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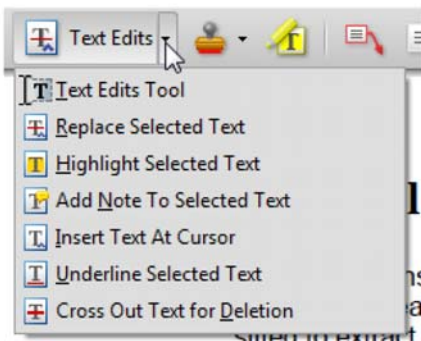
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# Hume and Contemporary Political Philosophy

~ ANGELA COVENTRY AND ALEXANDER SAGER\* ~

ABSTRACT Our goal in this article is first to give a broad outline of some of Hume’s major positions to do with justice, sympathy, the common point of view, ~~criticisms~~ of social contract theory, convention and private property that continue to resonate in contemporary political philosophy. We follow this with an account of Hume’s influence on contemporary philosophy in the conservative, classical liberal, utilitarian, and Rawlsian traditions. We end with some reflections on how contemporary political philosophers would benefit from a more explicit consideration of Hume.

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## INTRODUCTION

Hume occupies a central but ambiguous position in contemporary political philosophy.<sup>1</sup> Political philosophers recognize the importance of his analysis of justice as an artificial virtue and his account of convention, his identification of the “conditions of justice,” and his criticism of the social contract. But while it is fairly easy to identify philosophers with acknowledged Aristotelian, Hobbesian, Lockean, Kantian, and Hegelian approaches to political philosophy, Hume has no school and few disciples. It is not as if prominent contemporary political philosophers have not written on Hume. Brian Barry places Hume alongside Rawls as the central figure in his *Theories of Justice*. David Miller wrote the well-received *Philosophy and Ideology in Hume’s Political Thought*. Hume has been a constant presence in David Gauthier’s work in a number of important essays.<sup>2</sup> Nonetheless, none of them are widely thought of as Humeans.

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This dearth of a Humean strand of political philosophy is unfortunate, for we believe contemporary political philosophy would benefit from a more explicit examination of its Humean influence. For example, John Gray tells us that “It is in Hume, indeed, despite his reputation as a conservative theorist, that we find the most powerful defense of the liberal system of limited government.”<sup>3</sup> Brian Barry claims Hume for the game theoreticians and the utilitarians: “Hume stated with unsurpassed clarity

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\*Angela M. Coventry, Portland State University, Philosophy Department, Neuberger Hall, #393, 724 SW Harrison, Portland, Oregon 97201, USA. Email: coventry@pdx.edu  
Alexander Sager, Portland State University, Philosophy Department, Neuberger Hall, #393, 724 SW Harrison, Portland, Oregon 97201, USA. Email: asager@pdx.edu

the view of justice as mutual gain over a nonagreement baseline. In addition, however, he has a fair claim to be counted as at least the intellectual godfather of Benthamite utilitarianism.”<sup>4</sup> Hume’s importance is not simply historical; theorists today find the study of his political works highly rewarding.

5        One obstacle to providing an account of Hume’s influence on political philosophy is a challenge that faces Hume scholars in all areas: there are multiple Humes. Virtually every area of Hume’s work has spawned vastly different interpretations leading one commentator to despair that one “can find all philosophies in Hume, or, none at all.”<sup>5</sup> Another complication is that Hume did not write a single treatise devoted to political theory. Rather, his views on that topic appeared throughout his works on philosophy and history. Nearly fifty years ago, Eugene Miller explained that the reason “no comprehensive account of that political philosophy has yet been offered” and that he “has been virtually ignored by historians of political thought” is due to his “failure to write a systematic treatise on politics.” His short essays on politics “often appear contradictory, and it is difficult to formulate a unified view of political life from them.”<sup>6</sup> It is not a surprise then to find two distinctly opposing dominant interpretations of his political thought: there is Hume, a conservative staunchly defending tradition, or Hume, a liberal defender of limited government and cautious progressivism.<sup>7</sup> Until fairly recently, the dominant view on Hume’s political philosophy was that his skepticism informed his cautious conservatism. Though this view is at best incomplete, it was not until recently that Hume scholars began to construct a more systematic Humean political philosophy.<sup>8</sup>

Our goal in this article is first to give a broad outline of some of Hume’s major positions regarding justice, sympathy, the general point of view, criticisms of social contract theory, convention and private property that continue to resonate in contemporary political philosophy. We follow this section with an account of Hume’s influence on contemporary philosophy in the classical liberal, liberal egalitarian, utilitarian, and conservative traditions. We give special attention to John Rawls and Friedrich Hayek, both of whom read Hume widely and carefully throughout their careers, and to evolutionary approaches to social cooperation pioneered by Hume. We end with some reflections on how contemporary political philosophers would benefit from a more explicit consideration of Hume.

## 1. HUME AS POLITICAL PHILOSOPHER

Before tracing Hume’s influence in contemporary political philosophy, we need to select some of his most influential ideas. Our account will necessarily be broad and incomplete. Hume’s explicit political philosophy is mostly found in the *Treatise* and the *Enquiry*, as well as in some of the *Essays*. However, in order to get a balanced view of Hume’s political thought, we also consider his topical essays and his *History of England*, the works read most avidly by his contemporaries, which enriched and possibly modified his philosophical positions.

We restrict our attention to four of Hume’s major themes that continue to have impact in contemporary political philosophy: justice as an artificial virtue; sympathy and the common point of view; the role of private property; and criticisms of the social contract.

