UNIVERSITY OF HAWAI'I LIBRARY

RENEGOTIATING THE SOCIAL CONTRACT
HOBBES TO RAWLS

A DISSERTATION SUBMITTED TO THE GRADUATE DIVISION OF THE
UNIVERSITY OF HAWAI'I IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE OF

DOCTOR IN PHILOSOPHY

IN

PHILOSOPHY

DECEMBER 2003

BY

DEBORAH A. KISSINGER

Dissertation Committee:

Kenneth Kipnis, Chairperson
Tamara Albertini
Ron Bontekoe
Eliot Deutsch
Jonathan Goldberg-Hiller
For my Mother and Father, for whom all this came none to soon.
ABSTRACT

Hobbes, Locke, Rousseau, Kant, and Rawls set out different versions of the social contract theory. In this dissertation, these different versions are treated as iterative accounts within an on-going meta-conversation. To facilitate this conversation, a generic social contract is developed that sets out a uniform way to look at the different versions of the social contract. The generic social contract highlights specific features of the contract process for comparison by creating a set of questions that are posed to each theorist. This conversation reveals a series of progressive choices regarding the values and standards incorporated into the moral and political institutions designed to bring about social order. Taken as a whole, the different versions are subsumed under a social contract paradigm that reinterprets the social contract as a diagnostic tool that goes back and forth between assessing problematic moral and political situations and the societal institutions that manage them. The social contract paradigm offers a technique of continuous inquiry that permits renegotiation of the social contract in light of progressive refinement of the demands placed upon moral and political institutions.
# TABLE OF CONTENTS

Abstract......................................................................................................................iv
Table of Contents.......................................................................................................v
Chapter 1: Introduction.................................................................................................v
Chapter 2: Generic Social Contract..............................................................................7

- Chapter 3: Hobbes - Background............................................................................21
  - Section 1: What are the defining features of the Hobbesian original situation?....28
  - Section 2: Why do individuals choose the Hobbesian social contract?..............43
  - Section 3: What are Hobbes' moral and political recommendations?..................52
  - Section 4: Criticism of the Hobbesian account......................................................60

- Chapter 4: Locke - Background..............................................................................66
  - Section 1: What are the defining features of the Lockean original situation?.......71
  - Section 2: Why do individuals choose the Lockean social contract?...............84
  - Section 3: What are Locke's moral and political recommendations?..................91
  - Section 4: Criticism of the Lockean account.......................................................102

- Chapter 5: Rousseau - Background......................................................................108
  - Section 1: What are the defining features of Rousseau's original situation?......112
  - Section 2: Why do individuals choose Rousseau's social contract?...............122
  - Section 3: What are Rousseau's moral and political recommendations?..........128
  - Section 4: Criticism of Rousseau's account.......................................................136

- Chapter 6: Kant - Background.............................................................................141
  - Section 1: What are the defining features of the Kantian original situation?....143
  - Section 2: Why do individuals choose the Kantian social contract?...............152
  - Section 3: What are Kant's moral and political recommendations?...............160
  - Section 4: Criticism of the Kantian account.....................................................176

- Chapter 7: Rawls - Background..........................................................................180
  - Section 1: What are the defining features of the Rawlsian original situation?...182
  - Section 2: Why do individuals choose the Rawlsian social contract?..............203
  - Section 3: What are Rawls' moral and political recommendations?...............209
  - Section 4: Criticism of the Rawlsian account...................................................212

- Chapter 8: Conclusion.........................................................................................229
References.............................................................................................................241
CHAPTER 1
INTRODUCTION

In evaluating social contract theory, one begins with an initial set of assumptions about individuals and then connects those assumptions with the justification of political authority within a civil society. This combination of fundamental social elements presents a way of systematically organizing knowledge about the world and determining the best way for individuals to socially conduct themselves. The political power created in this process demands compliance with required conduct. However, different social contract theorists make different assumptions about the nature of the individuals who participate in the social contract and the circumstances in which they find themselves. Consequently, the normative guidance given by different contract theorists is often conflicting and raises the following question: what kind of theory concerning an individual’s basic needs, including beliefs, desires, and values, must theorists appeal to in determining social contract theory and justification of the principles of moral and political philosophy?

When we say we have different versions of the social contract theory, we mean there are different examples in which theorists select the social contract concept to explain the origin, definition, and perpetuation of moral and political authority. As a device, the social contract is designed with various strategies incorporated to accomplish a specific purpose. That purpose is the assignment of moral and political authority by organizing social institutions. It is a curious fact that the social contract concept enjoys repeated intellectual appeal. This appeal appears to persist despite contrary arguments.
The preceding question focuses on the specific feature utilized in social contract theory construction and not on the success of the theory itself. Each time the social contract theory is used, however, that instance becomes a fact in our intellectual history and thereby a point of reflection. As a whole, these points of reflection constitute a social contract paradigm that can, I maintain, serve as a model that captures the various specific manifestations of the social contract.

The above question suggests two separate directions of inquiry. First, one could argue for the persuasiveness of one singular formation of the theory as compared to all others. This approach implicitly links initial assumptions about human nature with the selection of normative guidance. Thus, developing the most persuasive and plausible set of initial assumptions should also provide singular normative guidance through the contract process. If this approach were universally applied, subsequent contract theorists would be viewed as attempting to develop a set of initial conditions that “get it right.” Arguing for the persuasiveness of one formulation means that one version sets out the most compelling initial conditions and hence, also the most compelling normative guidance.

However, there is a second more enticing proposal in this question. One could argue for collecting and subsuming the different and sometimes conflicting contract accounts under a more general principle. By so doing, a slightly different perspective about contract theory becomes apparent. For this study, I intend to follow this second path. In the following chapters, I intend to reinterpret, perhaps reinvent, the social contract as a diagnostic tool. This tool is designed to deal with specific social, political, and moral problems in the context within which they occur. Because these problems
change, solutions must change, and that adaptability is the heart of my proposal. My exploration provides, first of all, an overview of the major versions of social contract theory that have appeared over the last several centuries. I then treat those versions as a series of progressive choices rather than as static examples justifying political authority. By blending particular elements with the transcendent unities they all share, my model has the capacity to respond to new needs and developments as well as to a variety of social forces.

Nevertheless, this question regarding what constitutes an individual's basic needs is a broad one. I approach this problem by developing a set of more detailed questions, the answers to which establish a fundamental collection of facts drawn from each of these contract theories. The facts I collect refer to humankind's condition in the state of nature, the compelling influence that causes people to want to leave that state, and the moral and political principles implemented to ensure that exit. The merit of this method is to isolate the collection of facts regarding specific aspects of each theory and to make a comprehensive examination and comparison of these various examples of the social contract. In particular by comparing the different political recommendations, we will note a progression in social development, as the accretion of political knowledge is given practical application. While Rawls claims that women and minorities must be regarded as equal citizens, the other theorists did not. Although these theorists specifically did not include these individuals in their theories, we review their arguments for general content and hold all contemporary versions to the standard that women and minorities must be included.
As a strategy, my mode of exploring contract theory goes back and forth between practical social situations and abstract principles designed to manage them. A greater understanding of current problematic circumstances is gained by considering the roots of practical social situations. This recursive process demands continuous attention to the following considerations: What is reasonable to want from society and its instituted government? What must individuals do to fulfill their moral and political duties? What kind of social obligations are reasonable for citizens to accept? What is the basis for social obligations? As intuitions about social order become more highly developed, new standards are required. Each of the contract theorists I discuss incorporates more subtle intellectual equipment that targets the legitimacy of specific practices and sets out new standards for those practices. The general idea of a social contract can be applied to the organization of society or political institutions. The five contract theorists considered each argue for specific political recommendations. However, as a part of the argument presented, each also highlights specific aspects of human nature and society. For these purposes, the social contract targets political practices, although social agreements are a part of these political practices. For this reason, we use the social contract in its political application.

This critical examination and comparison of the various formulations of the social contract reveals an on-going meta-conversation. I initiate this meta-conversation by considering that each contract theorist is committed to the particular details of the version he sets out. Once proposed, however, each version represents a concrete example of the social contract. I treat each contract version as an instance within an iterative process that is specifically responsive to the then-current practical moral and political situation.
Therefore, rather than argue for the finality of a singular persuasive concept of an individual's needs and desires associated with universal notions of moral and political principles, I reinterpret the social contract as a way to assess social practices and develop new standards for these practices. Apparent conflicts in norms tend to dissolve because this approach is a progressive response to ever-changing needs and desires that become more refined as time and experience accrue. Viewed in this way, the social contract paradigm becomes a model of continuous inquiry.

My study of social contract theory covers about 500 years of history, during which time five key figures develop significant theories: Hobbes, Locke, Rousseau, Kant, and Rawls. With this basic cohort or philosophers, I intend to construct a social contract model as a technique to assess social practices. More precisely, my aim is threefold. First of all, in Chapter 2, I generate a uniform way to look at the different versions of the contract by analyzing a generic form of the contract. In so doing, I create a set of detailed questions regarding the differences among several versions of the contract. For this step, the Hobbesian method of arguments for the origin and nature of justice provides a template. I maintain that his method presents a pattern of argument that treats the social contract as a diagnostic tool of problematic social and political situations as well as a means for carrying out solutions to those problems. My second task in Chapters 3 through 7, is to set out the way that each theorist uses the social contract as a diagnostic tool. I carry out this task by addressing a set of questions that I apply to each theorist. In addition, the contemporary societal background of each theorist is established as a historical index. My third and final task in Chapter 8 is to show that the various versions of the contract are each progressive examples of a larger model that is responsive to
societal needs and desires that become increasingly refined. As a final part of this last step, I offer a recommendation for further study.
CHAPTER 2
GENERIC SOCIAL CONTRACT

The aim of this chapter is to develop a uniform way to look at the different versions of the social contract. This is accomplished by identifying the elements of a generic contract from which to develop a set of detailed questions to confront each of the key theorists in order to draw out that theorist's characterization. These individual characterizations are necessary in order to make comparisons among the versions. My purpose in defining a generic contract is that I might describe the essential elements and dynamics that compose the contract. With this definition, I then develop a set of questions to apply to the various different theories.

In general, the modern social contract is fundamentally a narrative that incorporates a fictional historical process. This narrative presents a story of how moral and political right and authority come into being and continue to operate over time. As this narrative opens, it traces the movement of loosely associated individuals into groups experiencing formal social, moral, and political relations as citizens rather than as feudal subjects or tribal members. In contrast to mere subjects, citizens are equal participants in the political process, possessing clearly defined rights, duties, and goals. The individual who emerges from the contract process is different from the original. The original individual becomes different through the adoption of citizenship and a specific role that is useful in society. But the sequence of events in the social contract narrative is imaginary because no such real events are known to have happened. The social contract really acts as a bridge between a set of initial assumptions about individuals and a desired moral and political condition for those individuals. The binding force of this new moral and
political condition is in the agreements characterizing the social contract. The contract theories differ in the elements comprising the set of initial assumptions about individuals as well as in the problem solving methods dealing with moral and political conditions.

Let us begin by looking at a generic social contract, a thought experiment unrelated in fact to any particular social contract theory or historical event. This generic contract contains features, elements, and dynamics common to contract theories generally, the most fundamental of which is the myth of origin. Thus, a general statement of the social contract is a fictional event in which a group of individuals overcomes the unrefined conditions in an antecedent state of nature by commonly instituting a governmental state of law and order. We can sketch the generic social contract in the following outline.

Once the idea of the origin myth is established, this generic social contract develops on a certain path. We imagine the interactions that could result when certain kinds of individuals deal with each other under specified circumstances and one of the primary assumptions regarding societal institutions and rules is that they must include a methodology designed to manage harmful conduct among individuals. Because circumstances in the original state are without particular societal institutions involved, it encourages retribution and unending feuds. We propose these individuals could do better for themselves. Furthermore, we venture that these individuals would want to do something to alter this unfavorable situation and would seek mutual remedies to accomplish this goal. These agreements would involve the exchange of natural freedoms for collective societal benefits and would necessitate the adopting of new laws, standards, and principles establishing ordered relationships among all individuals in the community,
thereby minimizing the harms found in the original disordered state of nature. We consider that the individuals would be better off in these new relationships. Because this movement out of the original state is a process, individuals would continue attempting new actions to alter adverse consequences and would continue striving to make agreements with each other until they were better off.

We will now consider elements of this process in detail, beginning with a close look at the original state. The original state is an account contrived to capture the situation in which individuals lived before the introduction of the social contract constraints or any other political model designed to manage potentially harmful human interactions. The conception of the condition in the original state must be contrived because actual access to knowledge about this type of situation is impossible and no extant native group or record of such events exists. Instead, the imagination is employed to derive the possible characteristics of this state.

The composition of the original state is largely determined through a process of definition by negation. Since there is no concrete state for comparison, each theorist has been free to speculate about the elements composing the condition of this state. However, this free rein is constrained by the criteria of plausibility, which demands the conditions and strategies be convincing based on what we know of human nature. As a consequence, the abstract idea of this condition excludes certain features of society. For example, the original state may be construed as containing no human institutions like civil government or formal moral rules. Having defined the original state, this thought experiment continues by considering what would happen in human interactions that occur within this antecedent situation without these artificially added institutions.
An original state presupposed human involvement. Therefore, the second foundational idea required for this thought experiment about a generic contract is a working theory of human nature. Different needs, passions, inclinations, desires, reasoning capacities, freedoms, and the will, are the primary distinctive features of this human nature, and the relative significance of these qualities combine to form a theory of human nature. In particular, attention is directed to specific traits that are considered to give rise to a problematic situation as well as those that contribute to its solution.

Thus far, I have looked at the original state and have characterized a human nature possessed by individuals living under those conditions. However, the collective original state and individual human nature do not work in isolation from each other. There are specific consequences considered to occur when human beings, possessing specific attributes, interact within a contrived state that is characterized by certain defining features. The most important consequence of these interactions is an undesirable condition of disorder brought about by specific actions of some individuals that are harmful for other individuals. Either they act in ways that directly result in disorder or they fail to act in ways that prevent disorder. This disorder indicates there are deep flaws in human relationships and cooperation efforts. Disordered interactions in the original state capture a disturbingly recognizable picture of how human interactions would occur under circumstances lacking imposed social order.

Unrestrained, autonomous individuals all pursuing their own interests create alarming disorder in the original state. However, the abstract observer entertaining this thought experiment is not the only individual who must recognize this disorder and its elemental causes. Since the social contract specifies that the individuals living under the
conditions of the original state respond to the disorder of that state by voluntarily making certain agreements, individuals operating under those conditions must also identify that disorder and recognize the social contract as the solution. That is, potential contractors must also perceive this disorder and be compelled to participate in the contract.

According to the idea of the social contract, individuals living in the state of nature make agreements either with each other or with a sovereign to resolve the chaotic condition in the state of nature. Agreements require an individual to give up certain freedoms assumed to exist in nature in return for other benefits gained by the establishment of the institutions of society. The content of these agreements includes the political principals and standards that define a civil relationship between individuals with each other and with all aspects of government. This civil relationship, in turn, sets out the enforceable rights and duties of citizens and government in the ordered society. This relationship is embedded in social, moral, and political connections, in all communications, and, most importantly, in agreements of cooperation.

At the beginning, we started with a basic question that consider the variance between the different contract theories. We noted two important facets of variance—the set of initial assumptions and the moral and political recommendations implicit in any theory. I now turn to the notion that the social contract is a dynamic process within which these two facets of variance interface, combine, and complement. Dynamic relationships among the various elements of the social contract contained in the two facets interact in the major conflict between individuals in the unregulated original state and the agreements contract participants must make as a part of the solution to that conflict. In short, politics eventually overcome human nature, for agreements are
specifically designed to counteract the conflict-ridden interactions arising from individual dispositions by the addition of an outside force.

But human nature is not irrelevant. Disorder in human relationships characterizes the original situation. The disorder results from elements of human nature specified as initial assumptions interacting within the particular conditions of the natural world. This disorder is a dynamic force requiring new principles for actions and the social contract is composed of making agreements based on amplified understanding of the situation in the state of nature gained by the participants. These agreements incorporate moral and political recommendations and are a dynamic force containing specifically ordered steps that respond to specific considered circumstances that results in the establishment of civil government. Because the initial situation requiring choice by the participants is an acknowledged state of disorder, the potential contract participants must obtain an adequate understanding of that disorder and determine the appropriate course of action.

My purpose for reviewing the elements and dynamics of the social contract is to develop a set of detailed questions that will be addressed to each version of the contract. By developing this set of questions, I can select and organize information regarding specific features from each theory. The purpose of collecting this information in a uniform way is to unite specific features of each version of the social contract into a coherent overall design that, I hope, will illuminate commonalities not heretofore realized. I develop the social contract paradigm into three separate areas of inquiry.

(1) The first task is to identify the situation, qualities and consequences of the specified elements of human nature and aspects about the external world that characterize the original state. For each version, we ask, what are the defining features of the original
situation? With the exception of the Rawlsian original situations, the identified features collaborate to generate the conflict that is located in the conditions of the original situation. This presumed condition of conflict is the situation to which each theorist addresses specific moral and political recommendations. (2) The second task is to show that individuals living in these conditions can also produce and act upon these recommendations. Since these are recommendations to practical problems, we must show that those who must carry out the recommendations can independently obtain them. We ask, why do individuals choose the social contract agreements as the solutions to the problems in the original situation? (3) The third task is to identify the elements of the plan set out by the theorists to control the conflict located in the condition of the original situation. We ask, what are the moral and political recommendations set out? Each theorist sets out recommendations designed to manage the condition of conflict located in the original situation.

The overall purpose of this dissertation, then, is to examine assumptions and arguments employed by those adopting the primary principles of moral and political philosophy in the various versions of the social contract. Each theorist uses the social contract as a distinctive tool to explain rational deliberation about a concrete moral or political situation. By extracting the same information about specific features of each theory; we can classify the contributions each theorist provides to this ongoing debate. This classification is intended to illustrate the evolution of progressive rational deliberation and to highlight the use of the social contract paradigm as a responsive strategy in dealing with social problems. This renegotiation of the social contract addresses specific problems located within the state of nature, problems that only emerge
through living within a specific social context. Thus, the “original” social contract is sequentially renegotiated in the light of current experience.

Having set out the idea of a generic social contract, we must address a concern that the earlier theorists lack knowledge about human nature available today and reading their works can strain intellectual sensibilities. Since the generic social contract sets out a conception of human nature that is associated with legitimating a political solution to problems in the original state, there is a problem regarding the understanding of human nature used by the earlier theorists and the plausibility of those accounts according to current standards. Each theorist exercises discretion, restrained by plausibility, in determining the attributes of human nature that contribute to problematic interactions. However, the standard of plausibility—a measure of what counts as reasonable and possible—appears to become successively more refined and selective in the sequential reformulations of the contract theory. That is, as flaws regarding a specific account become apparent, greater demands are placed on what counts as plausible. Furthermore, advances in other scientific endeavors influence the standard of plausibility. More recently, ethnological research and the theory of evolution have contributed knowledge that significantly shapes our understanding of human nature. Rather than dismissing or exonerating these earlier accounts, we must find a way to ascertain the specific point of view these arguments represent. We can accomplish this task, I maintain, through applying the questions generated in the generic social contract to each account. In so doing, we find that each theorist recognized specific problematic social, political and moral issues and that they use a unique perspective on what is important about human
nature. However, the conception of human nature and what is considered as important about that nature and how to deal with it is under constant revision.

More than this, a review of the recommendations set out by these theorists can, I maintain, demonstrate an accretion of moral and political values. That is, despite reconsidering the foundations upon which these values are based, each of these theorists accepts and builds on the values put forth by predecessors.

Hobbes argues for social stability as a political value that can be achieved through the exertion of absolute external forces to influence human passions and actions. Locke adds that social stability must include protecting citizens against tyranny and abuse from the sovereign through a government created with certain safeguards designed to overcome flaws in human reasoning. Rousseau adds that the goal of social stability is not sufficient in itself; society must incorporate genuine morality rather than placatory social pleasantries by concentrating on the proper development of all the human qualities, including passion and reason. Kant adds that the power of reason is best utilized to influence the passions through the construction of a reasoned moral government. Rawls adds that the pursuit of justice as the construction of a publicly reasoned political process must be separated from the privately reasoned realm of religious, philosophical, and moral doctrines to achieve enduring social stability.

The contract theorists considered in this dissertation each treat the idea of an original contract as fictional, which means none of them required the possibility of its being an historical event to support their arguments. However, Hume, one of the harshest critics of the social contract, argues for the plausibility of an original contract, but maintains the legitimacy of such an agreement has been erased by numerous changes to
government since that initial event. By original contract, Hume means, “the people...are the source of all power and jurisdiction”\(^1\) because initially they voluntarily submitted to mutual laws. He states, “it cannot be denied that all government is, at first, founded on a contract.”\(^2\) That is, he accepts the legitimacy of a government founded on consent and voluntary compact that imposes duty of allegiance on its citizens. Concerning the various just foundations of government, Hume regards consent as the “best and most sacred of any.”\(^3\)

Hume distinguishes plausible consent rendered to the conditions of an original contract as separate from consent presumed in the regular administration of the contemporary political situation. The problem, according to Hume, is that he finds no such event of initial consent to government recorded in human affairs or confirmed by history or experience. Thus he admits that one cannot rely on an actual event to support the idea of a plausible initial agreement. Instead, he argues that human nature provides evidence for his speculation. For Hume, all individuals naturally possess a human nature that acts in ways that undermine society. Since all individuals possess a human nature that is mutually contrary to each other, “we must necessarily allow, that nothing but their own consent could, at first, associate them together, and subject them to any authority.”\(^4\)

Hume identifies specific contrary natural inclinations in human nature, “every man loves himself better than any other person, he is naturally impelled to extend his acquisitions as

---

\(^2\) *Social Contract*, “Of the Original Contract”, p. 149.
\(^3\) *Social Contract*, “Of the Original Contract”, p. 154.
\(^4\) *Social Contract*, “Of the Original Contract”, p. 149.
Furthermore, natural individuals possess nearly equal physical strength and courage, thus a single individual of similar capacity, could not subdue and dominate other individuals. For Hume, only individual consent, which is reinforced with a hope to gain an advantage in peace and order, could subdue the human natural force, because no singular governmental force could be initially generated that could actually subdue unwilling natural individuals. Despite these difficulties, the necessity of human society requires the introduction of some measures cultivating social stability.

Hume claims the reason no social contracts are observed in his society is because most current political situations came about by usurpation or conquest and do not involve voluntary consent. He notes that in the flux between small and large kingdoms, no popular consent is manifest. Instead, these situations are characterized by force and violence. For Hume, usurpation and conquest are, in a sense, the real foundations of government. But within this flux, he observes that "some innovations must necessarily have place in every human institution; and it is happy where the enlightened genius of the age give these a direction to the side of reason, liberty, and justice." For Hume, such innovations and changes within government, even if the political authority were initially created by usurpation, can make the institutions take on the feeling of a government chosen by the people.

Hume describes two classes of moral duties. First, he notes duties independent of the ideas of obligation that individuals are impelled by natural instinct. These duties include love of children, gratitude to benefactors and pity to less fortunate individuals. Second, he notes duties performed only from a sense of obligation. Natural duties of

---

obligation include justice and fidelity, which are regard for other individual's property and the observance of promise, respectively. For him, obligatory political duty includes allegiance, which is obedience to magistrates. According to Hume, natural inclinations, which are contrary to human society, are thwarted only by the sacrifice of strong passion. One can only be motivated in this sacrifice by reflection and observation of the devastating consequence of a society that lacks the authority of a magistrate to insure the general interest and necessity of society.

Hume disputes founding the duty of allegiance upon that of fidelity, which is the claim he ascribes to the original contract. That is, the problem with the original contract is that it relies on individual consent as the primary factor in promise-making to the contract of government. However, for Hume, political obligation to government cannot legitimately be founded on an ancient extinct agreement. Instead, he maintains the necessity of society is the source of both fidelity and allegiance. He maintains the doctrine that founds lawful government upon an original contract is flawed because it "leads to paradoxes repugnant to the common sentiments of mankind, and to the practice and opinion of all nations and all ages."\(^7\) The importance of an appeal to general opinion for Hume is that "in all questions with regard to morals...there is really no other standard, by which any controversy can ever be decided."\(^8\) Thus for Hume, obligation to his current government is created, not from an agreement to original contract, but rather by the necessity of society upon which each observer can reflect. For Hume, the necessity of society is so profound and carries such a strong obligation, he advises it is the reason that

\(^7\) Social Contract, "Of the Original Contract", p. 165, emphasis added.
\(^8\) Social Contract, "Of the Original Contract", p. 165.
should motivate obedience to a government regardless if the present sovereign acquired power by consent or by usurpation.

We review Hume, a challenger to the social contract, to compare his ideas about the social contract with the other theorists we are considering. Although, in contrast to the other theorists, Hume uses the idea of an original contract to undercut the credibility of any current contract, however he demonstrates indirect support of the idea of iterative contracts we are will be developing in this dissertation, although he does so for different reasons. Hume argues that any possible agreement initially made between individuals has long since been “obliterated by a thousand changes of government.” However, if we consider those thousand changes to government sequentially as they occurred over time, we must consider Hume’s advice. He cautions that the interest and necessity of society absolutely requires obedience because society could not otherwise survive. That is, Hume recommends adopting the standards of the current government to determine one’s political conduct. His advice would stand whether a new government is established upon consent or usurpation. However, he also acknowledges that changes to government can be in the direction of reason, liberty, and justice. Reflection informs one of the utter necessity of society. Thus Hume argues for an individual’s consent through fidelity and allegiance to a new government. However, obedience is motivated by the necessity of society rather than rendered voluntarily. It is not too far a leap to the other five theorists considered hereafter who use the idea of the social contract as a means to review social practice with an intent of presenting changes that could be voluntarily adopted by the individuals influenced by a particular government.

---

In all, the social contract paradigm functions as a reflective strategy that identifies the cause of a problem as well as a solution. The ideational construction of an initial state sets out a specific way of understanding the origins of a present social system. It provides the foundation for a thought experiment from which one can speculate about the features and events that presumably work together to create the present problematic condition.

We will now apply to each of the key theorists the detailed questions presented in the three lines of inquiry. As we do so, I will make comparisons and contrasts between assumptions and theories. However, these differences and similarities are not set to privilege one singular formulation of the social contract theory over all the others. Instead, this study attempts to demonstrate the way the social paradigm functions as a diagnostic tool that can be applied to specific problematic social situations both today and in the future.
CHAPTER 3: HOBBES
BACKGROUND

Hobbes was the beneficiary of a new tradition in science and knowledge. In 1623 he acted as an amanuensis for Francis Bacon, who set out “a brilliant example of method as to how the hidden characteristics of nature could be exposed by means of experiment.” Hobbes also visited Galileo in Florence in 1636. Galileo’s concept of inertial force was based on empirical evidence validated by his experiments based on the scientific method. However, Galileo’s contribution to science placed him in academic conflict with his fellows because the physical principles he proposed to measure nature contradicted the deductions set out in Aristotelian physics. Hobbes embraced the new scientific empiricism and the knowledge about the world that resulted from it, eventually connecting this new knowledge to moral and political thought.

During his studies at Oxford, Hobbes began to reject the Aristotelianism that was presented to him during his studies there. In particular, he rejected the Aristotelian method that imposed many attributes, namely abstract essences, upon nature through dialectics before testing them through experimentation. That is, Aristotle subjected observations about the world to logical deductive argument rather than to measurement and inductive reasoning. Hobbes maintained that a great many of his predecessors, particularly Aristotle, inflicted grave damage upon the intellectual development of humankind by relying on knowledge about the world gained through dialectical reasoning rather than experimentation. Instead, Hobbes followed Bacon’s methodological advice: “rather than turn nature into abstractions, it is better to dissect

---

The use of these new concepts in method and science are recognizable in the way Hobbes seeks the bodily causes and true principles of human nature. Hobbes was the first to make the analogy between science and philosophy by connecting the physical principle of inertia to a philosophical system accounting for the attributes and consequences of human nature, thereby contradicting official state theologies. He also used unique thought experiments, imagination, and introspection to seek philosophical solutions to human problems.

Hobbes exiled himself to Paris in concern for his own safety in the 1640's because of political tracts that he published supporting the English King against Parliament. England was facing a breakdown in the relationship between government and the subjects. For Hobbes, the meaning of this situation was a return to the state of nature that effectively negated the agreements of society. Nevertheless, an eventual breakdown in the French government forced him to leave Paris and return to England in 1652. He continued to face charges of atheism and heresy until the end of his life.

Hobbes sets the tone for our project. Hobbes does not start his argument with an independent account of the state of nature. Instead, the condition of the state of nature that he sets out directly relates to his observations about his contemporary society. That is, Hobbes actually begins his account by considering the condition of his own society. A narrow reading of the Hobbesian social contract misses this important dimension -- his endeavors in moral and political philosophy had great practical importance to him and were not only abstract views of human society and its flaws. This practical dimension to Hobbes' work becomes apparent in review comments he makes regarding his aim.

---

England in Hobbes' day was "boiling hot" over several issues including the appropriate response to Parliament's refusal of certain of the King's orders, the legality of the King's dissolving Parliament, the King's revenue-generating practices, and his right to make law. Royal subjects responded to this instability within the government by questioning their duty to obey the King. Implicit in this breakdown of feudal authority and responsibility were questions regarding the rights of kings and the duties owed to them by subjects.

The connection between these explosive issues and Hobbes' personal situation can be seen in his philosophical work. Early in his writing career, Hobbes spelled out the plan he had for his philosophical writing projects. He initially intended to divide his philosophical work into three sections. First, he proposed to work through the general physical properties of the body of an individual, followed by the special faculties and affections of humankind in non-political groups, and finally with the duties of a subject in civil government. However, in the preface to De Cive, he claims that events preceding the English Civil War disturbed him and compelled him to radically alter his formerly systematic approach. He grieved for the "present calamities of his country." Instead, he hastened to write on civil government, temporarily passing over the first two proposed sections. He voices a feeling of crisis in citing "the reason which moved me to write this...[is that]....my country, some few years before the civil wars did rage, was boiling hot with question concerning the rights of dominion and the obedience due from subjects.

---

the true forerunners of an approaching war." Thus, experience with specific problems within his society motivated Hobbes to promptly address those problems.

Hobbes asked in this work, De Cive, what quality of human nature does a subject possess that would make him fit or unfit to compose a civil government? His underlying complaint was that the way individuals were currently carrying out their obligations as subjects to the government was deeply flawed. How could this possibly occur in a developed political society? His task in this work and in the Leviathan was to discover the origins of these flawed activities and to set out moral and political recommendations in a manner that would be persuasive to his fellows.

Furthermore, Hobbes reveals that the Leviathan is set out as a solution to the turbulent "disorders of the present time" and hopes for specific practical results to follow from the publication of it. He states,

I recover some hope that one time or other, this writing of mine, may fall into the hands of a sovereign who will consider it himself, (for it is short, and I think clear,) without the help of any interested, or envious interpreter; and by the exercise of entire sovereignty, in protecting the public teaching of it, convert this truth of speculation, into the utility of practice.

Thus, for Hobbes, the disorder of his time is critical and demands expeditious consideration and effective intervention.

---

13 De Cive, p. 103.
14 De Cive, p. 99.
16 Leviathan, p. 254, emphasis add.
Hobbes maintained that the then contemporary flaw in moral philosophy resulted from the opinion of the civil subject that the “knowledge whether the commands of kings be just or unjust, belongs to private men; and that before they yield obedience, they not only may, but ought to dispute them!” Hobbes was of the opinion that this rationalization gives rise to rebellion, the wrongful death of perceived “tyrant” kings, bloodshed, and the eventual undermining of legitimate superior authority of kings. Nevertheless, despite the difficulties regarding the failure of earlier moral philosophy, Hobbes maintained that the steerage of one’s life with other individuals is of the utmost importance.

Hobbes wrote *Behemoth*, also known as *Dialogue of the Civil Wars of England*, near the end of his life. In *Behemoth*, he recorded the social and political conditions existing during the reign of King Charles as the causes of the English Civil war that Hobbes witnessed. Revealing further observations of his society, Hobbes stated that if one had “looked upon the world and observed the actions of men, especially in England, [one] might have had a prospect of all kinds of injustice, and of all kinds of folly, that the world could afford.” For instance, in 1637, King Charles I attempted to force the Anglican Church upon his subjects in Scotland. When the Scots opposed this forced religion and created an army to defend themselves, Charles created the Long Parliament to raise money to fight the Scots. Although Parliament was divided in its support for the King, The English fought several battles against the Scots. Eventually, when Charles lost both public and Parliamentary support, civil war broke out in England.

17 *De Cive*, p. 97.
The urgency Hobbes felt pulled him in two philosophical directions. Looking to
the past, he blames errors perpetuated in previous moral philosophy for “causing
offences, contentions, nay, even slaughter itself.”¹⁹ For Hobbes, philosophy had failed in
significant ways to guide the peaceful conduct of human affairs. On the other hand,
looking to the future, he saw the dangerous consequences of the civil war. As Hobbes
reflects upon the failure of philosophy, his “investigation of natural justice”²⁰ leads him
to reconsider the source of justice. Hobbes identifies certain problems with justice that
require the social contract to resolve. Hobbes uses the social contract as an intellectual
tool by which to assess his situation. This tool must correct previous flaws and make
recommendations regarding civil government that avoid the current undesirable situation.
Hobbes faced a major problem persuading his audience regarding his moral and political
convictions. His intended audience was composed of the general public, rather than
philosophers. To convince such an audience, he appeals to public reasoning. In order to
reach his specific audience, Hobbes begins by dissolving the elements of his
contemporary society into an antecedent situation. In De Cive, he cites that the purpose
in dissecting government is “that we rightly understand what the quality of human nature
is, in what matter it is, in what not, fit to make up a civil government.”²¹ Likewise, in the
Leviathan, Hobbes considers the true nature of humankind.²² That is, he considers what
humankind is individually and what it can become together politically. He begins by
isolating an undesirable tendency exhibited in his fellows. In particular, the tendency

¹⁹ De Cive, p. 96.
²⁰ De Cive, p. 93.
²¹ De Cive, p. 99, emphasis added.
²² Leviathan, p. 10.
was of subjects politically rising up against the sovereign king. He then asks, what original qualities must a person possess that give rise to this specific action? What is the antecedent condition that allows this problematic social situation to occur? Hobbes speculates about the elements that characterize the state of nature by deriving them as precursors to the specific contemporary problematic condition. In this way, the conceptualization of the Hobbesian state of nature is attached to a concrete situation requiring rectification. That concrete situation provides the starting point of the speculation.

Based upon the condition of conflict speculated as existing in the state of nature, Hobbes then sets out moral and political recommendations. He specifically designs these recommendations to manage particular situations in that state, but the conflict arising in the state of nature is exceedingly severe. Hobbes believes the means of gaining peace is to grant absolute power to the sovereign. Only absolute power, writes Hobbes, is sufficiently strong to manage the characteristics that give rise to the uncontrollable and continuous conflict. Hobbes maintains that he came upon this approach while inquiring about natural justice. He begins with the definition of justice used by the Aristotle and the Scholastics. In this construction, justice is a “steady will of giving every one his own.” Because this definition focuses on the acquisitive aspect of justice, he then asks, “whence it proceeded that any man should call anything rather his own, than another man’s?” Hobbes finds that this “ownership” does not proceed from nature, but comes about through consent between individuals, because nature equally presents resources in

---

23 *De Cive*, p. 90, and 103.  
24 *De Cive*, p. 98.  
25 *De Cive*, p. 93.  
26 *De Cive*, p. 93.
common to all individuals, who then distribute them. Hobbes’ inquiry continues by his asking, “to what end and upon what impulsives...men did rather think it fitting that everyman should have his inclosure?” He answers this query by saying that natural goods in common give rise to contention in those who would enjoy them; a contention that then gives rise to calamities or conflict. These ideas of contention and calamity provide Hobbes with two maxims of human nature, principles he arrives at though personal observations that demonstrate the “absolute necessity of leagues and contracts and thence the rudiments both of moral and of civil prudence.”

We can now see that the Hobbesian method presents a series of questions that he poses in a particular order. First, he identifies an adverse situation in contemporary society. Next, he ascertains the roots of the situation that caused the problem that natural individuals failed to solve properly at their origins. Finally, he applies recommendations that avoid the current difficulties into which that nascent situation has developed. Hobbes’ method provides a template of the social contract paradigm, one that provides a means by which to ascertain a remedy for a current problem within extant society.

Section 1: What are the defining features of the Hobbesian original situation?

Clarifying the state of nature is important because doing so suggests sources of current problems and is the foundation for the argument supporting Hobbesian political and moral recommendations. As the Hobbesian concept of the state of nature provides an accounts about the origins of individuals who could become so unruly and anarchical

27 De Cive, p. 93.
28 De Cive, p. 93.
within his English society, the defining features of the state of nature are those elements that answer the Hobbesian question: what kind of person could give rise to the contemporary problem in English civil society? We will explore the Hobbesian state of nature and follow with a discussion about conflict in that state.

