

REASON AND TRADITION IN POLITICS: DAVID HUME'S CRITIQUE OF THE 'ORIGINAL CONTRACT'

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Resumen

La crítica de Hume a la teoría del contrato social contradice la confianza típicamente ilustrada en la posibilidad de una legitimación puramente racional de la sociedad política. Como lo señala el ensayo 'Sobre el contrato original', Hume critica a los defensores de la teoría del contrato por prescindir del origen histórico, tanto de la sociedad política, como de la capacidad de la mente humana para identificarse con las fuentes del poder y las instituciones de la sociedad. En lugar de un concepto externo de la legitimación del poder político, Hume defiende un concepto interno, es decir, histórico. Este concepto concuerda con su conservatismo filosófico, la actitud intelectual de pesimismo moderado respecto de la naturaleza humana y de la posibilidad de una organización enteramente racional de la sociedad y la política.

Abstract

Hume's critique of the social contract theory counters a typical Enlightenment confidence in the possibility of a purely rational legitimization of political society. As the essay 'Of the Original Contract' points out, Hume criticised the defenders of the contract theory for making abstraction of the historical origin of both political society and the capacity of the human mind to identify with the sources of power and the institutions of society. Instead of an external concept of legitimization of politics, based on reason, Hume defends an internal, historical one. This concept fits his philosophical conservatism, i.e. the intellectual attitude of moderate pessimism concerning human nature and the possibility of a wholly rational organisation of society and politics.

David Hume's critique of the social contract tradition could easily be interpreted as a mere corollary from an outdated conservative and sceptical attitude towards political affairs. This cavalier neutralisation of his evaluation of contractarianism would then fit well in a certain suspicion which the entirety of his political and moral philosophy has suffered from in the 19th and 20th century. During his lifetime Hume was celebrated as one of the most important historians and political philosophers of the age, but with the rise of social utilitarianism, marxism and modern democratic liberalism Hume the political theorist was either relegated to oblivion or classified as a type of pre-revolutionary, sceptical bourgeois-conservative or, even 'worse', a proto-liberal defender of Laissez-Faire capitalism.¹

¹ The relation between Hume's political philosophy and his 'ideology' is still a point of considerable

Leaving aside the question of Hume's peculiar place in the history of political ideas, I propose to elucidate the main arguments of Hume's critique of the social contract theory. I will defend the view that his critique of contractarianism can be considered as one of the first attempts to counter a typical Enlightenment confidence in the possibility of a purely rational legitimization of political society. If, as Michael Oakeshott suggests, the attempt to legitimate politics and morals from an a-historical and universal rationalistic point of view, has been one of the principle concerns of Western political philosophy since the post-renaissance time,² the relative neglect of Hume's anti-rationalism and political conservatism is hardly surprising. This neglect is then a symptom of a strategy of self-defence from the part of the dominant rationalistic and reformatory 19th and 20th century political philosophy, and bespeaks a silent repression of the disturbing scepticism of one of its most unfaithful forefathers.

Hume's critique of contractarianism is expressed most boldly in the well-known essay "Of the Original Contract"³, first published in 1748, and probably written at the same time as the essays "Of Passive Obedience" and "Of the Protestant Succession"⁴. I will mainly draw on the first essay in reconstructing Hume's critique. Short references to the third Book of Hume's masterwork, *A Treatise of Human Nature*, will be given in support of his own account of the origin of government and the legitimization of civil obedience. By way of conclusion I will provide a modest evaluation of Hume's political philosophy and try to indicate the continuing value and importance of what I would like to call his 'philosophical conservatism'.

