

## Chapter 3

# Justice, Conflict, and Scarcity

### Introduction

In chapter 2, we saw that Hume advocated an “experimental method” for learning about the world. Human reason, when it operates without the benefit of experience or observation, is quite limited—capable of knowledge only in “relations of ideas,” or fields like mathematics and logic, where true propositions cannot even be conceived false. A proposition like “the square of the hypotenuse is equal to the square of the two sides” (E1 4.1.20: 25), for example, cannot possibly be false, since the conclusion (“equal to the square of the two sides”) is logically implied by the definitions of the terms “square,” “hypotenuse,” and “side.” For all other areas of human inquiry, all the matters Hume categorized as “moral reasoning”—in which he placed “history, chronology, geography, and astronomy,” “politics, natural philosophy, physic, chemistry, &c.,” and “Morals and criticism” (E1 12.3.132: 164–5)—what we are capable of knowing can be determined only by *a posteriori* reasoning, or inductive analysis of experience and observation.

As we saw, according to Hume, *a posteriori* reasoning about matters concerning cause and effect and matters of fact and existence are not capable of leading to absolute certainty. In such cases we instead deal with probabilities—it is *more likely* that the “sun will rise tomorrow” (E1 4.1.21: 25–6) than that it will not, given past experience, but we cannot be absolutely certain. Did that mean, for Hume, that the next time I consider jumping off the roof of my building, I should not have confidence in the belief that I will fall? After all, it is logically possible that the next time I jump I may fly, as opposed to fall. Hume’s answer: no, we should not stop trying to learn from past experience and by observation. We may not be able to get to absolute certainty from empirical

observation, but when past experience and constant conjunctions of events have been consistent and even uncontradicted, that gives us reason to suppose that similar patterns will hold this time (and the next, and so on)—until experience gives us a new result. Philosophy may have demonstrated the limits of human ability to know causation with certainty, but, Hume wrote: “Be a philosopher; but amidst all your philosophy, be still a man” (E1 1.4: 9). In other words, we still have to live in this world, and we still have to do our best to engage with it and with other people productively and peacefully, which means that whatever meager tools we have to understand the world and to plan for the future, we have to use them. What alternative do we have?

### Origins of justice

Hume applied his empirical “experimental method” not just to the natural sciences, however, but to the “science of man” as well—which includes morality and politics, or what we might call political economy. How might Hume’s experimental method apply to, for example, justice? Is justice a matter for *a priori* inquiry or for *a posteriori*? Recall Hume’s test: if a proposition can be conceived false, then it cannot be a “relation of ideas,” or a subject of *a priori* reasoning, and must instead be a “matter of fact and existence,” or a subject of *a posteriori* reasoning. Take a proposition like “justice is giving another his due.” Can that be conceived false? Not *is* it false, but can it be *conceived* false—that is, is it possible to even imagine it being false? Hume’s answer is yes, it can be conceived false. But that means that it cannot be an *a priori* proposition, but, rather, an *a posteriori* proposition—subject to empirical verification and falsification.

And that indeed was Hume’s contention. He argued that, as with other virtues, we come to have a sense or conception of justice based on our experiences. In that way, justice is, according to Hume, an “artificial” virtue, not a “natural” one—that is, it is constructed by human beings in light of their experiences, not written into the fabric of the universe or deduced from uncontradictable premises. In the case of justice, the relevant experiences are of two sorts: what kinds of creatures human beings are, and what the nature of the human condition is. Because Hume believed that human nature is relatively fixed, however, and that the human condition, or at least some important aspects of

it, are fixed and universal as well, Hume concluded: “Tho’ the rules of justice be *artificial*, they are not *arbitrary*” (T 3.2.1: 311). Let us investigate what Hume meant by this.

According to Hume, the first relevant fact of human nature that empirical observation reveals is that we are rather weakly supplied by nature for our ends: we have no fur, claws, fangs, or wings, which means that human beings—unlike most other creatures on earth—must cooperate and work together to attain the things they desire. Second, human beings are motivated by “*selfishness* and *limited generosity*” (T 3.2.2: 317), that is, although they do feel benevolence toward others, it is limited, and their main motivation is self-interest. Hume believed our benevolence toward others fades as they grow more distant from us: we have the strongest benevolent feelings toward our family members, then our friends, and then our acquaintances; beyond them, however, and in relation to the vast majority of people on earth, we effectively have no benevolent feelings or motivation. By contrast, our self-interest persists regardless. “Now it appears, that in the original frame of our mind, our strongest attention is confin’d to ourselves; our next is extended to our relations and acquaintance; and ’tis only the weakest which reaches to strangers and indifferent persons” (T 3.2.2: 314).