According to Hobbes, nature’s best efforts generate the sorry condition of humankind in the state of nature. Nature makes all human adults nearly equal in power and capacity for action. However, each individual also possesses a natural disposition for quarrelling with others, so that “men have no pleasure...in keeping company”29 with each other, when there is no common power. One may wonder with Hobbes why “nature should thus dissociate, and render men apt to invade, and destroy one another.”30 Furthermore, if nature is the culprit that gives rise to this unfortunate human predicament, what source could provide a solution? After locating the problem in nature, Hobbes recommends an escape route from this state using a combination of human passion and reason to form artificial alliances between individuals, thus evading the natural condition of conflict.

When Hobbes blames nature itself for the sorry human condition in the state of nature, he makes a distinction between natural and artificial creation. Humankind, created by the divine hand of God possesses certain terrestrial characteristics, qualities, and attributes. Hobbes imagines natural humankind as it is before it develops or tames any of these characteristics. He describes the natural human as equipped with a disposition that fails to keep an individual out of conflict with one’s fellows. Since all natural interactions bring about conflict, all efforts to create peace between individuals

29*Leviathan*, p. 88.
30*Leviathan*, p. 89.
must be artificial. These artificial elements include institutions and objects that human beings create by imitating natural objects and concepts. According to Hobbes, the state of nature is the source of conflict and artificial institutions are the source of peace. Thus, any failure in the pursuit of peace is a failure of those artificial institutions to overcome the conflict associated with the state of nature.31

The primary defining feature of the Hobbesian state of nature is the negation of society and its known bonds. Hobbes argues that nature does not arrange circumstances that promote the society of humankind. Individuals inhabiting the state of nature do not possess joint interests or government to unite them as a social group. They do not have mutual culture, institutions, social arrangements, or cooperation to recommend appropriate conduct and relationships between individuals. Hobbes, in determining the defining features of the state of nature and the distinctive attributes of natural individuals, is seeking to include only elements that he considers natural or given by nature alone. His method of arriving at this definition is to begin with his own society and to systematically exclude elements that are unnatural or artificial from it. Thus, Hobbes excludes the concepts of both general society and civil society from the natural situation of humankind.

Hobbes argues against the Greek supposition that “man is a creature born fit for society.”32 The Greek concept posits a socially inclined human being, the zoon politikon, as the foundational individual upon which humankind builds civil society. In contrast, Hobbes argues that nature does not make humankind fit for society. He does not believe

31 Leviathan, p. 120.
32 De Cive, p. 110.
the family unit is the social alliance that provides a precursor to civil relationships.\textsuperscript{33} Although nature seems to provide for society in selected animals, such as the bees and ants, it does not appear to do so for humankind. Hobbes argues that human infants are born “unapt” for society and some adults remain unfit for society throughout their lifetimes. He observes that powerful natural inclinations motivating individual human action undermine the success of human society. These inclinations include being “stubborn, insociable,...[and] intractable.”\textsuperscript{34} Furthermore, only by education can humankind become fit for society. Nevertheless, education requires a desire – “unnatural” in the state of nature – to become fit for society. Thus, the Hobbesian concept is that nature neither creates nor nurtures human society.

When absolutely all social and institutional constraints are abolished, then individuals enjoy a state of \textit{absolute freedom}. Hobbes initially describes this freedom as the “absence of opposition.”\textsuperscript{35} He further clarifies this opposition as the “absence of externall impediments.”\textsuperscript{36} Hobbes maintains that there are no social rules, laws, or external impediments that restrict conduct in civil society – human or divine – active in that state. Thus, in the absence of these external impediments all individuals possess absolute freedom of action in the state of nature.

Hobbes relates the freedom experienced in human action, under the conditions of the state of nature, to the physical principle of inertia, accord to which a body in motion remains forever in motion, unless acted upon by a force opposing that motion. Hobbes uses this principle of physics to expand understanding about how empirically measurable

\textsuperscript{33} Leviathan, p. 88.
\textsuperscript{34} Leviathan, p. 106.
\textsuperscript{35} Leviathan, p. 145.
\textsuperscript{36} Leviathan, p. 91, and 145.
physical processes determine human sense in the world, because, he claims it is influenced by a chain of causal events between objects and events in the world. The perception of objects attracts or repeals an individual to those objects, ultimately influencing human action. He defines the physical principle of inertia as “when a body is once in motion, it moveth (unless something els hinder it) eternally; and whatsoever hindreth it, cannot in an instant, but in time, and by degrees quite extinguish it.”

It is here that Hobbes links measurable physical phenomenon with human perception. He understands the experience of sense in the body as the motion of matter as it presses against the sensory organs and argues against the Aristotelian concept of sensibility, which sets out that “the cause of vision, that the thing seen, sendeth forth on every side a visible species...the receiving whereof into the eye, is seeing.” Thus, for Hobbes, human freedom in action is a motion that originates within a person and continues until an action is complete or until an opposite force acts to hinder it. Furthermore, freedom is graduated, in that one may encounter different degrees of hindrance, and in turn, lose different degrees of freedom. As a result, he uses the terms freedom and liberty interchangeably, defining liberty as the absence of external hindrance that would remove some of an individual’s power to do as an individual would.

Hobbes differentiates between the source of a hindrance to freedom as originating either internally or externally. An external hindrance diminishes the amount of power, as well as the degree of freedom one possesses to do as one chooses. However, an individual confined to bed due to illness, for instance, lacks power and not liberty. The hindrance to action in a physically ill person comes from the body of the individual, not

37 Leviathan, p. 15.
from a source external to the body. For Hobbes, moreover, the proper use of the words *freedom* and *liberty* apply only to individual bodies. One abuses the concept of freedom when applying it to an object that is not subject to motion. Only bodies in motion can experience an impediment to that motion, so one cannot correctly apply the concept of liberty apart from the physical activity of a human who has the ability and will to engage in that activity.

Hobbes illustrates the concept of freedom with the phrase “the way is free.”39 By this phrase, Hobbes is referring to someone physically walking and finding in so doing that no external impediment prevents one’s passing. In other words, one finds the meaning of freedom only in the action of walking without external impediment. Thus, according to Hobbes, an individual is free so long as one’s body does not encounter any opposing force: “a *free-man*, is he, that in those things, which by his strength and wit he is able to do, is not *hindred* to *doe* what he has a will to.”40 Human actions in the state of nature are completely free concludes Hobbes, “for all men equally, are by nature free,” and the condition of nature is “absolute liberty.”41

The Hobbesian conception of freedom offers a connection between the principles of physics and the attributes of human thought and physical action. His model is distinctively mechanical and deterministic, incorporating the new scientific concept of inertia. Despite their physical causation, however, Hobbes regards certain human actions as voluntary motion and presents these motivations in terms of human volition. According to Hobbes, all individuals possess the attribute of self-interest that provides a

---

39 *Leviathan*, p. 146.
40 *Leviathan*, p. 146.
41 *Leviathan*, p. 150, and 245.
special function in the actions of self-preservation. Self-interest also operates through will and power in human action. Absolute freedom in the state of nature, a condition without rules to guide conduct, provides a unique thought experiment in which to consider the interaction of human attributes.

Hobbes describes the will as the "last appetite in deliberating." Objects sensed in the world cause deliberation, a process in which the mind sequentially experiences a whole flood of appetites, desires, aversions, hopes, fears, and reasons. This process continues until an appetite or aversion demonstrates a stronger pull upon the mind, one that indicates to the mind an action to do or to think an action is either possible or impossible. Because appetite is attraction towards an object and aversion is repulsion away from an object that caused the sense experienced, the "will" is the last in a sequence of appetites or aversions experienced before doing or not doing an action. According to Hobbes, the doing of the action that results from the will is voluntary motion, because that action is the one that the individual experiences for himself or herself as exerting the strongest pull. In the deliberative process, external means cannot directly inhibit the will because the pull of an appetite or aversion defines the direction of the will, but does not inhibit it.

In his definition of will, Hobbes denies the traditional definition given in the scholastics that defined the will as rational appetite. According to the scholastics, a rational appetite operated as a mental activity that weighed the merits and defects of various presented options as the means to an end. One's rational appetite chose one option presented from reason as possessing the greatest merit. The scholastics derived

---

42 *Leviathan*, p. 45.
43 *Leviathan*, p. 44-5.
this version of rational appetite from Aristotle. In his debate with Bishop Bramhall, Hobbes began by considering a definition of *deliberation* that loosely follows the one in Aristotle's *Nicomachean Ethics*: "deliberation is an inquiry made by reason, whether this or that (definitely considered) be a good and fit means, or (indefinitely) what are good and fit means to be chosen for attaining some wished end." However, this definition focuses only on reason as the means of deliberation and Hobbes discarded this definition because it disallowed the origination of voluntary action from any source other than from rational appetite. Hobbesian deliberation operates as a mental activity that measures the force of various presented options, including those from sources other than reason.

According to Hobbes, foresight utilizes appetite and aversion to ascertain the good and evil consequences of deliberated actions. In this way, one mentally considers a given circumstance and attempts to imagine the effects upon it of particular actions. Both reason and experience assist deliberation in adequately grasping a long chain of consequences. Thus, the will is not determined exclusively by a series of feelings in the imagination. Nor is the will exclusively the result of reason. Reason and previous experience both contribute thoughts that influence deliberation. That influence means both reason and experience contribute to a final appetite that is strongest in the deliberation process. For Hobbes, reason simply acts as one of the factors in the deliberative process; it does not provide a uniquely compelling function in the mental process. He describes reason as the apt naming of things and knowledge, a description that provides appropriate assertions about the consequences of the association of those

---

45 *Leviathan*, p. 46; *Hobbes and Bramhall*, p. 82.
things. The criterion that defines good deliberation requires that one attain the most adequate account of seeming good or evil consequences. Hobbes develops the term *felicity* as an indicator that one possesses good deliberation and defines success, as a matter of one's continuously being able to obtain those things that one desires in the pursuit of self-preservation. For Hobbes, *felicity* is a condition of continual prosperity and success in life.

Hobbes places particular emphasis on the role of power in an individual's life. The power of an individual, claims Hobbes, is "his present means, to obtain some future apparent good," and an apparent good is a "*seeming good.*" All individuals, he goes on to say, have a general inclination to the "perpetuall and restlesse desire of power after power, that ceaseth onely in death." Perpetual desire requires perpetual power to fulfill the demands of that desire. Constant desire and the ensuing endless need for power results because one is not able to secure once and for all time, the power and means to live as well as one's appetites dictate. Each day, one faces the renewed battle with self-preservation. On the one hand, one must acquire the good as one sees fit, the objects of appetite and desire. On the other hand, one must avoid the bad, the objects of dislike.

For Hobbes, power too operates on the principle of inertia and unhindered, power continues to be a means to acquiring desired future goods. Not only that, having power can allow one to gain more power, for it is the nature of power that it is "increasing as it proceeds." External hindrance removes a portion of an individual's power to act as one

---

46 *Leviathan*, p. 35.  
47 *Leviathan*, p. 62.  
48 *Leviathan*, p. 46.  
49 *Leviathan*, p. 70.  
50 *Leviathan*, p. 62.
wills to act, such impediment cannot obstruct an individual from using that power left to
one according to one’s judgment and reason. Thus, the hindrance of power is the
presence of external impediments that remove the means of obtaining a future seeming
good.

Power is anything that creates an advantageous position for an individual
regarding desired objects in a chosen good life. These desires include reputation,
success, nobility, eloquence, the sciences, art of war instruments and so on. The total
power carried by an individual is measured as “the value, or worth of a man...his price:
that is to say, so much as would be given for the use of his power.”\(^5\) The value of an
individual is not absolute and it depends on the need and judgment of another person. In
other words, the esteem of an individual by other people reveals an individual’s value,
but it is here that this perception of one’s power may come into conflict with one’s
internal condition regarding freedom. For the reduction of liberty by degrees also may
have a similar effect in reducing the power available to bring about a desired good. As
Hobbes concludes, if there exists some type of external impediment, an individual may
use any residual power “according as his judgment, and reason shall dictate to him.”\(^5\)

For Hobbes, antecedent to the concepts of power and will is the notion of
voluntary motion. Voluntary motion includes infinitives, such as “to go, to speak, to
move any of our limbes.”\(^5\) Voluntary motion is a response to the sense of motion in the
organs and interior parts of a person which is caused by the impressions left by things
perceived through seeing and hearing. All voluntary motion depends upon the

\(^5\) *Leviathan*, p. 63.
\(^5\) *Leviathan*, p. 91.
\(^5\) *Leviathan*, p. 38.
imagination as the origin of action. That is, "going, speaking, and the like voluntary motions" all require a preceding thought about the action responding to that sense. Hobbes goes on to claim that the details about an action must originate in the imagination as endeavor. He describes endeavor as the "small beginnings of motion within the body of a man, before they appear in walking, speaking, striking, and other visible actions."^54

Thus, endeavor may be motion completely undetectable by unaided human senses and is a vector force, in that appetite or aversion dictates a specific direction either towards or away from the object that caused it. Endeavor is the sum total of input comprised of reason, appetites, and desires to do or not to do a particular action.

The imagination decides the details of an action, such as what action should follow, where the action should proceed, and in what manner. However, moving even further into the causes of causes, Hobbes claims the working of the imagination is also caused. It is created by the impression an object leaves upon the senses when it has been removed from direct contact with the sense. Imagination is "decaying sense," and includes "consideration, understanding, reason, and all the passions of the mind."^55 Thus, all thought processes are included in his concept of imagination and sense impression—taste, touch, sight, smell, hearing are the origin of all thought. In contrast, involuntary motion does not involve the use of the imagination and includes such activities as the blood coursing through the body as a pulse or the process of breathing. Despite all the activities of the imagination having causal ties, deliberation is the mental activity that determines which action or inaction will follow, based on the weightiest internal impulse.

---

^54 Leviathan, p. 38.

^55 Leviathan, p. 15; Hobbes and Bramhall, p. 81.
This internal cause means that something about the person determines voluntary action rather than something external to the person.

Hobbes’ lengthy treatise on an internal chain of causal events is mirrored in his discussion of humankind’s collective behavior that is likewise a series of causal relationships. Hobbes describes a condition of conflict in the state of nature that results from the interaction of individuals possessing specific attributes of human nature within the unique conditions of that state. He maintains that nature gives each individual the urge of self-preservation that is expressed as self-interest. Each individual, that is, desires one’s own good. However, one only discovers what is good for oneself through deliberation or by determining by what passion or reason weighs heaviest upon deliberation.

Constant desire for the objects of self-preservation further complicates self-interest, because an individual is not satisfied by enjoying these objects one time only. A continuous flow of desires, one after another, requires that a successful life be defined as a continuous fulfillment of one’s desires. More dangerously, nature provides only limited resources. Everyone wants and needs those resources and is willing to do anything necessary to obtain them. Since there are no rules guiding the right acquisition of natural resources in the state of nature, violent disputes arise between these individuals while they individually carry out the activities of self-preservation. According to Hobbes, as these disputes arise and there is no common power to settle them a “condition which is called warre” develops.56

56 Leviathan, p. 88.
Competition to exercise power over resources may cause an individual to resort to extreme tactics to obtain the desired object. These activities may require an individual “to kill, subdue, supplant or repell the other.”57 On the other hand, some individuals may “make themselves masters of other mens persons, wives, children, and cattell.”58 All of these actions are permissible in a state of nature. Action that proceeds from these desires does not become a crime until there is a law agreed upon that forbids them and a sovereign to ensure compliance. In sum, the natural circumstance of absolute freedom creates a time of war in which all persons live in a condition of “continuall feare, and danger of violent death.”59 This fear, in turn can motivate the most dangerous of actions, a pre-emptive strike, whereby one individual immediately subdues another, thus avoiding the anticipated possibility of being subdued.

According to Hobbes, the right of nature allows that each individual may preserve oneself with all the power one possesses in order to assist in the tasks of self-preservation. Hobbes defines this right of nature as a “right to all things...to possess, use, and enjoy all things as he will and can.”60 The right of nature protects the open-ended pursuit of self-preservation in the state of nature. For Hobbes, this natural law, this right of nature to possess and enjoy, appears to exist in the state of nature, but it can be activated only within a civil society. He argues that this law of nature cannot be followed without the specific conditions of pre-existing civil laws and the coercive power of a sovereign.61 In other words, in the state of nature, the laws of nature are not observed as

57 *Leviathan*, p. 70.  
58 *Leviathan*, p. 88.  
59 *Leviathan*, p. 89.  
60 *Leviathan*, p. 91.  
61 *De Cive*, p. 85.
law. In this state, the laws of nature are simply “qualities that dispose men to peace, and to obedience.” 62 Those qualities are “equity, justice, gratitude, and other moral virtues.” 63 Only upon creating a sovereign, in a commonwealth, do these qualities actually become law, because only the power of a sovereign can oblige an individual to obey natural law. Since there is no conventional law or sovereign in the state of nature, no one can uphold the natural law. Utilizing natural law is conditional and the primary condition is the creation of an absolute political sovereign powerful enough to secure its safe and consistent implementation.

Nevertheless, the overwhelming condition of conflict in the state of nature indicates that something eventually goes wrong in the individual pursuit of self-preservation. According to Hobbes, all actions taken by all human beings in the state of nature arise from the natural attributes of human nature within the circumstances given by nature. That is, anything an individual does while operating under the conditions in the state of nature is natural and permissible, because nature provides the urge to fulfill the desire for self-preservation in all its requirements. As a result, all natural actions involving other individuals in the state of nature contribute to the conflict in that state. However, this conflict is contrary to any one person’s good. Conflict and the ensuing danger to all individuals living under the conditions of the state of nature undermine the pursuit of uniquely human industry. Yet self-interest expressed as self-preservation is so important to an individual that natural law preserves this right in civil society.

The Hobbesian solution to the conflict in the state of nature does not come from nature, but rather agreement with among individuals who collective create an artificial

---

62*Leviathan*, p. 185.
63*Leviathan*, p. 185.
individual who has a "greater stature and strength than the natural." For Hobbes, the design of artificial individual must combat the inconveniences of natural individual. By extension, the only possible hope for humankind is to create an artificial situation that avoids the problems found in the state of nature.

In determining the defining features of the state of nature and the distinctive attributes of natural individuals, Hobbes is seeking to include only elements that he considers natural or given by nature. His method is two-fold. He begins with his own society and systematically excludes from it elements that are unnatural or artificial. This initial expectation creates the external circumstance of absolute freedom of action. He also builds up a conception of human nature "known to us by experience, and definitions...universally agreed on." That conception involves the idea that experiencing the objects of the world elicits an unhindered cascade of passions, desires, and thoughts in human beings, and he utilizes the physical principle of inertia to explain the unhindered natural experience of this cascade. Hobbes shows that profound and intractable conflict is the consequence of individuals possessing the self-interested inclination of self-preservation that operates under the conditions of absolute freedom along with possessing the qualities of human nature. Moral and political recommendations must control this conflict. The individuals in this conflict, however, must first achieve agreement regarding these recommendations, the goal of which is to bring peace.

---

64 *Leviathan*, p. 10.
65 *Leviathan*, p. 255.
Section 2: Why do individuals choose the Hobbesian social contract?

In order to explore the choice of the social contract, Hobbes must show that individuals living under those conditions could plausibly recognize and treat that conflict through the social contract process. He does so by considering the distinctive attributes of individuals living in the state of nature and by reflecting upon the faculties of human nature. The purpose of this reflection is to determine both what humankind is individually and what it can become collectively. His exploration into causes leads him to consider the question: what is the matter of man? From this question, he fashions two more: What is natural man? and What is artificial man? Hobbes’ investigation however, is thwarted from its inception. The first obstacle is that humankind’s external actions intentionally mask internal designs. Thus, Hobbes assumes that each actor attempts to conceal inner thoughts and motivations from becoming externally observable and that simply reviewing externally presented action fails to reveal the designs and the inner motivation of actors.66 One cannot rely on external observation alone to give an adequate portrayal of the inner constitution of an individual because an individual hides the true character of one’s heart from view by “dissembling, lying, counterfeiting, and erroneous doctrines.”67

In the Introduction to the Leviathan, Hobbes sets out to overcome this duality by introducing introspection as a method to supplement external observation in the investigation into the matter of humankind. Hobbes uses introspection as a method to scrutinize the seemingly inaccessible desires and reasons motivating individual actions.

66 Leviathan, p. 10.
67 Leviathan, p. 10.
He defines introspection as a system by which an observer can check information gained through observation against self-knowledge. In this way, external observation and self-knowledge collaborate to give rise to a more complete picture of humankind. Introspection assists in comprehending the true character of the psychological dispositions and motivations functioning in dynamic relationships with other individuals.

Hobbes suggests that one most effectively gains this wisdom, not from reading books, but rather through "reading" humankind. In this instance, reading humankind means to observe oneself as well as other individuals. Hobbes argues that one’s natural judgment, enhanced by introspection, is better than depending on authors who can often reason wrongly. He claims that ignorance of causes and rules does not set one so far out of one’s way as does relying on false causes and rules. Hobbes assumes that ignorance is not as devastating as relying on false causes and, furthermore, that individual ignorance does not necessarily give rise to false causes. He maintains, "they that trusting only to the authority of books, follow the blind blindly." Failing to critically evaluate and revise errors committed by prior authors simply allows those errors to multiply into the future. Here, Hobbes encourages individuals not to abandon their natural judgment in favor of simply following the authority of written guidance. Rather, Hobbes endorses the insights an individual gains through one’s efforts to understand other individuals. In addition, one can use the information gained through introspection to understand the implications and consequences of actions.

---

68 Leviathan, p. 10.
69 Leviathan, p. 36.
70 Leviathan, p. 37.
The aim of introspection is to correct opaque information observed about other individuals by comparing it to knowledge about oneself. The whole point is to avoid deception which can infiltrate either through a poor method of investigation or through a defect in the observer. As general examples, defects in the investigator include a good man acting too trustingly and an evil man being too mistrusting when observing other individuals. According to Hobbes, comparison decodes the true nature of individual’s hearts and comparing the readily apparent external actions of humankind with one’s understanding of oneself in similar circumstances reveals additional understanding regarding the design of individual’s actions. Hobbes maintains that adequate knowledge and understanding of oneself assists one in gaining information and understanding of other individuals as well. Decoding the veiled actions of others begins to make sense when one understands motivation within oneself. Thus, in regard to understanding the design of human action, introspection becomes both a truth-finding and truth-telling mechanism. Ultimately, armed with an enhanced sense of truth and understanding of oneself and of other individuals, the introspector can make better decisions regarding how to conduct one’s actions with other individuals. In this way, we can show how an individual operating under the conditions in the state of nature could arrive at the conclusion that the social contract is the solution to the problems to be found in that state.

In reviewing the method of introspection, one must bear in mind the sequence of steps necessary to acquire this knowledge used to understand human motivation and action. I divide this method of introspection into three phases. The first phase is Nosce
teipsum, Read thyself.\textsuperscript{71} The second phase is the extension of the knowledge gained through applying "Read thyself" to all of humankind. That is, as one better understands the motivation of action in oneself, one better understands it in other individuals. The third phase is the consideration of various consequences of action. This introspection process is limited to gaining a specific range of knowledge that is "blotted and confounded" in the heart of an individual in order to keep it from an observer. Information gained through introspection must be sufficiently general to assist an individual to recognize and know "what are the thoughts, and passions of all other men, upon the like occasions."\textsuperscript{72}

In the first phase, through careful introspection, one considers what one is doing when one does "think, opine, reason, hope, feare, \&c, and upon what grounds."\textsuperscript{73} The understanding one gains is simply a straightforward reporting of what one is doing when engaged in the activities of thinking, opining, reasoning, hoping, and fearing, etc., and then perceived causes or grounds upon which one does this thinking. According to Hobbes, the grounds supporting these thought processes are passions and desires and thus, breaks down into two tasks. First, one must ascertain what one is doing when one "thinks." Second, one must consider the grounds that support that thinking.

In a debate with Bishop Bramhall regarding liberty, Hobbes expanded on this process of introspection as a function of imagination:

[if he] observed what he does himself when he deliberates, reasons, understands, or imagines, he would have known...that consideration, understanding, reason,

\textsuperscript{72} Leviathan, p. 10.
\textsuperscript{73} Leviathan, p. 10.
and all the passions of the mind, are imaginations. That to consider a thing is to imagine it; to understand a thing is to imagine it; to hope and fear are to imagine the thing hoped for and feared.\textsuperscript{74}

The difference Hobbes cites among all of these mental activities is that they have separate circumstances eliciting them. Hobbes makes the point that the method of looking at one’s thoughts reveals the operation of these different mental activities.

Hobbes maintains that all mental proceedings are activities of the imagination. He uses “imagination” to describe the activities of the mind in processing external information received through the senses because sense decays during this process, the concept of decaying sense is an application of the Hobbesian idea of motion within the internal parts of an individual. A sense decays as time hinders or weakens an initially perceived sense until finally a stronger new sense obscures it, just as the sun obscures the weaker light of the stars. To be sure, he cautions that sense causes all thoughts, “nothing takes beginning from itself, but from the action of some other immediate agent without itself.”\textsuperscript{75} Thus, the first phase of introspection enhances self-knowledge in the introspector. That knowledge is that one experiences an unhindered cascade of appetites, desires, aversions, hopes, fears, and reason that are all stimulated by events and objects in the world. One deliberates and selects from this unhindered cascade the force that is strongest and acts upon its direction.

After completing the first phase of introspection, one projects that enhanced self-knowledge onto all other individuals. In other words, the second phase is a generalized application to collective situations of this knowledge gained through introspection.

\textsuperscript{74} Hobbes and Bramhall, p. 81.
\textsuperscript{75} Hobbes and Bramhall, p. 38.
Hobbes maintains that one can "read and know, what are the thoughts, and passions of all other men, upon the like occasions." In this phase, one surmises that other individuals in similar circumstances largely share the same general thought processes. That assumption means that as one more clearly ascertains the operation of one's passions and desires, likewise, one will be able more clearly to understand the operation of passions and desires in one's fellows. The most general account of this operation is that all individuals experience a flood of passions and desires in response to experiencing objects and events in the world. Thus, Hobbes argues that the applicable scope of information gained through introspection is not limited to oneself only because one gains an insight into the desires and reasons motivating the actions of other individuals by understanding them as having thought processes similar to one's own.

Hobbes presents an example of introspection by setting out the following thought experiment. He begins by asking a question and answering it through his series of responses. When going on a journey, what does one do for self-protection? "He armes himselfe, and seeks to go well accompanied." When at home, how does one regard one's fellow citizens? "When going to sleep, he locks his dores." How does one regard even one's household personnel? "When even in his house he locks his chests." We must ask: What does it mean that individuals feel the necessity to travel armed, sleep with locked doors and to secure household goods from the household personnel? Is not such action an accusation of humankind? Hobbes concludes that one engages in these types of self-protective actions because one has reflected upon one's passions and desires. In reflecting upon one's passions and desires, one sees the ways in which one could and

76 Leviathan, p. 10.
77 Leviathan, p. 89.
would pose injury or steal from another individual in the pursuit of one’s well-being. Therefore, one is mindful of the potential harmful actions by other individuals against one’s person and possessions. By considering all the ways in which one can act to take advantage of other individuals. Further, one must assume other individuals will act similarly towards one. Introspection reveals the type of thinking directed towards obtaining desired objects, situations, and positions. Hobbes concludes through his introspective exercise that each individual must understand one’s actions that give rise to the sinister possibility of another’s actions. One may recognize that one may not be inclined to follow through with every action against other individuals that the imagination can create, yet, one must consider the possibility that other individuals may be willing to do so. Thus, through introspection one develops a picture of the danger other individuals pose to one’s well-being.

Hobbes offers only one test for this method of introspection. That test is whether the reader recognizes these similar mental dispositions within oneself. One will either recognize this type of thinking in oneself or one will not. That is, either one reflects that one experiences the urge to travel well armed, to lock one’s doors when sleeping and secure household goods, or one does not. If one cannot find these urges within oneself, one fails to recognize the potential threat other individuals pose because one does not pose that threat to other individuals. This recognition Hobbes calls the test of imagination. That is, sense and memory are used to verify experience and matters of fact. Hobbes asks, “how can you prove to someone that to love a thing and to think it good are all one to a man that does not mark his own meaning by those words?”

78 Hobbes and Bramhall, p. 39.
if one cannot conceive that idea, that person does not experience a “thing loved” or “good.” Such an individual has not had the experience by which to make such a conclusion. On the other hand, this association is immediately clear to one who experiences objects that cause the sense of love and good in them.

Hobbes cautions that though humankind may possess similar passions including “desire, feare, hope, &c.,” the objects of these passions may vary greatly. Because one cannot gain knowledge of the exact desired objects of another person’s passions through introspection, Hobbes carefully limits the first phase of the introspective process to considering the causes of passions. The similarity in disposition that introspection can note is limited only to the factual occurrence of hopes, concerns, thinking, and fears experienced in everyday life, and because each of these thoughts will be associated with stimulated desires, each of them is associated with a judgment that determines the object and the means of obtaining that object by that individual—those things that are “desired, feared, hoped, &c.” Particular desires result in an individual wanting particular objects. Yet, individual constitution, education, and experience introduce a high degree of variability in these desired objects. That is, personal features influence what particular objects are desired. Consequently, through introspection one may gain knowledge only of the process by which appetites and aversions result from thinking and passions. Appetites and aversions, in turn, influence external action. In this way, introspection overcomes the opaqueness of the external actions of other individuals, by offering one the understanding that other individuals also experience a cascade of passions, desires, and thoughts that result from experiencing the world.

---

79 Leviathan, p. 10.
A third phase of the Hobbesian introspective process concerns his consideration of the possible consequences of the mental activity of “thinking.” This phase does not focus on the particular objects desired by individuals, but rather on the consequences of actions that will bring evil or good to the individual in the future. Hobbes notes that the best prophet is the best guesser and the best guesser is a person who is most versed, studied, and experienced in the matters guessed upon. This is true also with prudence, which is defined as a presumption of the future based on experience of the past. The ability to learn from experience is instrumental in making good choices regarding action in the future. Thus, the introspector must recognize that intractable conflict arises from the fact that everyone is similarly motivated in action and unhindered in doing everything one wants in the pursuit of self-preservation under the conditions in the state of nature.

In general, Hobbes maintains that observation alone fails to reveal the inner design of human motivation and that additional information is required in order for one to understand and assess the actions of other individuals. Hobbes links introspection with observation as a way for one to gain wisdom about other individuals that is otherwise inaccessible. That wisdom reveals that other individuals are most likely similar to the introspector on similar occasions. The introspector understands other individuals also experience an unhindered cascade of passions, desires, and thoughts that ultimately guide actions. However, conflict arises between individuals that is caused by this similarity in disposition, and the consequences of this conflict can be dangerous. Often, an individual must take action to alter the conditions of conflict. The only way out of the state of nature is through agreements that radically alter the source that provides the guidance of
action, and in Hobbes' philosophy, that condition motivates all introspectors to create an artificial person as the means for generating mutual peace.

Section 3: What are Hobbes' moral and political recommendations?

Hobbes describes a situation of intractable conflict between individuals living under the presumed situation in the state of nature. This conflict results from human nature operating under the conditions of that state, a human nature experiencing an unimpeded cascade of passion, desire, and reason that comprise the response to experiencing the external world. Thus, this "miserable condition of warre" is a necessary consequence when the natural passions of humankind are unrestrained.
solution, and this agreement is possible only if everyone comprehends the hopelessness of human action in the state of nature. Thus, conviction grows, in the mind of the natural individual, regarding the type of solution required to restrain the conditions that give rise to this conflict.

Given these premises, Hobbes goes on to show that specific moral and political recommendations can solve the problem of intractable conflict. That is, the introduction of restraint upon humankind is specifically designed to bring to an end the conditions in that state, yet the recommendations that Hobbes makes are not exclusively designed for the situation in the state of nature. These recommendations are also designed to overcome the contemporary problems within his society. Indirectly, Hobbes proposes a restructuring and renegotiation of moral and political institutions calculated to correct or compensate for the problematic conditions of 17th century England, and his recommendations take the form of a special commonwealth. In it, he first considers the constitution, nature, and rights of the sovereign. This discussion includes the means by which the sovereign is granted political power, the purpose that power serves, and institutional rights of the sovereign. Second, he considers the duties of subjects.  

Hobbes maintains that simple agreements between individuals are not sufficient to secure peace in the state of nature. Despite people's desire for peace and to make agreements, certain attributes of human nature will continue to undermine all efforts at bringing about peaceful relations in the state of nature. In particular, differences of opinion and interest distract them and dissolve the unity of a multitude of natural individuals, and men are not naturally apt to value or respect other men. From these

---

81Leviathan, p. 254.
natural disposition arise "emulation, quarrells, factions and at last warre." When men are constantly at war with each other, they destroy one another and diminish their strength to fight a common enemy. Thus, all contracts made in the state of nature are vulnerable to the undermining conditions in that state. Individuals who perform their part of the contract first has no assurance that the other person will perform their part. Under the conditions of the state of nature, the bond created by the words of a contract is not strong enough to control human "ambition, avarice, anger, and other passions." Hobbes maintains that "covenants, without the sword, are but words, and of no strength to secure a man at all" because deliberation is vulnerable to contrary desires and thoughts that may be stronger than the desire to adhere to a contract. Since contracts cannot be binding under the conditions of the state of nature and little faith is placed in them, natural individuals must establish an artificial solution for themselves that overcomes their differences. That is, they must design a political sovereign that possesses qualities to overcome the contrary attributes of human nature and the tendency for disorderly human actions in the state of nature. The sovereign must perform a function for the subjects that they could never perform for themselves, alone or together.

Before making the social contract, all individuals possess equal power in the state of nature. However, the social contract distinguishes two clearly defined political roles in civil society. The commonwealth is composed of the roles of the sovereign as the leader and the subjects as the body politic. In civil society, the sovereign possesses political power that the subjects voluntarily submit to that role. As a consequence, the political
authority comes to possess a greater degree of power than does any other individual in
the society. However, by definition, the artificial person is invulnerable to the contrary
attributes of human nature that motivate natural humankind to war with each other
because the sovereign does not participate in the contract process that creates the rights,
power, strength, and authority of that political role. The sovereign does not need to
compete for honor and dignity. Without sufficient power, the role of the sovereign within
this political institution is empty and all individuals return to the conditions in the state of
nature.

The agreement made between individuals to form civil society requires a
sovereign to “keep them in awe” and to provide guidance that advances the “common
benefit.”55 In the state of nature, each of these individuals has a self-governing will that
provides independent direction. However, the social contract functions to combine the
plurality of wills of these individuals into a single will carried in the person of the
sovereign. This agreement gives the sovereign the role of willing, judging, and
determining the means of common peace and safety for everyone. Although consent is
the means of obtaining peace, this mutual act is more than simply consent because it
ensures a real unity between the individuals that did not exist before. Most importantly,
this unity and the peace that it brings can be perpetuated through time and enforced by
the sword.

The contract requires that each individual must surrender personal power to the
sovereign. Acquisition of this power provides the sovereign with the necessary authority
to function in that public political role. According to Hobbes, the primary function of the

55 Leviathan, p. 120.
sovereign is to provide for the protection and safety of the subjects. A collection of contracting individuals institute a sovereign by vowing to each other “I Authorise and give my Right of Governing my seJfe, to this Man...on this condition, that thou give up thy Right to him, and Authorise all his Actions in like manner.”86 Thus, natural individuals contract with each other, not with the sovereign.

The natural individuals form a consensus together that one person shall represent them in the newly instituted commonwealth.

A sovereign rules to enforce specific actions through new laws and principles that these individuals cannot enforce alone. According to Hobbes, “[the agreement] of men, is by covenant only, which is artificiall: and therefore it is no wonder if there be somewhat else required (besides Covenant) to make their agreement constant and lasting, which is a common power, to keep them in awe, and to direct their actions.”87 Thus, we identify two conditions that indicate collective entrance into the artificial state. These conditions are the agreeing of individuals to seek peace and the instituting of a sovereign to guarantee that peace. Both of these conditions must concurrently be present to mark this remarkable transition to the artificial state of a commonwealth.

The duty attached to the position of the sovereign is singular in purpose: to procure the “safety of the people.”88 This prime directive includes securing the safety of individual civil members against each other and securing the safety of the state against its common enemies. Despite the fact that the sovereign does not participate in the consensus that creates the social contract, the sovereign is obliged by natural law to

86 Leviathan, p. 120.
87 Leviathan, p. 120.
88 Leviathan, p. 231.
ensure the safety of the people. Therefore, certain rights and faculties must be attached to
the position of sovereign, and if a sovereign protects an individual from other individuals
and from one’s enemies, the sovereign is performing adequately. Instituting the qualities
of the sovereign is vitally important to the success of civil society because these tools and
power are the means by which the sovereign can carry out the duties assigned to that
position. That is, the contractors must give the sovereign sufficient power to control the
actions of the citizens.