contention. See e.g.: Duncan Forbes (1975): *Hume's Philosophical Politics*: Ch.II.5. J.B. Stewart sees in Hume a Whig liberal and reformer [Stewart (1992): *Opinion and reform in Hume's political philosophy*]. Others tend to interpret Hume's position in political theory as rather conservative [David Miller (1981): *Philosophy and Ideology in Hume's Political Thought*; Donald W. Livingston (1984): *Hume's Philosophy of Common Life*; Livingston (1995): "On Hume's Conservatism", in *Hume Studies*, Vol. XXI, N° 2 (Symposium on Stewart's *Opinion and Reform* ...; Frederick Whelan (1985): *Order and Artifice in Hume's Political Philosophy*]. Hume's Tory-conservatism is criticised by J.S. Mill in: "Bentham", in *Essays on Politics and Culture*, New York, 1963. Hume is considered as a forerunner of utilitarianism by (a.o.) Elie Halévy in *The Growth of Philosophic Radicalism*, Faber&Faber, 1972.

² Michael Oakeshott (1991): "Rationalism in Politics", in *Rationalism in Politics and Other Essays*.

³ "Of the Original Contract" (OOC) in *Essays, Moral Political and Literary* (EMPL).

⁴ According to Ernest Campbell Mossner these essays were written during the Jacobite Rebellion of 1745-48. Hume planned originally to publish these essays together as the *Three Essays, Moral and Political*. Eventually he replaced "Of the Protestant Succession" by "Of National Characters" [Mossner (1980): *The Life of David Hume*: 177-181].

1. Tories and Whigs

For a good understanding of Hume's critique of contractarianism it is necessary to see clearly the context wherein it is developed. Two historical 'restraints' are dominant: first, Hume's critique focuses on the concrete, political context of his age; second, his conception of contractualism is firmly connected with the problem of 'political obligation' (as necessary although not sufficient precondition for every form of social association whatsoever). These two restraints can easily give way to the already mentioned hasty neutralisation of his theory. However, it is my intention in this paper to show the connection with Hume's global anti-rationalism. Then it will be seen that his critique is of more than just historical interest.

In "Of the Original Contract" Hume places his critique of contractarianism in the historical setting of the controversy between Tories and Whigs. This controversy entered the political scene of 18th century Britain as a heritage of the late 17th century. A central feature of it was the existence of two models of legitimation of political authority and civil obedience, the one more republican and modern (defended by the Whigs), the other more monarchical and traditional (defended by the Tories). Making abstraction from the complex political and historical context wherein both models of political legitimation were elaborated during Hume's lifetime, one can characterise the distinction between the Whig and the Tory ideology as one between reason and tradition. The Tory-defenders of the old-style monarchy saw the traditional and hereditarily received authority of the sovereign as the main warrant of peace and order in society. They endeavoured, according to Hume, "to trace up government to the Deity" and considered the legitimation of monarchical authority to reside in a sacred link between political society and Divine Providence, a link reflected in institutional traditions. The Whig republican model, on the other hand, rested on the idea that the legal power of government and the civil duties depended on a consensus amongst free and independent individuals, expressed in the idea of an "original contract", which would itself be constitutive of rights. This point of view could be reconciled with a moderate, constitutional monarchism, as shown by the fact that the Whigs from 1723 on gained power and supported the Hannoverian Kings, thus receiving the name of 'Court' faction. The Tories, from then on called the 'Country' faction, were forced into the opposition. But the difference in their principles and procedures of legitimation of political society was not less obvious and remained deeply antagonistic.

According to Hume, both the Court and Country ideology reflected a fundamental truth about the emergence of political society throughout the history of a nation such as Great Britain. The court Whigs, anxious to establish a rational basis for the political power they had obtained within the new constitution, stressed the fact that no authority can exist in political society without some consensus

among the citizens concerning the limits and legal terms of this authority. They justly referred to the natural fact of the equality of human beings and the interest they have in making conventions about legal rules and institutions. If this is the meaning one has to give to the idea of the 'original contract', so argues Hume, then one can in a general way accept the view that nowhere in history a political order could be formed without the cooperation and mutual consent, albeit tacit, of most of the individuals concerned in this establishment. But Hume adds, not without irony:

"In vain, are we asked in what records this charter of our liberties is registered. It was not written on parchment, nor yet on leaves or barks of trees. It preceded the use of writing and all the other civilized arts of life. But we trace it plainly in the nature of man (...)"⁵