*a. Justice and Convention*

For Hume, justice is based on conventions that involve “a sense of common interest; which sense each man feels in his own breast, which he remarks in his fellows, and which carries him, in concurrence with others into a general plan or system of actions, which tends to public utility” (*EPM*, App.3.7).<sup>9</sup> Conventions are gradually developed rules or systems of rules, as for example rules of language or ‘common measures’ of monetary exchange, which almost all societal members follow in nearly all circumstances because they recognize the mutual advantage of doing so (*T*, 3.2.2.10). Justice requires a background framework of publicly accepted rules, ingrained in societal patterns of expected behaviors “concerning abstinence from the possessions of others” (*T*, 3.2.2.11). Those members of society who follow the rules understand that the interests of everyone in society are advanced by conformity to those rules.

Hume classifies justice as an artificial virtue, along with keeping promises, allegiance, and chastity (*T*, 3.2.1.1; 3.1.2.9/*EMPL*, 479–80). This contrasts with the natural virtues, which include benevolence, charity, and generosity. The natural virtues are original instincts of human nature that feature specific passions that have always motivated specific kinds of human behavior. These passions always produce good on their operation, and positive sentiments of moral approval whenever they are observed to motivate the behavior of another. Artificial virtues are not inherent features of human nature, although they are derived from inherent features of human nature such as self-interest. They have not always motivated human behavior. Rather, they were unknown to humans living in their first “uncultivated state,” and the manifestation of artificial virtue does not invariably result in good: it is not the case that every observance of the general scheme benefits either the private individual or the public (*T*, 3.2.2.4). Justice may require us to repay a debt to an enemy or to someone who will use the funds to an end contrary to the public good. It is the general compliance with the scheme or convention that benefits the public and not any particular observance of that general scheme (*T*, 3.2.2.22).<sup>10</sup>

Justice is first arrived at to “remedy some inconveniences, which proceed from the concurrence of certain qualities of the human mind with the situation of external objects” (*T*, 3.2.2.16). The mental qualities are twofold: *selfishness*, our natural inclination to act on our own interests, and limited *benevolence*, our natural concern for the well-being of others. Benevolence has clear limits, especially when not dealing with others who are affiliated or dear to us in a certain way. The two relevant situations of objects are the scarcity of objects that meet our needs, and the fact that at least some of the objects of need are easily exchangeable between individuals. Humans in their original condition had no need for artificial virtues because the natural virtues were adequate to maintain order in small kin-based units. But as human society grew larger and more complex, circumstances changed. Benevolence was not sufficient to negotiate scarcity outside of the kin-based units. These changes led to conflicts within or between societal units that natural virtues were unable to resolve. Yet Hume argues that we depend on society to survive and, being motivated by self-love, we want to advance it (*EMPL*, 480; *T*, 3.2.2.24). As a consequence, conventions regulating property and governance were gradually developed. To this end, we train ourselves to respect each other’s acquired possessions and to view the

stability of possessions as a necessary means of keeping society intact. Over time, this gives us a sense of common interest, a regard for rules of justice, and confidence in the consistent behavior of others.

5     *b. Sympathy and the Common Point of View*

Now, while it is self-interest that is the original motive for the establishment of justice, it is “sympathy with public interest” that is “the source of the moral approbation which attends that virtue” (*T*, 3.2.2.24/*EPM*, 3.1.20). Our ability to sympathize is a fundamental principle of human nature “to receive by communication” the “inclinations and sentiments” of others resembling us (*T*, 2.1.11.2). This is explained by the liveliness of the pervasive idea or impression of ourselves that works together with the general resemblance between human beings which allows us to “enter into” or “embrace” the sentiments of others as if they are our own so that my idea of say your happiness, when vivid enough, is actually “converted into the very impression they represent” (*T*, 2.1.11.4–8). The strength of the sympathetic communication of sentiments varies depending upon the degree of resemblance and distance between the observer and the person with whom he or she sympathizes.

To compensate for any variation in the observer’s sympathies resulting from physical or temporal closeness to or distance from the person judged, or from the degrees of resemblance, Hume recommends contemplation of the person or action from a common perspective. In fact, he says that moral sentiments tend to be felt only when “we fix on some steady and general point of view” in which we abstract from “our situation of nearness or remoteness, with regard to the person blam’d or prais’d, and according to the present disposition of our mind” (*T*, 3.3.1.15–16). Moral sentiments thus require a general point of view in which the character of the person is examined from the standpoint where it appears the same to every spectator “without reference to our particular interest” (*T*, 3.1.2.4; 3.3.1.30). The consideration of a character in general is what “causes such a feeling or sentiment as denominates it morally good or evil” and produces “that particular feeling or sentiment, on which moral distinctions depend” (*T*, 3.1.2.4; 3.3.1.30). Sympathy allows us to continue to feel pleasure or displeasure from the consideration of the mental qualities embedded in the characters of persons we consider impartially. This means that we have only to contemplate the character from the general point of view requisite for moral sentiment for the pleasant or unpleasant feelings produced by sympathy to cause a corresponding pleasant or unpleasant moral sentiment, depending on whether the character in question possesses virtuous or vicious mental qualities. In this way, we learn to approve of those mental qualities of persons that contribute most to making them just, faithful keepers of promises, loyal subjects, good treaty-makers and treaty-keepers, and good husbands or wives.<sup>11</sup>

