul of Hume's strictures: The former extends the notion of reason beyond its role in deductive inference and determination of empirical data; the latter commits the fallacy of deriving normative statements from the "facts" of human nature. However, both address themselves to the problems alluded to above. They assert a theory of man that prevents any person being used on behalf of a group or collectivity on any utilitarian ground. This is derived from a

rationalistic notion of natural law that can be used to evaluate all "positive" legal orders, including those that have emerged spontaneously. From a theory of self-ownership they construct a right to property that does not depend on any social convention and attempts to provide criteria to determine the legitimacy of all entitlements. In the neo-Aristotelian theory especially, a notion of man as he might be hints at a solution to the problem contained in the purely empirical concept of man, i.e., man as a pure maximizer is certain to indulge in forms of action destructive of the institutions of a free society.

The natural rights and natural law tradition is normally associated with Locke, but it is plausible to suggest that the foundations were laid down by Grotius. Grotius was a Christian, but he presented an essentially secular and rational theory of natural law; and although he wrote principally about international law (his *De Jure Beli ac Pacis* was published 1620–25),⁴³ his theory has direct application to social philosophy. All rational beings are capable of discerning the elements of "law": Among these are the binding nature of promises, the nonaggression principle, and a strong right to liberty. Interestingly enough, an early work (*Mare Liberum*, 1609) attempted to demonstrate that no state could legitimately "own" the sea: Natural law decreed that individualistic competition should prevail in the oceans. The philosophically significant point here is that the principles of law were firmly implanted in human nature and were superior (morally) to any positive law. In fact, they were not the accidental outcomes of self-interested action (the "third world" phenomena), the rationale of which lies in a certain kind of experience, but directly perceived by an active reason. This, of course, is a potentially revolutionary doctrine.

Thus the origins of a "revolutionary" classical liberalism lie in just those rationalistic natural law doctrines of which Hume and Smith were to be so critical—for the idea that reason can determine "law" poses a threat to all existing legal systems. The notion was given a specifically individualistic twist with the Lockean idea of self-ownership: "Every man has a *property* in his own *person*. This nobody has any right to but himself. The labour of his body and the *work* of his hands, we may say, are properly his."⁴⁴ This has been taken by later radical libertarians as a definitive and infeasible objection to all forms of interventionism, since these necessitate the direction of the actions of one person by another, who cannot be his "natural" owner. Such an objection is held to hold irrespective of *any* collective welfare (or utilitarian) advantages that may accrue from intervention.

However, irrespective of the conceptual difficulty surrounding the concept of "self-ownership," it is not clear in a substantive sense that it is sufficient to generate a liberal society. The strong sense of a right in the sense of ownership lies surely at the heart of the Hobbesian structure of an authoritarian society: What I "own" I may surely contract away. Indeed, does this not legitimize "slave" contracts? If these are invalid because one cannot alienate the person, then does it not follow from this that one does *not* fully own oneself?⁴⁵

What is implicit in the Lockean and all natural law classical liberal positions, is the concept of an *equal liberty*—that the only moral justification of the limitation of a person's liberty lies in the existence of a like freedom of action of others. Thus only a strictly limited government is possible without violating the rights of some. There can, therefore, be no notion of welfare "rights" since the forced redistribution of income from rich to poor violates the equal liberties of the rich. However, this is surely only one of a possible range of possibilities that are consistent with the notion of a right in the sense of personal ownership.

It is from the idea of self-ownership that the *natural* right to property is said to derive. What a person "removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his *property*."⁴⁶ Thus property precedes positive law and, of course, the right to property holds independently of contract. As Frederic Bastiat, the nineteenth century French laissez-faire economist, put it: "Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place."⁴⁷ A similar view is held by the contemporary anarcho-capitalist theorist, Murray Rothbard.

It is not easy to substantiate the claim that "mixing" one's labor with a previously unowned object should establish a *right* to it. Or that there can be property that somehow precedes "law." For Hume this was not only a piece of highly rationalistic speculation but also systematically ambiguous. He argued that "there are several kinds of occupation, where we cannot be said to join our labour to the object which we acquire: As when we possess a meadow by grazing our cattle on it."⁴⁸ He went on to say that "we cannot be said to join our labour in anything but in a figurative sense."⁴⁹ His view was consistent but ultimately conservative: The rules of property cannot be determined by an unaided reason, and their authority is established by a different naturalistic appeal—to sympathy and the imagination. People will tend to approve of private property rules on grounds of general utility.