The Country faction, on the other hand, was right in claiming the naturalness of a certain providence which makes the functioning of political society effective. However, says Hume, not a personified Deity or the sacred character of tradition as such, but Nature herself, so to speak, provides the scheme whereby the interests of individuals become mutually supportive, and preserves, by the unpredictable march of history, the continuation throughout time of institutions and the gradual perfection of a particular political society. The country Tories further held, still according to Hume, a genuine conception of the authoritative bond existing between a sovereign and his subjects. In an established political society the people consider it *natural* to have an obligation towards the sovereign: the sense of civil duty has somehow an unconditional and deeply embedded character, necessary for the preservation of society. Consequently, this civil obligation and sense of duty cannot be just a matter of rational and deliberative choice on the basis of a contract.

Hume's appreciation of the underlying 'natural' assumptions of both parties reflects, however, not only a strategy of reconciliation and contextual critique. By digging deeper into the questions: 'What is the natural origin of government?' and: 'How can civil obedience and the authority of the sovereign be legitimated?' he transcends the mere historical and political polemic, and develops a naturalistic view on government and political obedience. Insofar as the Tory view on political history is not concerned with a purely rationalistic legitimation of the political order, Hume's main target becomes now the concept of the original contract as

⁵ OOC (EMPL): 468.

⁶ Hume analyses more profoundly the antagonism between the Country and Court-ideology - and the political factions representative of these ideologies - in the essays "Of Parties in General" (EMPL: 54-63); "Of the Parties of Great Britain" (EMPL: 64-72); "Of the Coalition of Parties" (EMPL: 493-501).

such. From this perspective it is understandable that the essay "Of the Original Contract" should not elaborate further any critique of the Tory-ideology and the hidden presumptions underlying it.⁶ Hume attacks contractarianism and political rationalism on two counts: first by engaging with its historical and anthropological presuppositions, and second by confronting it with a philosophical argument about the nature of 'promises'.

2. History and allegiance to government

Just like his contractarian opponents, Hume is interested in the development of a conjectural theory about the natural origin of government. The way he conceives of this natural origin, however, separates him totally from the contract theory and moves his thought towards the Tory view on political history.⁷ That is one of the reasons why the main part of the essay "Of the Original Contract" is further devoted to a refutation of the Whig account of political legitimacy.

Hume is not satisfied with the Whig idea, defended explicit by Locke in his *Second Treatise of Government*, that the legitimate foundation of government "even at present" lies in the *voluntary and conditional subjection of independent rational individuals to the sovereign power*.⁸ The idea of an original contract, in other words, is not confined to a loose and more or less adequate description of a 'natural' condition preceding the emergence of political society: it functions as a normative account of how, and under which restricted conditions, in every actually existing political society, rational individuals *ought to obey the rules laid down in such a contract*. Furthermore, if at present these legitimating conditions are not satisfied, the existing political order has no rational ground -hence civil obedience is at every moment conditional and dependent on the rational consensus of the citizens. This conditional character of actual political obligation and civil obedience, however, is deeply at odds with the people's natural experiences and beliefs.

Experience teaches us, first of all, that throughout history governments generally are not established on the basis of a contract, but by conquest, war and violence.

"Almost all the governments, which exist at present, or of which their remains any record in story, have been founded originally, either on usurpation or conquest, or both, without any pretence of a fair consent, or voluntary subjection of the people."⁹

⁷ Cf.: John Danford (1990): *Hume and the Problem of Reason*; Donald W. Livingston (1984): Ch. 11, 12.