And the human condition? Here too Hume indicated what he believed empirical observation reveals to be two enduring facts. The first regards “the enjoyment of such possessions as we have acquir’d by our industry and good fortune,” which are, alas, “both expos’d to the violence of others, and may be transferr’d without suffering any loss or alteration” (T 3.2.2: 313): it is relatively easy for others to assail us and take our belongings, and when they do, they can then use or consume what (formerly) belonged to us. The second salient fact about the human condition is that “there is not a sufficient quantity of [possessions] to supply every one’s desires and necessities” (T 3.2.2: 313): we live in a world of scarcity, and our desires outstrip our abilities to satisfy them all. That means there will be disagreement about how to allocate and use resources, disagreement that can sometimes be violent.

How can we remedy these deficiencies? Hume argued that the purpose of society is precisely that: “As the improvement, therefore, of these goods is the chief advantage of society, so the *instability* of their possession, along with

their *scarcity*, is the chief impediment” (T 3.2.2: 313). Human beings therefore naturally enter into society. But not just any society: rather, society that alleviates the instability of possessions and enables more efficient, productive, and peaceful use of scarce resources. What have humans discovered to address this need? They developed the idea of justice, which Hume argued is a “convention” that entails notions of property, right, and obligation. “A man’s property is some object related to him. This relation is not natural, but moral, and founded on justice” (T 3.2.2: 315). Hume summarized his argument as holding “that justice takes its rise from human conventions; and that these are intended as a remedy to some inconveniencies, which proceed from the concurrence of certain *qualities* of the human mind with the *situation* of external objects. The qualities of mind are *selfishness* and *limited generosity*: And the situation of external objects is their *easy change*, join’d to their *scarcity* in comparison to the wants and desires of men” (T 3.2.2: 317). Hume’s argument is that the principles of justice are, then, of contingent historical origin, arising from our experiences living in the world.

But many thinkers before, during, and since Hume’s time have, on the contrary, believed that the principles of justice are immutable and able to be apprehended by pure reason. So why should we believe Hume that our conceptions of justice arise only from our experience, rather than being logically deducible from unchanging concepts, the way we might logically deduce the properties of a triangle from the unchanging concept of “triangle”? Hume offered a test to prove his case. Imagine that the central salient fact of humanity or the central salient fact of the human condition were changed: what would happen to our notion of justice? Specifically, instead of “selfishness and limited generosity,” imagine that “every man had a tender regard for another” (in other words, imagine that everyone was motivated by unlimited benevolence); or instead of “scarcity,” imagine that “nature supply’d abundantly all our wants and desires” (T 3.2.2: 317). What would become of the notion of justice in this imagined world? Hume argued that justice would become “useless”: we would no longer have to worry about *my* property and *yours*, because each of us could, and would, have everything we wanted; and we would no longer worry about enforcing rights or obligations, because everyone would already naturally respect others’ rights and fulfill their obligations. A claim to a right to property

in a world of superabundance would be pointless. It is therefore only because of our selfishness and limited generosity, on the one hand, and because of the scarcity of resources, on the other, that we need concepts like property, rights, and obligation, and hence a notion of justice.

### The rules of justice

Hume's empirical account of the origins of justice, and his argument that it arose from the interaction between human nature and the human condition, formed the basis of his further discussion of what justice actually entails. He had argued that we enter into society, rather than living on our own in the wild, because we are relatively weak. Our relative weakness means that it is difficult for any one of us to procure all on his own what he needs or wants,<sup>8</sup> and also that it is difficult for us to protect ourselves against the predations of others. The purpose of society, then, is to remedy these two "inconveniencies" by allowing us to cooperate with one another for mutual gain. It turns out, Hume argued, that a conception of property is required to achieve this goal, and a handful of specific "conventions" or "rules" with regard to property are necessary.