40     *c. Private Property*

Unlike other political theorists such as Locke and Rousseau, Hume’s theory of property eschews an account of initial entitlement.<sup>12</sup> Property rights are not acquired by mixing our labor with land or because of the distribution stipulated in a contract or consensus. Rather, Hume provides no theory of just initial acquisition; instead he justifies property rights on the grounds that they maximize overall utility independent

of the initial acquisition of property. Private property rights are necessary for a just society, but the rules we follow do depend on the particular “state and condition” under which humans find themselves and so may differ from society to society (*EPM*, 3.2.22; 3.1.12) The division of property must also take into account people’s nature and be regulated so that it is useful and beneficial for society (*EPM*, 3.2.27). 5

Hume rejects a number of possible divisions of property. He does not think that property should be divided according to merit or desert (*EPM*, 3.2.23). Similarly, need and suitability cannot serve as adequate bases for the division of property. Various people may be equally necessitous or suitable for the same goods. Moreover, due to our natural partiality, judging “such a loose and uncertain rule” would be “liable to so many controversies” (*T*, 3.2.3.2) and would threaten the peace: “To . . . allow every man to seize by violence what he judges to be fit for him, wou’d destroy society; and therefore the rules of justice seek some medium betwixt a rigid stability, and this changeable and uncertain adjustment” (*T*, 3.2.4.1). 10 15

Hume also rejects an equal division of property.<sup>13</sup> *Perfect* equality is “impracticable” (*EPM*, 3.2.26) On this point Hume anticipates criticisms of “patterned distributions” by arguing that regulating property according to a standard of equality would require constant, unacceptably intrusive government interference to redistribute goods.<sup>14</sup> Furthermore, Hume held that perfect equality would remove the incentive to work: “Who see 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*, 3.2.28). Hume’s theory of property arises out of his theory of convention. The rules of property arise and gain acceptability through beneficial social arrangements, and we approve general rules because of their social utility. These rules of property follow a convention that provides the basis for the maintenance of society. 20 25

#### *d. The Social Contract*

Hume provides an account of political authority that rejects the view that legitimate government must rest on an “*original contract*, or consent of the people” (*EMPL*, 486). Locke (Hume’s unnamed target) held that the legitimacy of government derives from its creation by unanimous consent.<sup>15</sup> This legitimacy is maintained by the tacit or express consent of the population. In the absence of such consent to the social contract, governments are illegitimate. 30 35

Hume argues that, taken seriously, basing the legitimacy of government on express consent would “shock the common sense and judgment of mankind” (*T*, 3.2.10.7). Very few people ever give genuine and voluntary consent to their governments, so almost all governments would lack legitimacy. Hume admits that there may be some validity to the social contract idea if it is understood as a thesis about how the very first governments arose in the distant past. But since it does not occur to most people that their consent is linked to their government’s right to exercise authority, “some other foundation of government must also be admitted” (*EMPL*, 474). In his view, most people recognize long possession, present possession, conquest, succession, and positive laws as the sources of political authority (*T*, 3.2.10.4-14/*EMPL*, 470). 40 45



Locke, of course, appealed to *tacit* consent: “every man, that has any possessions, or enjoyment, of any part of the dominions of any government, does thereby give his tacit consent, and is as far forth obliged to obedience to the laws of that government” (5) (*Two Treatises*, 2.120). Indeed, for Locke, merely walking along public roads implies tacit consent. Inheriting property creates an even stronger bond, since the original owner of the property permanently put the property under the jurisdiction of the commonwealth. Children, when they accept the property of their parents, consent to the jurisdiction of the commonwealth over that property.

10 Hume rejects this move. First, he argues that “an implied consent can only have place where a man imagines that the matter depends on his choice” (*EMPL*, 475). According to Hume, it never occurs to most people that they have the option of withholding consent from their sovereign. If this is true, it is wrong to infer that people have given tacit consent. Second, he argues that in order for consent to carry weight, it has to be voluntary. There can be no moral duty to keep promises that 15 one was coerced into making. Poor people without the resources necessary to emigrate are forced to remain in their country of birth; thus, voluntary consent to their government cannot be inferred from their not emigrating (*EMPL*, 475). Since Hume acknowledges that most people are correct to agree that their governments do 20 in fact enjoy legitimate authority, there must be some justification other than consent for their legitimacy.

Finally, Hume argues that the social contract is superfluous. The social contract is based on a promise to abide by an agreement. For Hume, the only reason why we have a duty to keep our promises is that the rule requiring promising maximizes society 25 utility. Promising is a convention that arises because of its utility and so the possibility that government rests on promising adds no moral weight for Hume. All that is needed to establish “obedience,” that “which we are bound to pay to government,” is that “society could not otherwise subsist” (*EMPL*, 481). Thus the duty of allegiance to one’s government derives from utility, not agreement, consent, or promise.

## 30 2. HUME’S INFLUENCE

Hume’s widespread influence in contemporary political philosophy has not been sufficiently recognized. Identifying ‘influence’ is always a challenge and is sometimes a dubious enterprise. Even when dealing with philosophers whose ideas enjoy a relatively uncontroversial, standard interpretation, it is risky to assert their influence 35 on others. Ideas are rediscovered over the years and often have multiple sources. It is even harder to trace the influence of a figure like Hume who has been interpreted in multiple ways. We have taken an expansive approach to identifying Hume’s influence: if a prominent approach or idea in contemporary political philosophy has a clear analogy in Hume and is not widely articulated by his predecessors, we attribute 40 it to him. In most cases, this influence is indirect as Hume’s ideas have been absorbed, transformed, and distorted by the tradition.