⁸ See John Locke, *The Second Treatises of Government*, Ch. 8 (p. 163 (Everyman edition, 1993): "Men being, as had been said, by nature, all free, equal and independent, no one can be (...) subjected to the political power of another, without his own consent." (

⁹ OOC: 471. In the *Treatise* Hume accounts for the emergence of ancient monarchism out of times

Violence and war are the natural origins of empires and nations. Hume adds:

“The face of the earth is continually changing, by the encrease of small kingdoms into great empires, by the dissolution of great empires into smaller kingdoms, by the planting of colonies, by the migration of tribes. Is there any thing discoverable in all these events, but force and violence? Where is the mutual agreement of voluntary association so much talked of?”¹⁰

Moreover, experience teaches us that people do not obey to the sovereign in a conditional way. For such a conditional obedience would presuppose the possibility to *choose* not only the sovereign, but more importantly the conditions by which one can and will choose, further implying the ability to *decide* about the global social order one wishes to live in.¹¹ But this ability simply does not exist, and one cannot even conceive of such a possibility coming into existence (as some modern liberal democrats apparently would like to think). Hume illustrates this as follows: if every established community were, for its preservation, dependent on a conditional and voluntarily accepted contract, it would need to have a sort of urge to renew its own constitution at every ‘new’ generation: every generation should be able to create a sort of transparent, symmetric space of total reciprocity and freely accepted equality in order to lay down the rules of its own social order. But this is as impossible as considering man in a state of absolute moral and rational perfection, wherein even the necessity of a political society would cease.¹²

“Did one generation of men go off the stage at once, and another succeed, as is the case with silk-worms and butterflies, the new race, if they had sense enough to choose their government, which surely is

of war as follows: “Camps are the true mothers of cities; and as war cannot be administred, by reason of the suddenness of every exigency, without some authority in a single person, the same kind of authority naturally takes place in that civil government, which succeeds the military.” *A Treatise of Human Nature*: 541.

¹⁰ OOC (EMPL): 471.

¹¹ “Can we seriously say, that a poor peasant or artizan has a free choice to leave his country, when he knows no foreign language or manners, and lives from day to day, by the small wages which he acquires? We may as well assert, that a man, by remaining in a vessel, freely consents to the dominion of the master; though he was carried on board while asleep, and must leap into the ocean, and perish, the moment he leaves her.” [OOO (EMPL): 475]. Adam Smith says in a comment on this passage of Hume’s essay: “Such is the case with every subject of the state. They came into the world without having the place of their birth of their own choosing, so that we may say they came asleep into the country; nor is it in the power of the greater part to leave the country without the greatest inconveniencies. So that there is here no tacit consent of the subjects. They have no idea of it, so that it can not be the foundation of their obedience”. [Smith (1982): *Lectures on Jurisprudence*: 317].

¹² OOC (EMPL): 474.

never the case with men, might voluntarily, and by general consent, establish their own form of civil polity (...). But as human society is in perpetual flux, one man every hour going out of the world, another coming into it, it is necessary, in order to preserve stability in government, that the new brood should conform themselves to the established constitution, and nearly follow the path which their fathers, treading in the footsteps of theirs, had marked out to them.¹³

In other words: human sociability is radically asymmetric, because of the very historical and tradition-dependent character of human life itself! Family and tradition-dependent individuals cannot be disconnected from the biological and cultural tissue that is the very condition of their existence. This is of course *not* to say that political structures should be conceived along the lines of family structures. In this sense Hume is a radical modernist: politics is the object of a praxis and a science which only a few are capable to manage well.¹⁴ But it *does* mean that one cannot legitimate political order by taking recourse to a rationalistic and an a-historical concept of human nature. If a more salient account of political authority and civil obedience is to be found, it will need to take in to account the real outlook of human nature and human history.

A third reason why the social contract tradition is contrary to experience and natural belief has already been mentioned implicitly. If people do not choose the system they actually live in, and the traditions whereby they orient themselves in this system, then the idea of a conditional attitude in civil obligation is *phenomenologically*, so to speak, inadequate. People obey not because they have rationally derived reasons to obey, on the contrary, *because* they obey they are able to critically assess the rationality of the object of this obedience. Hume is not so much arguing against the right of disobedience - under some conditions, indeed, specifically in the face of tyranny, a revolution is unavoidable.¹⁵ But what seems to him totally inconceivable and contrary to all opinion, is the idea that the sense of obligation existing in a concrete, historical established political order, can have its natural origin in such an a-historical, purely procedural decision of atomistic individuals. If this were true, people would be able to transcend their own contingency and dependence on already established customs and social patterns. But this rational independence they do not have and do not need: history teaches us that people normally obey the rules

¹³ OOC (EMPL): 476.