For Hobbes, the qualities of a sovereign are no small matter, the first concept that
guides what sort of qualities the sovereign shall possess is that each individual in the act
of instituting a sovereign is also authorizing all the actions and judgments of that
sovereign, as if they were one’s own actions. Consequently, the only end towards
which the sovereign may act is to bring peace among these individuals and to protect
them from a common enemy. The qualities given to the sovereign disallow the subjects
to second-guess his actions and judgments. To question the sovereign in these matters is
the same tendency as in the state of nature where every individual does what one chooses
as determined by the self-interested pursuit of self-preservation. The sovereign must
bring about peace and safety through its actions and judgments. Thus, the sovereign must
be endowed with qualities powerful enough to overcome the intractable conflict of the
state of nature, and those qualities can originate only by conferral of political power by
the consent of the people.

Intertwined with the sovereign’s qualities is its social role, and the role of the
sovereign is to institute law, execute this law, reconcile all controversies, and provide

89 *Leviathan*, p. 136.
punishment for breaches of this law. The sovereign essentially makes conditions safe for the adherence to natural law that exists in the state of nature, and the first law of nature exhorts “Seek Peace.” Only when one is guaranteed that others must also follow this law can one use natural law to guide one’s actions, and only an absolute sovereign can provide the necessary insurance that all individuals will adhere to this law. Thus, the institution of a sovereign also introduces the requirement for all actions to conform to the natural law.

Individuals create the sovereign by mutually transferring personal right and power to this political authority. Once having made this transfer, one is obliged or bound not to hinder the role of that sovereign to whom that right was granted. The duty of the subject is to not renege upon this voluntary act of transferring right. Once the people institute the position of the sovereign, they cannot reverse their decision because to do so automatically reverts them to a state of nature with each other. Moreover, says Hobbes, they cannot make a contract with another sovereign to change the form of government. Similarly, the sovereign cannot forfeit its power or position. Although the sovereign does not participate in the contract, that role is granted several immunities. The subjects cannot, without injustice, protest against the actions or institution of the sovereign or punish the sovereign. Rebellion amounts to a return to the condition of conflict in the state of nature.

Once a covenant instituting the role of a sovereign is made between individuals, several rules immediately guide and control their behavior, rules designed to insure that the sovereign retains the power necessary to carry out his primary role of providing for the protection of the subjects. First of all, the subjects cannot form another covenant with
another sovereign. That is, once a sovereign is instituted, the subjects cannot cast it off because their power has already been transferred to that political entity. They are bound by covenant to “own” all the actions of their original sovereign, despite any unhappiness with those actions. The primary duty of the subject in the commonwealth is to obey the sovereign.

Hobbes criticizes previous efforts at moral philosophy for failing to clearly set out the duties of a subject in the civil situation. If moral philosophers had been successful, the influence of human industry would have brought about happiness that is “consistent with human life.”90 Such is not the case. Hobbes maintains that the ancient philosophers did not provide clear advice and arguments divide them into factions, some of who elevate and others of whom decry the very same action. Therefore, these philosophers have “not made any progress in the knowledge of truth.”91 Instead of securing human happiness, Hobbes criticizes, moral philosophers had dallied in providing “entertainment to the affections.”92

In contrast, Hobbes maintains that the civil government he proposes explains the reason that necessitates its absolute political power and clearly states the duties of both the sovereign rulers and the obedient subjects for its success. Furthermore, he claims to have derived his recommendations from the “principles of nature onely.”93 We can imagine Hobbes going to his window and observing the disordered social events and circumstances of his time, and that precipitated the civil war. He maintains that these circumstances demand changes in the moral and political principles upon which society is

90 De Cive, p. 91.
91 De Cive, p. 92.
92 De Cive, p. 92.
93 Leviathan, p. 255.
based. Thus, Hobbes uses contemporary empirical evidence to indict previous philosophers for failing to resolve important moral and political issues that arise during the course of social life. For Hobbes, the very occurrence of the civil war demonstrates evidence that moral philosophy had heretofore utterly failed to secure enduring peace for humankind. Hobbes was living within a societal structure that included government, laws, and principles of justice. Yet, experience demonstrates that those elements, as then constituted, failed to restrain the subject's tendency to undermine governmental authority. Thus, Hobbes refashioned the principles of moral and political philosophy.

In his moral and political recommendations, Hobbes argues for the institution of an absolute political authority in response to the severity of conditions in the state of nature. Since natural individuals do not possess qualities by which to peacefully regulate their actions towards other individuals, the force motivating peaceful actions must come from a source external to them—the sovereign. However, the sovereign must possess absolute power to counteract the powerful disinclination natural individuals have to conducing themselves peacefully towards other individuals. Fear of punishment is the device by which the sovereign insures the performance of contracts that citizens make.

Section 4: Criticism of the Hobbesian account

The Hobbesian argument regarding the origination of civil society involves discovering the roots of the "disorders of the present time." His project is a renegotiation of the social contract in light of current experience. However, we must inquire as to the plausibility and acceptability of the solution Hobbes sets out. In pursuit of his project,
Hobbes first sets out a conceptualization of humankind in a hypothetical state of nature. Hobbes uses his awareness of then developing scientific ideas in physics by employing the physical principle of inertia to explain the correlation between sensations about the world that occur within an individual and the way these sensations give rise to thought and action in an individual. Utilizing this principle, Hobbes explains the continuum that extends from objects in the world impinging upon sense organs to the carrying out of actions by an individual. Despite the innovativeness of this explanation of human nature, there are several important objections to his account.

The Hobbesian conceptualization of freedom associates sense, thought, and action with an internal mechanism of deliberation that each individual, by nature, possesses. There are two complaints regarding Hobbes invoking this internal mechanism. One complaint focuses on the issue of “natural punishment” and the other on the problem of an individual exercising self-control over one's action.

According to Hobbes, the concept of freedom applies only to objects that can experience motion. He applies this concept to the objects that a person perceives — including sense, thought, and action — because each of these objects are susceptible to motion and thus can experience freedom. External impediments are the forces that remove freedom from motions and actions in an individual. Absolute freedom is the absence of all external hindrance to motion. Rules and laws are the most conspicuous external impediment of actions that are not included in Hobbes' state of nature. The Hobbesian state of nature, sans rules, is arranged to be a consequence-free environment in which all actions are absolutely free. However, Hobbes admits that there are "natural punishments" to certain actions. That admission means the state of nature cannot be the
consequence-free environment Hobbes attempts to portray by eliminating societal rules. Hobbes’ thought experiment of removing social rules and laws to create a situation of absolute freedom fails because there must remain certain natural consequences to actions.

Natural punishment occurs when an individual breaches certain laws of nature in the state of nature, and he considers this punishment as a natural consequent of such a breach. These punishments are clearly “natural” because they are not associated with a civil government. Moreover, these punishments are applicable to actions in the state of nature, despite the fact that Hobbes maintains that the law of nature is not enforceable in that state; certain actions have associated consequences in nature apart from the consequences stemming from the breach of rules in consensual civil society. In this regard, Hobbes is unable to describe a state of nature that is completely without some external rules.

In the following statement, Hobbes cites the actions associated with the respective natural punishments: “intemperance, is naturally punished with diseases; rashnesse, with mischances; injustice, with the violence of enemies; pride, with ruine; cowardise, with oppression.”94 Actions in the state of nature may have intended or unintended damaging consequences to oneself and other individuals. The threat of “natural punishment” is not, however, sufficient to alter the decision-making process regarding actions under the conditions of that state. Despite harmful consequences happening to the actor or victim and the associated threat of “natural punishment,” all actions in the state of nature continue to conform only to the self-interested pursuit of individual self-preservation. In

94 *Leviathan*, p. 254.
short, “natural punishment” fails to constructively influence the deliberative process regarding action choices in the state of nature.

According to Hobbes, the internal mechanism of deliberation in an individual operates to determine the most compelling sense, passion, or reason for action presented by the world. All actions of an individual are guided by the operation of this internal evaluation mechanism that assesses the most intense appetite. No other faculties of an individual participate in the manner in which this mechanism operates. Those “facts” Hobbes characterizes humankind as sense processors that ascertain only the most intense feeling from among various different possibilities presented and utilize that particular feeling as the guide to action.

The primary problem with the characterization of human nature in this way is that it does not permit individuals to possess the quality of self-control regarding the choice of action because no other mental faculty or thought process can intervene in the operation of the deliberative function of this internal mechanism. Self-control incorporates the idea that actions are vulnerable to guidance from ideas other than the shortsighted pursuit of self-preservation. The Hobbesian idea of deliberation excludes guidance from less intense feelings or from the needs of other individuals. Self-control and self-determination require a choice of restraint in action for which the mental process of Hobbesian deliberation does not provide. However, the Hobbesian individuals can never have self-control over their power of choice because they cannot act otherwise than in the pursuit of shortsighted self-interest. Although Hobbes gives a new and unique description of deliberation, he gives deliberation a broader domain by arguing that it is vulnerable to all sense, passion, and reason. However, instead of improving the overall
operation of deliberation, he limits the function that it provides. Despite Hobbesian deliberation being vulnerable to all sense, passion, and reason, it still primarily caters to self-interest. Deliberation becomes an evaluative process in which an individual does not and cannot exercise choice at all.

The other criticism we will consider concerns the institution of an absolute sovereign. To achieve civil society with the type of individual whose actions respond only to the strongest final appetite, Hobbes must appeal to an outside power to manage human nature. The political power that he sets out is a sovereign who possesses absolute dominion over individuals’ actions toward each other. Hobbesian natural individuals must create an “other” power in the artificial man to assist in resolving conflict in the state of nature. That absolute power functions to influence and control the actions of individuals in civil society. Despite Hobbes claiming that natural individuals lack self-control, he maintains they are rational. However, the absolute sovereign Hobbes sets out to control the conduct of natural individuals towards each other is not something that a rational individual could accept because an absolute sovereign removes the exercise of rationality by the individual for himself and forces conformation to deliberation by the sovereign. Furthermore, Hobbes relies on the threat of punishment by the absolute sovereign to control the behavior of citizens towards among one another. Hobbes maintains that the threat of punishment operates by providing the strongest most compelling thought for action in the deliberative process. Yet, as noted above, the threat of “natural punishment” in the state of nature fails to produce a constructive change in the operation of the internal mechanism of the deliberative process. Hobbes fails to demonstrate how the threat of punishment forces an individual to conform his conduct to
the standard set by the sovereign to secure peace in civil society. This is a failure of both his account of the deliberative process as well as of the effectiveness of punishment in influencing the deliberative process.

In his work on politics and human nature, Hobbes retraces the steps of humankind to a point at which agreement between natural individuals was imperative for the continued survival of humankind. He sets the social contract agreement at the point of the severest condition of human conflict in that state. In so doing, he demonstrates the necessity of both engaging in this agreement and the incorporation of an absolute power to control the situation. Both of these factors are required to bring peace to the state of nature. However, by mistakenly applying the physical principle of inertia to explain the actions of humankind, Hobbes creates a thought experiment that results in an implausible account of human nature and an overly restrictive civil solution to which rational individuals could not comply.
CHAPTER 4: LOCKE
BACKGROUND

The society in which John Locke lived contained a great deal of social and political turmoil. At that time, attempts at resolving that turmoil were moderately successful, and Locke was active in these pursuits both philosophically and politically. His alliance with Lord Shaftesbury was particularly instrumental in his endeavors. At the time, Locke was a physician’s assistant, and met Shaftesbury when Locke attended to a physical malady from which Shaftesbury was suffering. Although Locke studied medicine at Oxford, he never became a full doctor of medicine. Locke successfully operated on Shaftesbury, an act that endeared Locke to Shaftesbury and his family. This friendship eventually developed into a political alliance, as Locke became a member of Shaftesbury's household. This alliance was important to Locke because Shaftesbury was a wealthy landowner, foreign investor, and political administrator. Locke gained unique social and political opportunities through his association with Shaftesbury, and as a virtual member of a powerful political family household, Locke met other powerful political figures and discussed politics and philosophy with individuals he never would have had the opportunity to meet otherwise.

Shaftesbury held profound convictions regarding religious tolerance and political freedom and used his political position to foster the growth of these qualities within his society. However, his activities brought him into conflict with the King because some of his activities were perceived to be treasonous. Accusations regarding his conduct necessitated his exile to Holland and Locke’s alliance with Shaftesbury brought the same fate upon him.
In Locke’s time, political power was typically channeled through the structure of inherited monarchy and a parliament. But during the Glorious Revolution of 1688, King James II was deposed and indicted for abuse of power and William III of Orange acquired the English monarchy through non-traditional means. Before the revolution, William was secretly contacted by individuals like Locke and his associates, who were concerned about political abuse in England. These individuals indicated a desire to William that he assume political authority and leadership in England. Thus when William invaded England and James fled to France, instead of engaging in war, the English Parliament offered the monarchy to William on condition that he sign the Declaration of Rights that essentially shifted power to Parliament. This Declaration stipulated that no new taxes be instituted without the approval of Parliament, that Parliament have free elections and free speech, and that there be no excessive bail or cruel punishment. William also signed a companion document, a Bill of Rights, which secured civil and political rights for the citizens and political supremacy of the Parliament over Sovereign power.

Early in his career, Locke identified religion and religious tolerance as fundament for any political arrangement, including those brought about through irregular means. For Locke, these issues boil down to a political one because they concern the limits of civil sovereign control regarding religious associations. Eventually, Locke’s beliefs regarding tolerance developed into the principle that sovereign control does not extend into the religious sphere, except in instances that endanger the state. For Locke, the religious sect is a voluntary sub-society existing within the context of a larger established society. The fact that various sects exist concurrently within a society means that
religious tolerance is absolutely necessary in order to combat sectarian conflicts. Suppressing sects merely provides the grounds for future conflicts, a recurring sequence that will never end.

Several factors influenced the development of Locke's ideas: his association with Shaftesbury, his participation in drafting the *Fundamental Constitutions to the Government of Carolina*, and his exile in Holland. While working with Shaftesbury in Holland, Locke worked out a theory of civil society that justifies various political ideas that originated as a response to disturbance in his society. *A Letter on Toleration* is the key to understanding Locke's response to that disturbance. It demonstrates the influence of the political ideas that were important to Locke and Shaftesbury and their common exposure to the practice of tolerance in Holland. Locke developed his belief in toleration through "long reading and reflection on a question of burning topical interest [in England]." Elsewhere in the world, controversy among religious minorities and an intolerant established majority sparked similar struggles, especially the condition of persecution of the Arminians in Holland and the Huguenots in France.

In 1669, during his collaboration with Shaftesbury, Locke drafted the *Fundamental Constitutions to the Government of Carolina*, a document describing the scheme by which religious groups were to be formed and treated by the civil government of the colony. The Carolina policy incorporates a tolerance by civil authority regarding the nature of specific beliefs held by a religious group, so long as they do not create any disturbance with other groups or the government. Locke's basic idea was that the formation of religious organization such as a church is voluntary and caters only to the

---

specific purpose of individuals publicly worshipping God in the way they believed necessary for the salvation of their souls. In contrast, the purpose of a civil society is to maintain the public peace. Civil society can limit rights only regarding those things necessary for creating, preserving, and maintaining civil interests. Civil interests include life, liberty, body, and outward possession.

Locke’s idea for a civil society is that it does not possess a right to exercise control over an individual’s choice of religious organization or regarding the content of regulations within a religious organization. As a result, writes Locke, religious organization must operate separately from the civil society while adhering to the standard of not offending that society. According to this separation of church and state, neither the religious organization nor the civil society has a right to interfere in the affairs of the other regarding the specific purpose for which it was created.

At the time, Holland was an industrious and successful community and the home to many wealthy merchants. That prosperity was attributable to their religious liberty and the presence in Holland of many refugees from persecution. But such had not always been the case. Holland had a history of intolerance before it attained this religious liberty, a history that began with a rejection of Luther’s Protestant Reformation in the 1520’s. This Dutch rejection of religious minorities continued locally with the persecution of followers of Jacobus Arminius, a Dutch theologian who reformed several of the basic Calvinist doctrines and created a more liberal Calvinist sect, the Arminians. Arminian believers were persecuted until the death of Prince Maurits of Nassau in 1625, when the religious ban was lifted. Familial and social relationships eventually necessitated a policy of religious tolerance so that by 1679, Locke could flee to liberal
Holland to escape the accusation of treasonous conduct in England. During his four years of exile, he learned the Dutch attitude of tolerance expressed within a community.

Locke differs from Hobbes in considering various constitutive points of the social contract. Hobbes proposes a conception of human nature that is so contrary to peaceful communal life that the only reliable solution is an absolute political authority empowered to bring order to the state of nature. For Hobbes, conflict between individuals is more than simply clashes of human instinct and self-interest; it is based on the physical principle of inertia operating at the cellular level, which natural individuals are powerless to control via their power. Locke agrees with Hobbes that usually the factor that is "greatest, and most pressing should determine the will to the next action." However, Locke maintains that the "mind...[has] a power to suspend the execution and satisfaction of its desires." Locke maintains a libertarian account relating to the "will" to action in contrast to Hobbes's materialist argument. For Locke, liberty for humankind is found in the consideration, examination, and weighing of action, temporarily separated from the motivation of desire. Locke resorts to an empirical argument to test this idea of suspending action, "as every one daily may experiment in himself." Thus, one can conduct one's life and endeavors for happiness only after due examination, while suspending the pursuit of desire.

Like Hobbes, Locke argues for the necessity for a group of people to choose a political sovereign for themselves. Unlike Hobbes' claim, however, Locke's argument relates a different reason for the necessity of a sovereign and different qualities required

---

97 Essay, Bk. II, Ch. XXI, §47, p. 263, 16-17.
in a sovereign. Locke maintains that the “civil” situation entered into through agreement cannot place one in as much jeopardy as the unrestrained state of nature. Locke views the Hobbesian civil sovereign as armed with great power and vulnerable to corruption with flatter. In particular, this sovereign’s power can be used to deny citizens right of appeal in the civil situation. According to Locke, this unwarrantedly undermines the liberty and rights of citizens. Finally, Locke counters Hobbes’s model of the social contract that individuals motivate themselves to make agreements with each other in the state of nature to modify the adverse conditions in that state. In contrast, Locke’s conception of human nature is that natural persons are the handiwork of God and that they possess some self-induced flaws that civil government is required to handle. However, these agreements are also motivated by God to bring about order in human relationships.

Section 1: What are the defining features of the Lockean original situation?

Locke maintains that to understand political power and to derive it from its origins, we must consider a state of nature from which political power is derived, a state of nature quite different from the one Hobbes sets out. In contrast to Hobbes, Locke’s theological convictions are apparent throughout his account of the origin and perpetuation of the civil state. For Locke, God is a real, explicit, and persistent force in all aspects touching humankind. People exist because God exists, creates them, and takes pleasure in them. Locke states that, “those who deny the existence of the Deity, are not to be tolerated at all. Promises, covenants and oaths, which are the bonds of human
society, can have no hold upon, or sanctity for an atheist; for the taking away of God, even only in thought, dissolves all."\(^{99}\) Locke takes the existence of God into account in setting out political principles in his thought experiment regarding the origins of the political state, and he includes the influence of God in calculating the establishment of the bonds of human society.

Locke employs the conception of humankind as God's "workmanship" or handiwork to explain the innate equality of individual human beings and their responsibilities to each other, as well as to God. He describes the relationship between humankind and God in the following way,

for men being all the workmanship of one Omnipotent, and infinitely wise Maker; all the servants of one Sovereign Master, sent into the world by God's order and about God's business, they are God's property.\(^{100}\)

Thus there are several ways Locke characterizes the relation of humankind to God. These include, Creator and created being, Sovereign Master and servant, and Wise Maker and property. Because the world is God's creation and God is the Supreme Being, Locke considers that the Earthly creation is designed to operate in an orderly manner, and God includes specific qualities in the composition of its individuals, to insure that humankind participate as part of an orderly creation.

Locke essentially echoes a fundamental duality—humans are separated from God. Locke maintains that God sends all humankind into the world to occupy a specific niche in the hierarchy of creation. God, claims Locke, has the expectation that each individual

---


will properly carry out the duties concomitant with that individual's station in the world, utilizing the God-given qualities provided to accomplish this task. Though humankind occupies a specific niche in the hierarchy of nature, they all, as humans, occupy the same level in that hierarchy. All humans possess equality in the state of nature, since "creatures of the same species...should also be equal one amongst another without subordination or subjection."¹⁰¹ Locke cites only one condition—appointment by the will of God—that allows right of dominion by one individual over another. All other exertions of power by one individual over another are a violation and are answerable only to God.

In addition, Locke explains the equality of human beings in the state of nature by arguing that these individuals made neither themselves nor the world in which they live. No individual has a greater right to anything in the world than has anyone else and this equality of individuals implies that no individual can have the right of power over other individuals. All individuals hold equal rights to the resources of nature and have equal obligation to each other as agents of natural law.

Although each person holds specific rights and responsibilities, no human is completely alone in nature because God did not design individuals to be alone. Inevitably, they encounter each other and some law must regulate those interactions. They are drawn together by "necessity, conscience and inclination" to form society.¹⁰² As if he were reading the Deity's mind, Locke maintains that God created humankind with the urge to develop and enjoy society.

---

¹⁰¹ Second Treatise, § 4, 9-12.
¹⁰² Second Treatise, § 77, 3-4.
Expanding on his premises, Locke goes on to claim that God creates humankind with two important characteristics required for the enjoyment of society—understanding and language. Rationality is requisite to acquire an understanding of natural law, and language is required to continue the maintenance of society. Indeed, Lockean “perfect freedom” requires that an individual acquire an understanding of the principles of natural law before they can apply them appropriately. Understanding is the *condition* through which humans are free to regulate their affairs under natural law, and a mature individual is expected to acquire an understanding of natural law. That maturity usually comes with age and experience, but if one does not acquire knowledge of natural law through reason, then one cannot exercise “perfect freedom” to determine one’s actions. Only a proper understanding of natural law, communicated socially via language, gives an individual the freedom to dispose of one’s property, as one will, within the limits of that law. Human understanding, the necessary prerequisite for exercising this freedom or enjoyment of society is the faculty that releases God from micro-managing human affairs. Thus Locke’s God does not give guidance in minute detail but rather gives natural law to provide guidance for human action. Yet the actual safekeeping of human relations is in each person’s hands. Being the handiwork of God obliges each individual to use one’s rationality to discover and implement natural law in interactions with other individuals.

In Locke’s state of nature, God gives certain duties and responsibilities to every individual. Each person is “bound to preserve himself”\(^ {103} \) and must follow the rule that

---

\(^{103}\) *Second Treatise*, § 6, 19.
"no one ought to harm another in his life, health, liberty, or possessions." This last rule demands that an individual not engage in harmful actions against another individual or against oneself. Also, beyond not harming other individuals, each individual as one can, "must preserve the rest of mankind," must, that is, go beyond engaging in actions that do not harm and act to further the betterment of other individuals. Thus, each individual has complete liberty to dispose of one's person or possessions but not to destroy oneself or other individuals during that pursuit. These duties to oneself and others arise from the larger responsibilities that result from being a product of God's creation.

These imaginary people in the Lockean state of nature, writes Locke, are, in a "state of perfect freedom to order their actions, and dispose of their possessions, and persons as they think fit, within the bound of the law of nature, without asking leave, or depending upon the will of any other man." For this "perfect freedom" to be realized all activities must conform to the bounds of natural law, for "where there is no law, there is no freedom." Locke maintains that the larger purpose of law is not to restrain the freedom of an individual, but rather to preserve and enlarge it. Only by restraining political power can freedom be guaranteed for a collective group of people.

In a practical sense, natural law constrains permissible action. Individuals must properly apply the principles of natural law or suffer the consequences. God provides natural law to humankind as a means of regulating human interactions. Locke argues that God's expectation is that humans make decision and choices that all conform to the dictates of natural law. He describes the natural law as the observance of principles and

---

104 Second Treatise, § 6, 9-10.
105 Second Treatise, § 6, 22.
106 Second Treatise, § 4, 3-5.
rights that bring about peace and the preservation of all humankind. He describes reason as that mental operation instructs an individual about the fundamental principles of natural law by which one must govern oneself, and one can know the extent of allowable freedom of one’s will. These two features, the laws of nature and reason, function together within an individual to discover, describe, and determine the manner in which one is obliged to act towards one’s fellow humans. Reason and the law of nature must work together even though each individual is born free and rational. One is divinely obliged to act according to the features of natural law and reason because humans are the personal possessions of God. Here, we can see that Locke retains his commitment to the conception that humankind is born free as God’s handiwork but as a possession and property of God, each individual must regulate his action according to the law of nature.

How an individual comes to know the law of nature given by God is a point that Locke addresses in his Essay, in which he argues against human beings possessing innate ideas. Locke argues that absence of the most important innate idea, the idea of God, gives a strong presumption against the presence of any lesser innate idea. Since Locke takes this position, he is careful not to portray ideas and knowledge about God and God’s will as innate. According to Locke, God also does not innately imprint the principles of natural law upon the mind of humankind. Rather than being an innate idea, knowledge of God is the “most natural discovery of humane reason.”

108 Privileging reason above revelation, he goes on to say that since knowledge of the law of nature is not innate, it must be discovered through the efforts of humankind. Each individual must use the law of reason to discover the principles of natural law for oneself. Thus, God, who implanted

---

108 Essay, Bk. I, Ch. IV, § 17, p. 95, 11.
reason in humans when creating them, has the ultimate power to dictate through reason the manner in which humans will act.

For Locke's natural individual, reflection reveals that experience is the source of all ideas and reason acts upon experience to produce knowledge by connecting various ideas. Locke claims that reason is the faculty shared by God and humans, but not by lower animals. God gives reason, "to be the rule betwixt man and man and the common bond where by humane kind is united into one fellowship and societie."¹⁰⁹ Distinguishing humans from beasts, reason comprises the faculty that does not rely on innate "moral rules" to which everyone provides general assent because humans are originally completely ignorant of such principles. Instead, humankind can acquire knowledge of these principles by "the use and due application of our natural faculties."¹¹⁰ According to Locke, the proper use of these faculties is to discover the idea of God and the principles of natural law.

Locke's individual who follows the duty of a rational creature who use the "light and faculties" that God provides humankind to discover truth, is rewarded for doing so.¹¹¹ Reason is the faculty that discloses truth exemplified in the content of natural law. It reveals the most basic principle that one individual not harm another individual. God entrusts each individual in the state of nature with the duty to preserve oneself and the rest of humankind. This is the obligation to preserve personal property, one's own and that of other individuals, in the state of nature.

¹⁰⁹ Second Treatise, § 172, 9-11.
¹¹⁰ Essay, Bk. I, Ch. III, § 13, p. 75, 33-34
¹¹¹ Essay, Bk. IV, Ch. XVII, § 24, p. 688, 5-15.
Locke's whole scheme of natural law is, however, ineffective without someone to enforce it. At this point, Locke cites a strange doctrine in the state of nature whereby one individual "comes by a power over another."\textsuperscript{112} That doctrine is which is that "every man hath a right to punish the offender, and be executioner of the law of nature."\textsuperscript{113} Under ordinary circumstance in that state, all persons are equal to each other without subordination or subjection. That means no individual can claim dominion over the rest by exerting power over them. Only God can legitimate the exercise of power by one individual over another. God grants individuals the right to exercise punishment for breaches of the natural law in the state of nature. However, regarding punishment, power is limited to gaining reparation and restraint only in proportion to the transgression committed against the law.

With the issue of private property, Locke blurs the distinction between a state of nature and a civil society existing in temporal time, for Locke's theory of personal property applies to individuals living in the state of nature and in the civil society. To preserve one's possessions and those of others, one must have an adequate idea regarding the necessary relationships with one's fellows as well as to God. The interconnection with other individuals is particularly visible during the process of acquiring of personal property from the common lot. The appropriate method for acquiring property is to consistently use the law of nature principles as guides. In the natural state, Locke makes an important distinction between common and private property. God gives the natural fruits of the Earth to humankind in common, and that distinction means everyone enjoys equal access to the Earth's benefits.

\textsuperscript{112} Second Treatise, § 8, 1-2.
\textsuperscript{113} Second Treatise, § 8, 23-24.
For Locke, each individual “has a property in his own person”\textsuperscript{114} That means each individual has an exclusive right to oneself and any products that one creates. In the Lockeian state of nature, however, the preservation of personal property is undermined in many ways. When an individual uses one’s body to do labor, the product of that labor becomes the property of that individual, what Locke refers to as “lives, liberties and estates.”\textsuperscript{115} Labor removes natural objects from availability for common use. Because each individual has a property in one’s person, when one mixes one’s labor with an object one makes that object one’s exclusive property and Locke maintains that “the great and chief end therefore, of men’s uniting into commonwealths, and putting themselves under government, is the preservation of their property.”\textsuperscript{116} However, no one has a right to exercise control over property already appropriately annexed to another individual through labor, because the right of property is protected by natural law. The objects of labor include gathering a mate, food, shelter, and land. Furthermore, no one has a right to gain more than one’s share of property, and as a general rule, individuals must take only what they can use before it spoils. The rest belongs to the others. This rule limits the appropriate amount of land an individual may acquire to only as much as a “man tills, plants, improves, cultivates, and can use the product of, so much is his property.”\textsuperscript{117} Improvements, such as fencing in an area of available common land and cultivating it, fulfill the requirements for acquiring it as personal property through labor.

\textsuperscript{114} Second Treatise, § 27, 2. \\
\textsuperscript{115} Second Treatise, § 123, 17. \\
\textsuperscript{116} Second Treatise, § 124, 1-3. \\
\textsuperscript{117} Second Treatise, § 32, 5-6.
Locke claims that both reason and God command humankind to subdue the earth or improve it for the benefit of life. To subdue the earth means to divide its common resources into individual claims. The only way of accomplishing this task is to apply one's labor to cultivating of the land. God's command to cultivate the earth forces humankind to exert labor and the individual who obeys this command annexes an appropriate portion of land as one's own. According to Locke, one cannot suppose that God ever intended that land should remain as common property and uncultivated, for God gave the Earth to humankind for their benefit. However, acquiring these benefits requires labor, and those things in the condition of human life that require labor and material "necessarily introduces private possessions." Thus, God gave the Earth to the use of individuals who are "industrious and rational." Anyone who simply desires or envies property has not met the requirements for acquisition set down by God. A rational person on the other hand recognizes the command of God to cultivate the Earth and realizes the only way to fulfill this command is through personal labor. God rewards the labor of the rational person with the right to private property that is separate from common property. Any individual who does not follow this method of property acquisition does not have rightful possession.

Natural law determines the origin of personal property in what was natural common property and provides rules that constrain the means of individual appropriation and the extent to which any individual can acquire property. According to Locke, the obligation to obey natural law does not end with the beginning of civil society and this

---

118 Second Treatise, § 26, 1-3.
120 Second Treatise, § 34, 5.
shift in property ownership. On the contrary, civil society makes personal responsibility more demanding by setting forth human laws with known penalties attached to them in order to insure observance and obedience. The law of nature remains an eternal rule for all humankind and all human rules created through civil government must conform to the law of nature, which is the will of God. Thus, private property that resulted from labor in the state of nature is also valid personal property in civil society. No one can make human sanctions that contradict natural law. Locke’s theory of personal property and its preservation apply to both pre- and post-contractual civil society. Despite natural law to create order and to regulate human interactions within the state of nature, difficulties arise in the pursuit of the preservation of property that drive humankind to seek civil society.

Locke describes two problems in the state of nature that give rise to conflict. These arise in the state of nature when each individual acts as one’s own judge regarding violations of natural law. The first problem is that harmful inclinations function when each individual acts as one’s own judge, regarding a violation of natural law. Self-love can intervene in the rational application of punishment and make the victim-judge partial to one’s sentiments. The defect of partiality occurs when passion is mixed with reason. In this mix, passion over-rides reason. These passions have the effect that “self-love will make men partial to themselves and their friends” and “ill nature, passions and revenge will carry them too far in punishing others.”\footnote{Second Treatise, § 13, 4-5 & 6-7.} This combination of events means that natural individuals do not objectively enforce judgment of violations of natural law.
Natural individuals allow considerations other than justice to determine the carrying out of punishment, and “nothing but confusion and disorder will follow” in that state. 122

Locke describes another problem in the state of nature—that humans make mistakes in exercising the right to enforce natural law. Locke states, “good men are men still, liable to mistakes, and are sometimes warmly engaged in errors, which they take for divine truths, shining in their minds with the clearest light.”123 These mistakes may arise from a limited understanding of the principles of natural law, but limited understanding results from an inadequate acquisition of the principles of natural law by rationality. Such a failure of acquisition results from a misapplication of the rational faculties or from a defect in reasoning, which, in turn, produces harmful actions.

For individuals involved in extant cultures, the connections are even more tenuous. Such individuals can only acquire divinely given natural law through the proper use of reason, which provides a special function that taps into divine guidance and does not rely on direct revelation. However, Locke maintains that “reason is natural revelation,” because God communicates the knowledge of truth to humankind through their natural faculty of reason.124 However, reason must derive only the principles of divine law. Deriving any other principle of natural law would constitute an inappropriate, inaccurate, or lazy use of reason. Individuals who do not acquire an adequate understanding of these principles are not fit to participate in a terrestrial society dictated by natural law. Now, we must consider how these problems arise.

122 Second Treatise, § 13, 7-8.
123 Essay, Bk. IV, Ch. XIX, § 12, p. 703, 27-30.
124 Essay, Bk. IV, Ch. XIX, § 4, p. 698, 1.
Natural law provides divine guidance for human action and without it, individuals would not know how to conduct themselves in a constructive manner. For Locke, several different ways to violate specific features of natural law present themselves. If an individual does not possess knowledge and understanding of natural law, one is constantly in a position of committing harmful actions against other individuals and thus, failing to fulfill duties towards these individuals. This type of harmful action arises from ignorance. Yet, according to Locke, everyone is responsible to use one's reason to discover and apply the fundamental principles of natural law. Ignorance is no excuse for infractions. On the other hand, an individual who does possess knowledge of natural law may choose to act against that guidance. Such violation that one individual makes against another is also an infraction against God, since all individuals on the earth are God's possessions.

According to Locke, human beings in the state of nature experience difficulties preserving property. This resultant disorder poses a problem for Locke's God, who made and designed humankind to be a part of an orderly, reasoned, creation rather than a beastly one ruled through raw force. This law of reason, given by God, distinguishes humankind from the beast that lives by the prime directive that power resides exclusively in the strongest. God's purpose expressed through natural law is to maintain order in human relationships, but "God cannot make those happy he designs to be so."\textsuperscript{125} God creates rules and conditions that facilitate humankind's happiness when they obey them. Thus, the fact that humans can make only flawed attempts at exercising the right to enforce natural law in the state of nature is also a problem from the divine perspective.

\textsuperscript{125} \textit{Essay,} Bk. II, Ch. XXI, § 65, p. 277, 27-28.
For Locke, there are no divine deficiencies in the law of nature. Only human mistakes impinge on God’s design of order in human relationships.

As I have attempted to point out in this section, Locke identifies two human flaws in the state of nature that give rise to disorder in that state. The results of these flaws mar God’s orderly creation and prove God’s action ineffective when natural individuals choose instead to engage in harmful activities. Whereas Hobbes claims that nature is the source of conflict, Locke locates it within the flawed manner in which natural individuals adhere to natural law. Again, in contrast to Hobbes, Locke argues that natural law must also apply to conditions in the state of nature because God guides human conduct through this law. However, having argued that natural law applies to the state of nature, Locke claims that two flaws interfere with the proper enforcement of this law by natural individuals who allow personal sentiment to influence judgment. They make mistakes regarding what the rules are and how to apply them. When these flaws rather than God’s natural law guide activities, the result is harmful relationships among individuals that undermine the justice in the state of nature.

**Section 2: Why would individuals choose the Lockean social contract?**

Locke has a particular difficulty to overcome because he attributes conflict generated in the state of nature to a failure in the function of rationality. Either personal sentiment or mistake overrides rationality, and an individual then fails to adequately acquire and apply natural law because everyone possesses “like faculties” to inform them
about the content and obligations of natural law,

natural individuals share similar reasoning capacities and those capacities ought to produce similar adherence through obedience to natural law. An individual makes a mistake when one does not act as reason directs and “transgresses against his own light, and misuses those faculties, which were given him to no other end.”

As we noted, each individual is an enforcer of natural law in the state of nature. According to the law of nature, either the victim or another individual who notes the violation against the victim has a right to exact punishment. However, the state of nature does not have a system of accountability guiding the individual enforcement of natural law, so several mistakes can occur during the individual enforcement of that law. Moreover, as enforcer of natural law, each individual acts in the various roles of prosecutor, judge, jury, and execution of punishment. Any one of those functions may become muddled and the natural law be unjustly applied. The law of nature is divinely designed to carry only equitable punishment that is commensurate with the crime. Yet, when an individual acts in a way that does not conform to the law of nature, one is committing a crime against the whole of humankind.