In the first section, we discuss Hume’s influence in conservative and classical liberal thought with an emphasis on convention—in particular Hume’s views about property. We group together the conservative and the economic aspects of classical

liberalism because we believe that convention—essentially a conservative (in the sense of “conserving”) notion—has been tied to views about property rights and free markets, most prominently through the impact of Friedrich Hayek’s work in political theory and economics. Perhaps more than any other major political philosopher in the last century, Hayek explicitly and extensively followed Hume in his social, political, and legal philosophy,<sup>16</sup> and attributes to Hume “the only comprehensive statement of the legal and political philosophy which later became known as liberalism.”<sup>17</sup> Hayek repeatedly references Hume as a source for his vision of “conservative liberalism.”<sup>18</sup> He remains one of the most important representatives of “classical liberalism,”<sup>19</sup> and his development of Hume’s views about property has had widespread influence in philosophy and in public policy. Hayek’s concerns about epistemic limits, and the role of markets in providing information have a clear antecedent in Hume’s account of convention and his rejection of rationalism. 5 10 15

In the second section, we consider Hume’s influence on utilitarian thought, in particular his “institutional utilitarianism.”<sup>20</sup> In particular, we focus on Hume’s structural innovation that distinguishes between the utility of a convention and the utility of a particular action: institutions that are created over time as conventions are justified differently from how we justify particular actions. Conventions do not maximize net utility according to Hume, but are justified because each individual finds them on the whole useful to him or her. Hume’s distance from utilitarianism has allowed him to influence liberals, such as Rawls, who hold the site of justice to be institutional structures, rather than individual actions or rules internalized by agents. 20 25

The third section turns to more general questions about the role of Hume’s science of human nature in grounding political philosophy, and his insistence that justice only occurs under conditions of scarcity and limited benevolence. It stresses the empirical and explanatory nature of Hume’s political philosophy and connects it to recent work in evolutionary game theory. 30

#### *a. Conservative and Classical Liberal Thought*

Hume has most often been identified with conservatism, characterized by skepticism toward radical political reform given the limitations of reason and the force of custom and habit.<sup>21</sup> The labels of ‘liberal’ and ‘conservative’ are anachronistic, but there are no doubt conservative elements in Hume’s political thought. Passages from Hume’s *History of England* and his essay “Of Passive Obedience” buttress the conservative interpretation.<sup>22</sup> Though earlier scholarship recognized liberal strains in Hume’s political thought, recent work has disputed or at least tempered Hume’s allegiance to conservatism.<sup>23</sup> Hume’s attacks on religion and superstition, his empiricism, his criticism of mercantilism and government interference with commerce, and his generally progressive and reformist outlook make it impossible for conservatives to wholly claim him for their camp. 35 40

Since our topic is Hume’s influence, we do not need to resolve these tensions in Hume’s political thought: both liberal and conservative aspects of his thinking have influenced the philosophical tradition. Hume’s conservative legacy runs through Edmund Burke and Joseph de Maistre to Michael Oakeshott. But it is a complex blend of conservative and liberal tendencies that has influenced the exemplary twentieth-century Humean, Friedrich Hayek. 45 50

The elements of Hume's political philosophy that most influenced Hayek's thought are his account of convention and his treatment of property. Hume's notion of social convention has had enormous, though often indirect, influence in political philosophy. Along with Hobbes, Hume is a precursor of contemporary game theory.<sup>24</sup> His example of the two men pulling the oars of a boat "by common convention, for common interest, without any promise or contract" (*EPM*, App.3.8/*T*, 3.2.2.10) provides one of the earlier systematic examinations of convention, later formalized by David Lewis who explicitly acknowledged his debt to Hume.<sup>25</sup> Perhaps even more importantly, Hume recognized the importance of iterated games that allow parties to reach equilibria that Hobbes did not foresee.<sup>26</sup> For Hobbes, the sovereign is necessary to ensure respect for covenants; Hume realized that if we have the opportunity to interact repeatedly with people in situations involving coordination, cooperation, or competition, we can develop mutually beneficial practices that can be sustained without outside coercion (*T*, 3.2.5.9). Ken Binmore notes that Hume anticipates Robert Trivers's seminal work on reciprocal altruism.<sup>27</sup> Though Hume also resorts to a sovereign in large societies to ensure that people do not waver from justice, justice's conventional foundation and the widespread realization that it promotes utility is independent of the sovereign's coercive power.<sup>28</sup> ~~As discussed above,~~ Hume extends his example of the rowers to include justice, property, right, and obligation (*T*, 3.2.2.10).<sup>29</sup>

Hume's own understanding of convention plays a fundamental role in Hayek's political philosophy.<sup>30</sup> Hayek followed Hume in holding that institutions are artificially created by human actions, but not as a result of conscious planning.<sup>31</sup> He shares with Hume a general skepticism of approaches in political theory that prescribe principles and norms independent of gradually evolving conventions. For Hume, "All plans of government, which suppose great reformation in the manners of mankind, are plainly imaginary" (*EMPL*, 514). Justice is not a matter of a real or hypothetical social contract or the implementation of a standard external to society. Rather, it is a useful and agreeable construct that human beings have arrived at over time through trial and error (*T*, 3.2.11.5).