¹⁴ Cf. the essay: "That Politics may be reduced to a Science" [EMPL: 14-31].

¹⁵ Hume was very suspicious about the possibility of a total breach with an established order: "In reality, there is not a more terrible event, than a total dissolution of government, which gives liberty to the multitude, and makes the determination or choice of a new establishment depend upon a number, which nearly approaches to that of the body of the people: For it never comes entirely to the whole body of them." [OOC (EMPL): 472]

of the political order they are born in.¹⁶ So the moral tie, binding the individual to its government, is experienced as immediate. The *obliging character* of the civil duty lies in the acquiescent attitude of identification with the sovereign or the government, not in the voluntary agreement reached from a conditional situation of uncertainty.

3. Promises and civil obedience

Hume's conjectural-historic argument against the contract theory is further supported by what he calls "a more regular, a least a more philosophical, refutation of this principle (...)"¹⁷. Here he takes up some arguments, developed already in the third book of the *Treatise*, concerning the nature of 'promise giving' and its relation to the origin of political allegiance. In fact, Hume tries to give a plausible account of the moral and binding character of the sense of obligation peculiar to political allegiance.

The contract theory defended the view that in establishing a regular and lawful order the consenting individuals *give a promise* to obey the sovereign.

"They (the Whigs) affirm, that all men are still born equal, and owe allegiance to no prince or government, unless bound by the obligation and sanction of a *promise*. And as no man, without some equivalent, would forego the advantages of his native liberty, and subject himself to the will of another; this promise is always understood to be conditional, and imposes on him no obligation, unless he meet with justice and protection from his sovereign."¹⁸

But this pinning of the civil duty on to some natural sense of promise keeping, is intelligible only if the obligation to keep promises were self-evident and 'natural'. Here Hume refers implicitly to his distinction, made in the *Treatise*, between the natural and artificial origin of our moral attitudes.

Some duties, according to Hume, derive from a natural propensity or instinct and have an immediate influence on our behaviour, without regard to public or private utility.¹⁹ Parents caring for their children, friends feeling gratitude towards

¹⁶ cfr. Adam Smith (1982): 318: "With regard to the principle of authority, we see that every one naturally has a disposition to respect an established authority and superiority in others, whatever they be. The young respect the old, children respect their parents, and in general the weak respect those who excell in power and strength. Whatever be the foundation of government this has a great effect."

¹⁷ OOC (EMPL): 479.

¹⁸ OOC (EMPL): 469.

¹⁹ "The *first* (kind of moral duties, wl) are those, to which men are impelled by a natural instinct or immediate propensity, which operates on them, independent of all ideas of obligation, and of all views, either to public or private utility. (...) When we reflect on the advantage, which results to society from

other friends, and anonymous bystanders feeling pity for a suffering person can have a strong and lively sense of duty in this sense. Other duties, however, derive their effective impact on our behaviour from the existence of institutions and complex schemes of action. The duty to obey the rules of justice, to show fidelity on the observance of promises and to observe the civil duties exhorted by our governors are such artificial duties. The sense of obligation associated with these duties can only be understood by reference to their public utility and to the self-interest of the individuals who feel bound by them. In order to have such a concept of public utility, and thus a proper context wherein the self-interest can be measured and weighed, one needs a well established society where these artificial duties can flourish and gain strength.

But then it is inconceivable to Hume how the obligation to keep promises can be taken as foundation for civil obligation towards the sovereign. Here the social contract theory is double confusing: it makes no proper distinction between two forms of obligation, and it leaves the very obligation it wants to account for unexplained.