Among these rules of property are what Hume called "the stability of possession," which he claimed is "absolutely necessary to human society" (T 3.2.3: 322). Because our possessions can be so easily taken away from us and used or consumed by others, the "infinite advantages that arise from" society (T 3.2.2: 314) cannot be realized until we have confidence that what is ours remains ours until we choose to part with it. It is not enough, however, merely to have a "general rule, *that possession must be stable*" (T 3.2.3: 322); rather, the rule must be more specific. In particular, it must specify what counts as a possession, as well as by what process people can "separate their possessions" (that is, distinguish what is mine from what is yours), and transfer possessions (or "assign to each his particular portion, which he must for the future inalterably enjoy" [T 3.2.3: 323]). Hume suggested that "the most natural expedient" that would "immediately occur" (T 3.2.3: 323) to anyone regarding what rules of property would enable the stability of possession required for the benefits

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8 Throughout these discussions, Hume uses only masculine pronouns. In fidelity to his writing, and not to beg any questions, I follow Hume's convention.

from society to ensue are: occupation, prescription, accession, and succession (T 3.2.3: 324). Take these in turn.

The first way that people can come to possess something, or to create a property in it, is to *occupy* it. If you are dwelling in a cave, then we naturally, Hume claimed, “annex the idea of property” (T 3.2.3: 324) to your possession of it, and we apply the rules of justice to you and your possession: you get to use it, you get to say who comes into it, you get to say whether someone else gets to use (or even possess) it. In practice, however, it is often difficult to know who first occupied, say, a piece of land: “it often happens, that the title of first possession becomes obscure thro’ time; and that ’tis impossible to determine many controversies, which may arise concerning it” (T 3.2.3: 326). In such cases, Hume suggested his second rule, that “long possession or *prescription* naturally takes place, and gives a person sufficient property in any thing he enjoys” (T 3.2.3: 326). Hume confessed that “long possession” is an imprecise standard that “admits not of any great accuracy”; unfortunately, however, there is no *a priori* principle to which we can turn that would adjudicate such disputes once and for all. Property ownership by prescription applies when “Any considerable space of time” gives rise to a prevailing sentiment or consensus that its current occupant has title to it (T 3.2.3: 326).

The third method of acquiring possessions is *accession*, when something new is “connected in an intimate manner with objects that are already our property” (T 3.2.3: 327). So, for example, if I possess a tract of land by occupation or prescription, and on that land I plant corn, the corn that grows becomes my property by accession. This extension of my ownership takes place not by any metaphysical or theoretical principle, but, rather, because our minds “readily pass from one to the other, and make no difference in our judgments concerning them” (T 3.2.3: 327). In other words, the extension of ownership is validated by common consent and convention. A similar explanation pertains to Hume’s fourth rule, acquisition by *succession*: if your parents owned something and they died, in the absence of some clear promise or agreement otherwise, its ownership transfers to you. This principle of transference too is justified not by reference to any *a priori* principle, but because “the person’s children naturally present themselves to the mind; and being already connected

to those possessions by means of their deceased parent, we are apt to connect them still farther by the relation of property” (T 3.2.3: 329–30).

Each of these four means of acquiring property—occupation, prescription, accession, and succession—Hume offered as necessary for ensuring the stability of possession, which, as we have seen, he believed is itself necessary for the success of any society. This is thus an empirical argument, not a deduction from *a priori* first principles, a divination of God’s will, or a consultation of a metaphysical natural law. It comes from no source other than our experience in the world, and our trial-and-error attempts to cooperate successfully and productively with one another under the natural constraints we face of (1) selfishness and limited generosity and (2) scarcity of resources.

All of these methods of acquiring property pertain, however, to what Hume called “*present* possession” (T 3.2.4: 330): that is, they explain how we came to own, and to be recognized by others as owning, what we now own. What about future possession? That is, how can we come to own things that we did not occupy, that did not grow or appear on what we occupy, or that was not bequeathed to us by our parents? If you make a table and chairs from wood that grew on your land, how can I come to own it? Hume suggested that there is one more way we can come to own property, a way that is particularly significant and indeed in a developed (that is, commercial) society is the primary way we come to own things: by consensual transfer.

### **Justice, consent, and commercial society**

Among the things I own are my skills, abilities, and labour. I use them to transform the fruits of my land into other goods: I farm my land and produce crops; I cut down the trees and make tables and chairs; I raise animals on my farm and produce food; and so on. I may do these things only for my own use (or that of my family), but I could be benefited more if I could also do it for your use and you could in turn provide me with something that I cannot do, or do only with difficulty, on my land. So, we naturally—that is, without anyone telling or instructing us to do so—agree to an exchange: you give me your *x*, and in exchange I give you my *y*. We do this because in this way we are both better off. According to Hume, when such exchanges take place voluntarily, or by consent, they transfer property rights: you now own the *y*, and I now own the *x*.