Hayek took from Hume the fundamental insight that conventions, by the very fact of their survival, are likely to be useful. They are examples of spontaneous order that result from social evolution. This is most prominent in Hayek's account of the market, a rule-governed system that coordinates behavior in a way that promotes utility more than alternative systems: "we can produce the conditions for the formation of an order in society, but we cannot arrange the manner in which an orderly arrangement can establish and ever renew itself."<sup>32</sup>

This assertion is closely tied to Hume's account of property, which is a major influence on philosophy in the classical liberal tradition that stresses individual property rights. His essays on commerce, interest, and international trade are foundational texts in economic liberalism. Hayek goes so far as to assert that "the main features of all somewhat more advanced legal orders are sufficiently similar to appear as mere elaborations of what Hume called the 'three fundamental laws of nature, *that of the stability of possession, of transference by consent, and the performance of promises*'."<sup>33</sup> Hume held that "property must be stable, and must be fix'd by general rules" (*T*, 3.2.2.22), and that "It will be for my interest to leave another in the possession of his goods, *provided* he will act in the same matter with regard to me" (*T*, 3.2.2.10).

These “fundamental laws” establish a rule-governed framework that gives people the liberty to trade. Their justification is that in aggregate life is better when people follow these laws than under alternative schemes (such as an equal distribution). Not only is life better, but regimes that respect property rights also promote civil liberty. Hayek elaborated on Hume’s basic point in his writings on prices and knowledge. Markets are an example of a spontaneous order that reaches an equilibrium despite fragmented knowledge and the lack of centralized planning: indeed, the complexity of the economy is such that centralized planning is disastrous. Prices and profits transmit information, so people can coordinate their actions and anticipate how others will act.<sup>34</sup>

Hayek broadly follows Hume in his writings on social justice. For Hayek, “social justice” refers to distributive justice whereby the government coordinates distribution to achieve a particular pattern.<sup>35</sup> Hume, as noted, anticipated Hayek in his criticism of the principle of equal distribution:

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*, 3.2.26)

Hayek similarly rejects attempts to reward people according to desert. More recently, luck egalitarians have contended that it is unfair for people to suffer disadvantage as a result of “brute luck”—such as the genetic lottery, social class and place of birth. Instead, they argue that justice requires that we should strive to attune people’s life chances to their choices and that we should compensate people for disadvantages that arise from misfortune.<sup>36</sup>

As we saw above, Hume rejected merit-based accounts because of the opacity of merit and because of the incentive to falsely claim it. This leads to the difficulty of discovering “a determinate rule of conduct” (*EPM*, 3.2.27) that would allow distribution according to merit. Both Hume’s and Hayek’s account distinguishes between ethical questions of desert and the political question of distribution. Rather than prescribing top-down principles that arguably fail to comprehend the complexity of social practices, their approach to justice is evolutionary and reformist.

Though Hayek is perhaps the figure who read Hume most widely and explicitly followed him, Hume’s ideas resonate with contemporary liberal and libertarian thought. James Buchanan’s account in *The Limits of Liberty* of how agents in a state of anarchy arrive at an original contract is Humean. Though Buchanan does not cite Hume specifically, his account corresponds closely to Hume’s notion of property as a convention.<sup>37</sup> Through figures such as Hayek and Buchanan, Hume’s legacy continues in the work of classical liberals. Approaches to political philosophy that use the resources of game theory owe a debt to Hume as do theorists who stress the importance of property rights and the market over more extensive government planning and redistribution.<sup>38</sup>

#### *b. Institutional Utilitarianism and the Basic Structure*

As with Hume’s alleged conservatism, a great deal of scholarly ink has been spilled on the question whether he was a utilitarian and, if so, what sort of utilitarian he was. If we mean by *utilitarianism* the view that commits us to maximizing the net sum total

of welfare, where welfare is understood as a single, common metric that allows interpersonal comparisons, then Hume is not a utilitarian.<sup>39</sup> Nonetheless, Hume's frequent references to public utility (*EPM*, 3.1.1; App.3.7) and the tendency of virtue to promote the public good (*T*, 3.3.1.12; 3.3.6.1) make him a clear precursor of the utilitarian tradition.

Our focus is not on Hume's general influence on utilitarianism as a moral theory, but on the influence of what Hardin calls his "institutional utilitarianism." As we have seen, Hume understands justice institutionally: individual duty is determined by the institution, not by individual assessments of whether actions maximize utility or conform to non-institutional moral rules. Justice is an artificial virtue that primarily concerns property (*T*, 3.2.2.11). It provides an inflexible system of rules, which, when applied generally, are useful. To act justly is not always to choose the action that promotes the most utility in a particular instance. The right action in terms of desert or need is not necessarily required by justice; indeed, justice may require measures that go against notions of morality. Slothful descendants may inherit substantial fortunes and hardworking laborers may remain poor.

Though Hayek and many other classical liberals also follow Hume in focusing on institutions, Hume's institutional utilitarianism is independent of his rather conservative views of distributive justice. Not only that, but it is structurally independent of utilitarianism. John Rawls's early essay "Two Concepts of Rules" defends utilitarianism on Humean grounds by distinguishing "between justifying a practice and justifying a particular action falling under it."<sup>40</sup> Though Rawls came to reject utilitarianism for his own justice as fairness, he maintains this fundamental Humean distinction in his *Theory of Justice* and in later works.<sup>41</sup> Rawls's position that the site of justice is the basic structure, that is, society's major social, economic, and political institutions, comes from Hume.