The latter point is fairly obvious when one answers the question 'Why should you obey the sovereign?' with the reply: 'We are bound to obey our sovereign, because we have given a tacit promise to that purpose.' But then, says Hume, I can ask you: 'Why should you keep your promise?' There is here a sort of circularity, which can only be solved, if there is a more natural insight in our reasons for keeping promises. But this keeping of promises is itself an artificial virtue, derived from the historical established and continually changing system of justice. So, if both the duty of civil obedience and the duty to keep promises depend on cultural conventions, one cannot pretend to explain the existence of the one by referring to the naturalness of the other: in fact, one isn't explaining anything at all.

The truth is, according to Hume, that the two principles, although mutually supportive in an established society, are *experienced* by the people as *distinct*. This can hardly surprise, for each of these principles was constructed, by the silent artificiality of human history, as *a remedy for originally different natural conditions of human nature* in its pre-societal situation.²⁰

The fidelity to promises is, like the observance of the rules of justice, the expression of an ability of the passion-guided individual, to enter a scheme of action, whereby he sees, helped through already established conventions, the

such humane instincts, we pay them the just tribute of moral approbation and esteem: But the person, actuated by them, feels their power and influence, antecedent to any reflection". OOC (EMPL): 479.

²⁰ This distinction between two senses of duty (one concerning the obligation to the 'artifices' of justice and promises, the other concerning the allegiance to the political powers and the authoritarian instances of the Civil Society in general) is also stressed in Hume's philosophical works. Cf.: *Treatise*: Book III, Part 2, "Of Justice and Injustice"; *An Enquiry Concerning the Principles of Morals*: Section III: "Of Justice" & IV. "Of Political Society".

advantage resulting from cooperation over time, and the interest he has in restraining his immediate impuls to “extend his acquisitions as much as possible”²¹. In respecting the rules of justice, and keeping promises in law-mediated commercial transactions, the actors within a social order help to promote the public interest, by redirecting their selfish nature and myopic passionality in a more or less organised scheme of cooperation.

In the same guise, but as a remedy for a different natural infirmity of human sociability, the political order and the duty of obedience towards it have been established, ‘guided’ by evolution and the gradual progress of the political institutions. This natural infirmity is twofold, as Hume says in his *Treatise*, caused by, on the one hand, the (again) myopic and selfish nature of the family-dependent individual, and, on the other hand, the dangers of war and conquest, arising from the existence of property within a primitive society having a first, rude sense of justice.

Even when disciplined by a sense of reciprocity towards the people of a small community, the individual living in this proto-civil society still lacks a deep sense of self-interest and public order. Because he is regularly in danger of being overrun by his immediate passion for a closer gain for himself and his family, he is mostly unable to consider the consequences of his actions in the long run. This is why governors and laws are invented, to protect individuals against their own weakness and lack of genuine public sense and to protect the public order against the compositive effect of this infirmity. The mere existence of a political class of governors secures the continuation, within a specific nation, of institutions whose function it is to breach the unfruitful particularism of self-centered passions. Education, public works, participation in political decision-making on various levels infuse the citizens with a sense of public interest and obligation towards the common good.²²

A second reason why political order under a sovereign was established, is the experience gained over time in war. Hume’s arguments on this point cannot but be considered reminiscent of Thomas Hobbes. However, the account given by Hume of the initial conditions and the gradual process leading to the emergence of political society, is much more complicated and subtle than Hobbes’ hypothetical fiction of the natural war of all against all.²³

A small, tribal community, without any central government, is in times of war obliged to put itself under the authority of a chieftain, which binds the forces and hinders the internal dissolution of society. “This authority,” according to Hume,

²¹ OOC (EMPL): 480.

²² “Thus bridges are built; harbours open’d; ramparts rais’d; canals form’d; fleets equip’d; and armies disciplin’d; every where, by the care of the government, which, tho’ compos’d of men subject to all human infirmities, becomes, by one of the finest and most subtle inventions imaginable, a composition, that is, in some measure, exempted from all these infirmities.” *Treatise*: 539.