Individuals in the state of nature commit two different types of violations. Both cases concern harmful actions, although harmful actions committed for different reason. The first case is that of the criminal offender. When a breach of natural law occurs, the criminal possesses a mistaken belief regarding the rational application of that law. The violator does not consider that law as applicable to one’s actions. However, this type of thinking is not rationally justified. Locke argues that God gives rationality to human

---

126 Second Treatise, § 6, 15.
127 Essay, Bk. IV, Ch. XVII, § 24, p. 688, 13-16.
beings and it functions as a way for individuals to discover the laws of nature that must inform choice in both opinion and action. Consequently, failure to discover and apply the law of nature to oneself is a failure of rationality or as Locke phrases the situation, “the cause of judging amiss, ... seems to me to be the weak and narrow constitution of our minds.” Violation of the law is variance from the rule of reason and a blatant disregard for the principles of human nature and constitutes the degeneration of an individual to the level of a noxious creature. This reduction of humankind comes about because of human actions, rather than originating from a flaw in creation.

The law-breaker distorts reason by disregarding the natural law that God gives to control the actions of humankind, for “God has set to the actions of men, for their mutual security.” The source of this law is God, and it is the only means of restraining injurious and violent actions in the state of nature. An individual becomes dangerous to the rest of humankind when one disregards, slights, or breaks the bond of that law, and Locke thinks violation of natural law against another individual is so damaging that it is a “trespass against the whole species.” The actions of the violator declare that individual to “quit the principles of human nature, and to be a noxious creature.” By one’s actions one “offender declares himself to live by another rule, than that of reason and common equity.” Thus, a violator of natural law renounces the rule of reason, which is both the common rule and the God-given means for restraining unjust violence and slaughter, and declares war against all humankind.

128 Essay, Bk. II, Ch. XXI, § 64, p. 276, 18-20.
130 Second Treatise, § 8, 12-13.
131 Second Treatise, § 8, 15-16.
132 Second Treatise, § 10, 3-5.
133 Second Treatise, § 8, 10-11.
Furthermore, the perpetrator does not allow the threat of punishment for breaches of natural law to inform and control one's actions. Locke considers actions that violate natural law as a threat to the whole species, because these actions put everyone else in danger. These actions amount to a declaration of "war against all mankind." According to Locke, God does not intend that the design for orderly human relationships should degenerate and give rise to war. By disregarding the rule of reason, the law-breaker fails to adhere to the general principle that requires all individuals to maintain the peace and the preservation of all humankind.

The second case of violating natural law in the state of nature is that the punisher misapplies punishment. Regarding natural law, this individual's passions and interests "mis-cite, or misapply it, [this person] cannot so easily be convinced of ...[one's] mistake where there is no establish'd judge." The victim of a breach in the law of nature has a right to punish the perpetrator, but the victim may make a mistake and exceed the degree warranted for punishment, and action that exceeds warranted punishment also breaks the rule of natural law. Thus, another violation in the law of nature occurs at the point where punishment exceeds that which the law warrants in the condition of nature. Such excess is also a violation against God and humankind because passion influences the outcome of judgment in a way that ignores reason.

In Locke's philosophy, every initial breach of natural law potentially sets up a situation in which further trespasses occur, and so on. The initial victim, by right, must administer a punishment commensurate only with the violation of natural law, but when personal interests intervene in the rational application of natural law, they can cause the
punisher to become a violator of natural law in the enforcement of punishment. By one’s actions, the original perpetrator breaches the natural law and declares one is outside rational law. These actions, by the perpetrator, are susceptible to punishment. However, the original perpetrator then becomes the victim of a breach of natural law, because of receiving excessive punishment, and a chain reaction of violations can follow. The perpetrator is better off receiving punishment only in a warranted degree determined by natural law rather than in an excessive degree overestimated by a victim-judge. If this kind of dangerous interaction continued in the cycle of punishing violations of natural law, there would be no relationships between individuals. The situation in the state of nature is but confusion and disorder, and there are no means to stop the faulty human application of natural law. Human error in the state of nature creates problems because it increases disorder in relations. The fact that humans make mistakes that violate the principles of natural law means that those laws are not appropriately carried out in the state of nature. The most obvious individual for whom this is a problem is the victim of an infraction of natural law. However, the transgressor of natural law is also vulnerable to mistakes made by the punisher who may inappropriately enforce the right of punishment. Thus, the problems resulting from humans making mistakes in the state of nature are potentially harmful to both victims and transgressors of natural law.

In the Essay, Locke cites four reasons that account for mistakes in human judgment when applied in a natural state and before the formation of civil society: want of proofs, want of ability to use proofs, want of will to use proofs and the wrong measures of probability. First, some individuals lack proofs for the proposition,

---

136 Essay, Bk. IV, Ch. XX, § i.p. 706, 25-28.
position, or belief that they use. In order to confirm propositions or beliefs, one needs proofs empirically validated. However, Locke maintains, it is easy to become caught up in everyday life and find no spare time to contemplate one’s soul or utilize experiments to provide such proofs even though “God has furnished men with faculties sufficient to direct them in the way they should take, if they will but seriously employ them that way.”

God places the onus upon humankind to discover and utilize the advantages of knowledge applied to actions. A second explanation for human mistakes concerns those who are unable to either carry out a train of consequences or weigh contrary proofs: they “may be easily misled to assent to positions that are not probable.” Because of this wide divergence in humankind’s understanding, apprehensions, and reasoning, many simply lack the skill necessary to evaluate evidence for probabilities. Owing to this wide difference, the expectation for profitable opinion in a person diminishes with inability to think or use thought as a tool for understanding. A third reason for error in judgment comes about because some individuals have an aversion to studying, for any reason, which keeps them from “any serious thought at all.” This mistake amounts to sloth because false propositions are retained through purposeful inactivity, and one intends to remain ignorant. The fourth and final reason Locke discusses centers on the individual’s failure to recognize proper evidence or reasons. These people simply reject conviction to probable propositions.

These four types of error demonstrate the manner in which humankind misapplies reason and knowledge in decisions concerning actions. By not taking on the burden of

---

137 Essay, Bk. IV, Ch. XX, § 3, p. 708, 12-14.
138 Essay, Bk. IV, Ch. XX, § 5, p. 709, 14.
139 Essay, Bk. IV, Ch. XX, § 6, p. 710, 8.
constructive serious thought, those individuals who fall into any of these four categories
must always accept the lead from another individual who does take it seriously. According to Locke, to rely for one’s own understanding to be derived on the understanding of another individual is the grossest form of slavery.

It is disturbing to note that from the human perspective, awareness of the source of conflict generated while natural individuals enforce natural law in the state of nature may not be acute. That is, natural individuals may be unable to identify the cause of disorder and to recognize that it is a failure in their actions that brings about conflict. Natural law gives guidance to humans to pursue the goal of certain actions and to avoid other actions, but natural individuals may be completely unaware that they are making inept and ineffectual attempts at accomplishing this goal.

In order to recognize problems in the Lockean state of nature, a natural individual needs the proper functioning of the human faculty of reason. Yet due to the nature of the four problems regarding mistakes in reasoning discussed in the state of nature, one cannot expect that individuals in that state would possess an adequate understanding of this condition in order to construct solutions. One’s reasoning is simply not functioning properly to produce the solution when one cannot adequately identify the problem. This lack of awareness means that humans would not be able to directly see the contract as a solution because none of the principles of natural law is innate and other personal forces undermine the rational discovery of them.

In this section, I have discussed the problems associated with the state of nature that Locke describes and how these problems exclude solutions from emerging from human rationality. Individual actions under those conditions demonstrate both the
unreliability and poor functioning of that rationality. Thus one cannot anticipate that humankind has either the ability to recognize the true nature of the problem or to present a viable rational solution. Instead, Locke must rely on the intervention of God to compel individuals to select and to put civil government into practice.

Section 3: What are Locke’s moral and political recommendations?

Given the identified problems in the state of nature, Locke goes into detail showing how natural individuals can choose to make the transition from the state of nature to civil society. Because individuals living under these conditions may not possess the ability to understand the source of the difficulties in that state, they perceive these problems in the state of nature as “inconveniences” to human well-being. Locke uses the term “inconveniences” to describe the difficulties for natural individuals in “the preservation of their property.” However, Locke’s assessment of problems in the state of nature takes into account broader problems than only those having to do with the preservation of property. Locke describes a condition in the state of nature in which individuals possess practical social urges and capacities, have natural rights and laws, and carry out duties and obligations to each other and to God. God’s will for humankind writes Locke, is characterized by order, and that principle means that God endows these natural individuals with some means by which to attain a workable society. But not all goes well and certain human actions undermine the rational pursuit of God’s will for humankind. Because this state of nature is characterized by confusion, disorder, and

---

140 Second Treatise, § 127, 9.
inconveniences, Locke then sets out several necessary processes to overcome the inconveniences, which are the principles that lead to the establishment of a civil government. These required arrangements include individual consent to political power, distribution of created political power, and the preservation of the right of rebellion against the government.

In Locke’s model, chaos in the state of nature is harmful to criminals, as well as to those who determine their actions based upon an error in judgment. Nevertheless, these inconveniences are not to be endured. This chaos must be overcome for the well-being, survival and thriving of God’s handiwork -- humankind. Locke finds the solution to this disorder in the creation of a civil government designed specifically to combat the “inconveniences” in the state of nature. Since these inconveniences make life unpredictable, government responds by bringing order out of chaos and by providing clear social guidance. Unlike Hobbes, however, Locke is more specific about how government overcomes the inconveniences of the state of nature. That is, Locke argues for incorporating safeguards into government to prevent it from abusing citizens.

For Locke, first and foremost is the preservation of personal property and one’s right to defend it. The pursuit of that right “to which in the state of nature there are many things wanting”\textsuperscript{141} is the main reason natural individuals consent to the social contract. Although Locke presumes individuals to possess both personal property and the right to preserve it in the state of nature, something goes significantly wrong in that state, so that individuals must unite in civil commonwealths. Locke cites three defects found in the state of nature that undermine an individual’s activities for the preservation of personal

\textsuperscript{141} Second Treatise, § 124, 3-4.
property in that state and lead to civil government: want of an established known law, want of a known and indifferent judge, and want of a power to give and enforce sentences for injustices.\textsuperscript{142} Despite possessing the law of nature and being rationally accountable to it, individuals living in the state of nature may be unsuccessful in appropriately ascertaining and enforcing it. Thus, the necessity for meticulous attention to the preservation of person and property in the civil state arises from the fact that human beings make mistakes. Only upon recognizing that they could do better in life than is possible in the natural state do individuals make the sacrifices necessary to adopt civil society.

Locke argues, "civil government is the proper remedy for the inconveniences of the state of nature."\textsuperscript{143} Such a government resolves these inconveniences among individuals by minimizing, as much as possible, the use of unjust force and by introducing laws for the "preservation of property, peace, and the unity amongst themselves."\textsuperscript{144} The institution of government only amends natural law, however, it does not change its principles. Locke therefore, limits the range of civil government by demanding that it supplement natural law but not go beyond that law. Even more fundamental is that the source of this government cannot be humankind because its flawed natural actions produce the problem in the first place. Instead, the solution must be divinely designated in order to amend the manner in which individuals apply natural law. According to Locke, after the state of nature decomposes into a condition of confusion and disorder, "God hath certainly appointed government to restrain the

\textsuperscript{142} Second Treatise, § 131, 10-21.  
\textsuperscript{143} Second Treatise, § 13, 9-11.  
\textsuperscript{144} Second Treatise, § 226, 11-12.
partiality and violence of men.”  

In sum, since individuals in the state of nature demonstrate themselves to be unreliable as enforcers of natural law, they also cannot be relied upon as the source of civil government.

In this construction of civil order, Locke hints that he is rethinking the foundation of political principles by considering the origin and rights of governments in light of current events. Individuals are compelled to rethink these principles, motivated by a desire to restrain human appetites and to “prevent the abuses of that power which they having intrusted in another’s hands only for their own good.” By concentrating on the abuse of political power and the use of unjust force as the harms that civil government must avoid in the future, Locke hopes to set out a system of civil government that also successfully copes with the inconveniences in the state of nature and corrects alternative political philosophies that encourage centralized power. Against Filmer and Hobbes, for example, Locke cautions that “he that thinks absolute power purifies mens bloods, and corrects the baseness of humane nature, need read but the history of this, or any other age to be convinced of the contrary.” Locke describes political power as

\[ \text{a right of making laws with penalties of death, and consequently all less penalties, for the regulating and preserving of property, and of employing the force of the community, in the execution of such laws, and in the defense of the commonwealth from foreign injury, and all this only for the publick good.} \]

\[ \text{145 Second Treatise, § 13, 8-9.} \]
\[ \text{146 Second Treatise, § 111, 15-16.} \]
\[ \text{147 Second Treatise, § 92, 1-3.} \]
\[ \text{148 Second Treatise, § 3, 1-6.} \]
The use of this political power shifts enforcement of natural law from individual discretion to the force of the community that is combined to make “one body politic.”\textsuperscript{149} Civil individuals exercise political power for self-protection from each other as well as defense from common enemies and an over-reaching sovereign.

In Locke’s civil society, an individual must give up natural “perfect freedom” in order to participate in civil society. He asks, “If man in the state of nature be so free...if he be so absolute lord of his own person and possessions, equal to the greatest and subject to no body, why will he part with his freedom?”\textsuperscript{150} Locke answers by pointing out that it is in the leaving of the state of nature that individuals subject themselves to the control of another power. That is, despite an individual’s right to exercise power over one’s personal property in the state of nature, the “enjoyment of it is very uncertain...very unsafe [and] very unsecure.”\textsuperscript{151} This insecurity arises from the constant threat of the right of personal property being undermined by other individuals.

According to Locke, the compact between individuals that puts an end to the state of nature must have a rigorous form--all individuals in the state of nature must agree together mutually to enter into one community. Because all these individuals possess “perfect freedom” in the natural pre-political state, “the only way whereby any one devests himself of his natural liberty, and puts on the bonds of civil society is by agreeing with other men to joyn and unite into a community.”\textsuperscript{152} Thus, only by their consent do individuals make themselves members of a political society and obligate themselves to the political authority of the civil government.

\textsuperscript{149} Second Treatise, § 14, 9-12. \\
\textsuperscript{150} Second Treatise, § 123, 1-4. \\
\textsuperscript{151} Second Treatise, §§ 123, 7-8 & 11-12. \\
\textsuperscript{152} Second Treatise, § 95, 4-7.
Lockean civil society is made possible only by way of free, individual consent. In this model, individuals pledge themselves to observe political obligations attached to the social contract. The most important of these is the transfer of personal power to a political figure, the sovereign. Such a political figure can only gain power through the consent of the citizens involved. That is, the condition of consent is the only means by which one individual can exercise legitimate authority and control over another individual. In this way, a proper civil sovereign cannot wield arbitrary power. This notion of consent also applies among citizen's themselves, and any individual who attempts to deprive another individual of freedom, must be considered as having a design on everything else as well and thus, puts oneself into a state of war with that individual. Locke seeks to preserve the right of an individual to protect his property and interests in both the state of nature and civil society by way of the individual consent principle that acts as the foundation for civil society. Indeed, the agreements attached to the social contract would not be necessary "were it not for the corruption, and vitiuousness of degenerate Men."153

In Locke's society, the action of the majority must pass for the action of the whole because it is impossible to collect consent from every individual. The civil bond, formed when the majority agrees, creates the right of the majority to act and includes everyone as if they offered individual consent. Locke states that, within assemblies that are empowered to act by law, "the act of the majority passes for the act of the whole, and of course determines, as having by the law of nature and reason, the power of the whole."154 Locke regards "tacit consent" as given during the time when a "man...hath any

153 Second Treatise, § 128, 7-8.
possession, or enjoyment, of any part of the dominions of any government.”

By the same measure, a civil individual, through tacit consent, is obliged to obey the law of that government whenever and for as long as one enjoys the privilege of its protection, just as if one had provided direct consent.

However, Locke provides alternatives for the individuals of the committed opposition. Individuals not consenting to the civil government within their community are free to make other contracts elsewhere. But when an individual continues to live within such a community, this act offers tacit consent to the civil government and tacit approval of its social norms. When an individual denying consent remains within the physical domain of his or her community and acts to interfere with the rights of other individuals, the government may legitimately punish that person. Because such action against the majority is essentially a declaration that the dissenting actor can live by rules other than the one’s set out to guide actions within that civil society.

The purpose for which Locke’s individuals unite to form civil society is to secure the mutual preservation of their lives, but reaching that goal is no easy task. Because “perfect freedom” in the state of nature depends on the right to direct one’s life without seeking permission from another individual, the political power in which the contractors invest must be of a particular kind. The most important characteristic of this power is that the sovereign not abuse that power, a possibility Locke minimizes by way of the separation of powers. Because each individual can no longer enforce the law of nature, the legislative portion of civil government attends to this function. Moreover, because civil consent creates a supreme authority in the executive power to whom each individual

---

is subject and which has the power to limit the liberty of citizens, the power granted to political roles by civil society should never extend beyond the pursuit of the common good. Locke’s political strategy is to employ the force of the community in the pursuit of the “peace, safety, and publick good of the people,” and to implement this strategy, Locke sets out a civil society that divides the power invested in the government between the various roles created to serve that society. In this way, no single division or individual can possess too much power, with which to become tyrannically dominant over the interests of the citizens.

In Locke’s model, the design of the civil government must bypass the human defects that become apparent while natural individuals enforce natural law. Locating God’s purpose as the reason for civil government and as restoring order to the interactions of humankind, Locke presents a form of government designed to lift the burden of creating order out of natural chaos from the individual and placing it upon the consenting community so that government is answerable to the “rest of mankind.”

The purpose of lifting this burden is to restore order and the possibility for happiness in human life. However, government must also meet one important condition: “the end of government is the good of mankind.”

In order to further humankind’s advancement in the civic arena, Locke establishes branches of government that distribute political power. The first positive law of all commonwealths, the legislative power, is the supreme power. Natural individuals cannot alter legislative power having once created it, and the commonwealth is obliged to adhere

---

156 Second Treatise, § 131, 21.
157 Second Treatise, § 13, 29.
158 Second Treatise, § 229, 1.
only to law that is sanctioned by the legislative power. In consenting to the legislative power, natural individuals must then also offer obedience to the law that power sets out. The members of civil society join their power, by agreement, to create the legislative power. That means the legislative power possesses only the power invested by the citizens and has no extra power by which to exercise arbitrary control over the lives or property of the society members. Instead, the legislative power is obligated to dispense justice. To accomplish this, the legislative power sets out known laws and judges to which the members must adhere and offer obedience. The laws that are created, in turn, must support only the good of the people and that demand means that the legislative power cannot raise taxes against personal property or transfer the power of making laws to any other body without consent of the society members.

For Locke, the executive power is separate from the legislative power. This separation is necessary to avoid the situation in which one individual can make and enforce laws that cater to one’s private advantage. Separation of the executive power reinforces the principle that the legislative power in which natural individuals invested must also adhere to the laws that they create. Such laws have “constant and lasting force.” Because these laws require a constant power to insure adherence, the executive power perpetually enforces laws made by the legislative power.

Once citizens create legislative power, they cannot destroy it. However, Locke maintains that it is important that civil individuals retain the ability to protect their interests, provided the civil government fails to do so. Locke clarifies this point in his discussion of the state of war. The proper state of nature is one in which “men...[live]

---

159 Second Treatise, § 144, 2.
together according to reason, without a common superior on earth, with authority to judge between them."\textsuperscript{160} All humankind, when there is no common judge, are in a state of nature. However, the state of war is "force, or a declared design of force upon the person of another, where there is no common superior on Earth to appeal to for relief."\textsuperscript{161}

When one individual exercises force over the person of another individual without a right to do so, such action is a state of war. Thus, the state of war occurs when one individual uses unjust force upon another, either in the state of nature or in civil society.

As concerns executive privilege, Locke argues against placing an absolute monarch in charge of the government in order to remedy the problems in the state of nature. He puts forward two questions. First, he considers, how much better than the state of nature is the situation in which a sovereign as "one man commanding a multitude, has the liberty to be judge in his own case, and may do to all his subjects whatever he pleases, without the least liberty to any one to question or control those who execute his pleasures?"\textsuperscript{162} In other words, an individual must always decide one's actions, even if those actions are mistaken in light of the civil society. That is, Locke does not maintain that society will fall apart if individuals make mistakes. Second, he considers, whether anything the absolute monarch does, "whether led by reason, mistake or passion, must be submitted to."\textsuperscript{163} Locke is less concerned with the initial conditions considered in the state of nature than with the type of solution a tyrant might chose. The Lockean state of nature does not have conditions as severe as the conditions set out in the Hobbesian one, yet despite the situation being bad in that state, Locke does not consider that it warrants

\textsuperscript{160} Second Treatise, § 19, 6-7.
\textsuperscript{161} Second Treatise, § 19, 8-10.
\textsuperscript{162} Second Treatise, § 13, 21-24.
\textsuperscript{163} Second Treatise, § 13, 25-26.
instituting an absolute sovereign because creating an absolute monarch is no guarantee against the evils that exist in the state of nature. Locke, in contrast, maintains that the objective in creating a civil government is to insure against the obligation to submit to the unjust will of another. The way Locke sets out to insure against such an unacceptable obligation is to hold the civil government responsible for its actions and to set out a process of grievance.

Locke goes on to argue against a people engaging in revolution against the established government without great reflection, but he also reserves the right for a people to determine whether the civil government is failing and whether it fulfills the ends for which it was first erected. Initially, each natural individual surrenders personal power to the civil government, thereby creating political authority with power to make the laws of government. If the civil government fails to function in the “preservation of property, peace, and unity”\textsuperscript{164} of the citizens, the authority figures vested with power, become the rebels because the actions the authority figures undermine the goal of civil society and reintroduce a state of war. However, it must be a “long train of abuses”\textsuperscript{165} that convinces a people that it must place the power of government into the hands of other capable political authorities.

In broad terms, Locke uses several political strategies to manage the mistakes individuals make in the state of nature. These include the incorporation of a civil government to which individuals provide, at a minimum, tacit consent. The power of natural individuals is unified into the power of civil government. However, to prevent the abuse of political power, this political power is distributed throughout the divisions of

\textsuperscript{164} \textit{Second Treatise}, § 226, 10-11.
\textsuperscript{165} \textit{Second Treatise}, § 225, 5.
government. Yet if the abuse of power becomes readily apparent, Locke makes a case that resistance is warranted.

Section 4: Criticism of the Lockean account

The Lockean argument derives the origination of civil society from the natural power of humankind. Locke provides evidence that civic power established by the consent of the people, which is, according to this model, the only lawful basis of government. That foundation, however, has its roots in a state of nature, an ambiguous construction, at best. For that reason, criticism of the civil government that Locke sets out centers on its failure to properly address the problems identified in the state of nature.

In Locke's state of nature, God is the driving force. The deity creates the divine principles of orderliness that guide the activities of societal associations. Locke includes a model of God's will for humankind in his theory of this initial human society, and there are reciprocal duties attached to the respective divine and human roles in that state. It is God's duty to provide the means to insure order in the creation and it is humankind's duty to conform to those means. There is an interplay between God's model of order and the manner in which humankind adhere to the measures divinely designed to make order possible in human relationships. The point is that God both makes the society and determines its rules.

Although God creates all human beings as equal in that state, individuals do not observe this fact in relation to other “equal” individuals. That is, they do not treat other individuals as if they are “equal.” Humankind in the state of nature fails to successfully
utilize certain divinely given characteristics. The violence that arises during conflicts among individuals exposes this failure.

According to Locke, God creates human beings with additional qualities that differentiate them from other animals; the most important point is that human beings need not resort to violence to settle conflicts that arise between them. Humans can avoid conflict because of the principles of natural law given by God. In this divinely designed and orchestrated society, human beings do not have a choice regarding the acceptance of natural law. Instead, these principles limit permissible activities in the state of nature by God's decree alone, with the purpose of preserving peace. Individuals in the state of nature possess rationality to discover the principles of law governing the world. In fact, they are obliged to use rationality for themselves—Locke denies innate ideas. Orderly interactions between individuals therefore depend on the proper rational application of natural law to handle all harmful actions, and humans must use appropriate reasoning skills to acquire and apply knowledge of the principles of natural law. God does not impart knowledge of natural law directly to these individuals. Instead, natural humankind can only acquire this knowledge through the appropriate application of reason. In the pre-lapsarian state successful acquisition and application of natural law should avoid conflict between individuals. Even if conflict did arise, natural law also indicates the manner in which natural individuals ought to settle these situations. Thus, Locke's conception of initial society as God first created it is that it could not have created irresolvable conflict. Yet overwhelming conflict arises.

Locke rationalizes this illogical development by recognizing defects to natural human beings. Since humankind possesses free will in that state, there are opportunities
for errors in reasoning that give rise to choices that fail to align with natural law and for human actions to give rise to conflict. Despite the means that are divinely designed to preserve order in the state of nature, confusion and disorder follow. Locke uses God as the explanation for much of creation, yet human free will introduces the element that generates flaws and the question of God’s creating the flaw in the first place is sidestepped. Locke sets out two primary problems in the state of nature. The first problem is that individuals allow personal sentiment to influence their judgments. This influence interferes with the outcome of justice in the interactions between individuals. The second problem is that natural individuals make mistakes regarding the content of natural law and with its proper applications, and likewise, making mistakes interferes with procuring justice. Both of these problems undermine the function of rationality by allowing other processes to eclipse rationality. However, God does not remove free will from the pursuit of desires in human actions, as a solution to these problems. Instead, Locke postulates that God overcomes the risk of disorder in human relationships by introducing external safeguards in the form of civil government.

Lockean civil government incorporates several strategies to resolve the conflicts that arise under the conditions in the state of nature. These include requiring individual consent, reorganizing the power structure, and perpetuating the right of rebellion against the established government. Individuals residing in the physical domain of an established government indicate tacit consent to the laws decreed by that government. The condition establishing such a civil government requires the transfer of personal power to the community, which is then assigned to the divisions within the civil government. Although the government established through this transfer of personal power must
remain intact to perpetuate peace, at any time the majority of the citizens may decide the
government is not fulfilling the goal for which it was created. The citizens may elect to
completely dissolve the government and start over again and establish another
government. However, Locke’s conception of establishing a civil government as the
solution to the disorders of the state of nature requires the successful functioning of
human rationality. That is, rationality is not required to give rise to civil government, but
rationality is required to make it work successfully. Locke’s civil government places
additional demands upon human rationality without demonstrating that it has been
rehabilitated from its problematic condition in the state of nature. Locke speculates on a
conception of civil government that is strategically invulnerable to the flaws found in the
state of nature. However, he provides an elaborate description of the manner in which
natural individuals confer power to the community without showing how such power
transfer changes the individuals upon whom this power is conferred in governmental
roles.

Locke cites impartial judges and the power to enforce punishment as the things
wanting in the state of nature as a known law. The civil government solutions to these
problems include setting out a known version of the natural law for the citizens to follow,
and providing impartial judges and the necessary power required for enforcement of this
known law. To remove the ambiguity regarding the principles of natural law, the
legislative branch must determine the particular attributes of those principles that people
were unable to figure out in the state of nature. However, the same individuals who, in
the state of nature, maintained different conflicting accounts of natural law are
responsible for setting down a known version of this law. Yet nothing about the activities
that create a civil society increases accessibility to knowledge about natural law for these individuals. That is, the individuals who are placed in that role have not received additional rational skills by which to ascertain the principles of natural law. Civil judges must make decisions regarding the impartial application of that law. Yet Locke gives no indication as to how the individuals given that role have become immune to all the feelings and sentiments that intrude on the proper enforcement of natural law. That is, the civil judge does not also inherit a dispassionate nature with which to carry out the duties of his role. Despite failures in the state of nature, Locke places unwarranted confidence in the rational ability of civil individuals to discern and apply natural law without the incursion of personal sentiments.

Finally, judgment regarding the overall adequacy of the established civil government remains in the hands of the citizens who released personal power to the community. Yet civil individuals receive no additional rational skills by which to evaluate governmental performance of its duties. Thus all the roles established within the civil society require the use of rational skills for which Locke fails to account. God’s intervention to solve the problems persisting in the state of nature does not include an improvement in human rationality.

In toto, Locke identifies problems in the state of nature in which sentiment and mistakes eclipse rationality. Because of the nature of the solution to these problems, the solution must come from God. The solution Locke describes as set out by God transfers individual personal power to the community, where it is distributed as political power in the civil government. Yet the strategy of managing power does not resolve the source of conflict generated by the problems with rationality. The problem of rationality persists
because the strategy of managing power does not address the eclipse of rationality by sentiment and mistakes.
CHAPTER 5: ROUSSEAU
BACKGROUND

Society in 18th Century Europe was grounded on the concepts of the Enlightenment. At the center of these concepts was human reason. In particular, great hope and faith were placed in the scientific method and the knowledge that resulted from utilizing reason to solve the problems of human existence. However, this new hope in the promise of reason brought with it a decline in religious belief and trust in traditional authority. Individuality, the concept that all individuals are different and possess the right to pursue their different interests, required a society that could provide them with that freedom. In turn, progress gives reason its force, associating that reason with constant improvements for the world, society, and the individual. For the progressive materialist, progress in human affairs results in perpetual and limitless improvement of material conditions, the greater the understanding of the corporeal human situation, the more efficient the manipulation of the process.

Disenchantment with these mental egoic values of 18th Century Society inspired Rousseau to pursue a different course in social and political philosophy. He regards the error of his society to be the substitution of true morality with superficial politeness and custom and maintains that “suspicions, offenses, fears, coolness, reserve, hatred, betrayal, will constantly hide beneath this uniform and deceitful veil of politeness.” Inequality between individuals deeply troubles him, and he seeks its source. He asks why “a handful of people abound in superfluities while the starving multitude lacks in

---

necessities.”

Rousseau maintains that humankind makes itself increasingly miserable by separating farther and farther from its natural state. That is, progressively introducing more artificiality into human relationships increasingly eclipses the good in the natural situation, which accounts for the increasing misery in the human condition. However, publishing his reflections took a personal toll on Rousseau. The government in Paris ordered his arrest for the publication of *Emile* and the government in Geneva publicly burned both *Emile* and the *Social Contract*. These works, so it was said contained political ideas that undermined the authority of the current ruler and government.

Rousseau makes two significant modifications to social contract theory. He completely revises the essentials of human nature in the state of nature, and he alters the problem to which the social contract offers a solution. Because of Rousseau’s iconoclastic approach, his state of nature offers an imaginative opportunity to thoroughly retrace the intellectual and rational development of humankind. Indeed, Kant himself acknowledges Rousseau for the discovery that “what is truly permanent in human nature is not any condition *in which* it once existed and *from which* it has fallen; rather it is the *goal for which* and toward which it moves...[it looks] for consistency not in what man is but in what he *should be.*”

In separate works, Rousseau sets out two different complementary accounts of the social contract process. On the one hand, he sets out an imaginative depiction of how his society might have developed into a moral and political force over time. On the other hand, he describes an ideal contract event that explains the moral and political development that he envisions humankind ought to have made instead in order to avoid

---

167 Second Discourse, Part II [58].
conflict. He speculates on the "actual" social contract situation in the *Discourse on Inequality* and the "ideal" social contract situation in the *Social Contract*. Published before the *Social Contract*, the *Discourse* strongly influenced the structure of the former. In the following discussion, I will refer to the contract situation in the *Discourse* as the "actual" contract and the one in the *Social Contract* as the "ideal" contract. I will then compare these two different versions of the contract and apply them to the remedying of social and political issues, for Rousseau uses his understanding of what goes wrong in the "actual" contract in order to suggest the contours of the "ideal" contract.

Like previous social contract theorists, Rousseau intellectually dissolves his society into an initial state of nature and the constitutive elements that compose it. Rousseau's criticism of previous efforts to characterize the state of nature leads him to propose a completely new characterization that requires him to rethink the whole development of human society. He does so with a two-part scheme. First, in the *Second Discourse*, the *Discourse on Inequality*, Rousseau speculates on the ill-formed development of a nascent society that eventually gives rise to a fragile heavily conflicted civil society. Second, in the *Social Contract*, he sets out the hypothetical development of proper civil society that emerges directly from the state of nature, maintaining "the hypothetical history of governments is in all respects an instructive lesson for men."\(^{169}\)

Rousseau's *Discourses* respond to contest essay questions proposed by the Academy of Dijon. Addressing the question "whether the restoration of the sciences and arts has contributed to the purification of morals,"\(^{170}\) the *First Discourse* won the prize in the year 1750. The *Second Discourse* addresses the issue regarding, "what is the origin

\(^{169}\) *Second Discourse*, Preface [12].
\(^{170}\) *First Discourse*, Title page.
of inequality among men, and whether it is authorized by the natural law." Both Discourses explore the relationships among human knowledge, morals, and happiness. Rousseau’s thesis in the First Discourse is that advances in science and artistic endeavors cause a proportional decline in morality within a society and that, as a result, numerous errors have accumulated during the social development of humans as a species. The Second Discourse describes these errors and sets out a description of their adverse effects on human social development. In the Second Discourse, Rousseau presents arguments and methods for investigating both the problem of inequality in society, as well as the moral superficiality in his society. He starts by asking, “how can the source of inequality among men be known without first knowing men themselves?”

Rousseau describes two different processes of transition from the state of nature to civil society for the separate situations of the “actual” and “ideal” contracts. Individuals in the “actual” state of nature, in an attempt to advance peace, make a diversion through a state Rousseau refers to as nascent society. Eventually, conditions in this social state force the introduction of civil society. In contrast, humans in the “ideal” state of nature make a direct conversion to civil society through the contract. Rousseau’s nascent society reveals his understanding of the nature of human conflict. In this respect, his reflections on this “nascent” society correspond to the conception of the state of nature utilized by previous theorists.

171 Second Discourse, Title page.
172 Second Discourse, Preface [1].
Section 1: What are the defining features of Rousseau’s original situation?

Rousseau recognizes that earlier philosophers used the social contract as a thought experiment to dissect the elements of the then-current society. He states that those who would examine the “foundations of society...[go] as far back as a state of nature.” Rousseau maintains that because previous philosophers did not get the conception of the state of nature right, their political recommendations are built on an inappropriate foundation. These failed accounts utilized characteristics and qualities that Rousseau maintains can only be gained within society and cannot be derived independent of that society. He claims “it is this ignorance of the nature of man that casts such uncertainty and obscurity on the true definition of natural right.” For Rousseau, earlier theorists had attempted to derive the principles of natural right from human nature. However, such an undertaking pre-supposes a human nature from which to derive a consistent idea of natural right. Thus Rousseau’s project is to uncover natural man in the genuine state of nature and to reveal the “real foundation of human society.”

According to Rousseau, to expose the genuine state of nature, one must get at the root of the primitive condition or thoroughly dissolve the artificial “faculties” resulting from circumstances and then discover the constitution of the human being in its original form. Rousseau likens natural individuals to the statue of Glaucus that becomes disfigured by time, sea, and storm—wear and layers of barnacles obscure the original

---

173 Second Discourse, Exordium [5].
174 Second Discourse, Part I [47], italics added.
175 Second Discourse, Preface [5].
176 Second Discourse, Preface [5].
statue of Glaucus. He argues that we must remove the layers of deposit left upon the species by human society to reveal the natural individual beneath. This metaphor shows that Rousseau’s project is to discover the ways that society wears away and adds layers to human nature: “elucidating it and reducing it to its true state.”177 In the Discourse, he starts by hypothesizing a unique portrayal of humankind in the state of nature by removing the layers accumulated through the experience of time and society. Rousseau’s original state finds the human species possessing qualities that are no more sophisticated than those of animals. According to Rousseau’s description, natural humankind did not possess tools, language, sociability, or industry. With this foundation, Rousseau goes on to trace the origination and development of human corruption within society. Rousseau uses this foundation to build both his “actual” and “ideal” societies.