Thus, *consent* gives rise to an enormously expanded range of possible goods (and services), as well as to new signatures of ownership and property. Because such transfers take place by consent, they will typically also be mutually beneficial. If either of us did not believe he would benefit from the exchange, he would not have agreed to it. We could be mistaken, of course, and not all mutually voluntary exchanges will turn out to be beneficial, or as beneficial as we hoped or expected. But benefit tends to track with voluntary choice, and voluntary choice is one of the best predictors of benefit—certainly better than forced and involuntary exchange. Hence, voluntary exchange greatly increases the likelihood of mutual betterment, and the more opportunity we have for it, the better.

Enabling more such opportunities, however, requires expanding the notion of justice, as well as the correlated notions of rights and obligations. In particular, it requires the notion of a contract, agreement, or promise, as well as the notion of a *right* to what one was promised and an *obligation* to fulfill what one promises (see T 3.2.5: 331–34). If our conventions, as well as our public institutions (more on that in chapters 4 and 5), sufficiently respect transfer by consent, people will naturally engage in it. The more they do so, the more habitual it becomes, and the more overall benefit they provide not only to themselves but to society more generally. Because each such transaction creates mutual benefit, each enables individuals to concentrate on a smaller range of activities, or to specialize, so as to increase their production of a particular good or service, thereby enabling them to exchange for more of other people’s production. As the overall quantity of any good or service increases, however, other things being equal, the price—whether in kind, in goods or services, or in money—of the good or service comes down. And that enables yet more people to enjoy the good or service in question. This has a multiplier effect: more voluntary exchanges, with more people, increase the overall supply of goods and services in society, thereby enriching everyone.

Over time, Hume believed, we can develop the mental habits of recognizing and respecting one another’s property, and of exchanging for mutual benefit. This happens naturally and does not depend on our “limited benevolence” but rather on our more constant “selfishness”: “Hence I learn to do a service to another, without bearing him any real kindness; because I foresee,

that he will return my service, in expectation of another of the same kind, and in order to maintain the same correspondence of good offices with me or with others” (T 3.2.5: 334–35). In this way, commerce emerges, enabling ever greater production of goods and services, and enabling ever greater prosperity for a society.

Hume believed this process occurs naturally, or can occur naturally, without any divine intervention and without any oversight from our (mortal) superiors—i.e., government. All that is required is for others not to interfere in the process, and the proper conceptions of justice, property, right, and obligation will emerge; our behaviours, encouraged by mutual benefit, will lead to habits, and the concepts of justice, property, and so on will get reinforced and strengthened. If this happens often and regularly enough, we will come to view these notions of justice and property as being moral obligations that should be enforced, even coercively if necessary. They can even become regarded, he thought, as “fundamental laws of nature”: the “laws” of “*the stability of possession, of its transference by consent, and of the performance of promises.*” ’Tis on the strict observance of these three laws, that the peace and security of human society entirely depend; nor is there any possibility of establishing a good correspondence among men, where these are neglected” (T 3.2.6: 337).

This final claim, that “good correspondence among men” depends on these three fundamental laws, constituted, for Hume, the reason they are endorsed. They are justified because of their beneficial effect on human society, on their ability to effectuate mutual betterment. They may or may not be intended by God—Hume was agnostic on that—but in any case, it is not, Hume claimed, by consulting God’s will that we come to them. We arrive at them instead by trial and error as we try to make our way in the world given our psychology and the scantiness with which nature has provided us. The normativity, moral obligation, or aura of morality that we attach to the following of these rules arises, according to Hume, by repeated and reinforced experience that following them leads to mutual benefit and that violating them leads to loss, cost, and destruction. They give rise to habits of behaviour, then conventions and norms, and are also reinforced by our cognizance of others’ expectations that we respect and follow the conventions and norms. They are thus a thoroughly historical and empirical affair, in their origins and in their

applications, and they depend entirely on our experiences and our interactions with one another.

The culmination of this process of natural development of justice and its entailed rules of property was, for Hume, a commercial society. The more people with whom we could transact, the more specialization there could be, which means the more goods and services there could be. So, it would be beneficial if there were some way we could ensure that others, even those we do not know, would respect and follow justice and the rules of property. It would, in other words, be better if there were some public institutions that could recognize and, if necessary, enforce justice and property.

Perhaps, then, we should have a government. If so, what would that government look like? What would, or should, it do? What would, or should, it not do? To those questions we turn in the next chapter.