Our intent here is to stress the originality of Hume's justificatory approach to political institutions. He held that sympathy with the common interest is too weak to motivate us to act according to the common good, which is why something else is needed to explain justice (*EPM*, 3.1.20). We approve of institutions because we recognize that overall they serve our interest, though we are aware that in particular cases we would benefit individually by violating institutional rules. In other words, the justification of social institutions is separate from the justification of individual conduct. The result is a fundamental tenet of many liberal views: social, political, and economic institutions should be justified largely independently of individual moral convictions so as to allow individuals to freely act on their own conception of the good without threatening the social order. Isaiah Berlin has most eloquently articulated this view,<sup>42</sup> but it extends to Rawls and to various philosophers and political theorists who have tried to reconcile justice with pluralism. The role of Hume in this debate has been insufficiently remarked.

### *c. Human Nature, Empiricism, and the Circumstances of Justice*

Hume's approach to justice is not primarily justificatory or normative, but rather descriptive and explanatory. He does not conceive of political philosophy as an exercise of speculating on the ideal institutions or hypothetical states of nature. Similarly, he rejects as incoherent the task of uncovering *a priori* principles to evaluate

our actual society. Rather, much of his work gives us insight into how justice actually arises. One of Hume's major contributions to political philosophy is his highly articulate account of what Rawls calls "the circumstances of justice."<sup>43</sup> In Hume's account, justice takes place between agents of roughly equal power under circumstances of scarcity and limited altruism. Conflict arises because of moderate scarcity: justice dissolves under circumstances of extreme scarcity and extreme abundance.

Hume's insight into the circumstances of justice guides much contemporary political philosophy. If we follow Hume, facts about humans and the world place constraints on the content of justice. An account of justice that demands extreme altruism or the elimination of competition over resources lacks not only practical, but normative purchase. The prescribed political morality must fall within the scope of human nature; it cannot be too demanding or otherwise fail to guide action due to limitations in human benevolence.

The assumption is that justice must be fact-sensitive is not trivial. Kant famously rejected the reliance on "natural drives" or experience, instead basing the metaphysics of morals on our freedom and practical reason.<sup>44</sup> More recently, G. A. Cohen in *Rescuing Justice and Equality* has argued that the ultimate normative principles must be "fact-insensitive." Whether we base our political philosophy on empirical circumstances or not will have an enormous influence on the boundaries of the discipline. If justice can be discovered through non-empirical practical reason or by the unearthing of ground level normative principles uncontaminated by facts, then investigations may be carried out in the philosopher's armchair. If not, political philosophy needs to be considerably more interdisciplinary, likely following Hume who recommended, "in order to establish laws for the regulation of property, we must be acquainted with the nature and situation of man" (*EPM*, 3.2.27).

Hume's attention to the circumstances of justice encourages a welcome modesty in political philosophy and helps focus attention on theories that are more likely to guide action. Simon Blackburn situates Hume as one of the earliest evolutionary psychologists, a "Darwinian before his time," noting his evolutionary account of cooperation that grounds convention.<sup>45</sup> Hume's pioneering work also anticipates evolutionary approaches to game theory. Brian Skyrms sees his *Evolution of the Social Contract* as part of the tradition of Hume and Rousseau in asking "how can the existing implicit social contract have evolved?" and "how may it continue to evolve?"<sup>46</sup> Hume is thus a precursor not only of work in political philosophy that takes an empirical, interdisciplinary approach but also of work in economics, sociology, sociology, and evolutionary biology that attempts to explain how political institutions come about.

## CONCLUSION: HUME AND THE FUTURE OF POLITICAL PHILOSOPHY

We noted in our introduction that Hume has few disciples in political philosophy. This is a shame because a Humean political philosophy would be a welcome alternative to the currently predominant approaches—contractarian, contractualist, utilitarian, and intuitionist. Political philosophy, since its revival in the 1970s with Rawls's *Theory of Justice*, has been largely characterized by "ideal theory": it prescribes principles of justice that societies should aspire to. Hume sought to understand how justice

arises, and it is this explanatory component that is missing today. Ideal theorists may fail by prescribing standards that are inappropriate for human beings; they may also fail when they underestimate the complexity of our actual norms. Their prescriptions can be not only practically inadequate but also normatively inadequate.

Despite Hume's naturalism and his close attention to history and the actual, rather than imagined or ideal, evolution of social institutions, a Humean political philosophy need not be conservative. Hume's views about markets and property rights were prescient, yet they were influenced by his society in which social rights were largely absent. If we recognize market failures or coordination problems that can be solved by government interferences, there is nothing to prevent a Humean political theorist from advocating government action or more widespread redistribution. Similarly, if our empirical theory of human nature takes into account the insights of behavioral economics, we may want to alter institutions so as to "nudge" us toward better outcomes.<sup>47</sup>

To follow in Hume's footsteps requires a firm, interdisciplinary basis and an understanding of history. Today, Humean political theorists should study the growth of the welfare state and ask how those practices benefit people. They should undertake comparative analyses of societies, attempting to ascertain which conventions are more useful. They should explore evolutionary theory, behavioral and ecological economics, and other fields that provide insight into human nature and social organization. The Humean political theorist would proceed with a combination of hard-nosed observation of how societies actually function and a judicious, impartial evaluation of their failings. A Humean political philosophy would be cautiously progressive and liberal, but respectful of tradition, the complexity of the world, and the limits of reason. There is much to be said for this perspective.

## NOTE

Versions of this article were presented at the Portland Political Theory Reading Group, 13 April 2011, the Western Political Science Association, San Antonio, Texas, USA, 21 April 2011, and at the Hume and Contemporary Philosophy conference, Moscow, Russia, 17 November 2011. We thank the audiences there.