The utilitarian classical liberals simply do not regard questions of "original entitlement" as important—at least, not in comparison to the question of the overall stability of the property system. In fact, the natural law and natural rights liberals are more consistently *individualistic* since they are more concerned with the question of *who owns what* than with the different issue of determining that system of rules from which anonymous persons may benefit. The latter is still a utilitarian proposition, despite the prohibitions its utterers place on interpersonal comparisons of utility. Nevertheless, "nature" does not provide a convincing theory of property entitlement and the idea that there can be legitimate property independently of law is extremely implausible once it is realized that law in this context does *not* necessarily mean only positive law (in the statutory sense).

VII

The empirical common-sense notion of man as he is has proved to be an extremely serviceable one in the history of liberal thought. As well as being highly appropriate to *economics*, it is itself an economical concept that makes few demands on our philosophical resources. However, as has been suggested above, not only is the concept of selfish man inappropriate for the communitarian idealists, but also, paradoxically, it may be destructive of the selfish, i.e., liberal, order itself. This is because the liberal order is a public good that it is not in the (selfish) interests of any one person or group to promote. Does not then liberalism require a new concept of man?

In fact, in Smith's theory of morality there is more than a suggestion of Aristotelianism; indeed, the full moral development of the person requires that the narrow confines of mere economizing be transcended. Smith's frequent allusions to the notion of "self-command"⁵⁰ as an ethical aim and his constant denunciations of self-deceit suggest a moral idealism that contrasts sharply with the customary soulless calculation of orthodox classical economics.

However, we have to turn to more recent exponents of classical liberal philosophy to find a fully developed Aristotelianism being used to underpin market economics and to legitimize possessive individualism. In Ayn Rand's philosophy there is a strident rejection of the Humean antirationalist defense of the market: "The moral justification of capitalism lies in the fact that it is the only system consonant with man's rational nature, that it protects man's survival *qua* man, and that its ruling principle is: justice."⁵¹

This is no gaunt and fleshless deontology, since the virtue of capitalism lies precisely in the fact that it fulfills man's natural purpose. That moral purpose is *egoism*. Thus, it is not that, descriptively, man *is* selfish (Rand regrets that this is not, in fact, the case) but that, in her view, he *ought to be*. Thus selfishness is not merely a means to an end, as in Smith's famous observation that "it is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest," but it is the rational end for men. What saves this doctrine from a collapse into nihilism (as is the case, for example, in Max Stirner's⁵² egoism) is the absolutely binding nature of rights—and their universalizability.⁵³

How can one appeal to "selfishness" for the solution to the liberal dilemma posed above, when surely it is *that* selfishness that caused the difficulty in the first place? However, it is not mere selfishness to which Rand appeals but an elevated form of egoism that condemns living off government and one's fellow citizens as a perversion of man's true nature. The *virtue* of selfishness is exhibited only in market exchanges—forms of social interaction that recognize the right of others to be selfish.

Mention at this point should also be made of Murray Rothbard's explication of an Aristotelian-Lockean anarcho-capitalism. Here the rights component of the

moral philosophy is pushed to the absolute limits: In Rothbard's view there can be no circumstances that would legitimize the violation of a right. As is well known, in Rand's philosophy⁵⁴ there are emergency or "lifeboat" situations in which morality is suspended and a person may do whatever is appropriate for the realization of his natural end, i.e., the pursuit of life itself. In Rothbard's ethics, however, rights are at all times inviolable so that in a *moral* sense a person may not deprive another of what is legitimately his even to save his own life⁵⁵ (though, of course, *prudential* considerations may dictate that he do so). The difference arises from Rothbard's derivation of rights from an absolutist theory of self-ownership. Nevertheless, there is an agreement between Rand and Rothbard on the necessity of founding individualist liberal political philosophy on a theory of human nature.