By establishing a state of nature at a point before the development of society, Rousseau believes he has discovered and eliminated errors perpetuated by earlier theorists. He argues that understanding natural individuals is a prerequisite for understanding the inequalities between the individuals of his day and criticizes previous efforts to capture the real character of the state of nature. He maintains that the attempts by preceding philosophers to retrace the steps to a state of nature have all failed to actually get there. He points out that these previous theorists did not successfully describe an actual state of nature because “continually speaking of need, greed, oppression, desires, and pride transferred to the state of nature, ideas they had taken from society; they spoke of savage man and depicted civil man.”178 Rousseau excludes from

177 Second Discourse, Preface [4].
178 Second Discourse, Exordium [5].
Rousseau cites Hobbes as one fundamental theorist who falls short in capturing an adequate portrayal of the foundations of society. According to Rousseau, Hobbes fails to describe an “original state” because he allows reason, rationality, and desires to be a part of the state of nature.\textsuperscript{179} For Rousseau these skills are brought about exclusively through collective activities. In point of fact, Rousseau goes so far as to define society as the acquisition of human attributes that facilitate relationships between individuals and that cause science, industry, and the arts to flourish. The connection between these two principles is causal. Relationship-enhancing arrangements such as language, conventions, morality, and families contribute either positively or not to industry-enhancing attributes such as liberal and mechanical arts, commerce, and letters. By excluding society, government, politics, morality, and even rationality from the state of nature, Rousseau isolates the elements of that state as those that he can explain as originating with nature alone. Rousseau also attempts to escape the circular argument that occurs when the justification of a societal institution is based on ideas and feelings that only society can introduce; he intends to avoid the “fallacy of those who in reasoning about the state of nature carry over into it ideas taken from society.”\textsuperscript{180}

Rousseau is essentially rethinking the social contract by considering the foundations of society in light of current events. He maintains that speculation about societal development in relation to a hypothetical history of governments sets out instructive lessons regarding what humankind could have become, provided with other

\textsuperscript{179} Second Discourse, Part I [35].
\textsuperscript{180} Second Discourse, Part I [25].
conditions. As a consequence, he recommends acquiring an understanding of humankind's history through reading nature, "which never lies." He maintains that the Hobbesian injunction to "Read Thyself" fails because it operates through an individual living within society reflecting upon characteristics that society imposes—Hobbes's natural individual possesses reason. However, since Rousseau claims that natural individual does not possess this faculty, he also maintains that natural individuals cannot abuse reason in the way that Hobbes describes: "savages are not wicked precisely because they do not know what it is to be good...[It is] the calm of the passions and the ignorance of vice that keep them from evil-doing." For Rousseau, the Hobbesian method of "Read Thyself" does not reach far enough back to the origins in human development to inquire about natural individuals, because it reveals an excess of self-interest that could only develop under the influence of society. Rousseau claims to derive a particular "reading" of human nature by looking to nature itself, rather than at characteristics of humankind.

Rousseau's understanding of human nature is however problematic in specific respects. He does not provide a description of humankind in the "ideal" state of nature in the Social Contract. Thus we must look to the Discourse and in that text, Rousseau illustrates a natural individual and speculates about the progressive path humankind ought to have adopted before the development of new technologies, and the concomitant emergence of new needs, desires, inequalities, and moral corruption. Because Rousseau does not discuss the state of nature in the Social Contract, we must rely on this description in the Discourse to represent the state of nature for both the "actual" and

---

181 Second Discourse, Exordium [7].
182 Second Discourse, Part I, [35].
"ideal" conditions. For Rousseau, his two different accounts of the state of nature share the same primitive condition up until a particular event 183—when the obstacles of nature become greater than an individual's resistance to them. 184 At this juncture, Rousseau speculates that a "fortuitous concatenation of several foreign causes" 185 happened in the state of nature that prompted a change in humankind, or they would still be living under those conditions. Thus when circumstances in nature change and survival becomes uncertain, individuals who previously were able to provide for their basic needs suddenly face extinction. In fact, the whole species faces extinction. Individually, they can do better only by uniting with their fellows to direct existing forces against nature.

The "ideal" contract occurs in the state of nature, which means the "ideal" contractors have not yet lost natural sentiments or acquired the hidden yoke of the conveniences associated with society. In this state of nature, humans start out with basic qualities that Rousseau considers are similar to those of the animals,

wandering in the forests without industry, without speech, without settled abode, without war, and without ties, without any need of others of his kind and without any desire to harm them, perhaps even without ever recognizing any one of them individually, subject to few passions and self-sufficient. 186

Although Rousseau claims that natural individuals in this condition are not much different from animals, he goes on to present a description of animals that does not match our current understanding of higher animals and does not correspond with our conception

183 Since Rousseau's 'actual and 'ideal' states of nature share the same defining features until the point of cataclysm in nature, we will identify this situation as the original state of nature.
185 Second Discourse, Part I [51].
186 Second Discourse, Part I [46].
of early human activities. Rousseau’s natural individuals are free because they do not
depend on each other, but they are also equal because fortune has not yet created
differences among them. Having no language, a natural individual cannot communicate
or educate oneself beyond one’s senses. As Rousseau theorizes, suppose one makes a
chance discovery, one is at a loss to communicate it, so “the art perishes with the
inventor.”187 No progress or education could occur for endless years, and according to
Rousseau, “the more one meditates on this subject, the greater does the distance between
pure sensation and the simplest knowledge grow in our eyes.”188

Unlike earlier theorists, Rousseau maintains that he avoids proposing complex
inborn human qualities to explain human nature. He describes an original state of nature
that is populated with human “animals” that do not have the passions of vanity,
vengeance, hatred, esteem, contempt, love, jealousy, shame, and envy.189 Instead, he
argues for some simple primary characteristics that have the potential in a social setting,
to give rise to the additional attributes just mentioned. Through incremental changes both
in environment and in the internal development of perfectibility, human beings
demonstrate a radical modification in the original natural characteristics. According to
Rousseau, these new characteristics emerge and grow because of new interactions within
the species. The only defect in these individuals is their lack of resources with which to
meet the resistance of nature and therefore emphasizes the difference between social,
modern man and natural man. One cannot rightly understand the qualities of a natural
individual if one is seen as having socially constructed characteristics.

187 Second Discourse, Part I [46].
188 Second Discourse, Part I [22].
Since Rousseau maintains that parties to the “ideal” social contract are pre-rational, these individuals can only intuit that there is a problem by sensing a cataclysm in nature. They have not yet developed reasoning “faculties” that analyze their individual and collective fates. They cannot understand the dire prospects of this condition. A natural individual’s ability to know does not depend on knowledge or understanding, but it a warning to the individual that one needs to modify actions in light of the new circumstances.

In Rousseau’s natural state, certain sentiments provide the same function that laws and morals will serve in the future. Predicated on the animal functions of sense and perception, Rousseau identifies two principle “sentiments”: an interest in one’s well-being and preservation, and a natural repugnance to witnessing a sentient being perish or suffer. The first sentiment that an individual experiences is that of one’s existence, and the first care is of one’s preservation. In this original state, natural self-love urges all animals to attend to their self-preservation, a sentiment that has the potential to be transformed with the experience of society. As Rousseau says concerning this point, self-love “guided in man by reason and modified by pity, produces humanity and virtue.”190 The second sentiment, pity, “in the state of nature, takes the place of laws, morals, and virtue.”191 Pity mediates the activities of self-love and assists in the common preservation of all humans; it is the ability within a person to commiserate with and put oneself in the place of another suffering person. The sentiment of pity and the activities required to assist another who is suffering occur without reflection. According to Rousseau, all natural persons are vulnerable to the gentle voice of pity. Rousseau treats

190 Second Discourse, Rousseau’s Notes, XV [1].
191 Second Discourse, Part I [38].
pity and self-love as instincts that prevent humans from getting into overwhelming conflict with each other in the original state of nature, before reason becomes an acquired human faculty. More specifically, pity in the natural person “precedes the exercise of all reflection in him.”

In Rousseau’s natural state, nature alone guides the senses and sentiments; individuals do not reflect upon them. These individuals do not have the passions of vanity, hatred, or vengeance because they do not compare themselves with each other. Deprived of enlightenment, as are the animals, this human lacks the “wit to wonder at the greatest marvels; and it is not to him that one would turn for the philosophy man needs in order to be able for once to observe what he has seen everyday.” One has only the sense and sentiment of the moment. Nevertheless, so long as one does not resist the internal sentiments of pity and commiseration, such an individual would never harm another sentient being, except in the legitimate case of self-preservation.

According to Rousseau, natural man’s needs are so simple that natural sentiments are sufficient to control the actions necessary to secure them. These natural humans possess a perfect balance between needs and available resources, and the natural individual only desires those things that one finds in one’s immediate physical environment. That is, for the male, “his desires do not go beyond his physical needs; the only goods he knows in the universe are food, a female and rest; the only evils he fears are pain, and hunger.” Rousseau maintains that the natural male individual does not worry about satisfaction of future desires and relies completely on immediate sensory

---

192 Second Discourse, Preface [9].
193 Second Discourse, Part I [35].
194 Second Discourse, Part I [21].
195 Second Discourse, Part I [19].
knowledge; the present is all that matters. The natural individual’s plan extends barely to the end of the day.\textsuperscript{196}

At this point in his human development treatise, Rousseau shifts away from explaining human nature and its complex inborn characteristics. Instead, he argues for the existence of simple characteristics that possess the potential to give rise to human qualities in a social setting. The most important characteristic is humankind’s \textit{perfectibility}, “faculty” that “with the aid of circumstances, successively develops all the others, and resides in us in the species as well as in the individual.”\textsuperscript{197} Because it is only a potential “faculty,” perfectibility \textit{requires stimulation} in order to develop. When external conditions change and eject humans from the original state of nature, these latent qualities develop into the intellectual, emotional, psychological, rational, and passionate features of survival that we now recognize. These latent qualities of perfectibility “may have raised civil man above his original state.”\textsuperscript{198} Yet Rousseau wants to make it clear that humans did not originally possess these particular attributes--an important point because he claims that these attributes result from the human response to external conditions and to other humans. Physical inequality, rationality, enlightenment, over-reaching desires, and the chains of society are no part of the original condition of nature. In short, Rousseau considers the attributes that we consider “human” to be artificial and vulnerable to manipulation.

Because he maintains that social characteristics can be shaped, Rousseau addresses the issue of proper education. He maintains that this task can only take place

\textsuperscript{196} \textit{Second Discourse}, Part I [21].
\textsuperscript{197} \textit{Second Discourse}, Part I [17].
\textsuperscript{198} \textit{Second Discourse}, Rousseau’s Notes X [5].

120
within an appropriate political association of people that protect the freedom of each individual within that unity. Only within such an arrangement can an individual safely experience the stimulation and development of the simple human “faculties.” Development that occurs outside an appropriate political association results only in disaster; a condition that Rousseau maintains is evidenced by his society. He argues in the *First Discourse* that the relentless pursuit of science and knowledge without suitable attention to the influence of these on human well-beings generates human misery, a depressing state of affairs which, in turn, creates greater and greater demands on the science that its disciplines cannot meet.

In Rousseau’s social contract model, one event initiates the transition from the state of nature to civil society for both the “actual” and “ideal” contract, natural cataclysmic upheaval that changes the availability of life-sustaining resources on earth. The problem in this state of nature is that natural conditions no longer support individual survival and force individuals to adopt new survival skills. This chaos catapults everyone into disequilibria regarding the fulfillment of the simple needs and desires heretofore met by nature. This natural change forces humans to develop latent qualities. The act of developing these skills differentiates the “actual” from the “ideal” situation.

In his final analysis, Rousseau claims that he sets out a more adequate understanding of the true state of nature than did his predecessors. In Rousseau’s nature, individuals possess simple sentiments that have the potential to give rise to complex human attributes. As a result, the defining feature of Rousseau’s original state of nature is that it lacks *all* the elements of society, including human knowledge, politics, morality, and rationality. He thus postulates that the impetus of a cataclysmic disruption in the life-
sustaining capacities of nature forces the development of latent human attributes. At this point, Rousseau elaborates two different directions of social contract development. The "actual" describes the destructive development of a society that selects the social contract as a solution to misery, a post-state-of-nature collaboration. The other, the "ideal," illustrates individuals in the state of nature adopting alliances that incorporate the social contract concept.

Section 2: Why do individuals choose Rousseau’s social contract?

In the Discourse, the individuals living in the state of nature go through a process of socialization in response to a cataclysmic natural event, an earthquake, flood, or other large natural disaster. In this scenario, humans, begin to acquire artificial attributes and to develop human institutions that are associated with society. Unlike in Hobbes’ model, Rousseau does not set out to create an artificial person, in the sovereign, who does not possess the problematic characteristics--rationality, appetites, and desires--that give rise to conflict between individuals. Hobbes draws the line between natural and artificial at the point at which an artificial being is created, because a natural individual retains natural characteristics and the sovereign must manage those natural characteristics within civil society. In contrast, Rousseau describes natural characteristics as simple "faculties" that possess the potential to become more complex with the stimulation of society. He argues that rationality, appetites, and desires are complex artificial characteristics that are added to humankind, not by nature, but by societal interactions.
A transitional phase, Rousseau's nascent society is located between the time of the state of nature and the introduction of civil society. Initially, all individuals are equal, but they do not remain so in this nascent society, because as society coalesces human corruption embeds itself in the social fabric. However, according to Rousseau, nature poorly prepares humans for the duties and bonds of sociability. As a result, the change in nature forces the human intellectual capacity to expand in order to learn new ways of acquiring food, developing cooperative relationships, language, and families. The introduction of property brings still more quarrels and fights, but this development also creates material excess and people have leisure in which to acquire conveniences never before available. According to Rousseau, conveniences are the first yoke that humans unwittingly take upon themselves and pass on to ensuing generations. These conveniences "almost entirely ceased to be enjoyable, and at the same time...[degenerate] into true needs; it becomes much more cruel to be deprived of them than to possess them [as] sweet, and men [are] unhappy to lose them without being happy to possess them." Furthermore, conveniences serve to "domesticate" humankind, and just as animals are more robust, vigorous, and courageous in the forest before being domesticated, humankind, "as he becomes sociable and a slave...becomes weak, timorous, groveling." The continual acquisition of these conveniences causes the degeneration of humankind.

In nascent society, humans begin to acquire artificial qualities that include undesirable personal attributes. The "faculties" begin to develop and reason becomes

---

199 Second Discourse, Part II [13].
active, as does “the inseparable train of nascent inequality.”\textsuperscript{201} New technologies, agriculture and more conveniences are added to the budding society, thus further weakening humankind. Those individuals who have greater talents with the new technologies quickly gain greater advantages regarding these new conveniences and property and possession of additional skills brings additional possession of the goods that are produced in society. An unnatural inequality results because some individuals end up with more and some with less of these goods. Eventually, inequality distorts all order in human relations and causes over-appropriation by the rich individuals, robbery by the poor individuals. Furthermore, unrestrained passion of all, rich and poor, stifles natural pity and makes “men greedy, ambitious, and wicked,”\textsuperscript{202} and human reason, which results from the development of latent perfectibility by responding to external changes, makes humankind “wicked by making it sociable.”\textsuperscript{203}

Nascent society eventually develops into a state of war. This development occurs because the needs and desires of humans expand beyond those provided by nature. Prior to this point, all human needs and desire had been fulfilled through natural resources, but as the qualities necessary to meet the new difficulties of nature develop, humans acquire artificial needs and desires that begin to control their actions. Greed and wretched acquisitiveness are particularly offensive artificial desires because they continually give rise to more desires. Moreover, nature does not match these artificial desires with objects to fulfill them, so these objects must be created by human industry. Individuals who are able to exert greater force against their fellows can acquire possession of more objects of

\textsuperscript{201} Second Discourse, Part II [27].
\textsuperscript{202} Second Discourse, Part II [29].
\textsuperscript{203} Second Discourse, Part I [51].
human industry, a development that encourages greed and acquisitiveness that nearly brings humankind to the brink of destruction. The nascent society is in perpetual conflict that ends "only in fights and murders:" By definition, the pre-civil time of the "actual" contract situation includes both the original state of nature and the nascent society.

A natural cataclysmic event motivates the development of the "actual" nascent society. In a seeming contrast, problems in the nascent society motivate individuals to agree to the "actual" contract. In other words, problems in nature motivate the development of "actual" society, and problems in society motive the adoption of the social contract. Ultimately, the frightful disorder in the nascent society swells into the "most horrible state of war," and the wretched acquisitiveness of society exercises one final insult upon debased and devastated humankind: mutual consent to the laws of civil society.

According to Rousseau, human reason used in an unwitting, unconscious manner produces only ill-formed society. The species as a whole becomes weaker and more corrupted as needs and desires exceed the resources available to meet them. Inequalities among people develop as individual aptness in acquiring and consuming new conveniences emerge and natural sentiment cannot control the new desires that are born in society. Insidious comparisons arise, as individuals begin to measure themselves against one another's developing passions of vanity, contempt, shame, envy, and vengeance. Thus the defining feature of nascent society is the presence of familial and other relationships between individuals, including conventions, morality, law, agriculture, and industry. The conveniences of nascent society replace the goodness of the state of

---

204 Second Discourse, Part II [29].
205 Second Discourse, Part II [29].
nature. Artificial needs and desires give rise to the demand for more conveniences, which in turn, create new passions. These new passions lead to conflict between individuals.

When Rousseau's nascent society gives way to a state of war, individuals reflect on the miserable situation, and rich individuals, he asserts, must concede that the advantage they possess over other individuals is precarious, that they acquired this advantage by force alone. This precarious position means that another force could easily relieve them of this advantage, "without their having any reason for complaint."206 In this continuous state of war and vengeance, everyone faces a risk to his life, but only the rich face a risk to their goods because there are no reasons that justify the claims to property and goods in the nascent society, the rich must devise some force and rational to suppress and control the poor.

Eventually, the rich come to a decision that Rousseau regards as the "most well-considered project ever to enter man's mind."207 According to Rousseau, the rich individuals dupe the poor ones into making agreements regarding social and moral duties. The rich offer a special story to the poor; replete with specious reasons that are designed to convince them to participate. Certain rational ideas appeal to the desires newly acquired by all individuals in the nascent society because everyone desires more conveniences, security, and personal advantage. The idea that everyone could do better in gaining more of these commodities has direct appeal to the individuals who experience these desires. The consequences of such a blatantly self-serving scheme would pit rich

206 Second Discourse, Part II [30].
207 Second Discourse, Part II [30].
against poor, so the rich must be surreptitious in order to gain the confidence of the poor regarding the formation of civil society.

The "actual" contract promotes the acquisition of commodities through political means by attaching powerful sentiments to them. The promise the "actual" contract articulates is to "protect the weak from oppression, restrain the ambitious, and secure for everyone the possession of what belongs to him." This promise has great emotional appeal to the beleaguered inhabitants of the state of nature. Furthermore, it is implicit in an agreement that calls for everyone to unite to "institute regulations of justice and of peace to which all are obliged to conform, which favor no one, and which in a way make up for the vagaries of fortune by subjecting the powerful and the weak alike to mutual duties." Upon this passionate promise, writes Rousseau, everyone, rich and poor, "all ran towards their chains." The rich wished to secure protection from the poor, and the poor desired to secure protection from the rich. These individuals thought they understood the advantages of political alliances, but according to Rousseau, they did not have enough experience to comprehend the dangers connected with these alliances.

Everyone, rich and poor alike, enters the "actual" social contract because of the feeling of greed that is developed during the nascent societal experience. Everyone has a "hidden desire to profit at another's expense." The rich hope to stop the invasion by the poor, and the poor hope to extract a profitable advantage from the rich. This contract solidifies the inequality between rich and poor, thereby empowering the former. This contract cannot produce the desired true human freedom and peace, and this new society

---

208 Second Discourse, Part II [31], emphasis added.
209 Second Discourse, Part II [31].
210 Second Discourse, Part II [32].
211 Second Discourse, Part II, [27].
forever removes natural freedom and manipulates inequality to the advantage of a few individuals and evermore subjugates "the whole of mankind to labor, servitude and misery."212

In the Second Discourse, Rousseau describes the ill-fated development of "actual" civil society that passes through a nascent society in which humankind acquires personal characteristics that undermine the well being of everyone. Individuals in this situation are motivated only out of greed and fear that arise from the conditions in nascent society in order to make agreements regarding rules to guide their actions. The "ideal" development of humankind, on the other hand, grows directly from the condition in the state of nature. The motivation for agreements regarding alliances between these individuals is based upon natural sentiments and natural disaster.

Section 3: What are Rousseau's Moral and Political Recommendations?

In his Discourse, Rousseau describes two different accounts of the social contract situation. His distinction between the "actual" and "ideal" contracts reveal the remarkable contribution Rousseau makes to the utilization of the social contract thought experiment. He describes particular difficulties in working out specific political and social issues by speculating on actual societal expansion and its consequences. Because I have already reviewed the "actual" contract situation in the previous section, my content in this portion, is to explore insights derived from the "actual" situation that influence the design of the "ideal" contract. Rousseau matches the points of difficulty in the "actual"

212 Second Discourse, Part II [33].
contract with tactical maneuvers in the "ideal" contract maintaining that "most of our ills are of our own making, and that we would have avoided them if we had retained the simple, uniform and solitary way of life prescribed to us by nature."213

Since it becomes impossible for people to stay in the state of nature, they must do the next best thing and conceive of an "ideal" social contract that circumvents the condition that occurs in the "actual" situation. The primary goal of such a mental construct is to block an individual's unconscious cultivation of perfectibility and help one avoid the harmful influences of society. Instead of unconscious development, according to Rousseau, the contract's aim must be to insure humankind's proper education. Only in this way can the disorders of society be avoided. Previous theorists had contended that natural individuals contract with each other to mutually protect themselves against the condition of conflict created in the state of nature. In contrast, Rousseau maintains that individuals in the "ideal" situation must contract together to make a united force that they mutually direct against the hardship of the natural world. The problem in this situation is that natural individuals alone cannot create a new force to combat the inconveniences of nature. In order to survive, they must unite individuals in order to make an aggregate force that is powerful enough to overcome the difficulties in nature.

Rousseau maintains that natural humankind possesses limited knowledge and enjoys simple activities such as "jumping, running, fighting, throwing a stone, climbing a tree."214 Furthermore, "all knowledge...seems to be altogether beyond the reach of savage man for want of communication with his kind...and of the needs that make it

---

213 Second Discourse, Part I [9].
214 Second Discourse, Rousseau's Notes VI [1].

129
necessary."²¹⁵ The "ideal" contract occurs in the state of nature while the individuals are still pre-rational and equal with each other. For Rousseau, this contract event must take place before the contractors begin developing their latent perfectibility in order to prevent its improper growth.

In other words, Rousseau blurs the distinction between rational and non-rational when he claims that pre-rational individuals contract with each other in the "ideal" situation. In order to rationalize this logical anomaly, Rousseau considers the implications of Grotius' suggestion that a people can give itself to a king. Rousseau maintains that this event must be predicated upon a prior agreement among people to be a people, and then goes on to reflect upon the question of how a group of people become an association. As Rousseau points out, the key to solving the problem is to figure out when and how convention is introduced upon human action. Becoming an association is "the true foundation of society."²¹⁶ Although Rousseau is not unique in maintaining that convention establishes all rights and means of social order, he does however, carefully apply the idea that certain human events must be predicated upon earlier events. By retracing the causal chain of events to the point at which a group of dissociated individuals becomes a "people," Rousseau points the first incursion of human convention upon conditions in the state of nature. The advent of association among individuals obliges the contractors to translate simple natural sentiments of pity and self-love into civic responsibility and collective-interest.²¹⁷ According to Rousseau, when the natural

²¹⁵ Second Discourse, Rousseau's Notes VI [1].
²¹⁶ Social Contract, Bk. I, Ch. V.
²¹⁷ Social Contract, Bk. I, Ch. VII.
cataclysm occurs, merely engaging in the activity of association stimulates the development of these "faculties."\textsuperscript{218}

Rousseau's conception of the state of nature is unique because it postulates a condition that is deprived of all products derived from society, including human reason. He argues that previous theorists failed in rationalizing an adequate description of the state of nature and maintains that he has succeeded in getting it right. He considered his conception of the state of nature to be an accomplishment because it creates a "genuine" foundation upon which to demonstrate the development of all the human qualities. According to Rousseau, the real foundation of society cannot include qualities that are developed only through societal interactions.

Since natural individuals cannot develop entirely new forces by which to resist the changes in nature, the only thing they can do is to join their individual forces with those of their fellows to create another force. This is not an action based upon rational decision, because Rousseau's natural individual does not possess rationality. Instead, the action is based upon the primary sentiments of self-love and pity. Because self-love promotes self-preservation, the only way for an individual to survive is by associating with other individuals similarly indisposed by nature. Natural pity, that is, draws one to assist others in a similar condition. Pity and the urge to assist those that are suffering occur without reflection,\textsuperscript{219} and the result of this impulse means that mutual pity draws several individuals together to create the united force necessary to resist the conditions of incommodious nature. According to Rousseau, all these actions occur in the state of

\textsuperscript{218} \textit{Social Contract}, Bk. I, Ch. VIII.
\textsuperscript{219} \textit{Second Discourse}, Part I, [38].
nature and no features of society can influence these initial steps to the formation of society.

Just as the “ideal” contractor does not know the problem in the state of nature, one also cannot know that the social contract represents a solution. Since the “ideal” individual is pre-rational, one is without knowledge and capacity to ascertain the answer to a complex survival problem. Such an individual can only sense that individual’s reduced capabilities to rely upon the bounty of nature, and the natural sentiments draw one to other people during this crisis. The natural sentiment of pity compels an individual to assist others, and mutual pity attracts individuals to each other. Because everyone experiences the same crisis and possesses the same sentiments of pity and self-love, the shared experience creates a unified response to a “single motive power” that causes people to act in concert.\(^{220}\) The newly adverse disposition of nature provides this motive power, and similarly indisposed individuals make an initial social contract with each other to solve only the problem of survival, while preserving the freedom of the state of nature. The initial agreement has merely sentimental attraction at the moment of its inception. Only later does Rousseau reveal its rational appeal.

Clearly, pre-rational individuals cannot agree to a contract that forms civil society because they do not yet possess the faculties required to provide consent. These “ideal” individuals must “live” themselves into an agreed contract. They cannot know at the outset that the actions in which they engage, individually and collectively, are the solution to the problem of survival. Later, when individuals acquire rationality, they can

\[^{220}\text{Social Contract, Bk. I, Ch. VI.}\]
explain to themselves that doing this activity fortuitously turned out to have been the best solution.

The association that results from the "ideal" individuals joining forces together must not vitiate the standard of individual freedom; the form of the "ideal" association between individuals must be limited in specific ways. According to Rousseau, the purpose of a political association is the "preservation and prosperity of its members," goals best preserved through a "government under which...the citizens increase and multiply most, is beyond the question the best."222

Rousseau maintains that the form of this association must meet two prerequisite conditions in order for an individual to pledge to it. Since force and liberty are antithetical qualities by which an individual attends to self-preservation, pledging must not harm an individual's interests or interfere with one's caring for oneself. According to Rousseau, "The problem is to find a form of association which will defend and protect the whole common force, the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before."223 The "ideal" contract must therefore retain each individual's freedom while simultaneously guaranteeing one's survival within the association. Later, it turns out that the standard of Rousseau's individual freedom is instrumental in facilitating the appropriate growth of the individual in civil society.

The way "ideal" individuals live their way into a contract is by following their natural sentiments. These sentiments guide them unconsciously to act in certain ways

---

221 Social Contract, Bk. III, Ch. IX.
222 Social Contract, Bk. III, Ch. IX.
223 Social Contract, Bk. I, Ch. VI.
that passively insure individual survival and personal freedom. These individuals in the state of nature are free, but they do not know that they are free. Their actions, that is, do not intentionally preserve their freedom because these free people are not capable of rationally motivated action, and they act only as they are compelled to act by their basic needs and sentiments. They join forces together, according to Rousseau, rather than coming into conflict with each other over the problem of meeting simple needs. These simple sentiments easily harmonize with their individual basic interests, a harmony, through which they avoid the disorder found in nascent society. As a result, these ideal people require a moral and political system to provide guidance for action that mimics and perpetuates the harmony that they already possess. Rousseau’s “ideal” contract attempts to retain a sense of natural order in the formation of society, a natural order characterized by the complete lack of conflict, vengeance, and conniving that motivates the inception of civil society from the nascent society. By following one’s simple sentiments, the “ideal” individual is performing the activities of the social contract before one is able to understand its causes and implications.

According to Rousseau, the “ideal” civil government includes a sovereign that is “formed wholly of the individuals who compose it,”224 and it is impossible for this sovereign to wish to harm the citizens because the sovereign can possess no interest that is contrary to the citizen’s will. The “general will” is determined by the members joining in political association and receives its common identity, its life and its will from this association. A sovereign constituted in this way, could not become a tyrant because that

224 Social Contract, Bk. I, Ch. VII.
individual would never consider doing anything other than the “general will” of the citizens.

The basic clause of Rousseau “ideal” social contract requires the “total alienation of each associate, together with all his right to the whole community.” Because all individuals in the state of nature are equal, they do not yet have any distinguishing individual needs, characteristics, aspirations, or property. Acknowledging that mutual pity draws individuals together to assist each other means that the original “general will” must also be quite simple, and compliance with the basic clause of the “ideal” contract means that everyone submits to the same conditions. However, since everyone is the same, each individual “in giving himself to all, gives himself to nobody; and there is no associate over which he does not acquire the same right as he yields others over himself; he gains an equivalent for everything he loses, and an increase of force for the preservation of what he has.” According to Rousseau, the essence of the “ideal” contract is that “each of us puts his person and all his power in common under the supreme direction of the general will, and, in our corporate capacity, we receive each member as an indivisible part of the whole.” The unifying act that creates the political association forms the “ideal” moral and collective body.

The transition from the state of nature to the civil state also produces remarkable changes in the “ideal” human being. According to Rousseau’s Second Discourse, the development of the species proceeds within the safe context of a contract society in which personal freedom is already secured. These changes include the substitution of

\[225 \text{Social Contract, Bk. I, Ch. VI.} \]
\[226 \text{Social Contract, Bk. I, Ch. VI.} \]
\[227 \text{Social Contract, Bk. I, Ch. VI.} \]
justice for instinct and natural sentiment, and the voice of duty replaces physical impulse and right of appetite. Furthermore, the “ideal” individual “is forced to act on different principles, and to consult his reason before listening to his inclination.” In the “ideal” arrangement, each individual is stimulated to develop of one’s “faculties” in such a way that extends one’s ideas and ennobles one’s feelings.

In general, Rousseau’s “ideal” situation relies on the proper education and growth of humankind in order to avoid the problems that originate in the “actual” nascent society. One uses the hindsight acquired in analyzing the “actual” society in structuring the “ideal” society. “Ideal” society must preserve the freedom of the individual participating in it and secure protection for the individual pursuit of any personal interests that do not conflict with the general will of the civil society. Since the sovereign is the “general will” of the citizens, Rousseau maintains that individuals would have no reason to resist that sovereign.

Section 4: Criticism of Rousseau’s account

Rousseau identifies the source of conflict in the state of nature as rationality and its inevitable corruption with its emergence of human society, in contrast to Locke, who identified the source as the eclipse of rationality by sentiment and mistake. Rousseau’s “ideal” civil society depends on the agreement of pre-rational individuals in the state of nature. These “ideal” citizens must remain as free as they were in the state of nature. Thus a legitimate government preserves this freedom. However, it is in postulating the

---

228 Social Contract, Bk. I, Ch. VIII.
implausible “ideal” state of nature as the foundation upon which to construct human society that Rousseau’s model breaks down.

Rousseau argues that most of the social problems that people experience with each other are of their own making and that a state of conflict comes about because of the improper development of human attributes within society. This detrimental development, he maintains, gives rise to needs, inequality, and fighting not present in the natural state. Rousseau retraces the development of humankind to a hypothetical state of nature in an attempt to design an “ideal” developmental pathway that humankind should have followed. In order to do so, Rousseau must locate the genuine original state of nature at a point before the inception of all societal activities. By stripping away all that society has added to humans, Rousseau argues for a state of nature in which human beings do not possess any artificial qualities that have been developed in society. He characterizes the true human being in the state of nature as being just like an “animal.” At this point, however, he develops an implausible conception of “animals” to which he likens early humankind by severely underestimating the nature of “animals.” This makeshift conception essentially separates “animal” from humankind to such a degree that the two terms cannot be reconciled. Rousseau’s aim to show that humankind initially possessed only animal sense and later developed special latent qualities that became uniquely human is thereby undermined by his efforts.

Rousseau sets out a simplistic representation of “animals.” He sees “in any animal nothing but an ingenious machine to which nature has given senses.”

---

229 Second Treatise, Part I, [15].
animals have senses, they also have "ideas...up to a point."\textsuperscript{230} However, ordinary animals, as Rousseau understands them, do not have the capacity for reason and adaptive learning that humankind possesses. He characterizes the life of an "animal" as "simplicity and uniformity...where all eat the same foods, live in the same fashion, and do exactly the same things."\textsuperscript{231} In this account of animal nature, Rousseau fails to acknowledge important characteristics of higher animals.

To be fair, we must take into account that Rousseau did not possess the wealth of knowledge about the nature of animals gained more recently through observation, study, and research. Rousseau also predated the Darwinian general theory of evolution that maintains that humans evolved from animals lower than ourselves. But these lower animals possessed a social nature and communicate with each other, thereby maintaining intricate social hierarchies that dictate status regarding the privileges of eating, mating, and location for sleeping. The contemporary sciences do not consider animals as one-dimensional and devoid of the characteristics that Rousseau reserves strictly for explaining human nature. Contrary to Rousseau's conclusion regarding the situation in the state of nature, since we evolved from lower animals that possess a fundamentally social nature, humankind has never been anything other than highly socialized beings. The hypothetical state of nature in which human beings are totally devoid of the characteristics that Rousseau ascribes to the development of society is thereby impossible, even in a thought experiment.

In all fairness, Rousseau did not characterize animals in nature simply to highlight the contrast between animals and humans. The principle that Rousseau is attempting to

\textsuperscript{230} Second Treatise, Part I, [16].
\textsuperscript{231} Second Treatise, Part I, [48].
show is that a developmental process connects the current condition of humankind to its roots and that retracing that developmental process reveals the roots of humankind. Utilizing the idea that a particular developmental process brought about the current condition of humankind permits Rousseau to treat that process as flexible and subject to other influences. Rousseau postulates that an alternative developmental process would result in a human society that is constituted in a different way.

Following this line of reasoning, however, an adjustment to Rousseau’s characterization of “animal” nature—that is, early human beings possessed a degree of socialized nature as part of their “animal” heritage. Reasoning on the basis of Rousseau’s principle just cited, we should derive the idea that since the state of nature is the state in which animals as well as humankind possess detrimental characteristics, but only humankind possess latent qualities of perfectibility, it follows that an alternative developmental path better suits humankind. That is, humankind has possibilities for rectifying its harmful situation in ways that ordinary animals do not. According to this reasoning, the schism between animal and human nature is not unchangeable, yet it is still difficult to show how to deal with problematic human nature through alternative development. In this revision, human perfectibility emerges through the development of latent characteristics along with the successive development of a good society, and if we adopt this revision of Rousseau’s argument, we can continue to explore the implications of Rousseau’s principle regarding the importance of development, without dismissing his starting point. Rousseau’s principle separates the qualities given by nature from those that are further developed through the nurture of society.
In his general contract theory, Rousseau identifies problems within his society. Because he claims these problems did not exist in the state of nature, he harks back to that condition to seek the solution to these difficulties—the avoidance of these problems through the development of reason and other human qualities within a proper social situation. Only in this way, maintains Rousseau, can reason develop without giving rise to contrary qualities that interfere with good relationships between individuals.
Chapter 6: Kant

Background

During his eighty years of life, Kant never strayed far from Koenigsberg in East Prussia, attending and later teaching at the University of Koenigsberg, where he became distinguished as a philosopher and scientist. Notwithstanding his lack of travel, reflection on his vast reading interests allowed him to generate innovative and vigorous observations that he shared with students, and writings on subjects as varied as metaphysics, anthropology, cosmology, ethics, and legal theory. As a specific example, in his The General Natural History of the Heavens, in 1755, Kant postulated the existence of collections of stars in remote parts of the universe. Despite the shortcomings of this postulation, it provided the foundation for further investigations and was later developed into the Kant-Laplace nebular hypothesis.

Through his work in philosophy, Kant assisted in further advancing the application of Enlightenment concepts. Arguable, his principle contribution centers on extending the idea of progress in human affairs, an idea through which he develops methodical criticism and radical revision of that intellectual movement. In more precise terms, Kant utilizes the Enlightenment concept of progress in his theory of the function and role of reason in human conduct. For Kant, the principles of politics and morality must rely only on the guidance of reason in determining mutual human action and must be unconnected to motivation by the experience of social conflict. Kant maintains that a system of ethics must do more than describe and respond to human nature, circumstances, and behavior.
Society in 18th Century Europe was grounded on the concepts of the Enlightenment. At the center of these concepts was the influence of human reason. In particular, great hope and faith were placed in the fruits of the scientific method and knowledge that resulted from utilizing reason to solve the diverse problems of human existence. However, this new hope in the promise of reason brought with it a decline in religious belief and trust in traditional authority. The centrality of individuality, the concept that all individuals are different and possess the right to pursue their different interests, predominated this reflection. However, conceptualization of the individual in this way required a particular type of society that could provide individuals with the freedom necessary to mutually pursue those different interests without conflict.