- 1 The following abbreviations will be used for Hume's works: *EMPL*: *Essays: Moral, Political, and Literary*, ed. Eugene Miller, rev. ed. (Indianapolis: Liberty Fund, 1985); *EPM*: *Enquiry concerning the Principles of Morals*, ed. Tom Beauchamp (Oxford: Oxford University Press, 1998), and *T*: *A Treatise of Human Nature*, ed. D. F. Norton and M. J. Norton (Oxford: Oxford University Press, 2000). References to the *Treatise* and the *Enquiry* cite the book, chapter, section, and paragraph. References to the *Essays* cite page numbers only.
- 2 Of particular note is David Gauthier's essay "David Hume, Contractarian," *The Philosophical Review* 88.1 (1979): 3–38.
- 3 John Gray, *Liberalism*, 2nd ed. (Minneapolis, MN: University of Minnesota Press, 1995), 24.
- 4 Brian Barry, *Theories of Justice* (Berkeley, CA: University of California Press, 1989), 146.
- 5 See L. A. Selby-Bigge's introduction to Hume's *Enquiry concerning Human Understanding*, in *David Hume, Enquiries concerning Human Understanding and concerning the Principles of Morals*, ed. Selby-Bigge, 3<sup>rd</sup> ed., rev. P. H. Nidditch (Oxford: Clarendon Press, 1975), vii.

- 6 See Eugene Miller, "David Hume: Whig or Tory?" *New Individualist Review* (1961), at [http://oll.libertyfund.org/?option=com\\_staticxt&staticfile=show.php%3Ftitle=2136&chapter=195294&layout=html&Itemid=27](http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Ftitle=2136&chapter=195294&layout=html&Itemid=27).
- 7 For an overview of this debate, see Miller, "David Hume: Whig or Tory?" and Duncan Forbes, "Hume's Science of Politics," in *David Hume: Bicentenary Papers*, ed. G. P. Morice (Austin, TX: University of Texas Press, 1977), 39–50. 5
- 8 Duncan Forbes, *Hume's Philosophical Politics* (Cambridge: Cambridge University Press, 1975); Russell Hardin, *David Hume: Moral and Political Theorist* (Oxford: Oxford University Press, 2007); Knud Haakonssen, *The Science of a Legislator: The Natural Jurisprudence of David Hume and Adam Smith* (Cambridge: Cambridge University Press, 1981); Neil McArthur, *David Hume's Political Theory: Law, Commerce, and the Constitution of Government* (Toronto: Toronto University Press, 2007); David Miller, *Philosophy and Ideology in Hume's Political Thought* (Oxford: Oxford University Press, 1981); John B. Stewart, *Opinion and Reform in Hume's Political Philosophy* (Princeton, NJ: Princeton University Press, 1992); Carl Wennerlind, "David Hume's Political Philosophy: A Theory of Commercial Modernization," *Hume Studies* 28.2, (2002):247–70 and F. Whelan, *Order and Artifice in Hume's Political Philosophy* (Princeton, NJ: Princeton University Press, 1985). 10
- 9 For a classic discussion of convention in Hume's moral theory, see Páll Ardal, "Convention and Value," in Morice, *David Hume: Bicentenary Papers*, 51–68. 15
- 10 We are indebted to Norton's editorial introduction here in this paragraph.
- 11 For comprehensive surveys on Hume's moral philosophy, see Rachel Cohon's "Hume's Moral Philosophy," in *The Stanford Encyclopedia of Philosophy*, <http://plato.stanford.edu/entries/hume-moral/> and J. Baillie's *Hume on Morality* (London: Routledge, 2000).
- 12 For a valuable discussion of the Humean theory of property, see J. Waldron, "The Advantages and Difficulties of the Humean Theory of Property," *Social Philosophy & Policy* 11.2 (1994): 85–123. 25
- 13 Notably, he articulates here a version of the principle of diminishing marginal utility by admitting that giving more goods to the poor gives them more satisfaction than it does to the rich (*EPM*, 3.2.25). 30
- 14 Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974).
- 15 **John Locke**, *Two Treatises of Government*, ed. P. Laslett (Cambridge: Cambridge University Press, 1988), 2.122.
- 16 Commentators who have made this connection include Hannes **Gissurarson**, *Hayek's Conservative Liberalism* (New York: Garland Publishing, 1987); John Gray, *Hayek on Liberty* (Oxford: Basil Blackwell, 1984); Chandran **Kukathas**, *Hayek and Modern Liberalism* (New York: Oxford University Press, 1989), and Donald Livingston, "Hayek as Humean," *Critical Review* 5.2 (1991): 158–77. 35
- 17 Friedrich Hayek, "Legal and Political Philosophy," in *Hume*, ed. V.C. Chappell (London: University of Notre Dame Press, 1966), 340. 40
- 18 **Gissurarson**, *Hume's Conservative Liberalism*.
- 19 We prefer the label "classical liberalism" because "libertarianism" is sometimes understood to refer primarily to political theories that emphasize self-ownership.
- 20 Hardin, *David Hume: Moral and Political Theorist*, 164–71.
- 21 John Stuart Mill, "Bentham" (1838) in *The Collected Works of John Stuart Mill, Volume X - Essays on Ethics, Religion, and Society*, retrieved at *The Online Library of Liberty*; <http://oll.libertyfund.org/> and Miller, *Philosophy and Ideology*, 187. 45
- 22 See Hume's *History of England from the Invasion of Julius Caesar to the Abdication of James the Second* (London, Frederick Warne & Co., 1884), vol. 6, 365–66, cf. Miller, *Philosophy and Ideology*, 195; *EMPL*, 489. For discussions of Hume's conservatism, see endnote no. 8, and Marjorie Grene, "Hume: Sceptic and Tory?" *Journal of the History of Ideas* 4.3 (1943): 333–48; Sheldon Wolin, "Hume and Conservatism," *The American Political Science Review* 48.4 (1954): 999–1016; and McArthur's *David Hume's Political Theory*. For monographs that treat Hume as predominately conservative, see **Donald Livingston**, *Hume's Philosophy of Common Life* (Chicago, IL: University of Chicago Press, 1984), and Whelan, *Order and Artifice*. 50