From considerations such as these it is easy to see how a liberal regime may be legitimately established, *contra* Hume, without having to honor *existing* "legitimate expectations," for these may well have been created originally by immoral actions. If there is an objective morality capable of being read off from man's nature, then this would surely sanction the removal of all existing social and economic impediments to the full flowering of that nature. This contrasts sharply with the conservative utilitarian tradition of classical liberalism, from Hume to Hayek, which proclaims the inability of an active reason to discriminate so clearly between the different possibilities of social and economic organization. Indeed, the use of the concept of nature could not be more different: In utilitarian liberalism, rational economic institutions emerge accidentally from the actions of individuals possessing little moral equipment; in the Aristotelian version, they appear to be a direct product of virtuous men.

This is not to say that the Aristotelian version of liberalism is correct; or that all liberal intellectual resources should be invested in encouraging its development from what is, at the moment, only a conceptual embryo; or that we should discard that minimalist concept of man that has proved to be so fruitful in the development of classical liberal thought. Those who follow the orthodox classical liberal tradition, with its unflattering concept of man, claim that because they structure the order of a free society around the *unintended* consequences of human action, the stability of that society does not depend upon the presence of a particularly elevated virtue. In this vision of freedom a variety of forms of moral life are permissible, provided that they are consistent with the universal rules of procedural justice. However, the Aristotelian version of liberalism depends almost entirely on a level of human excellence that it may well be impossible for men as we know them to achieve. The virtual exclusion of unintended consequences theory in Rand, for example, makes the idea of a stable liberal social order very near inexplicable.⁵⁶

The most obvious difficulty lies in the fact that the concept of nature is systematically ambiguous. There is no reason why capitalistic institutions—private

property, money, and the market—may not themselves be regarded as permanent threats to the full flowering of the human personality, just as Rand regards socialist ones to be. The problem is that since our conceptions of nature are themselves *normative*, the canons of logic do not dictate any one conception as the appropriate foundation stone for a social order. It is for this reason that the quest for the ultimate grounding of the liberal order is likely to continue on lines begun by Hume and Smith, despite the problems alluded to above.

NOTES

1. Robert Nozick, *Anarchy, State and Utopia* (Oxford: Blackwell, 1974).
2. It is not my purpose to justify, or even explain in any detailed way, the substantive doctrine of liberalism. It is sufficient to say that I use liberalism in its traditional, pre-T. H. Green, sense to describe a belief in the efficiency and morality of unhampered markets, the system of private property, and individual rights—and a deep distrust of taxation, egalitarianism, compulsory welfare, and the power of the state.
3. Nozick, *Anarchy, State and Utopia*, p. 32.
4. *Ibid.*, pp. 35–42.
5. First published in 1705. See F. Kaye's definitive edition (London: Oxford University Press, 1924).
6. See F. A. Hayek, *Rules and Order*, vol. 1 of *Law, Legislation and Liberty* (London: Routledge and Kegan Paul, 1973).
7. See Edna Margalit-Ullman, "Invisible Hand Explanations," *Synthese* 39 (1978): 263–91. Also, N. P. Barry, "The Tradition of Spontaneous Order," *Liberature of Liberty* 2 (1982): 7–58.
8. This is maintained most forcefully by K. R. Popper in *The Poverty of Historicism* (London: Routledge and Kegan Paul, 1957).
9. Almost all the writers under consideration oppose the conventional utilitarianism, with its assumption that utilities can be measured and thence transformed into an alleged objective social-welfare function. For a critique, see F. A. Hayek, *The Mirage of Social Justice*, vol. 2 of *Law, Legislation and Liberty* (London: Routledge and Kegan Paul, 1976), pp. 17–23.
10. For Bastiat's utilitarian economics, see his *Economic Harmonies* (New York: Foundation for Economic Education, 1979). First published in 1850.
11. Rand's philosophical ideas are contained in novels and essays. See, in particular, *Capitalism: The Unknown Ideal* (New York: Signet, 1967).
12. Rothbard's political philosophy is expressed in *For A New Liberty* (New York: Macmillan, 1978) and *The Ethics of Liberty* (Atlantic Highlands, N.J.: Humanities Press, 1982).
13. A Macintyre, *After Virtue* (London: Duckworth, 1981); J. Finnis, *Natural Law and Natural Law Rights* (Oxford: Clarendon Press, 1980).
14. For a comprehensive general account of this intellectual period, see Gladys Bryson, *Man and Society* (Princeton: Princeton University Press, 1945).
15. See D. Miller, *Philosophy and Ideology in Hume's Political Thought* (Oxford: Clarendon Press, 1981), pp. 187–205.
16. *Treatise of Human Nature*, edited by P. Ardal (London: Fontana, 1972), Book 3, pp. 191–204. Henceforth *THN*.
17. "Idea of a Perfect Commonwealth," in C. Hendel, ed., *David Hume's Political Essays* (New York: Liberal Arts, 1953), p. 146.
18. *THN*, Book 3, p. 220.
19. *THN*, Book 3, p. 218.
20. *THN*, Book 3, pp. 260–64.
21. *THN*, Book 3, Section 11 *passim*.
22. *THN*, Book 3, p. 253.
23. *THN*, Book 3, p. 256.
24. *THN*, Book 3, p. 216.
25. Macintyre, *After Virtue*, p. 215.