Connecting reason with progress associates reason with the constant improvement of the world, society, and the individual. For the progressive materialist, progress in human affairs means the perpetual and limitless improvement of the material conditions of life. Thus the conclusion is that development of a greater understanding of the corporeal human situation must result in a more efficient manipulation of the process of human achievement.

Kant uses the concept of the social contract to convey his political arguments regarding the collectively chosen legislation that is proper for an extant group of people. However, Kant's strategy in using the social contract for a political goal is markedly different from that of his predecessors. In particular, he argues that selection of the contract of government cannot be motivated by harmful conditions in the state of nature and sees revolutions in France and the United States as cautionary tales. When Kant looks out his window, he views his contemporaries in those two nations struggling to
create the society best suited to cater to the pursuit of happiness. For Kant, such a collective goal of humankind is wrong-headed and can never satisfy the moral destiny of human beings as a species. For Kant, an individual’s goals, rather than the pursuit of happiness, ought to be to make oneself into a moral being by creating a character that is worthy of humanity. However, the activities of self-cultivation can only be carried out in a social environment that supports progress. For Kant the highest aspiration of what humankind can make of itself, both morally and politically, is established on the formation of harmonious social bonds through the progressive organization of civil society. Kant conceptualizes individuals as mutually forward-looking in their striving to form civil society, rather than struggling to avoid the ill conditions found in the state of nature. Kant cites reason as exclusively providing the foundation of this forward-looking action. Thus rather than concern regarding what type of unfortunate events might have brought about the adverse conditions in his contemporary society, Kant focuses on the goal to which humankind must strive to fulfill its moral destiny, regardless of any antecedent condition.

**Section 1: What are the defining features of the Kantian original situation?**

In order to get a clearer picture of Kant’s unique understanding of humankind, it might be valuable to compare his view of discordant human nature with that of his predecessors. In order to do so, I will begin by examining his *Anthropology* and *The Foundation of the Metaphysics of Morals*. Kant considers the details of human character in these works as well as in his *Observations on the Feeling of the Beautiful and Sublime*. 

143
Despite rejecting antecedent conditions as a founding motivation for engaging the social contract, Kant is clearly not ignorant of the tendency humankind possesses towards conflict.

Kant’s *Anthropology* reads like an excursion into science fiction. In it, he seeks to answer the existential question, “What is man?” In the course of speculation, he characterizes humankind as earthly animals who possess reason, but he also contemplates the possibility of rational extraterrestrial beings. In considering his answer to this inquiry, Kant reveals the role he ascribes to moral and political studies in the larger intellectual picture concerning humankind. In *Anthropology*, he characterizes humankind,

not as evil, but as a species of rational beings, striving among obstacles to advance constantly from the evil to the good. In this respect, our intention in general is good, but achievement is difficult because we cannot expect to reach our goal by the free consent of individuals, but only through the progressive organization of the citizens of the earth within and toward the species as a system, which is united by cosmopolitical bonds.\(^{232}\)

Here, Kant maintains that humankind is in a *constant* struggle of advancing itself toward the goal of being good. However, in this struggle, the free consent between individuals to an organized society alone is not adequate to reach this goal. Instead, the focus must be on the progressive improvement of the organization of society that comes about through the arrangement of specific political institutions and bonds that can reinforce goodness.

Kant maintains that progressively improving the structure of society contributes more to

the moral goodness of humankind than does simple social agreement between individuals.

Kant encounters a seemingly insoluble methodological problem in attempting to provide "an account of the character of the human species."\(^{233}\) According to the scientific method employed by Kant, in order to understand the character of a particular unknown species, it must be compared to a similar known species. However, when Kant classifies humans as terrestrial rational beings, he has no other terrestrial or non-terrestrial rational beings with which to make a comparison. In other words, his whole project is hampered because of the complete lack of another known rational being with which to compare the human species. However, Kant overcomes this problem by characterizing humankind according to its ability to make itself into a particular type of animal. To be precise, humans possess the capacity to make themselves into *moral* animals.

Kant classifies a human as a being who possesses reason, and defines reason as the "faculty which enables that creature to extend far beyond the limits of natural instinct, the rules and intentions it follows in using its various powers, and the range of its projects is unbounded."\(^{234}\) Kant establishes a simple definition of humankind, since he cannot scientifically analyze them as he would like. In this characterization, Kant makes a further distinction between a being who only possesses reason from a being who actually uses it for its intended purpose. The intended purpose Kant has in mind is the mutual formation of workable social alliances between all individuals. A person who merely

---

\(^{233}\) *Anthropology*, p. 238.

possesses reason is only a potential rational being and must actualize that potential by perfecting oneself according to a purpose that one selects for oneself. Realizing the potential of reason involves the creation of a “good character.” According to Kant, a human can use the capacity of reason in this way to make oneself into a rational animal. By using reason to creating character, one makes oneself into a moral being, a construct far beyond that dictated by nature. Thus according to Kant, nature instills characteristics within a human that gives one the potential for either concordant or discordant relationships with one’s fellow beings. Reason guides concordant relationships, and motivation based on feelings, impulses, and inclination encourages discordant relationships.

On the one hand, nature makes concordant relationships possible by giving humankind the capacity to reason, but reason must be properly applied. Kant contends that through the proper application of reason, an individual “first, preserves himself and his species; secondly, he trains, instructs, and educates his species for social living; thirdly, he governs the species as a systematic whole (arranged according to principles of reason) which belongs to society.” Concordant relationships are achievable only because humankind possesses a capacity for perfecting itself, an activity based upon the ability to select and adopt a purpose for itself. The individual pursuit of creating a character for oneself indicates, “what a man is prepared to make of himself.” However, to qualify as an activity that contributes to creating character, an individual must be guided by reason rather than by inclination or instinct. Creating character means that an individual has adopted certain practical principles as prescribed by one’s reason.

235 Anthropology, p. 238.
236 Anthropology, p. 196.
In short, what an individual makes of one reveals whether or not one possesses a good character.

On the other hand, nature also instills the potential for discord in the human species. Humans actualize the potential for discord through activities that are exclusively motivated by the urge for personal happiness and other inclinations. Paradoxically, the pursuit of personal happiness is an instinct given by nature for self-preservation—as Kant points out, "all men have the strongest and deepest inclination to happiness."\(^{237}\) The pursuit of individual happiness, however, does not take into account the activities that are necessary in order to live well with others who are likewise pursuing their vision of happiness. Discord in human relationships inevitably develops when relationships are based upon the individual pursuit of happiness, because these individual pursuits must come into conflict over time. The pursuit of happiness could work as a foundation for relationships, if an individual concurrently strove not to infringe on the rights of other individuals who are also pursuing happiness, but limiting oneself to activities that do not infringe on the freedom of other individuals requires workable general laws. Failure to find stable general law to guide an individual’s actions towards other individuals is the difficulty that perpetuates discordant relationships.

Kant describes two mental conditions that impede the use of reason: desire and emotion. Desire is the "self-definition of the power of a subject to imagine something in the future as an effect of such imagination."\(^ {238}\) Here, Kant regards the "subject" as any rational individual and inclination as the experience of habitual desire. However, once

---


\(^{238}\) *Anthropology*, p. 155.
established as habit, inclination is difficult to control by reason and becomes passion. This is because inclination "hinders the use of reason to compare, at a particular moment of choice a specific inclination against the sum of all inclinations." Unlike desire, emotion is a "feeling of pleasure or displeasure at a particular moment, which does not give rise to reflection." In other words, emotion thwarts reflection, yet reflection is the process of reason that brings about the circumstances of choice for an individual. For Kant, passion and emotion undermine the use of reason, because they "exclude the sovereignty of reason," and bypasses reflection. This abbreviated process harms the exercise of freedom of choice by an individual and choice is the aspect of human nature that he wants to amplify and build on. Kant claims that being subject to passion and emotion is probably an "illness of the mind" because they undermine the use of reason and can be strong enough to prevent reason from controlling action. However, passion and emotion require different methods of prevention and cure.

Kant addresses the issue of attempting to contain emotion by putting together a chain of cause and effect. Emotion, he writes, is fast acting and a quickly developing condition that undermines reason by making reflection impossible. Emotional sensation surprises and destabilizes the mind—"emotion works like water that breaks through a dam." At the same time, apathy, the opposite of emotion makes the individual invulnerable to this large feeling and allows one to keep a degree of self-possession in peaceful deliberation despite the presence of stimuli. In Kant's assessment of emotion in...
the individual, a natural disposition to apathy holds back immense feeling until reason has an opportunity to gain control. Moreover, nature also gives humankind other “moral motives” that act as natural inhibitors of the intrusion of too much stimuli and act as a temporary surrogate for reason. Here, Kant contends that certain emotions can hold back the flush of feeling until reason controls action. These emotions mimic calm reflection, but they are emotions just the same.

In contrast to emotion, passion is slow and deliberate in the pursuit of its purpose-fulfilling inclinations. In fact, passion is like a handicap that requires “an inner or outer physician for the soul...who can prescribe cures...of a palliative nature.” Because passion can also be associated with the “calmest reflection” in pursuing its ends, it causes devastating harm to freedom. According to Kant, neither animals nor purely rational beings share this limitation on freedom that the passions exercise over reason. Humans do not share this experience of passion with animals, because animals lack reason. Nor do humans share this experience with purely rational beings, because purely rational beings are not vulnerable to the intrusion of inclination undermining reason.

Kant views ambition, thirst for revenge, lust for authority and avarice as passions that can never be completely satisfied; they are illnesses that can receive only a palliative remedy. These passions are “cancerous stores” for pure practical reason because the individual experiencing them does not wish for a cure and disregards the power of principles. Kant argues that passion presupposes a maxim of the subject to “act according to a purpose prescribed for him by his inclination.” Thus Kant categorizes

---

244 Anthropology, p. 158.
245 Anthropology, p. 157.
246 Anthropology, p. 173, emphasis added.
the passions as bad, without exception. For him, a human aim that becomes entangled with the passions becomes “not merely pragmatically pernicious, but also morally reprehensible.” Passions produce a loss of freedom and self-control. Loss of self-control, in turn, leads the individual willingly to acquiesce in an increasingly servile disposition to the passions. Passions become like chains that the victim is unable to remove by one’s power. According to Kant, no one wants to experience passion because “who wants to put himself in chains when he can be free?”

For Kant, “reason alone establishes the concept of freedom, and passion collides with it.” In this collision, passion takes on various appearances, depending on the way an individual uses or misuses one’s freedom. According to Kant, one of the significant ways an individual misuses one’s freedom is when, “one man makes another man a mere means to his own ends.” According to Kant, the passions seem to mimic freedom because a passion requires choice to acquire the means necessary to fulfill its inclinations. When passion is substituted for reason as the motive for action, an individual mistakenly equates one’s personal valuation of a “thing with the actual value of the thing.” Thus passions are inclinations driven by delusion.

In Kant’s model of the original situation, he maintains that moral philosophy must be separate from anthropology, and asks, “is it not of the utmost necessity to construct a pure moral philosophy which is completely freed from everything which may be only

249 Anthropology, p. 177.
250 Anthropology, p. 177.
251 Anthropology, p. 177.
empirical and thus belong to anthropology?"252 In other words, the practical knowledge of anthropology is not required nor is it applicable to the formation of Kant’s moral laws and their principles. Human inclination and desire is too volatile and irregular to be of use in determining proper conduct. Thus Kant proposes that the moral ground of obligation is found “a priori solely in the concepts of pure reason.”253 In so claiming, he revises the direction of the social contract by shifting focus away from the consideration of the characteristics of human nature, concern for obtaining personal happiness, and the circumstances of conflict in which humans find themselves. Kant’s moral individuals are no longer running helter skelter to escape the bad conditions in the state of nature. Instead, they must strive to recognize a priori laws to determine universal concepts for conduct.

The conclusion Kant draws from his anthropological investigation of the human species is that

man is destined by his reason to live in a society of other people, and in this society he has to cultivate himself, civilize himself, and apply himself to a moral purpose by the arts and sciences. No matter how great his animalistic inclinations...he is still destined to make himself worthy of humanity by actively struggling with the obstacles that cling to him because of the crudity of his nature.254

Kant’s analysis of human beings reveals that he believes they require peaceful coexistence, yet they are in constant conflict with each other. In response to this conflict,

252 Foundations, p. 5.
they develop society through mutual compulsion and laws that they write for themselves. Although the stability of this society is continually threatened by dissension, society is "generally progressing toward a coalition."\textsuperscript{255} Kant regards a coalition developed through mutual compulsion and laws written to bring about peaceful coexistence. It is a regulative principle that is not concerned with avoiding the consequences in the state of nature, but rather is concerned with striving toward the true moral destiny of humankind.

In Kant's original situation, individuals are guided by feelings, impulses, and inclinations that result in conflict. Despite Kant's detailed description of problematic human characteristics, there is only one functioning in the state of nature that gives rise to civil society: human reason. These individuals possess reason, but they can make themselves moral only by using reason instead of natural urges to guide their actions towards other individuals. Since reason is the factor that persuades natural individuals to overcome inclination, we will explore the function of reason in situations that require choice in the following section.

**Section 2: Why do individuals choose the Kantian social contract?**

We can recognize the important role of reason in Kant's work by looking at his cosmology. In it, he reflects on the issue of humankind's place in the cosmos. In his youthful exuberance, Kant met the challenge of this inquiry with a burst of research into various physical and intellectual fields. Kant credits Rousseau for redirecting his intellectual and philosophical aims and influencing his subsequent examination of moral

\textsuperscript{255} *Anthropology*, p. 249.
philosophy. Before reading Rousseau, Kant regarded the relentless acquisition of scientific knowledge as the honor of humankind and that it represented “cultural achievement that ennobled humanity.”\textsuperscript{256} Although he was highly esteemed for his research and contributions in cosmology, Kant found Rousseau’s arguments compelling and they forced Kant to reconsider motivation of his research. Initially, he maintained that the mere acquisition of knowledge was the honorable end to which humankind should apply itself, but he eventually came to respect certain stable aspects of human nature upon which he could establish the worth and rights of humankind. “Rousseau set me right...I am learning to honor men, and I would regard myself as of much less use than the common laborer if I did not believe that this speculation can give a value to everything else to restore the rights of mankind.”\textsuperscript{257} Here, Kant describes changing his focus from honoring scientific knowledge as the highest intellectual achievement of humankind to revering the essence of humankind.

Kant draws startling conclusions from Rousseau’s unique works. In Kant’s day, one popular opinion held Rousseau as a confused aimless dreamer, but nevertheless, Kant disregarded that prejudice and derived a pivotal suggestion from Rousseau regarding the pursuit of humankind’s true vocation—the pursuit of its highest capacities. Kant does not hesitate at Rousseau’s invitation to return to the state of nature or regard it as an absurd and impossible aspiration. Indeed, he recognizes Rousseau’s solicitation as the pursuit of the true fulfillment of humankind’s true nature. He states, “Rousseau did not really want that man go back to the state of nature, but that he should rather look back at it from the

\textsuperscript{256} Anthropology, p. 242.
\textsuperscript{257} Quoted in Anthropology, p. xiii, from Akademie Ausgabe: Kant.
state which he had then reached. This looking back is necessary if one is to gain additional information and understanding of the contemporary condition of humankind, but Kant also recognizes this endeavor as redefining metaphysics by supplying it with a method through which it can connect with concrete principles. Through Rousseau’s influence, Kant awakens from his “moral” slumber and concludes that the highest achievement of human beings must be living well within the society of their fellows. Yet one does not find this standard for successful living in the simple pursuit of happiness. Because living well in the society of one’s fellows is the arena in which one tests and proves one’s freedom, living well itself is accomplished only through establishing individual freedom within limits that do not rob one’s fellows of their freedom. Thus Kant sees the essence of humankind as expressed in the ability to choose limits upon one’s actions that mutually creates the possibility of freedom in the social and political arenas.

Rousseau provides Kant the necessary distinction that separates the virtues found in society from the virtue of an individual. Rousseau found no merit in the attempts of his fellows to cultivate sophistication, social care, or civility and tended to disavow most of these social values. Kant reframed Rousseau’s misanthropic impulse by positing that no matter how sophisticated the cultivation and refinement of public mores became, such pursuits would always be distinct from the true virtue or worth of a human being. As a result, Kant began to focus on the capacity of humanity to make itself moral. Kant regarded this project as the ultimate human goal, regardless of whether human nature was impossibly good, or bad, in the state of nature.

---
258 Anthropology, p. 244.
According to Kant, to act according to the conception of laws or according to principles, requires a certain capacity he called “will” that only rational beings possess. Kant states the “will is nothing less than practical reason.” By relying on reason to determine the will, one precipitates actions that are “practically necessary” or good without exception, because then contingent conditions are not providing incentives that influence the will. Furthermore, Kant maintains that “nothing in the world...can possibly be conceived which could be called good without qualification except a good will” — for no other reason than the fact that it wills. Nothing else can add to the goodness of this will. A good will simply is good “without regard to anything else” and does not depend on the consequences of actions to determine that it is good. Reason is the only standard that must guide the will, and the greatest expression of reason is the creation of a good will. However, a will can be tainted if it does not make proper use of reason. “Power, riches, honor, even health, general well-being and the contentment with one’s condition which is called happiness make for pride and even arrogance” when they are not directed by a good will. Nature gives humankind reason. The proper function of reason is to produce a will that is good in itself and not influenced by inclination.

Kant develops the idea of a good will through the conception of duty that excludes actions that arise from inclinations: a duty is a reasoned choice, but, in contrast, an inclination is simply the following of natural desires. According to Kant, the moral worth of any action comes not from the results produced by that action, but rather from the fact that the action was chosen according to certain principles. Kant regards reason as

259 Foundations, p. 29, emphasis added.
260 Foundation, p. 9.
261 Foundation, p. 12.
262 Foundation, p. 9.
the highest human attribute; it is the means by which one can create a moral life. Reason
is also necessary for determining a moral course of action by bringing about "the
development of the good out of the evil through its own efforts."\textsuperscript{263} Reason, therefore,
becomes the means by which humans can create moral conduct.

For Kant the first proposition of morality is that "to have genuine moral worth, an
action must be done from duty"\textsuperscript{264} because only actions motivated from duty are not
influenced by individual inclinations. Since Kant is seeking a stable feature with which
to define the conception of a good will, he selects duty as the motivating force rather than
inclinations that are all subject to variation. His second proposition of morality is that
"an action done from duty does not have its moral worth in the purpose which is to be
achieved through it, but in the maxim whereby it is determined."\textsuperscript{265} Kant does not
maintain that moral propositions provide a specific moral goal. Instead, the morality of a
particular action is determined by its motivation being a moral maxim. For Kant, duty
not inclination is a moral motivation. In his third proposition of morality, Kant claims
"duty is the necessity to do an action from respect for law."\textsuperscript{266} In short, then, Kant's
conception of morality is that rational human beings must create law for themselves to
guide their conduct towards each other.

Kant believes that all the processes in nature work "according to laws."\textsuperscript{267} Since
human beings possess a will that is practical reason, they have the "capacity of acting

\textsuperscript{263} Anthropology, p. 247.
\textsuperscript{264} Foundation, p. 15-16.
\textsuperscript{265} Foundation, p. 16.
\textsuperscript{266} Foundation, p. 16.
\textsuperscript{267} Foundation, p. 29.
according to the conception of laws\textsuperscript{268} and of judging and choosing actions that are determined by reason alone and not influenced by inclination or incentive. If reason alone determines the will, such actions are both objectively and subjectively necessary. However, if some condition other than the will, like subjective conditions or certain incentives determine the will, the action would only be required under certain conditions.

Imperatives hold a central place in Kant's efforts to explicate humankind's capacity to make itself moral. Such commands require people to act according to a maxim or motive that constrains the will with the conception of an objective principle that is not influenced by inclination or incentive. More narrowly speaking, an imperative is hypothetical if it commands an "action that is good for some purpose,"\textsuperscript{269} but it cannot be universalized because it is associated with a goal. Thus a hypothetical imperative is conditional and will only be carried out if the individual desires to obtain that goal.

In contrast, a categorical imperative commands an action that is "itself objectively necessary without making reference to any end in view."\textsuperscript{270} Such an imperative focuses on the "form and principle from which it originates"\textsuperscript{271} rather than its intended results. A moral imperative is thereby created because moral law implies the conception of an unconditional, objective, and universal necessity that must be obeyed, even if it is contrary to inclination. According to Kant, a moral imperative "leaves the will no freedom to choose the opposite."\textsuperscript{272} Whoever wills an imperative, "so far as reason has

\textsuperscript{268} Foundation, p. 29.  
\textsuperscript{269} Foundation, p. 31.  
\textsuperscript{270} Foundation, p. 31.  
\textsuperscript{271} Foundation, p. 33.  
\textsuperscript{272} Foundation, p. 36.
According to Kant, a good will can only be objectively influenced by practical law and subjectively influenced by the *maxim* of practical law: “the subjective principle of volition.”

For Kant therefore, there can be only one categorical imperative: “act only according to that maxim by which you can at the same time will that it should become a universal law.”

Kant goes on to develop this important principle by formulating different versions of this categorical imperative. First, the universal imperative of duty requires that a maxim qualify to be a universal law of nature without contradiction. Second, each rational being, including oneself, must be considered as an end in oneself, not as a means to an end. Third is the principle that a rational being has a will that gives universal law all its maxims because that will has no interests. All rational beings must be considered as ends in themselves and the maxims chosen by them ought to harmonize with a “possible realm of ends as with a realm of nature.”

In other words, the selection of particular maxims can realize the possible realm of ends, which is Kant’s practical idea of creating moral order through the choice of conduct that conforms to reason.

Kant’s fourth version of the categorical imperative incorporates the previously mentioned ones. He states, “so act as if your maxims should serve at the same time as universal law...for all rational beings.”

In this command, Kant views each rational

---

273 *Foundation*, p. 33.
274 *Foundation*, p. 17, note 1.
275 *Foundation*, p. 38, emphasis added.
277 *Foundation*, p. 55.
being as acting upon a maxim that can and ought to serve as a maxim for all other rational beings, a maxim that includes the idea of universalizability, the idea that all rational beings are ends in themselves, and the idea that each rational being has a will that gives universal law. Thus this formulation of the categorical imperative requires each rational being to act as though one’s selection of a maxim is the same one as that of all other rational beings.

In his ethics, Kant claims that the possession of reason compels individuals to use it to select rules for themselves that guide moral conduct. Implicit in this foundation is the corollary that an individual need not remain bound only to the guidance of instinct and cues gained through experience. However, despite the fact that nature gives humankind reason with which to determine and establish individual good characters, Kant admits that human beings are disinclined to follow through with the personal endeavor of determining rules of conduct through reason. Non-reason remains and the influence of the passions, emotions, and inclinations grow stronger than reason, eventually guiding the individual’s conduct toward other individuals. Without the stable influence of reason, humankind lives in the condition of conflict that Kant describes in his anthropology.

Since Kant cannot rely on people individually to act according to reason alone, further measures are required. Humankind must create political institutions that enforce the guidance of conduct by reason, “so that man, even if he is not morally good in himself, is nevertheless compelled to be a good citizen.”278 All individuals possess a will, but because the actions of the will can be tainted by the influence of experience, not

---

278 Political Writings, “Perpetual Peace,” p. 112.
all individuals possess a good will. When the will is corrupted, an individual fails to be morally good.

To summarize, Kant does not attempt to directly resolve problems human beings encounter in a state of nature. Instead, he focuses on the capacity of an individual to make oneself moral. An individual does this by using reason to select maxims that fit a particular standard for moral conduct. Failure of individuals to pursue moral conduct for themselves creates a condition in which they must find other means for making themselves conform to the dictates of reason. Kant argues the problematic conditions in the state of nature cannot be used to motivate individuals to choose the social contract agreements as the solution. Instead, he maintains that natural individuals choose the social contract solely on the influence of reason, so they can fulfill their mutual social destiny.

Section 3: What are Kant’s moral and political recommendations?

At the end of Section 1 of this chapter, I cited Kant as stating that humans are destined to live in the society of other people because humankind possesses reason. For Kant, the possession of reason requires the company of other individuals because only with the society of other individuals can one cultivate, civilize, and apply oneself to moral and intellectual purposes. However, living together is very difficult because of the crudity of human nature, and Kant’s anthropological description of humankind reveals how characteristics given to humankind by nature, if left unchecked, give rise to conflict. This “crudity of human nature” is comprised of characteristics that remain uncultivated
through the arts and uncivilized through political institutions. Kant states, "the greatest problem for the human species, the solution of which nature compels one to seek, is that of attaining a civil society which can administer justice universally." According to Kant, nature gives humankind reason and reason compels individuals to strive together to discover a workable good life together. Kant focuses on universal justice to accomplish this task because individuals fail on their own to establish maxims for themselves that properly guide actions that involve other individuals. Kant claims that an individual can only truly develop natural capacities in the society of one’s fellows by co-creating a "perfectly just civil constitution." Kant presumes that reason would only lead to good society and that it can conquer the passions in the pursuit of society.

Exercising the means necessary to bring about such a civil constitution from the situation of barbarism forces humankind to discipline itself and develop all of its hidden resources. However, this development would never have been initiated without the state of barbarism. To make this point, Kant maintains "all the culture and art which adorn mankind and the finest social order man creates are fruits of his unsociability." Kant intimates that perhaps humankind would not have made this particular social identity without needing to leave the state of barbarism. Conflict in the state of nature, therefore, establishes the starting point and provides the standard by which to measure the progress made by social development towards the goal of establishing a truly free civil society. Here, Kant incorporates the Enlightenment idea of social progress into his political

280 *Political Writings*, “Idea for a Universal History,” p. 45.
281 *Political Writings*, “Idea for a Universal History,” p. 46.
282 *Political Writings*, “Idea for a Universal History,” p. 46, emphasis added.
philosophy, by exploring what humankind can become together as determined by progress, not according to perfection in attaining the goal of social harmony.

Kant maintains a different regard for the influence of social relationships upon humankind than does Rousseau. Rousseau blames improper social development for causing human conflict and recommends a retreat from that ill-formed society while Kant believes the stimulus that society exerts on humankind contributes to the perfection of the species. For Kant, the possession of reason necessitates this social destiny with other individuals, and he does not view the condition of being forced to live with one’s fellows as a prison sentence. Kant argues that each individual has a desire to establish a good relation with one’s fellows in a way that permits each individual one’s share as determined by justice. However, he maintains that this particular desire is not a passion. Instead, it is the “defining ground for the free will provided by pure practical reason.”

For Kant, the desire to establish good mutual relationships is the urge to use reason in its practical capacity as the most stable characteristic human beings possess, one that is not vulnerable to constant changes and alterations. Other human attributes are susceptible to vicissitudes, as are the passions and emotions. For example, the pursuit of happiness is an unsteady motivation because the individual is constantly revising what it is that makes one happy. Reason, however, can determine a common moral purpose to which each individual can apply oneself in the constant struggle against the crudity of one’s nature that threatens the dissolution of society.

Kant works out several of his political ideas in the essay “What is Enlightenment?” There, he establishes the key principle of his civil philosophy that

---

283 Anthropology, p. 178, emphasis added.
guides the actions of individuals living together in society. This fundamental precept is also the motto of the enlightenment: *Sapere aude!* Dare to be wise! Kant describes "enlightenment" as "man’s emergence from his self-incurred immaturity,"\(^{284}\) a condition brought on by the lack of courage or resoluteness to use the guidance of one’s understanding in decision-making. By using the idea of immaturity growing into maturity with regard to the exercise of understanding, he suggests the possibility that understanding may undergo further development over time. However, the development of understanding is not dependent on the efforts of any one individual alone.

Kant believes that the trouble with human nature is a phenomenon that applies to the human species generally rather than individually. Other animals may fully attain their destiny as singular individuals, but human beings “reach their full destiny only as a species.”\(^{285}\) Because of this communal development, the human species as a whole must receive the means necessary to reform the crudity of their individual nature. According to Kant, reason guides people towards a civil constitution based upon the principles of freedom that requires using coercive law. Moreover, the public can only develop enlightenment or the courage to exercise its own understanding and reason slowly, over generations of time. Thus, for Kant, the slow acquisition by the public of understanding and the courage to use it, once it is obtained, also indicates the slow maturation of moral and political judgment. The ability to perfect the human species allows humankind to "turn discord into concord."\(^{286}\) The perfection of humankind occurs through the use of reason and is made known through cultural progress: “all cultural progress...aims at

\(^{284}\) *Political Writings*, “Idea for a Universal History,” p. 54.


\(^{286}\) *Anthropology*, p. 238.
putting acquired knowledge and skill to use in the world."\textsuperscript{287} In Kant’s philosophy, studying the physiological aspects of humankind discloses what nature makes of humankind: pragmatic knowledge of humankind aims at revealing what an individual “makes, can, or should make of himself as a freely acting being”;\textsuperscript{288} and, lastly, political philosophy discloses what humankind can do together.

Kant maintains the types of contracts to which a society may commit itself must be restricted in specific ways. In particular, “one age cannot enter into an alliance on oath to put the next age in a position where it would be impossible for it to extend and correct its knowledge...or to make any progress whatsoever in enlightenment.”\textsuperscript{289} According to Kant, such a contract would be a crime against that aspect of human nature whose “original destiny lies precisely in such progress.”\textsuperscript{290} This bar against certain types of contracts prevents groups within society from committing to doctrines that would allow constant guardianship over each of its other members in the future. Thus later generations subjected to contracts that hinder human progress may dismiss them as unauthorized and criminal.

Kant introduces a legitimacy test to determine the plausibility of a people agreeing to a particular doctrine that could become law for the political group through public selection. The test is to ask, “whether a people could well impose such a law upon itself.”\textsuperscript{291} If laws are framed in a way that meets the standard that “they could have been

\textsuperscript{287} Anthropology, p. 3.  
\textsuperscript{288} Anthropology, p. 3.  
\textsuperscript{289} Political Writings, “What is Enlightenment?,” p. 57.  
\textsuperscript{290} Political Writings, “What is Enlightenment?,” p. 57.  
\textsuperscript{291} Political Writings, “What is Enlightenment?,” p. 57.
produced by the united will of a whole nation, then they meet the test of rightfulness for public law. If the people could not possibly agree with a public law, then it is unjust. The purpose of this test is to establish, by reason, the limits of external right. Kant admits that such an agreement may apply only for a specific period of time while it brings about social and political order. However, when a better solution is introduced through the appropriate channels and the individuals who are affected by it agree upon it, there is no reason to retain the former doctrine.

Society must have some general political laws, to make living together possible for humankind. Kant maintains, “there must be obedience to generally valid coercive laws within the mechanism of political constitution.” Here, Kant is concerned with the kind of obedience to the general structural laws of a society that is necessary for the overall stability in the affairs of the commonwealth. These interests necessitate coercion, however, the citizens must be convinced by reason that the coercion is lawful. Reason creates a conception of political right that is binding in practice because the theory is based on *a priori* principles. The duty of a sovereign in a civil state is to assess “that all true or imagined improvements are compatible with the civil order...[and] stop anyone forcibly hindering others from working as best they can to define and promote their salvation.” This is why Kant vouches the political head of state must allow the subjects to “make public use of their own reason and to put before the public their thoughts on betters ways of drawing up laws, even if this entails forthright criticism of

---

292 *Political Writings*, “Theory and Practice,” p. 79.
294 *Political Writings*, “What is Enlightenment?,” p. 58.
the current legislation.” Consequently, a good ruler would promote the public to “argue as much as you like and about whatever you like, but obey!” Citizens can become enlightened only by progressive refinement of the laws to which they agree in common. Progressive refinement comes only through the public application of reason. However, in the mean time they must continue to adhere to the current rules until a change to them is made in common. Kant maintains that nurturing humankind’s vocation of reason to think freely will cause them to act freely.

Considering Kant’s original contract as an idea of reason created through the legitimacy test of determining whether a people could choose certain principles or maxims for themselves reveals the hypothetic structure of his contract. For Kant, a hypothetical imperative is conditional and will only be carried out if the individual desires to obtain that goal. In the case of creating civil society, Kant does not assign the goal as creating peace, although that is a peripheral benefit. Instead, the goal is to develop human reason in the manner nature intends, which is the establishment of civil relationships that overcome the conflict manifested in the state of nature. The goal of creating civil society is conditional and based on the desire to pursue the dictates of reason. For Kant, facing the fact that humankind shares a conflicted existence together means that they must follow reason because reason ascertains general laws that conform to external right. Thus citizens must submit to the coercive law of a civil constitution, which is a contract based upon a specialized and negative conception of political right: that antagonistic relationships generated in a state of nature serve to create a binding force in individuals. For Kant, that binding force has a practical reality in itself that is not

296 Political Writings, “What is Enlightenment?,” p. 55.
attached to any particular good that it may serve, because knowledge regarding the good or ill results of political principles can only be gained through experience, but "experience cannot provide knowledge of what is right."^297

Kant derives sequential intra- or inter-generational social contracts, each of which must meet the "then-current" legitimacy test of whether a people could well impose such a law upon itself. He maintains the idea that public expression of one's reason shapes political institutions and that a contract "with a view to preventing all further enlightenment of mankind forever, is absolutely null and void."^298 The "idea of a contract" is developed as a contract that a group of people could choose for itself. However, what constitutes the reasons for choosing the content of a specific civil contract may change over time. As reasons change, so can the content of the agreement. The caveat is that being subject to a present contract can occur only within the context of current social order.

In his "Enlightenment" essay, Kant sets out an outline for the development of the moral and political laws that a people, as a whole, choose for themselves. An important attribute that an individual must develop is a character that one creates for oneself because the human possesses the capacity for perfecting oneself in harmony with a purpose and principles one adopts for oneself. Nature does not create character; character is something an individual makes of oneself. However, an individual does not perfect oneself in isolation and Kant elevates the purpose of possessing reason from the mundane simple acquisition of knowledge to the lofty aspiration of creating oneself as a rational being living harmoniously with other like-disposed beings. He does not focus on

^297 Political Writings, "Theory and Practice," p. 86.
^298 Political Writings, "What is Enlightenment?," p. 57.
humankind as isolated individual entities and emphasizes the capacity humankind possesses to alter what it is as given by nature and make itself into a morally worthy entity. Kant’s metaphysical contribution to understanding the terrestrial being’s rational moral pursuits is a unique shift in perspective. He formulates the issue of what it is to be human to reflect what a human make of oneself, individually and with other humans. Consequently, human nature need no longer trap people in a life-long struggle with each other. Practical reason assists humans to tangentially resolve human conflicts while they strive to fulfill their individuals and mutual destinies.

In his “Idea for a Universal History,” Kant develops propositions that support the selection of specific laws by a people. He expresses great hope that humankind can work its way towards a cosmopolitan situation in which all the potential qualities planted in humankind by nature can be fully developed. In order to formulate his argument, Kant assigns to history the task of examining the “steadily advancing but slow development of man’s original capacities.”\textsuperscript{299} This narrative shows a process through which humankind can work its way from a state of barbarism to culture that represents the “social worthiness of man.”\textsuperscript{300} However, nature does not seem to supply qualities that simply promote humankind’s happiness, and, Kant maintains, only through the development of an individual within the species can one “make himself by his own conduct worthy of life and well-being.”\textsuperscript{301} Kant describes this task in humankind’s development as the

\textsuperscript{299} Political Writings, “Idea for a Universal History,” p. 41.
\textsuperscript{300} Political Writings, “Idea for a Universal History,” p. 44.
\textsuperscript{301} Political Writings, “Idea for a Universal History,” p. 44.
endeavor by people to turn the adversity they create for each other into a “law-governed social order.”

Laws require force and humankind requires a master “to break its self-will and force it to obey a universally valid will under which everyone can be free.” However, it is difficult to create such a master from within the human species because a suitable master may be impossible to find. Consequently, Kant suggests that an approximation to the idea of a perfect master must suffice. To create this approximation, Kant notes that progress in the development of humankind must proceed to a point where three factors are present in society at the same time: possession of a correct conception of a just civil constitution, experience in facing various challenges in different affairs in the world, and a good will. These elements must be concurrently present for successful development to accumulate over time so “enlightenment gradually arises.” Kant’s focus on this quality of enlightenment surviving over time due to a plan in nature gives rise to greater hope for the human race working its way to an enlightened age in the future—thereby reinforcing Kant’s notion of progress.

According to Kant, several contracts address different issues in forming society but the contract that gives rise to a civil constitution is a specialized one. This contract among individuals has “an end in itself which they all ought to share and which is thus an absolute and primary duty in all external relationships whatsoever among human beings.” Kant describes this “end” as a duty in itself and an external right as the “right

---

302 Political Writings, “Idea for a Universal History,” p. 44.
303 Political Writings, “Idea for a Universal History,” p. 46.
305 Political Writings, “Theory and Practice,” p. 73
of men under coercive public laws\textsuperscript{306} by which each can be given what is due to an individual and secure against attack from any others. Kant derives the concept of external right from the concept of freedom instead of a particular "end" that all humankind possess by nature. According to Kant, the end that nature gives humankind is the aim of attaining happiness. However, since the pursuit of happiness cannot establish stable law, it cannot be allowed to interfere with determining the laws that govern external right. Thus, the concept of external right is that each individual's freedom must be restricted so that it "harmonizes" with the freedom of other individuals. Civil coercion limits individual freedom so that actions cannot interfere with the freedom of others and public right requires law in order to make continual harmony achievable. Restricting individual freedom allows people to co-exist and protects individual freedom in terms of a general law.