²³ Thomas Hobbes (1985): *Leviathan*: 188.

"instructs them [Hume gives the example of American tribes] in the advantage of government, and teaches them to have recourse to it, when either by the pillage of war, by commerce, or by any fortuitous inventions, their riches and possessions have become so considerable as to make them forget, on every emergence, the interest they have in the preservation of peace and justice".²⁴ And Hume remarks, in accordance with his Tory view on history and the natural progress of the institutions, that this original condition of society gives a plausible reason why all pre-modern governments were in general of the monarchical type.

The difference in natural conditions giving rise to justice and promise keeping on the one hand, and to civil obedience to an authority on the other hand, explains the totally different way in which both forms of moral duty are experienced by sound and normal citizens. But emerged out of different conditions, and experienced as different forms of obligation, these moral duties cannot and need not be explained the one by the other. They "stand precisely on the same foundation"²⁵, but crystallise throughout the history of civil society in a totally different shape. One of the differences Hume stresses clearly in "Of the Original Contract" is the distinction between the *object* of the two sorts of obligations and duties. In the artificial scheme of justice and commercial transactions *property* and *rules of transactions* are mediated, whereas in the case of political obligation the object is the right of a prince and his family, and often this right is the object of vehement disputes. As Hume says: "But to whom is allegiance due? And who is our lawful sovereign? This question is often most difficult of any, and liable to infinite discussions."²⁶

Hume ends his essay "Of the Original Contract" with a mixture of ironic detachment and moderate pessimism. The idea of trying to investigate in a purely philosophical and speculative manner the legitimization of political society and civil obedience, is not only fruitless, but in a way dangerous. The authority, the power and the rules of association constitutive of political society are derived from a long history of refinement of practical knowledge: at the same time this authority and the related association of citizens is irremediably bounded by the constitution of human nature and the peculiar historical character of the civil life. Every attempt to transcend radically the limits implied in these both natural and civil conditions of human life is doomed to fail, its only possible success being the destruction of the very possibility of political society itself. And insofar as the rational and a-historical ideology of the social contract tradition is implicitly or explicitly founded on the belief in the possibility of such a transcending move, it can become involved in the rise of revolutions and metaphysical enthusiasm, which is always a deplorable and transient moment in the history of a civilisation.

²⁴ *Treatise*: 540.

²⁵ OOC (EMPL): 481.

²⁶ OOC (EMPL): 481.

4. Conclusion : Hume's philosophical conservatism

Hume's critique of contractarianism reflects not only the general outlook of his political philosophy, but is also symptomatic of a twofold conception of the *practice* of political philosophy as such. This twofold conception of 'doing political philosophy' becomes apparent when one looks to the difference in style and approach of the more philosophical works (the *Treatise* and the *Enquiries*) on the one hand, and that of Hume's more contextual essays (the *Essays, Moral, Political and Literary*) and his historiography (the *History of England*) on the other hand.²⁷ In his more theoretical treatment of the problem of political legitimation, as exemplified in the *Treatise*, Hume is taking a more detached stance towards his object, whereas in the essays and the *History of England* one could speak of a more involved attitude towards the concrete crystallisation of the general principles and natural conditions of political society in the historical setting of 18th century Britain. Both points of view reveal the same concept of human nature, and the same scepticism concerning the place of reason in human life. They differ in their estimation of the specific role philosophy should have in its relation to human life in general, and political life in particular.