- 23 Forbes, *Hume's Philosophical Politics*; Stewart, *Opinion and Reform in Hume's Political Philosophy*; Christopher J. Berry, "Science and Superstition: Hume and Conservatism," *European Journal of Political Theory* 10 (2011): 141–55.
- 5 24 In *David Hume: Moral and Political Theorist*, Hardin makes a compelling case for Hume as a proto-game theorist. Also see Peter Vanderschraaf, "The Informal Game Theory in Hume's Account of Convention," *Economics and Philosophy* 14 (1998): 215–47.
- 25 See David Lewis, *Convention* (Cambridge: Harvard University Press, 1969). Hardin credits Hume's account of convention as ranking high in "a list of the greatest insights of social theory" (*David Hume: Moral and Political Theorist*, 82) and suggests that Hume anticipated many of the ideas in Thomas Schelling's seminal *The Strategy of Conflict*.
- 10 26 Hardin, *David Hume: Moral and Political Theorist*, 56.
- 27 Ken Binmore, *Natural Justice* (New York: Oxford University Press, 2005), 8; Robert Trivers, *Social Evolution* (Menlo Park, CA: Benjamin Cummings, 1985).
- 28 See Hume's articulation of the free rider problem which seems to require a sovereign to enforce the agreement (*T*, 3.2.7.8).
- 15 29 For a list of coordination problems in Hume, see Hardin, *David Hume: Moral and Political Theorist*, 85.
- 30 In "**Hayek as Humean**," Livingston provides a concise account of the role of Humean convention in Hayek.
- 20 31 Friedrich Hayek, *The Constitution of Liberty* (Chicago, IL: The University of Chicago Press, 1960), 63.
- 32 Hayek, *The Constitution of Liberty*, 161.
- 33 Hayek, *The Constitution of Liberty*, 158. Robert Nozick's entitlement theory of justice, based on just acquisition and the transfer of holdings justly acquired, has superficial similarities to Hume's account. However, Nozick's rights-based account of property places him in opposition to Hume, whose account of justice rests on its usefulness.
- 25 34 Friedrich Hayek, "Economics and Knowledge," *Economica* 4.13 n.s. (1937): 33–54.
- 35 Friedrich Hayek, *Law, Legislation, and Liberty, Volume 2: The Mirage of Social Justice* (Chicago, IL: The University of Chicago Press, 1976), 64.
- 30 36 Elizabeth Anderson discusses Hayek in her trenchant critique of luck egalitarianism in "What Is the Point of Equality?" *Ethics* 109.2 (1999): 310.
- 37 James Buchanan, *The Limits of Liberty* (Chicago, IL: The University of Chicago Press, 1977), 36, 182, n.4. Barry discusses Hume's influence on Buchanan in *Theories of Justice*, 173–75.
- 35 38 E.g., Gerald Gaus has drawn on Hume through Hayek in developing his account of social evolution. His most recent statement is *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World* (Cambridge: Cambridge University Press, 2011).
- 39 For an account of why Hume is not a utilitarian, see Geoffrey Sayre-McCord, "Hume and the Bauhaus Theory of Ethics," in *Midwest Studies in Philosophy: Moral Concepts*, ed. P. A. French et al. (Notre Dame: University of Notre Dame Press, 1996), 280–98. For a reply, see Elizabeth Ashford, "Utilitarianism with a Humean Face," *Hume Studies* 31.1 (2005): 63–92.
- 40 40 John Rawls, *Collected Papers*, ed. Samuel Freeman (Cambridge, MA: Harvard University Press, 1999), 20 n. 2; see also *T*, 3.2.2.22.
- 45 41 In Angela Coventry and Alexander Sager, "The Humean Elements of Rawls' Political Philosophy," in *David Hume and Contemporary Philosophy* (Cambridge: Cambridge Scholars Press, 2012), we show in detail the scope and depth of Hume's influence on Rawls.
- 42 Isaiah Berlin, *Liberty* (New York: Oxford University Press, 2002).
- 50 43 John Rawls, *Theory of Justice*, rev. ed. (Cambridge, MA: Harvard University Press, 1999), 110; see also Rawls, *Collected Papers*, 200 n. 6.
- 44 Mary Gregor, ed. and trans., *The Cambridge Edition of the Works of Immanuel Kant: Practical Philosophy* (New York: Cambridge University Press, 1996), 371.
- 45 45 Simon Blackburn, *How to Read Hume* (London: Granta, 2009), 13.

- 46 Brian Skyrms, *Evolution of the Social Contract* (New York: Cambridge University Press, 1996), ix. Skyrms is not referring to the social contract tradition exemplified by Hobbes and Locke, but rather to a set of commonly shared assumptions or agreements that ground social life—indeed, something like a Humean convention. 5
- 47 Richard Thaler and Cass Sunstein, *Nudge: Improving Decisions about Health, Wealth, and Happiness* (New Haven, CT: Yale University Press, 2008). 10