Each restriction of freedom imposed by an arbitrary will of another power characterizes coercion. Hindrance of freedom through the unjust exercise of the will of another individual is illegitimate coercion. In contrast, a civil constitution is a relationship between free individuals who are all subject to coercive laws determined by reason rather than the unjust coercive will of another person. Kant describes a civil constitution as "a relationship among free men who are subject to coercive laws."\textsuperscript{307} Coercive public laws, then, determine external right and are necessary to insure enduring freedom for everyone. It is important to note that coercion in a legitimate civil situation originates with the law and not with the power of an individual. Kant does not regard the special civil contract as historical. Instead, it is "merely an idea of reason, but it has

\textsuperscript{306} Political Writings, "Theory and Practice," p. 73.
\textsuperscript{307} Political Writings, "Theory and Practice," p. 73.
undoubtedly practical reality." According to Kant, reason determines the limits to freedom that civil individuals possess within the union formed by creating a mutual external relationship with other individuals, in which their actions do not interfere with the freedom of other individuals.

The purpose of the Kantian social contract is to establish a civil constitution composed of external laws that harmonize the freedom of every individual. In this construction, Kant excludes empirical ends from determining the aim of the external relationship shared by individuals in a civil state. Kant outlines them in the following way:

1. The freedom of every member of society as a human being.

2. The equality of each with all the others as a subject.

3. The independence of each member of a commonwealth as a citizen. According to Kant, these are a priori “pure rational principles of external right” that are required as assumptions to establish a civil state by an original contract. Because of the a priori origin of these principles, consent to laws based on them creates a lawful constitution and commonwealth. The principle that guides individual freedom is stated in the following formula: “no-one can compel me to be happy in accordance with his conception of the welfare of others, for each may seek his happiness in whatever way he sees fit, so long as he does not infringe upon the freedom of others to pursue a similar end.” Each individual must allow other individuals to act with the same right of freedom as oneself. Adherence to general restrictions insures that one’s actions do not

---

308 Political Writings, “Theory and Practice,” p. 79.
infringe on another’s freedom. Using the three *a priori* principles mentioned above, Kant constructs a civil state based on mutual coercion by the participating citizens. He maintains that the relationships among rational individuals and the civil state ought to be guided strictly by the principle of right.

The role of the Kantian sovereign is to enforce law that creates external right. However, the sovereign must be protected, “each member of the commonwealth has rights of coercion in relation to all the others, except in relation to the head of state.”

According to Kant, the purpose for this asymmetry in coercion is that a limited hierarchy is necessary to create the possibility of everyone else rightfully exercising mutual coercion. Immunity to coercion for the head of state means that there is a superior individual in the political hierarchy that protects the rights of the citizens. The contract must authorized one individual as head of state for this purpose. Kant differs from Hobbes in this respect. According to Kant, Hobbes maintains that the “head of state has no contractual obligations towards the people” and thus cannot act inappropriately toward the citizens. For Kant, Hobbes’s proposition means that no action committed by the head of state could be regarded as an injustice, which does not garner confidence in the sovereign’s civil actions. In contrast, Kant maintains that citizens require a reason to believe the head of state “has no wish to do him injustice.” To guarantee this, it is necessary to permit the public use of reason, so that opinions about the ruler’s performance can be made known. Furthermore, the legitimacy test for a contract can be extended to consider “whatever a people cannot impose upon itself cannot be imposed

---

311 *Political Writings*, “Theory and Practice,” p. 75.
312 *Political Writings*, “Theory and Practice,” p. 84.
313 *Political Writings*, “Theory and Practice,” p. 84.
upon it by the legislator either.” The practical value of the idea of reason compels every legislator in two ways: they must create laws that can be agreed upon by everyone in the union and they must regard each individual who claims citizenship as if one had agreed to the general will. According to Kant, the standard of the original contract and all other public law must meet these two conditions, and citizens have a duty to consider a law just if a majority of individuals agrees to the measures. On a practical note, Kant realizes that complete unanimity is impossible, and therefore invokes the principle that individuals voting contrary to the majority must be content with the majority decision, until a common agreement changes the content of the contract. Thus the endorsable social contract is also considered enforceable.

The motto of Kant’s civil state is that “whatever reason shows to be valid in theory, is also valid in practice,” but he excludes the pursuit of happiness as part of the calculus in making judgments regarding the laws to be instituted. Indeed, the highest principle guiding Kant’s legislators is that “no generally valid principles of legislation can be based upon happiness.” The idea of an original contract serves as an a priori standard for determining laws that harmonize with the principles of external right, and legislators need not wait until experience demonstrates that laws promote such a desired harmony, as would be true if those law were based upon the principles of empirical ends, such as happiness. Because this legislation may determine only laws that harmonized

---

with external right, it also possesses the “authority to coerce those to whom it applies, and conversely, it forbids them to resist the will of the legislator by violent means.”\(^\text{317}\) This type of lawful force is required to extinguish resistance by individuals. If the activities of resistance were made into a maxim, it would undermine the civil society. Kant relies on reason to create a harmony workable in theory and thus inoffensive in practice. That it is “reasoned” harmony means that there ought to be no lingering contrary arguments and such a thus reasoned harmony can legitimately be coerced.

Kant argues that his theory of political right is based upon \textit{a priori} principles and that it avoids the problems of empirical principles. In the “Metaphysics of Morals,” he describes the theory of right, his \textit{a priori} principles, as “the sum total of those laws which can be incorporated in external legislation.”\(^\text{318}\) He thus connects his conception of right with his notion of obligation via three conditions: the conception of right applies only to external, practical relationships between persons; it concerns only the relationship of the “will” of these persons; and the object of each individual’s will is unrelated to their mutual relationship. Kant’s focus is upon the \textit{form} of a relationship between two free wills and the reconciling of an individual’s freedom in light of the other individual’s freedom. The form of the relationship is determined in external right which is the “sum total of those conditions within which the will of one person can be reconciled with the will of another in accordance with a universal law of freedom.”\(^\text{319}\)

This universal law of freedom is, in turn, composed of maxims that promote the co-existence of freedom for everyone and action that meets this standard is \textit{right}. Kant

\(^{317}\) \textit{Political Writings}, “Theory and Practice,” p. 81.


outlines for his audience the universal law of right in the following way: "let your external actions be such that the free application of your will can co-exist with the freedom of everyone in accordance with universal law."\textsuperscript{320} Through reason, this law places an obligation upon a person, an obligation that restricts freedom by the rationale of the idea of universal law. However, this reduction of freedom is a reciprocal coercion that is shared by everyone living under the universal law.

Kant's moral and political recommendations encompass both individuals and the polis. In his political writings, Kant describes the form of a state in the "absolute" sense in which it is an "idea" of "what a state ought to be according to pure principles of right."\textsuperscript{321} According to Kant, the original contract is the idea of a group of individuals uniting to create a "state" for itself. This ideal state serves as a guide to the formation of a union by a group of individuals whose legislators select laws \textit{a priori} and whose laws are derivable from Kant's conception of \textit{external right}. This idea must determine the relationships between the sovereign, as legislator and the people, those obligated to obey the legislation. Formulated in this way, such a reasoned contract demands that individuals surrender "their external freedom in order to receive it back at once as members of a...state."\textsuperscript{322} This type of contract should be able to be put it into actual practice without argument, because the arguments are worked out in establishing the reasoned contract. Kant does not argue that good is obtained by one leaving the state of nature for the civil state. He maintains, rather, that natural individuals are compelled to give up the state of nature so they can possess complete freedom in a "state of lawful

\textsuperscript{320} \textit{Political Writings}, "The Metaphysics of Morals," p. 133.
\textsuperscript{322} \textit{Political Writings}, "The Metaphysics of Morals," p. 140.
dependence... (i.e. in a state of right.)"^323 This form of dependence allows each individual to participate in and create the legislative will of the state.

As a general conclusion, Kant argues that, together, humankind must act as if perpetual peace "could really come about."^324 Since war between individuals or different states is not the way for anyone to pursue rights, all effort must focus upon bringing about perpetual peace and forming constitutions that guard public right. Humankind must exert this effort even if the ultimate fulfillment of peace is only a hope because the possession of reason determines that pursuit as a duty. As Kant sums up, the "task of establishing a universal and lasting peace is not just a part of the theory of right within the limits of pure reason, but its entire ultimate purpose."^325 Thus, the activities that comprise the pursuit of making peace possible are the objective of Kant political philosophy. In particular, reason must be used to ascertain the structure of political institution that can bring about peace, regardless of how many generations are necessary for humankind to achieve this goal.

Section 4: Criticism of the Kantian account

Kant sets out a contract of government that utilizes only human reason to determine the boundaries of mutual relationships by establishing the limits of external right. Kant opposes instituting an absolute sovereign that lacks defined limitation on permissible authority. For Kant, the role of the sovereign is to insure the compatible

coexistence of all citizens to exercise their freedom within the context of a chosen society. The force used to insure this freedom comes from the law to which citizens voluntarily consent, not the will of the sovereign. The capacity of reason to determine the limits of external right establishes the form and content of social agreements. The legitimacy for coercing dissenters is derived from the form of this agreement. For Kant, even under the conditions of incomplete consensus, coercion is permissible because it is designed as a force mutually exercised to guide actions that involve other individuals. The force of reciprocal coercion insures the state of public external right. This force must overcome the failure of individuals to be convinced to guide their actions according to the rules given by reason. Together, individuals coerce each other to do what they refuse to do under their own power. The onus is on these individuals to construct a political situation for themselves that extends and harmonizes external right.

In his political study, Kant contends that the "problem of setting up a state can be solved by a nation of devils, so long as they possess understanding," and that being morally good is not a prerequisite to establish a successful civil society. In saying this, he distinguishes the rational capacity as separate from the moral ability. Rational capacity is the only criterion for an individual to set up political institutions within a civil society. The political institution thus constructed, in turn, is endowed with the power necessary to coerce compliance with rules of government. However, the most difficult factor to deal with is that each individual secretly wishes not to conform to the rules determined by reason. Thus the institution must be designed to sufficiently overcome this reluctance because the "will of all individual men to live in accordance with principles of freedom

---

326 Political Writings, "Perpetual Peace," p. 112.
within a lawful constitution ...is not sufficient for this purpose." Kant establishes this contract of government on the legitimacy test that if a people could possibly agree to specific conduct-determining principles based on reason, then they must at least consider the principles as just. Reason determines the categorical imperative and other related maxims to guide conduct of an individual. Reason is also used to set up the structure of the government in such a way that individuals must adhere to its rules. Kant presumes that individuals mutually constructing the principles that guide their external right would countenance the same reasons. However, Kant’s reliance on the rational quality of an individual to construct and organize the terms of the state within a civil society is problematic. Kant already admitted individuals are disinclined to follow reason in selecting a moral maxim for themselves. He attributes this difficulty to passions over-riding the proper functioning of reason. Yet, in the case of political decision-making, the difficulty may not result from a conflict generated by motivation stemming from passion as a substitute for reason. Instead, it could arise from a disagreement in the political principles justified by reason. Kant’s political process fails to take this into account.

Kant sets out a political strategy that relies on a specific procedure of reason. Since Kant has these important evaluations performed by each individual for oneself, he places a large expectation on the product of reason exercised in isolation. For Kant, an individual ought to use reason to ascertain a maxim to guide one’s action for oneself and

---

327 Political Writings, “Perpetual Peace,” p. 117.
to establish the content of political principles that could gain a majority agreement. Using reason is designed to give an individual the freedom to set out only principles one could accept as a guide for action. However, Kant gives too much power to singular individuals using reason to widen the Enlightenment project of progress in all areas of human affairs. He places responsibility upon each individual alone to derive acceptable moral maxims and political principles. However, because he does not require individuals to communicate their values to each other, an individual can never know whether the principle that one derives would be acceptable to other individuals. Principles derived in this way, although they may be sound for the individual, may not capture the concerns of other individuals because they can never become vulnerable to those concerns because they are not communicated. Lack of communication about these vital interests does not force principles to be derived that actually would be acceptable to all points of view and thus create the necessary harmony for external right.
CHAPTER 7: RAWLS
BACKGROUND

Beginning in the early 1950's, John Rawls published a series of papers exploring the principles of justice within the context of the social contract, efforts that culminated with the book *A Theory of Justice*. Although he continued to present papers dealing with issues about the *Theory*, he eventually published a revision of the *Theory* in *Justice as Fairness—A Restatement*, resolving certain ambiguities. With his work, Rawls' endeavors rejuvenated interest in and discussion of social contract theory. This renaissance of interest however, was not out of step with cultural developments. Rawls' time is marked with several potent social movements involving civil rights for African-Americans, woman's rights, and war. Indeed, current public opinion was shaped to a large degree by these developments and encouraged a general shift in certain political practices.

American segregation practices in the 1950's are a case in point. Despite the Constitutional guarantees of civil rights for all citizens, these rights were not equally extended to African-Americans, who continued to endure the humiliation of Jim Crow laws. Legally sanctioned segregation of African-Americans occurred in public places, schools, buses, and job opportunities. But public sentiment began to change when one particular act of civil disobedience forced the issues into public discussion. Rosa Parks refused to stand and yield her bus seat to a white passenger requesting it. At the time, it was law for African-American passengers to sit at the back of the bus or stand when a white passenger required a seat. In refusing to yield her seat, Parks refused to obey the law and committed an act of civil disobedience. When Parks was arrested for her conduct, Dr. Martin Luther King organized a boycott of the bus company by African-
Americans. The boycott continued over the next year until the Supreme Court declared
Alabama segregation laws unconstitutional. 328

During the same time, women had not yet been granted equal access to
employment opportunities and were not equally compensated for performing the same
jobs as men. In most cases, a husband's social position determined his wife's position.
In the early 1960's, women began to raise questions concerning American patriarchy and
the general place of women in society. This opposition to custom was not always well
received, but, at least the feminist issue could no longer be ignored. 329

During the Second World War, the United States engaged in war against the Axis
powers. Although public sentiment was not vociferous as in the Vietnam era, the
American people did not all agree with the way this war was conducted. Rawls
articulates his sentiment, "I believe that both the fire-bombing of Japanese cities
beginning in the spring of 1945 and the later atomic bombing of Hiroshima on August 6
were very great wrongs, and rightly seen as such." 330 Rawls reviews that practice of
"just" war in light of the disturbing circumstances of the Second World War, and
concludes that certain moral and political distinctions and principles must remain intact
regardless of the situation.

Also, in the early 1960's, the United States became increasingly involved in the
Vietnam War, especially with President Johnson's determination to escalate America's
war involvement. As the decade wore on, opposition to it gained momentum. The
majority of public sentiment was against continued United States involvement, which

328 John Rawls, Collected Papers, "The Law of Peoples" (Cambridge, MA, Harvard University Press,
sparked protests and acts of civil disobedience became increasingly common. Addressing civil disobedience in general, Rawls states,

my thought is that in a reasonably just (though of course not perfectly just) democratic regime, civil disobedience, when it is justified, is normally to be understood as a political action which addresses the sense of justice of the majority in order to urge reconsideration of the measures protested and to warn that in the firm opinion of the dissenters the conditions of social cooperation are not being honored.331

Civil disobedience by protestors is ultimately directed to the general public as an opinion of opposition and expresses a desire for reformation of unjust practices.

As these four very general examples suggest, social practices were actually "reviewed" within the current social structures and determined to be unacceptable, thereby forcing a change in practice. This model is reflected in Rawls’ theory of justice that provides a way to use contract thinking that contrasts the structure of contemporary society with its practices; Rawls brings together modern and post-modern social contract models in a construction uniquely suited to 21st Century America.

Section 1: What are the defining features of the Rawlsian original situation?

In A Theory of Justice, Rawls states that his “aim is to present a conception of justice which generates and carries to a higher level of abstraction the familiar theory of

---

Rawls maintains that the purpose of the agreements made in the contract situation deal only with the selection of the principles of justice that determine the "basic structure of society." His higher level of abstraction requires that the social contract be viewed as unrelated to a particular society or to setting up a particular form of government. Rawls regards the social contract as an essential part of the concept of justice because it provides a means to explore what the concept of justice can do. He focuses on specific aspects of the social contract collected from its history and relates them to the concept of justice. By doing this, he hopes to avoid the difficulties associated with interpreting the contract either as history or as a general theory of social and political obligation. His intention, in short, is to reformulate already existing social contract ideas "by using certain simplifying devices so that their full force can be appreciated."333

One of the social contract devices Rawls uses is that justice must be the central organizing principle in a public social institution. The major social institutions "define men's rights and duties and influence their life prospects, what they can expect to be and how well they can hope to do."334 Because the basic structure of society is composed of major social institutions that include the "political constitution and the principal economic and social arrangements,"335 these social institutions must serve several different functions. These functions, in turn, depend on principles of justice, ones that "free and rational persons concerned to further their own interests would accept in an

333 Theory, p. viii.
334 Theory, p. 7.
335 Theory, p. 7.
initial position of equality as defining the fundamental terms of their association.”

The selected principles must “assign basic rights and duties...and...determine the division of social benefits.” Once they are selected, these principles of justice must then regulate all additional agreements that specify the types of social cooperation and the forms of government instituted.

We must consider why Rawls includes these theorists in his account. In particular, why does Rawls consider Kant as a social contract theorist and why is the Hobbesian contract excluded? Rawls maintains, “Hobbes’ *Leviathan* raises special problems.” The basic problem Rawls identifies in Hobbes’ social contract is the risk associated with achieving a well-ordered society by setting up a coercive sovereign without defining “precisely the tendency of its operations.” A severe sovereign can only be justified when the loss of liberty resulting from societal instability would outweigh the hazard associated with such a sovereign. Hobbes is not included because his political solution fails to adhere to a standard that Rawls values, which is to secure the greatest justice along with the least loss of liberty that conditions allow. The hazard associated with Hobbes’ sovereign is the possibility of unjust design by the sovereign, which is contrary to fairness in a political system. While Rawls does not agree with aspects of the contract thinking in Locke, Rousseau, and Kant, they represent useful formulations.

According to Rawls, Kant’s constructivist doctrine “specifies a particular conception of the person as an element in a reasonable procedure of construction, the

---

336 *Theory*, p. 11.
337 *Theory*, p. 11.
338 *Theory*, p. 11, note 4.
outcome of which determines the content of the first principles of justice. This doctrine connects the content of justice with a conception of the person as free and equal and capable of acting reasonably and rationally. These characteristics of a person are the pre-requisites a person must possess to participate in social cooperation and in forming social agreements. Kantian constructivism sets out a conception of the person that can be affirmed in political culture or that citizens would find appealing when it is properly presented and explained. The connection of the person with the content of justice is achieved through a procedure of construction that reflects public culture because it is based on the way people think about themselves individually and as a member of a political society. For Rawls, establishing reasonable grounds for deeper agreement emerges from how social contractors regard themselves and their relationships in society and “replaces the search for moral truth interpreted as fixed by a prior and independent order of objects and relations, whether natural or divine.” The difference Rawls draws between the theory of justice and the Kantian doctrine is that Kant sets out a comprehensive moral view and Rawls separates a comprehensive moral view from the agreed content of the principles of justice.

For Rawls, the real task is to establish a deeper source of agreement. To do this, he uses “starting points for common understanding by expressing in a new form the convictions found in the historical traditions by connecting them with a wide range of people’s considered convictions: those that stand up to critical reflection.” Rawls selects three ideas from Kant’s contract, in which Kant interprets the contract “as an

"Idea of Reason"; yet he still thought of it as a general criterion of right and as providing a general theory of political obligation." Rawls draws out these ideas, not for the purpose of building up a general theory of political obligation, but to make the concept of justice clearer. For Rawls, the key to Kant’s moral constructivism is that the procedure of construction specifies the first principles of right and justice. In Kant’s categorical imperative procedure, the formal structure of the process reflects the image of a moral personality as “reasonable and rational.” Kant associates the specification of first principles with the requirements of practical reason through the structure of the moral constructive procedure. Here, the requirements of practical reason are a part of the “conception of persons as reasonable and rational, and as the basic units of agency and responsibility.”

In considering justice as a procedure, Rawls places justice as the first virtue of social institutions. He maintains that society is a more or less self-sufficient association of persons who in their relations to one another recognize certain rules of conduct as binding and who for the most part act in accordance with them. Justice is the fundamental social principle because “interests requiring the violation of justice have no value.” By the same token, interests that operate contrary to justice cannot override claims based on justice, because contrary interests lack merit. The basic prerequisite for engaging in social cooperation is that the participants commit to the priority of justice to control laws and institutions. Although Rawls assumes this

---

345 Theory, p. 4.
346 Theory, p. 31.
conception of justice as a background before introducing the ideas of social cooperation, law, and institutions, the conception of justice requires clarification. He goes on to explore the nature of this background assumption through the creation of an abstract original situation in which these principles of justice would be selected. This selection process is predicated on the idea that some conceptions of justice are preferable to others, and Rawls’ argument is that his theory of justice as fairness is the most preferable account of justice. Thus the Rawlsian social contract situation becomes a procedure in which agreement is made regarding the content of specific principles of justice, but a shared sense of justice is already presumed to be the necessary standard the social arrangements must satisfy.

According to Rawls, the strategy of justice as fairness draws together fundamental ideas and facts about democratic society to form a political conception of justice. For him, the idea of society as a fair system of cooperation has the practicable aim of justice as fairness. In bringing these notions together, a philosophical and political foundation for the institutions of society must be set out. He uses fundamental everyday ideas that are the familiar ideas of common sense, ideas in the “public political culture of a democratic society, and the traditions of interpretation of its constitution and the basic laws.”347 Each of these sources reflects common sense reasoning that is publicly accessible to all the participants. The facts are general facts of “political sociology and human psychology”348 gained through experience in a democratic society. These principles of justice are formed out of the fair terms of social cooperation, and Rawls identifies three functions that these principles perform: they specify the “basic rights and

348 Justice, p. 33.
duties to be assigned by the main political and social institutions, and they regulate the division of benefits arising from social cooperation, and allot the burdens necessary to sustain it.” In order to establish fairness, all participants must agree to the terms of each of these functions that assign rights, duties, benefits, and burdens.

In his *A Theory of Justice*, Rawls describes the thought experiment that gives rise to the “theory of justice.” In his intellectual construction, he develops a political strategy that utilizes a particular conception of political justice as a framework to work out questions regarding a practical problem. For Rawls, society is an association of free and equal persons who recognize and act in accordance with rules of conduct that are binding. These rules spell out a system of cooperation designed to advance the mutual good of those participating, and social interests grow out of the cooperation of individuals. However, as soon as social interests emerge, the question arises as to how the benefits of cooperation are to be distributed. Social conflict, writes Rawls, follows from a failure to resolve the problem of fairly distributing social interests. Consequently, some type of social arrangement is required in order to deal with distribution of the benefits and disputes regarding the benefits. Before the social arrangement can be settled, however, a set of principles must be used to select the best arrangement from among various possible social arrangements that could determine the division of benefits and the agreements regarding the distribution of social interests. Each person can be better off because of the benefits derived from social cooperation; however, none of the participants is indifferent to the manner in which these benefits are distributed. Thus the problem that justice as

---

349 *Justice*, p. 7.
fairness addresses is how the benefits derived from social cooperation should be distributed.

Rawls outlines eight essential principles to his original position, he also maintains there are certain facts about democratic society that must be taken into account when considering the principles of justice. These facts have accumulated through the history of experience with democratic societies and Rawls uses them to describe the circumstances of justice or the conditions that must be taken into account in considering justice.

The first general fact is that of reasonable pluralism. A democratic society cultivates a certain political and social climate that is protected by basic rights and liberties. Despite the existence of this shared primary institution of democracy, various "conflicting and irreconcilable yet reasonable comprehensive doctrines" endure.\[^{350}\] This reasonable pluralism is the "fact of profound and irreconcilable differences in citizens’ reasonable comprehensive religious and philosophical conceptions of the world, and in their views of the moral and aesthetic values to be sought in human life."\[^{351}\]

According to Rawls, this permanent feature of a democratic society is characteristic of a society with free institutions, making it impossible for a group of people to wholly unite in affirming the same comprehensive social and political doctrine. For Rawls’ democratic society, the goal of moral and political policy can never be to exorcise reasonable pluralism from the society, but the fact of a permanent difference in comprehensive doctrine held by diverse individuals must be taken into account when considering the principles of justice. Public policies must combine facts and evidence available to public consideration, as well as a political conception of justice.

\[^{350}\] Justice, p. 34.
\[^{351}\] Justice, p. 3.
Rawls' second general fact is that of oppression. More specifically, "continuing shared adherence to one comprehensive doctrine can be maintained only by the oppressive use of state power, with all its official crimes and the inevitable brutality and cruelties."\textsuperscript{352} Since such a "community," by Rawls' definition, shares a comprehensive philosophical and moral doctrine, only the oppressive use of state power can maintain such a union. However, a democratic society cannot use oppressive state power to force citizen's conformation to a specific comprehensive doctrine. This is reflected in Rawls rejection of the Hobbesian contract, which attempts to legitimate an unlimited state power.

Rawls' third general fact is "that an enduring and secure democratic regime, one not divided by bitter doctrinal disputes and hostile social classes, must be willingly and freely supported by at least a substantial majority of its politically active citizens."\textsuperscript{353} The fact of reasonable pluralism and of endorsement by a substantial majority means that affirmation of the principles of justice must be accessible to individuals holding quite different comprehensive doctrines. This requirement is necessary, otherwise no constitutional government is possible.

Rawls' fourth general fact is that certain fundamental ideas are gained from the experience of an enduringly successful political culture of a democratic society. These ideas can be used to develop a political conception of justice, a conception of justice which gives rise to a constitutional government. This government includes the "constitutional essentials" of the particular constitution of a society and the liberties it

\textsuperscript{352} \textit{Justice}, p. 34.
\textsuperscript{353} \textit{Justice}, p. 34.
assigns. These liberties are the "right to vote and to hold office...[to have] bills of
democracy...[and to have] procedures for amending the constitution."\textsuperscript{354}

In spite of all the checks and balances built into constitutional government, reasonable disagreement persists. Rawls maintains that there are obstacles that interfere in the proper function of the intellectual powers and judgment in conducting political life. People incorrectly assess and evaluate evidence, they assign different importance to issues, and they create disparities by assigning different weights to those various issues. Because individual experience forms the standards by which individuals make their moral and political assessments, judgments inevitably vary. When it comes to judging hard moral and political cases, difference in experience gives rise to difference of judgment, and differences in normative judgments about forces on both sides of considerations give rise to difficulty in making an overt assessment.\textsuperscript{355} According to Rawls, these difficulties give rise to reasonable disagreement that must be accepted as a permanent condition in a free democratic society, which means the objective is not to eradicate diversity.

Rawls' fifth and final general fact is about the nature of rational political decision-making in unfavorable conditions. He states:

many of our most important political judgments involving the basic political values are made subject to conditions such that it is highly unlikely that conscientious and fully reasonable persons, even after free and open discussion, can exercise their powers of reason so that all arrive at the same conclusion.\textsuperscript{356}

\textsuperscript{354} Justice, p. 46.
\textsuperscript{355} Justice, p. 36-7.
\textsuperscript{356} Justice, p. 36.
This general claim is an extension of the idea of reasonable disagreement. How can citizens agree about basic political values when these decisions must be made under unfavorable conditions that cannot be resolved with the powers of reason? Rawls contends the answer requires presupposing that individuals do not hold any particular comprehensive doctrines and that minimizing the obstacles of reason facilitates the use of a political conception of justice that "may be supported by an enduring overlapping consensus of reasonable doctrines, given good fortune and enough time to gain allegiance to itself."\textsuperscript{357}

Keeping in mind these five facts about democratic society, Rawls begins his thought experiment with the first and most fundamental idea, the "idea of society as a fair system of social cooperation over time from one generation to the next."\textsuperscript{358} This idea is central because it is used to organize all other associated ideas in the effort to develop a political conception of justice. This claim is that participating individuals must be free and equal persons, and that the system of cooperation must extend over time, from one generation to the next. That is, the cooperation of individual members continues over a complete lifetime and includes the various duties, contributions, and burdens that accompany different phases of life. Rawls differs from Kant by regarding contracting designed specifically to incorporate inter-generational concerns. He maintains that principles of justice must be "capable of serving as a public charter of a well-ordered society in perpetuity."\textsuperscript{359} Since the principles are unconditional, they ought to apply in the circumstances of justice and knowledge of them ought to be accessible to all.

\textsuperscript{357} Justice, p. 37.
\textsuperscript{358} Justice, p. 5.
\textsuperscript{359} Theory, p. 131.
individuals, regardless of generation. By effectively extending consequences of actions over a lifetime and from one generation to the next, Rawls disqualifies transactions as invalid that may provide momentary gain, but extract long-term social expense.

Rawls identifies three essential features of the central organizing idea of social cooperation. First, he contrasts socially coordinated activity designated by orders from a central authority with the effects of social cooperation “guided by publicly recognized rules and procedures.”

Second, the fair terms of cooperation specify an idea of mutuality so that all participants who obey the rules also receive the benefits according to the publicly determined standard. The idea of the fair terms of cooperation is the primary condition of agreement to which each participant can reasonably consent. Finally, the idea of cooperation means that each person is required to advance his own rational advantage—which means that those parties participating are “seeking to advance from the standpoint of their own good.”

The second fundamental idea for Rawls’ theoretical voyage is that of a well-ordered society, which is the general idea of a “society effectively regulated by a public conception of justice.” He then identifies three conditions necessary for a well-ordered political society. First, all participants must accept the same political conception of justice, thereby also accepting the same principles of justice. By so doing, participants also know what principles other individuals accept. Second, the basic structure of society—“its main political and social institutions and the way they hang together as one

---

360 Justice, p. 6.
361 Justice, p. 6.
362 Justice, p. 8.
system of cooperation must be publicly known in order to satisfy the principles of justice. Rawls’ publicity condition reflects that of Kant’s in the categorical imperative in that it requires an individual to act according to principles that one would be willing, as a rational being, to become law. Third, participants must possess a normally effective sense of justice, one that allows an individual to understand and apply the publicly known principles of justice and to assume the appropriate duties and obligations.

For Rawls, a fair system of cooperation leads to the idea of a well-ordered society because the idea of a well-ordered society is one that uses a public conception of justice as the standard to which the fair system of cooperation must conform. A public sense of justice and its principles are the keys to bringing proper order to a society. Participants in a well-ordered society must know that other participants accept the same political conception of justice. However, given reasonable pluralism, it is unnecessary that everyone hold the same comprehensive doctrine. In fact, Rawls argues that differences in comprehensive doctrines need not interfere with the common agreement regarding the political conception of justice. Rawls does not claim his notion of justice as fairness is a “comprehensive religious, political, philosophical or moral doctrine” that covers all subjects and values. It is not a comprehensive view because it focuses more narrowly on a political conception of justice that deals with the basic structure of a democratic society. Rawls uses a democratic society as the framework because, from his political point of view, its citizens need not consider their social order as fixed or religious principles as

---

363 Justice, p. 8.
necessary in justifying institutional structures or in denying basic rights and liberty to any individual or group.\textsuperscript{365}

The third fundamental idea of Rawls' theory is the "idea of the basic structure of a well-ordered society...the background social framework within which the activities of associations and individuals take place"\textsuperscript{366} - the way in which the major political and social institutions integrate into one system of social cooperation. This basic structure includes the way in which rights, duties, benefits, and burdens are determined by these institutions and influence all the important social and political aspects of a person from birth and throughout the various stages of life. Rawls itemizes these various phenomena to include a "citizen's aims, aspirations, and character...their opportunities and their ability to take advantage of them."\textsuperscript{367} The rules governing the institutions of society "specify certain forms of actions as permissible, others as forbidding; and they provide for certain penalties...when violations occur."\textsuperscript{368} Since individual autonomy is impossible in these areas, the structure of society that is responsible for the care of these aspects of the citizens must do so in a fair manner.

According to Rawls, the basic structure of society must generate political justice in order to insure fairness and to make available social and political opportunity. The idea of the basic structure of a well-ordered society is also a necessary extension of the idea of society as a fair system of cooperation. However, justice as fairness, as a principle, does not determine the basic structure and principles that internally regulate certain institutions and associations within a society, including "firms and labor unions,

\textsuperscript{365} \textit{Justice}, p. 6.
\textsuperscript{366} \textit{Justice}, p. 10.
\textsuperscript{367} \textit{Justice}, p. 10.
\textsuperscript{368} \textit{Theory}, p. 55.
churches, universities, and the family. These institutions exist within the larger matrix of a society, and they must conform to the requirements of the principles of justice when interacting with other institutions. However, to "secure liberty of conscience," the internal operations of these institutions are not bound by principles of justice, except where these social arrangements conflict with other institutions within the basic structure. The internal operation of these intuitions must be allowed to adhere to principles that are appropriate to the aims and purposes of these particular institutions.

Rawls' fourth fundamental idea is the "idea of the original position," which endeavors to set out the "most philosophically favored interpretation of this initial choice situation for the purpose of a theory of justice." His justice as fairness doctrine means that the "fair terms of social cooperation are to be given by an agreement entered into by those engaged in it," and must determine the rights, duties, benefits, and burdens of society. In justice as fairness, citizens must agree under conditions that are fair for all those participating, rather than deriving these fair terms of cooperation from a moral authority or a religious institution or tradition. Rawls identifies three conditions that must be met to insure that this agreement is fair and valid, they "must situate free and equal persons fairly...must not permit some to have unfair bargaining advantages over others...[and] threats of force and coercion, deception and fraud and so on must be ruled out." The difficulty is to realize these fair conditions within the restrictions of the basic structure of society. However, these restrictions are necessary because they

369 Justice, p. 10.
370 Justice, p. 11.
372 Theory, p. 18.
373 Justice, p. 15.
374 Justice, p. 15.
comprise the procedure required to produce a fair and valid agreement. The task is to
discover a "point of view" within this basic structure that meets the standard for fair
conditions while, at the same time making that standard immune to influence by any
particular fact and feature present in the basic structure. According to Rawls, "the
arbitrariness of the world must be corrected for by adjusting the circumstances of the
initial contractual situation." Rawls sets up the original so that the representatives have
access only to information they require to make their choice.

Rawls intends to overcome the arbitrariness of the world by introducing into the
original position only information that does not interfere with the fairness of the
procedure. The idea of the original position together with the "veil of ignorance"
provides the "point of view" necessary to make these corrections to the world. The veil
of ignorance functions to "nullify the effects of specific contingencies which put men at
odds and tempt them to exploit social and natural circumstances to their own
advantage." Rawls sets up the original position as a procedure in which
representatives make choices and agreements regarding the content of the just principles
strictly based on specific information. In that situation, certain limits must be placed on
particular facts that representatives know about the parties they represent, and they
cannot know how certain decisions will affect their particular case. In considering the
procedure of the original position, Rawls maintains that representatives ought not have an
unfair bargaining advantage by using inside information and regarding the impact of
selected principles on specific cases.

375 *Theory*, p. 141.
376 *Theory*, p. 136.
Representatives must evaluate principles based only on general considerations, without knowledge about specific contingencies. They cannot know the “social positions or the particular comprehensive doctrines of the persons they represent...[or their] race and ethnic group, sex, or various native endowments such as strength and intelligence.”\(^{377}\) The representatives do not know anyone’s particular conception of the good, life plan, economic situation, or personal psychology. More specifically, the representatives do not know to which generation these individuals belong because issues of social justice exist between generations as well as within a specific generation. Symbolically, exclusion of these facts places the representative behind the veil of ignorance. The only fact the representatives know is “that their society is subject to the circumstances of justice and whatever this implies.”\(^{378}\) Here we see the conception of justice acting as the central organizing ideal in the original position because representatives need only know that those they represent live in a society that is subject to justice in order to make the choices regarding the content of those principles. The veil of ignorance is a contrived aspect of the original position that eliminates the influence of bargaining advantages available to specific individuals and generations.

In this fourth essential point, Rawls presents the original position as a “situation that is fair to the parties as free and equal, and as properly informed and rational.”\(^{379}\) The agreement made by representative parties is also considered fair, because it is founded on the fairness of the original position. The principles of justice guide the basic structure of

\(^{377}\) *Justice*, p. 15.
\(^{378}\) *Theory*, p. 137.
\(^{379}\) *Justice*, p. 16.
a well-ordered society and inform the necessary agreement. Thus the nature of this agreement—selecting the principles of justice—determines its fairness.