In the *Treatise* Hume treats politics as an integral part of his science of human nature. On a superficial level, Hume seems then to fit well in the common opinion about the Enlightenment philosophers. Guided by an almost naïve faith in the possibility of rational emancipation, their investigations of human nature were directed at finding the general and infallible principles the control of which would result in the reconciliation of man with his true nature. But already in the *Treatise* Hume was very sceptical about the autonomy of reason and the possibility of a certain and firm foundation of human life in the realm of reason. Passion, not reason, was, according to Hume, the driving force in human life, and philosophy could not escape this determination.²⁸ Being itself caused by a form of passion, namely curiosity, i.e. the hunting after a clear and penetrating view on the natural mechanisms of human life, philosophy could not find a resting point totally outside the scope of common life. It could only, and that was what Hume tried to do in his *Treatise*, reveal the general conditions wherein the understanding, the passions, morality and politics naturally flourished and indicate how these different realms were mutually supportive.

So, concerning the problem of political legitimation, one could hold the view that Hume was already in the *Treatise* defending the thesis that no *external* legitimation could be given of the rules underlying the political authority and civil

27 Many have already mentioned how this twofold conception reflects the evolution of Hume's global philosophy towards a more historiographical and essayistic approach [cf. a.o.: Noxon (1973): *Hume's Philosophical Development*; Miller (1981): 1-15; Danford (1990): 26-34].

28 Cf.: *Treatise*: Book II, Part 3, section X: "Of the Love of Truth".

obedience in a particular society. To be sure, he was, as a philosopher, able to give an account of the uniform and universal principles directing life in political society. He could for example say that, given their inescapable necessity in the maintenance of civil society, the rules of justice were a sort of Natural Laws.²⁹ But from the perspective of his moral sense theory, he could not say *that these laws gained their legitimacy from their very universality and necessity*: people needed to approve of these rules, live according them, mould them in their daily practice, in order to be able to determine if the positive application in particular circumstances of these general rules had legitimacy or not. On this account, philosophy can have a sort of anatomising function towards common life in political society and could, "in an oblique manner", to use a typical saying of Hume, influence the minds of the governors by giving them an unbiased look on human nature and the requirements of a sound and moderate political practice.

However, despite its relative usefulness for practical affairs, philosophy always stays at distance of practical life. Although Hume does not elaborate this difference between political practice and philosophy very substantially in the *Treatise*, it was undoubtedly his opinion already in this work that there remained a gap between philosophy and practical life, the existence of which philosophy had to keep sensitive to, in order to escape the metaphysical enthusiasm of traditional rationalism or the even more dangerous scepticism of a Hobbesian scientism.

But if this gap between the anatomising passion of philosophical curiosity and common life was so unbridgeable, what then could be the point of digging deep and without restraint in the secret workings of human nature? It is this growing scepticism about the scope and function of a genuine science of human nature, which caused a smooth and swift turn in Hume's way of writing and philosophical conversation. In his essays, Hume no longer gives a very general analysis of the natural conditions of moral sense, justice, political society and civil obedience. Rather, he will typically start from some very concrete historical fact, or a more or less isolated distinction, or an actual theoretical discussion, to climb up then, in a seemingly innocent and easy style of writing, to some genuine and penetrating philosophical insight concerning the object treated. Hume still wants to be the wise advisor of political men and governors. Therefore, he acknowledges that philosophical reasoning and the proper 'scientific' investigation of the relevant circumstances of a given political society, can sustain his advice to the governors: in that sense his well-known claim that 'politics may be reduced to a science' should be understood.³⁰ But at the same time, Hume is eager to unmask all false pretensions of an overly rationalistic conception of human nature and political society.

²⁹ *Treatise*: 484.

³⁰ Cf. the essay mentioned footnote 14.

To call Hume a 'philosophical conservative' has then, in the light of his critique of contractarianism, a double meaning. Hume is a conservative in the political sense of the word, because he is sceptical of every sudden and violent change in the institutions and unconvinced about the possibility of a purely a-historical and rational legitimization of concrete political praxis. He is a *philosophical* conservative, because he remains aloof from a too partial involvement in political praxis as such and because he has some genuine and penetrating philosophical justification for his sustained moderate scepticism. His place is somewhere at the border of common life, where philosophy becomes fruitful and elevating, the moment it gives up every pretention of controlling or reforming the hidden workings of human nature and the unpredictable flow of history.

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