26. Adam Smith, *Theory of Moral Sentiments*, edited by E. G. West (Indianapolis: Liberty Classics, 1976), p. 506. This was first published in 1759. Henceforth *TMS*.
27. *TMS*, p. 263.
28. Adam Smith, *An Enquiry into the Nature and Causes of the Wealth of Nations*, edited by R. H. Campbell, A. S. Skinner and W. B. Todd, (Oxford: Clarendon Press, 1976), p. 25.
29. Smith, *Wealth of Nations*, p. 531.
30. *TMS*, pp. 380–81.
31. *TMS*, pp. 58–69.
32. *TMS*, p. 208.
33. *TMS*, pp. 47–57.
34. *TMS*, pp. 161–65.
35. *TMS*, pp. 232–60.
36. *TMS*, pp. 163–64.
37. Smith, *Wealth of Nations*, p. 453.
38. *Ibid.*, p. 138. See also, on this page, Smith's comment on property: "The property which every man has in his own labour, as it is the original foundation of all other property, so it is the most sacred and inviolable."
39. R. L. Meek, D. D. Raphael, and P. C. Stein, eds., *Lectures on Jurisprudence* (Oxford: Clarendon Press, 1978). These are reports of Smith's course of lectures.
40. *TMS*, 517–37.
41. F. A. Hayek, "Three Sources of Human Values," in *The Political Order of a Free People*, vol. 3 of *Law, Legislation and Liberty* (London: Routledge and Kegan Paul, 1979), p. 167.
42. For Hume's detailed discussion of property rules, see *THN*, Book 3, pp. 231–44.
43. Translated by F. W. Kelsey (Oxford: Clarendon Press, 1925).
44. *Two Treatises of Government*, edited by P. Laslett (Cambridge: Cambridge University Press, 1960) pp. 328–29.
45. For an illuminating discussion of the history of the complex issues surrounding natural rights, see R. Tuck, *Natural Rights* (Cambridge: Cambridge University Press, 1979).
46. *Two Treatises of Government*, p. 329.
47. Frederic Bastiat, *The Law* (New York: Foundation for Economic Education, 1979). First published in 1850.
48. *THN*, Book 3, p. 234.
49. *THN*, Book 3, p. 234.
50. See *TMS*, pp. 70–74 and 387–425.
51. Ayn Rand, *Capitalism: The Unknown Ideal*, p. 20. Rothbard also bases his arguments on a not dissimilar Aristotelian-Thomist metaphysics of man, although his political conclusions are somewhat different from those of Rand. See his *Ethics of Liberty*, chaps. 1–3. Also see Norman Barry's discussion in "The New Liberalism," *British Journal of Political Science* 13 (1983):93–123.
52. May Stirner, *The Ego and His Own* (Sun City: Western World Press, 1982). First published as *Der Einzige und sein Eigentum* in 1845.
53. Rand, "Man's Rights," in *Capitalism: The Unknown Ideal*, pp. 320–28.
54. See Rand, "The Ethics of Emergencies," in *The Virtue of Selfishness* (New York: Signet, 1964), pp. 43–49.
55. See Rothbard, *The Ethics of Liberty* (Atlantic Highlands, N.J.: Humanities Press, 1982), pp. 149–53.
56. This objection, however, certainly cannot be made against Rothbard who, while adhering to a Thomist metaphysics, has made many contributions to orthodox liberal economic theory.