Rawls emphasizes that the original position is a device of representation. It models two things. First, it "models...fair conditions under which the representatives of citizens, viewed solely as free and equal persons, are to agree to the fair terms of cooperation whereby the basic structure is to be regulated." By "fair," Rawls means that the parties are symmetrically situated in the original position, which insures equality in all relevant aspects. The parties must possess to a "sufficient degree the requisite powers of moral personality...that enable them to be normal and fully cooperating members of society over a complete life." The second binding feature of Rawls' structure has to do with free will and it "models...acceptable restrictions on the reasons on the basis of which the parties, situated in fair conditions, may properly put forward certain principles of political justice and reject others." The initial choice situation must start from commonly shared presumptions and reflect certain conditions that promote fairness.

Rawls' fifth fundamental idea concerning his original position is the "idea of free and equal persons," a notion that plays a particular role regarding the presumed qualities of persons who participate in justice as fairness. Since Rawls' persons must engage in social cooperation over a life time, they require two "moral powers." The first power is the "capacity for a sense of justice" and the other is a "capacity for a conception

---

380 Justice, p. 17.
381 Justice, p. 18.
382 Justice, p. 17.
383 Justice, p. 18.
of the good."\textsuperscript{384} The first capacity presumes that to act from the principle of justice a person must possess the ability to understand and apply those principles. The second capacity is the ability to create a "fully worthwhile life" by applying a conception of the good. A person’s conception of the good must guide one’s understanding and ordering of aims in light of comprehensive religious, philosophical, or moral doctrines. Rawls uses these two capacities to define a "moral personality,"\textsuperscript{385} and thereby establish the fitness of an individual to participate in "mutually beneficial social cooperation" and to motivate compliance with the fair terms of social cooperation.

Rawls’ principle of justice as fairness requires that participating persons must possess these moral powers that form the basis of equality. However, justice as fairness is a political conception of justice and not a comprehensive moral doctrine. Using these moral powers as the basis of equality assists in distinguishing between a democratic society and instances of community. When people share religious values and aims, they unite as participating members of a "community." But when, citizens possess only values and aims in common that are associated with the political conception of justice, they create a democratic political society. The fact of reasonable pluralism excludes a democratic political society from being a "community" because the coercive government necessary for enforcing shared values and aims undermines the liberties that define a democratic society. Rawls associates the freedom of citizens with the political conception of a person in a democratic society rather than with freedom of the will. Citizens are free because they have the moral power to possess a conception of the good and view other citizens as having the same power.

\textsuperscript{384} Justice, p. 18-9.
\textsuperscript{385} Theory, §§ 3-4.
Rawls' sixth fundamental idea is the "idea of public justification," an essential feature of a well-ordered society because citizens require shared terms by which to justify their political judgments to each other. We have mentioned Rawls' requirement for public knowledge, which states that since justice is the value for social institutions it must be guided by publicly recognized rules and procedures. Justification addresses disagreement regarding political judgments and attempts to persuade through a kind of public reason: a "reasoning and inference appropriate to fundamental political questions, and by appealing to beliefs, grounds, and political values it is reasonable for others also to acknowledge." Introducing justification presumes dissenting viewpoint and is a presentation of arguments and reason to specifically persuade that opposition. To achieve public justification, mutually agreed starting points are necessary, as well as a form of reasoning that connects the starting points with basic true consensus regarding the content of justice as fairness. For Rawls, those starting points are derived from public culture.

Rawls' seventh fundamental idea is the "idea of reflective equilibrium." This notion presupposes that citizens possess two important qualities: a capacity for reason and a sense of justice. A sense of justice utilizes the intellectual powers because reason, imagination, and discrimination are necessary in making political judgments. More specifically, "considered judgments" are choices having to do with political justice and must be considered under the most favorable conditions possible—when the individuals

---

387 Justice, p. 27.  
388 Justice, p. 29.
“seem to have the ability, the opportunity and desire to make a sound judgment.” However, different individuals can make different decisions regarding “considered judgments.” This seemingly insurmountable contradiction can be reduced in force when we remember that the practicable aim of this political question is to decrease disagreement, not end it. Wide reflective equilibrium is achieved when an individual has considered various conceptions of political justice against each other, and selected one, and changed any convictions necessary. This perspective becomes public when all the participating citizens affirm the same conception of political justice. This public point of view is the foundation from which citizens make and resolve claims against each other. Each citizen must recognize that all the other citizens also recognize this point of view.

Rawls’ eighth fundamental idea is the “idea of overlapping consensus.” This construct allows Rawls to go back and forth between historical facts and his abstraction concerning the idea of a well-ordered society, thereby establishing a more realistic conception of society. He employs the fact of “reasonable pluralism” to work out this eighth point. He claims that different individuals may still affirm the same political conception of justice for different reasons although they possess different religious, philosophical, and moral views. The fact that they affirm the same political conception of justice gives them a common point of view from which to settle issues regarding the constitutional essentials. Reasonable overlapping consensus means the political conception of justice is supported by reasonable doctrines that are distinct from religious, philosophical, and moral doctrines. Individuals simultaneously hold shared political

---

389 Justice, p. 29.
390 Justice, p. 32.
conceptions of justice as well as other doctrines without those other doctrines interfering with the administration of the conception of justice.

Justice as fairness has three features that assist in gaining reasonable support. These features are that the requirements for justice as fairness are "limited to society's basic structure, its acceptance presupposes no particular comprehensive view, and its fundamental ideas are familiar and drawn from the public political culture."\textsuperscript{391} Focusing on these features permits justice as fairness to be affirmed by individuals who hold different comprehensive views.

\textbf{Section 2: Why do individuals choose the Rawlsian social contract?}

Rawls' analysis of the social contract incorporates the aspects of strategy set out by his predecessors. On the one hand, Locke, and Rousseau endeavor to identify key problematic characteristics in human nature that could be remedied by social institutions constructed in such a way as to address those particular problems. On the other hand, Kant sidesteps all flawed human characteristics when considering the political possibilities of humankind, focusing on what humankind can make of itself, in contrast to a conflicted state. Rawls uses both of these strategies, although they are applied in stages because they cannot be carried at the same time. When Rawls reflects on social and political situations, he does not focus on any particular aspect of human nature, nor does he disregard it completely. He identifies problems that he associates with the lack of an appropriate sense of shared justice, which lead to conflict within society. According to

\textsuperscript{391} \textit{Justice}, p. 33.
Rawls, selection of justice as the central value of civil society means that individuals are motivated to contract with each other based on the desire to realize that value, because justice is linked to all their fundamental interests.

In his thought experiment, Rawls considers three pivotal decisions that are made in deriving the conception of justice as fairness. These decisions are the selection of justice as the central value, the choice of the principles of justice, and the establishment of fair institutions within a democratic society. Because Rawls restructures the social contract situation to singularly address the problem of which principles of justice must be incorporated into society, his thought experiment is different from the previous theorists. The previous theorists started with a problem in society, retraced that problem to its roots, and applied a solution at the inception of the problem. Rawls asserts that working out the problems for the appropriate sense of justice also solves recognized social and political problems. However, reflection is necessary to put together the ideas that support this form of justice, and Rawls considers the theory of justice as fairness to be a conception of political justice that works out the practical problems of social and political disorder by utilizing principles of justice mutually selected by representatives of the participating parties. Because practical problems emerge as conflicts over social and economic interests, differences develop concerning general political, economic, and social theories about the appropriate institutions for dealing with these conflicts. Furthermore, views conflict regarding the impact of public policies adopted to remedy these differences. Justice as fairness focuses on the “different philosophical and moral doctrines that deal with how the competing claims of liberty and equality are to be understood, how they are
to be ordered and weighed against each other, and how any particular way of ordering them is to be justified.\textsuperscript{392}

Rawls' considers justice as central to political institution because it is the basic value upon which all public social institutions are predicated, including political, economic, and social arrangements. The proper function of these institutions requires principles of justice by which free and rational individuals could promote their interests. The principles selected must determine fundamental rights, duties, as well as the division of social benefits and burdens.

Once he has established justice as the value central to all political institutions, Rawls sets out specific principles designed to realize that value. According to Rawls, the "two principles of justice" are the principles that would be chosen in this process by the representatives of individuals in the original position. In his Theory, Rawls presents these principles as:

(a) Each person has the same indefeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all; and

(b) Social and economic inequalities are to satisfy two conditions: first they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least-advantaged members of society (the difference principle.)\textsuperscript{393}

\textsuperscript{392}Justice, p. 2.
\textsuperscript{393}Justice, p. 42-43.
According to Rawls, the principles of justice must be selected under strict conditions of
fairness. He sets up these conditions in the device of the original position. Rawls’
argument from the original position is divided into two phases, both of which have a
direct bearing on one’s motivation to choose Rawls’ social contract of political justice.
First, the principles of justice are provisionally selected. In this decision, the
representatives do not know any aspects of the special psychology of the individuals they
represent. More specifically, they do not take into account an individual’s “inclinations
to be envious or spiteful, or to have a will to dominate or a tendency to be submissive, or
to be particularly averse to uncertainty or risks.”394 In this way, the representative can
focus only on the terms of the fundamental interests of the individuals they represent.
Those interests concern issues of social and economic inequality. The individuals who
are represented in the original position accept these specific restrictions on knowledge
accessible to their representatives because they cater to their fundamental interests and
are required to create a mutually fair and equal situation. However, the aspects of special
psychology must be considered at some point in the argument.

Second, the stability of justice as fairness must be analyzed because of the
concern that at some time the effect of special psychologies may adversely influence
individuals living within a society well ordered by the two principles of justice. Rawls
asks, is justice as fairness able to generate sufficient support for itself? The success of a
society, he answers, depends upon the parties to the contract possessing a sufficiently
strong sense of justice so that they are not influenced by special attitudes to pursue aims
that are contrary to a good political society. Rawls postpones discussing the influence of

special psychologies until after the two principles of justice are selected. This selection is based solely upon the merit of the fundamental interests and the fact of persons as free and equal citizens. Rawls maintains that individuals living in a society well ordered by the two principles of justice will continue to choose a society constituted in that way because their special psychology attributes do not develop in such a way as to interfere with their fundamental interests of social and economic equality.

Along with the consideration of special psychologies, the second part of the argument from the original position deals with whether the general facts characterizing a democratic society add up to the idea of an overlapping consensus in a political conception of justice. Rawls maintains that the social unity of democratic political society requires overlapping consensus to complete the idea of stability within that society. This is accomplished by setting out an account of reasonable moral psychology. Justice as fairness focuses on the political values and political relationships that constitute the basic structure of society.

Rawls maintains that the individuals participating in the contract situation must be regarded as each having their own life plan. Everyone has a personal sense of the good that causes one to have ends and purposes that are different from everyone else, differences that cause individuals to make conflicting claims on the natural and social resources accessible to everyone. However, the parties to the contract have needs and interests that are more or less alike or complementary, so that mutually advantageous social cooperation is feasible. These interests are not necessarily interests in the self. Yet each individual wants one's conception of the good to be acknowledged by others because it puts forward claims that warrant genuine consideration.
An individual determines one’s good as the most rational long-term plan of life based on the conditions that are presented to one. However, a life plan requires external conditions that are supportive and favorable to carrying out that plan. One of the most important conditions that the success of a life plan depends upon is its being harmonious with the life plans of other individuals. Furthermore, carrying out these plans must produce the desired social goods and ends in effective ways. Overall, the harmony of various life plans will contribute to social stability. A rational life plan must be consistent with the principles of rational choice and these principles must be applied to all relevant aspects of an individual’s situation. Therefore, a rational plan is “one which cannot be improved upon” and has the highest likelihood of success, taking everything into account. Different individuals create unique life plans based on differences in “intellectual abilities, circumstances, and wants...[and] rational plans are adjusted to these contingencies.” An individual’s interests and aims are rational if they are supported by the chosen life plan. Although Rawls considers the fact that individuals possess personal conceptions of the good, representatives of these individuals do not have access to this information in the original position. No matter what an individual’s end is, primary social goods are a necessary means to that end. Thus Rawls relies on the fair distribution of primary social goods as the attractive force influencing the decisions that make social arrangements. The attractive force of the Rawlsian contract is that it manages an individual’s fundamental interests.

395 Theory, p. 6.
396 Theory, p. 93.
397 Theory, p. 93.
Section 3: What are Rawls’ moral and political recommendations?

Rawls uses the original position as a device of representation in his political conception of justice as fairness. His aim in creating this position is to determine the principles of political justice necessary for a democratic society. Political justice deals only with the basic structure of society. Furthermore, legitimate political power must conform to a constitution “the essentials of which all citizens, as reasonable and rational, can endorse in the light of their common human reason.” To obtain these constitutional essentials, the principles and values must meet the standard that all participating citizens can sanction them. Based on the premise that society is a fair system of cooperation among citizens regarded as free and equal, Rawls asks “what principles of justice are most appropriate to specify basic rights and liberties, and to regulate social and economic inequalities in citizens’ prospects over a complete life?”

As a device of representation, Rawls’ original position helps him work out which principles the representatives of these free and equal citizens would choose in order to regulate social and economic inequalities. Rawls’s original position contains common basic convictions in the form of fundamental ideas and facts. These convictions are not political ideas in themselves. He uses them to create a political conception of justice that includes a suitable distributive principle for the basic structure of a democratic society riddled with economic and social inequalities in the life prospects of the citizens.

398 Justice, p. 41.
399 Justice, p. 41.
In considering the two principles of justice, Rawls maintains that the first principle must be met before the second principle because the first principle provides the necessary background assumptions of basic equal liberties within which to explore the principle of fair distribution. Furthermore, fair equality of opportunity has priority over the difference principle because a principle of distribution requires a prior condition of fair equality of opportunity.

According to Rawls, the equal basic liberties in the first principle are specific as: freedom of individual thought and conscience, association with other individuals, political freedoms, and rights assigned by law. However, no priority is assigned to any one of these liberties. These liberties provide conditions that are required for the "adequate development and full exercise of the two moral powers of free and equal persons." These moral powers are the capacity for a sense of justice and a conception of the good. Since the possession of liberties assist in the development of moral powers, these liberties also contribute to evaluating the justice of the basic structure of society and the policies that support its structure.

The original position is the hypothetical situation in which one employs reasons only within the bounds of restrictions imposed by the veil of ignorance. Since the representatives participating in the contract situation behind the veil of ignorance do not possess specific knowledge about the individuals they represent or about other individuals represented and everyone is "equally rational and similarly situated, each is convinced by the same arguments." Thus we can consider the choice from the viewpoint of one individual selected arbitrarily. If one representative prefers a particular

---

400 *Justice*, p. 45.
401 *Theory*, p. 139.
conception of justice to another for specific supporting reasons, then all the representatives do. In this way, the original position reaches unanimous agreement through understanding any one individual's decision regarding the selection of the principles of justice.

The only bargaining that occurs in the original position is regarding the actual character of justice desired. The veil of ignorance acts as a passive restraint against utilizing personal information for personal gain. It functions as a device for minimizing emotional influences that contribute to opposition among individuals. In this way, the original position is completely devoted to deriving the desired principles of justice, rather than dealing with fractious human nature.

Rawls maintains that employing reason in a specifically restricted sense would cause specific conclusions for representatives in the original position regarding the selection of a certain conception of justice. The importance of the veil of ignorance is that it limits the access to only partial knowledge that does not interfere with attaining a just agreement about a definite theory of justice. Agreement attained through such an adjustment is stronger than that attained through complete knowledge because the access to complete knowledge would permit only a superficial or trivial agreement because more differences between the parties must be harmonized, making unanimity difficult or applicable to only a few cases.

Rawls is concerned with political relationships between individuals. These political relationships have two important characteristics that contrast them with relationships of other associations. First, a political relationship can only take place within the "basic structure of society." An individual enters this basic structure of
institutions at birth and exits only upon death. Existing in political society is not a voluntary choice; it involves being raised in a culture with unique language, aims, goals, values, history, customs, and conventions. The “political relationship” is an unavoidable fact of life. Second, political power is always coercive and has the support of state institutions to enforce laws. Despite the necessity of coercion, political power is composed of the power of citizens as a collective group. Citizens who decline acceptance of the reasons offered to support the basic structure of society are still subject to the coercive power of the state. In contrast, other associations are voluntary in ways that political relationships cannot be.

Section 4: Criticism of the Rawlsian account

In *Justice as Fairness*, Rawls attempts to resolve some of the ambiguities that have emerged through critical review of his prior *Theory of Justice*. Comparison between specific features of these two works reveals the nature of the issues to which Rawls assigns the theory of justice and how responsive it is to those issues. In *Justice*, Rawls further maps out the argument for the two principles of justice. Exploring these principles, he sets out the strategy of an ideal theory that takes into account only the well-ordered society of justice as fairness. However, race and gender inequality are two issues that he maintains do not require further attention and development in light of the theory of justice. Although he acknowledges certain facts regarding inequalities experienced by women and racial minorities, he does not use these facts to motivate the reconsideration of the fairness social practice and procedure. The incongruity of this continued exclusion
requires an explanation. Although Rawls provides reasons why race and gender are not included within the scope of the contingencies that he finds troubling to society, we must assess whether or not he fails to set out the fullest application of his theory by excluding a means of directly dealing with these inequality problems. Since the role of the political conception of justice is to describe a framework within which to review and approve aspects of social arrangements, we must assess the utilization of this conception to handle the issues of these inequalities. More specifically, we must consider the acceptable level of tolerance toward inequality in a well-ordered society regarding specific contingencies that generate inequalities by reviewing the ideas Rawls sets out as well as the language he uses to express those ideas.

Rawls says that his theory of justice generalizes the social contact theory found in Locke, Rousseau, and Kant. Yet each of these theorists specifically excluded women and racial minorities as moral and political agents that possess basic rights and liberties. In contrast, Rawls maintains that the principles of justice must apply equally to all persons within a society. However, the language he uses in the Theory is not gender neutral. He consistently addresses all persons through non-inclusive generic male references. For example, despite acknowledging the fact of problematic gender-based family arrangements, Rawls continually refers to “men” as the individuals who occupy the relevant social positions. By adhering to this practice in his discussion, it is easy to question whether the interests of women and minorities are adequately represented in Rawls’ well-ordered society.
Rawls defines a relevant social position as a starting position that is "properly generalized and aggregated." That is, a relevant position must be created from a sufficiently general point of view to represent more basic interests, rather than special interests. For him, not all social positions are relevant, and non-pertinent positions should not be considered as a part of the generalized point of view. The idea of a starting position is significant because it is present from birth and profoundly influences the distribution, to an individual, of the benefits that result from social cooperation. Furthermore, different starting places give rise to the choice of different life plans. Some starting positions are more favored than others are, which influences an individual's prospects over a whole lifetime. For example, possession of certain personal attributes, such as greater intelligence, wealth, and opportunity make greater goals possible.

According to Rawls, individuals in the original position must make decisions regarding which positions are considered socially relevant. These decisions can assist in mitigating the randomness of natural contingency and more favorable social circumstances. However, he claims that it is not the function of these decisions to make adjustments for all unfavorable natural contingencies. It is important to establish equal citizenship because achieving equal citizenship through the application of the two principles provides a general point of view from which to judge the basic structure of a well-ordered society. Thus the possibility of equal citizenship must be realized before a general point of view exists, from which to make such judgments.

The role of the individual representing a relevant social position is to consider the acceptability of the well-ordered society from the point of view of that specific position.

---

402 Theory of Justice, p. 96.
403 Theory of Justice, p. 96.
That position includes the point of view as an equal citizen and represents ones of the various levels of income and wealth. Furthermore, this point of view must be sufficiently general because, according to Rawls, attempting to take into account numerous positions makes it difficult to apply the two principles and to properly assess competing claims. Therefore, in a just society the “smaller number of relevant positions should ordinarily suffice.” \(404\) Thus he maintains that considering fewer relevant positions is more efficient and sufficient to establish the acceptability of principles within society. Although he argues that the general point of view takes into account everyone’s interest, he fails to show that the points of view of women and racial minorities are in practice given consideration as equal citizens according to the first principle. Rather, he makes a statement that they are equal citizens, which plainly supports inclusion. However, Rawls fails to address the actual issues of inequality.

Rawls categorizes distinctions based on sex or race as starting places in the basic structure of society. However, these distinctions do not represent relevant social positions. He offers that if “men are favored in the assignment of basic rights, this inequality is justified by the difference principle...only if it is to the advantage of women and acceptable from their standpoint. And the “analogous condition applies to the justification of caste systems, or racial and ethnic inequalities.” \(405\) However, such disadvantages are typically not favorable to the minority society member and thus not acceptable to them. At first glance, this statement makes it seem as though Rawls ignores representation of this type of inequality because he does not assign individuals disadvantaged in this way a socially relevant position. According to the difference

\(404\) *Theory of Justice*, p. 99.

\(405\) *Theory of Justice*, p. 99.
principle, which can only be applied sequentially after the first principle is met, only inequalities that benefit the minority social members and that are acceptable to them can be considered in a system of justice as fairness. Thus inequalities due to race or gender cannot be assigned relevant social positions because they fail to meet the requirement of benefiting the least advantaged group. Instead, the consequences that result from these race and gender inequalities are assigned a slot in the continuum of the indexes of primary goods. Since these inequalities usually result in disadvantages that adversely influence the availability of fair opportunity and the expectation of income and wealth associated with specific social positions, these individuals will more likely occupy slots associated with the fewest advantages. The least advantaged group has the lowest expectations of acquiring and possessing income and wealth. The difference principle requires that the arrangement that provides the greatest benefit to the least advantaged group must be chosen. Thus the characteristics of the least advantaged group are not considered separately from their economic benefits or burdens.

But in Rawls' scheme, there is no comparison between men, women, or minorities. He subsumes natural characteristics under specific levels within the index of primary goods because different schemes may favor different natural characteristics. The difference principle is designed to compare only competing schemes of assignment of income and to identify wealth, and the arrangement that provides the greatest advantages possible for the least advantaged group. Thus women and minorities, for Rawls, are represented not according to these natural characteristics, but indirectly as slots within the income and wealth continuum.
In *Justice as Fairness*, Rawls employs more gender-neutral language, but sets out several ideas about women and their roles within society that require exploration. He does not consider the condition of women or the inequalities regarding fair opportunity they experience separately from the context of the family. This neglect suggests that he does not recognize the possible existence of gender inequality outside the family. Thus women are regarded only in a role intimately connected to a productive family: productive, that is, of children who are the future citizens of society and who also have specific claims concerning justice. For Rawls, family dynamics pose the problem of achieving equal justice for women and children. He considers the family as part of the basic structure of society only in an indirect way. The family is necessary because it plays the role of “establishing orderly production and reproduction of society.” Rawls considers that the basic structure of society is the primary subject of justice and that the structure comprises of the “arrangement of society’s main institution into a unified system of social cooperation over time.” The role of the family is to provide an association that is a cooperative arrangement, in a reasonable way, to produce children and provide the nurturing necessary to raise and care for them. Since Rawls does not consider the family as a main institution of society, the principles of justice constrain the association of the family indirectly through the network of other just institutions within which the family exists. Thus the fair way of producing children is not considered a main institution of society.

---

406 *Justice as Fairness*, p. 162.
407 *Justice as Fairness*, p. 163, emphasis added.
In his discussion of the economic and opportunity disadvantages experienced by women, Rawls maintains that "women and their children"^408 contemporaneously experience these disadvantages. In these numerous references, Rawls employs the phrase "women and their children" as if marriage results in children who are primarily the mother's burden. Although the family is the primary institution in which to socialize children, continuing justice for these children becomes problematic task for women upon dissolution of that marriage-family union.

Rawls classifies the family with other sub-groups within the context of a well-ordered society to which the principles of justice do not apply directly. The associations within these sub-groups are characterized as voluntary alliance that individuals can make with each other in the pursuit of religious, business, or educational activities. The other associations with which the family is grouped include business firms, labor unions, churches and universities. According to Rawls, the purpose of indirectly applying the principles of justice to such associations is to secure liberty of conscience for the participants. However, he is unclear why the family is included with associations that are subjected only indirectly to the principles of justice. These other associations are elective and provide conditional means to obtain a desired state of affairs regarding specialized activities. For example, if one wants to be a stonemason, one ought to join a labor union that handles all aspects of that particular job market. Thus we must assume that Rawls considers families as associations that are also elective and provide conditional means to obtain a desired state of affairs.

^408 Justice as Fairness, p. 163, 166, and 167, emphasis added.
At first glance, the family does not seem to share important characteristics with these other types of associations, especially when we consider the family that exists in contemporary society. The traditional contractual family is no longer the only conditional means by which to produce and rear children. Families, as procreative and childrearing institutions, display many possible arrangements. Despite the continued predominance of the typical male-female association forming a family, there is a high incidence of separation and divorce. Children can acquire multiple “parents” through divorce and remarriage. More importantly, the interval of time between divorce and remarriage is often punctuated by a single parent situation, usually with the mother as the sole care provider. Rawls admits that this situation potentially undermines justice for women and their children. The composition of the family is changing, yet its function in society remains the same. Rawls does not specifically review this problem in the light of his principles of justice. The other associations mentioned are elective, whereas participation in a family is not elective for children.

Provisions, Rawls says, must be made that insure that the “burden of bearing, rearing, and educating the children does not fall more heavily on the women.”

However, he does not indicate how the family could achieve this goal, while also providing for the fair equal opportunity of women. This statement and ones like it reveal that Rawls has failed to think through basic problems associated with family issues. Simply offering that childcare should be evenly distributed to achieve a fair arrangement fails to address subtle and significant complexities. At this time in our technological development, women still are the only gender that bears children, enduring all the
physical changes and demands of pregnancy. That fact is not likely to change in the near future. It remains to be worked out how women can obtain more balanced distribution of child rearing duties. However, Rawls does not appear to have considered women apart from the male-female marriage arrangement that is represented by the male social member. This is important in part because not all marriages produce children and not all females join a male-female marriage arrangement. Even so, the family is not the sole locus of inequality experienced by women. Other inequalities radiate out from that nexus, affecting women in all other social roles, including women who do not have children or are not associated in marriage.

Rawls, by considering only women in families and offering that childcare ought to be evenly distributed, treats the problem as solved and cuts off further discussion. That Rawls does not consider in detail the inequalities experienced by unmarried women constitutes a serious failure to identify the true source and scope of the problem, and the subtleties of gender inequality. Even if women were released from carrying out the majority of childcare activities, there is no world of equal opportunity where women can advance themselves on equal footing. But, equally, Rawls, by using the idea of the traditional family, also commits himself to the traditional arrangement in which the male is not only the familial representative, but also the individual who goes out to participate with the public non-family world. Reciprocally, many of the important economically advantageous roles in the non-familial world are set up to receive male-heads-of-households, not female participants. Thus, inequality of opportunity exists for women within the family and radiates out to influence women in the non-family realm as well.
Clearly Rawls maintains that the concept of the family must persist throughout the original position procedure. However, he seems to import this institution into the context of the well-ordered society without subjecting it to realistic re-evaluation regarding the justice of its practical dynamics. For him, family dynamics are subject to principles of local justice that constrain, but do not uniquely determine the basic structure. Rawls maintains that the definition of the basic structure of society cannot be described with clear distinctions because doing so would end up “wrongly prejudicing what more specific or future conditions may call for, thus making justice as fairness unable to adjust to different social circumstances.”

However, he maintains that the reasonableness of judgments usually relies on those judgments being informed by an awareness of more specific circumstances. Rawls attempts to set out a procedure of justice that properly sensitive individuals can exercise in considering the fairness of different circumstances. Yet there is a failure to apply it to a problematic situation that is far better understood now than it was when he began writing a *Theory of Justice*.

This dissertation explores the idea of a social contract paradigm in which more refined perceptions and greater responsiveness to problems accumulates successively in the process of sequential social and political agreement. However, Rawls fails to adequately address the question about the standards of justice for women in the family and in society. He similarly avoids the question about the standards of justice for minorities by assigning them slots in the index of goods by which individuals are assisted only by benefits that are afforded to the least advantaged groups.

---

410 *Justice as Fairness*, p. 12.
In contrast, Habermas uses discourse ethics to refine the procedure of evaluating social norms that is slightly different from Rawls' and Kant's contracting individuals. Discourse ethics uses specialized argumentation as a form of public decision-making carried out by the same individuals who will be affected by the results. Habermas defines the activities of discourse ethics as a procedure in which all free and equal participants, who are coincidentally members of a common community, use public discourse to mutually better understand the truth of their shared life and individual identities. However, in this method, nothing can be used to coerce anyone, except the force of a better argument.

Practical discourse, for Habermas, is an exacting form of argument that serves as the warrant for the rightness or fairness of moral judgments to resolve conflicts of action. He uses the idea of everyday language as the basis of social interactions, but also as the source by which participants become more individuated through forming an increasingly distinct identity, which further distinguishes one from other individuals. As participants become more individuated, they also become more involved in mutual recognition with other participants. Everyday language is also the medium by which the intersubjectivity of a shared world is maintained. The importance of discourse is that it allows individuals to introduce the partly counterfactual presuppositions that "participants in argumentation do in fact make."

For Habermas, human beings that go through the process of individuation and intersubjectivity expose themselves to a profound vulnerability as developing social

---

persons. For Habermas, it is a fact of human existence that individuation comes about only through socialization, but going through that development makes one vulnerable. A human being with this type of vulnerability, characterized by mutual recognition and reciprocal exposedness, morally needs "some guarantee of mutual consideration." This consideration must provide for the defense of the "integrity of the individual...and...ties of mutual recognition through which individuals reciprocally stabilize their fragile identities." Moral philosophy must both safeguard the rights of the individual and the well being of the community to which the individual is a member.

According to Habermas, Rawls makes a problematic shift in the theoretical justification of the rules of justice. That shift is from requirements that are necessary regarding the characteristics of procedures and refocuses attention to the relevant qualities of persons. In this sense, agreement is a matter of discovering norms to which general assent can be granted based on the shared interests that underlie them. The individual qualities necessary for a representative morally judging subject include, possession of a sense of justice, a formed conception of the good, the regard of oneself as a source of legitimate claims and a willingness to accept the conditions of fair cooperation. All of these qualities are judged from the individual's moral point of view.

In contrast to Rawls' original position, in which representative individuals with recognized characteristics make decisions about the principles of justice from their individual points of view, practical discourse is a communicative process that exhorts all participants to take an ideal role in a procedural type of justification. Ideal role taking

413 Moral Consciousness, p. 200.
13 Moral Consciousness, p. 200.
must make allowances for the "social bond that unites humanity as a whole." Habermas maintains that the modern conditions of life must refocus the moral point of view so that each person ascertains "what is equally good for all." The role of moral institutions is to set out appropriate forms of behavior between individuals who possess the extreme vulnerability of socialized individuals. The modern conditions of life to which Habermas refers include that the function of philosophy is no longer viewed as providing judgment to elevate a particular form of individuals life project or collective form of life. How one lives one’s own life remains the responsibility of the socialized individual and is judged only from that participant’s point of view. After settling one’s own life for oneself, the hope for achieving universal assent is reserved for resolving questions that admit to the "procedure of rational will formation." An ideal form of discourse, by its nature, can be used to resolve problematic social circumstances in ways that bring about a form of life in which truth, freedom, and justice hold.

Making impartial moral judgments requires both rational reconstruction and a performative attitude upheld by the participants. Rational reconstruction functions to extract an impartial judgment from ordinary moral intuitions specifically addressed to an interpersonal practical conflict. Performative attitude is the bridge between rationality and intuitive knowledge acquired through socialization. The performative attitude is characterized by adoption of the first-person plural perspective in solving contested questions of normative validity. This perspective is such that each individual is able to place himself or herself into the circumstances of all persons who would be affected by

416 *Justification*, p. 151.
417 *Justification*, p. 150.
performance of a difficult action or upholding a questionable norm. Only public discourse that integrates the interest of variable positions qualifies as acceptable in deriving principles for ‘us.’ Habermas argues that the way to avoid the problems with the individual decision-making is to procedurally take the burden of rational consideration from the individual’s point of view and relocate it to the collective of all participant to whom the outcome matters. The individual point of view must intrinsically fail to sufficiently account for other perspectives and ultimately neglect the common perspective. The individual perspective is ultimately faulted for never encompassing a view sufficiently beyond itself.

Rawlsian “reflective equilibrium” is similar to this method of going between moral intuitions and rational reconstruction. That is, by using rational reconstruction to go back and forth between everyday states of affairs and the principles to be justified, Rawls constructs a contract theory of justice. Augmenting the objective and subjective realms, this justification incorporates the concept of a social world which functions to express the abstract external circumstances brought about by the actors. This world is abstract in that it is characterized by standards and circumstances not within individual control. The social world is the sum of legitimately ordered interpersonal relations as portrayed by a succession of norms applicable to changing situations. As new situations arise, further interpretation of all valid norms is required. For Rawls, this supplementary interpretation takes place within the arena of reflective equilibrium. He also derives rationality from the rational capacities of participants in the procedure of moral justification.
The shift Habermas accentuates is that from the individual to the social group. In so doing, he extends further a process he noted in Rawls as “reflective equilibrium.” In contrast, for Habermas, this judgment of all norms must occur in public discourse between individuals who use the exacting communicative presuppositions of argumentation to discursively redeem the propositional truth as a “claim raised in constantive speech acts.”

The validity claims that are encompassed in normative morality can only achieved by using communicative presuppositions of good argumentation. This argumentation process is only possible on the social group level. Thus, the focus on individual cognitive decision-making based on the desire to form a contract with other individuals is shifted to the social group cognitive argumentation and agreement that is based on good reasons.

Habermas accepts some of Kant’s intuitions, while discarding the individualistic premises because he maintains that Kantian moral philosophy is inadequate to address the modern conditions of life. He characterizes Kant’s moral philosophy as deontological, cognitive, formalist, and universalist. Kant’s deontological ethics focuses on problems of right action rather than those dealing with happiness and the achievement of a “good life.” Focusing on this type of problem, Kant limits the use of moral judgments to resolving conflicts of action by determining right exclusively through rational agreement. “Moral judgments” provide two justificatory functions. First, right actions are justified through moral judgments that set valid norms. Second, valid norms are justified through moral judgments that set principles of recognition. In this way, Kant uses moral philosophy to provide the normative guidance through the establishment of right action.

418 Justification, p. 29.
419 Moral Consciousness and Communicative Action, p. 196.
Kant's cognitivist ethics justifies the normative rightness of action based on providing a truth claim. The Kantian categorical imperative presents a means for distinguishing between valid and invalid norms based only on the criteria of universalizability. Kant's formalist ethics uses the procedure of subjecting action to the critical evaluation of all rational beings. A right action is morally justified when it is one that this evaluation shows that all rational beings could will to be introduced.

Habermas maintains that Kantian moral philosophy, which provides amply for the justification of right action, falls short at the point of application of the proper principles of justice to important spheres of action. To overcome this failure, Habermas asserts that justification and application must work together within the social context. To provide adequate application the full scope of the relations and bonds that hold the members of society together must take be taken into account. Habermas claims that Kant ignores important aspects of these bonds while spelling out the details of institutionally defined roles. The result ignores certain human needs in deference to rights. However, for Habermas, this method could never produce acceptable results for society members over time because it also fails to provide a means for those needs to be addressed. According to Habermas, only within the context of an appropriately justified set of principles of justice is a prerequisite to the proper application. Application is only carried out by accounting for all the relevant elements of the social context. A full sense of application must follow justification because justification alone is not sufficient to elaborate practice. The two activities are separate and but equally important.

In contrast to the Kantian contract tradition, discourse ethics uses the intersubjective method of pragmatism in which participants follow a procedure of the
"public practice of shared, reciprocal perspective taking." The Kantian test is whether member could rationally agree to a principle. In discourse ethics, the standard requires that each individual must take the perspective of everyone else into account to ascertain if the proposed regulation is acceptable. Discourse ethics differs from Kant’s just because everyone’s perspective influences the acceptability of regulations and it leaves social bonds in place. These bonds are important because they force individuals to consider the perspective of other individuals in an “unlimited communication community.”

The discourse ethics Habermas sets out points to an ongoing social process that moves social contracting from a series of iterative philosophical snapshots to an ongoing political procedure. In this way, it points to the future of social contract theorizing.

\[^{420}\text{Justification, p. 154.}\]
\[^{421}\text{Justification, p. 154.}\]
CHAPTER 8
CONCLUSION

We have passed in review five of the social contract theory versions suggested in the literature in order to establish a uniform way by which to examine and compare certain elements common to these different versions. Our systematic review of key social contract theorists shows that, taken together, these different versions constitute a sequence of events that increasingly refines the social contract concept as a method of analyzing social and political principles. The social contract idea is one method, among many, used to explain the organization and authority of political principles within a civil society. In our interpretation, the social contract is a device that can be used to refine extant social practices. This device is an intellectual tool that serves as a procedure by which to evaluate the acceptability of standards and practices within society. The procedure begins when conflict in social and political actions motivate the process of social reflection, discovery, construction, and change. However, focusing on one version of social contract theory in isolation gives only a snapshot view of this process. The advantage of our review, which compares five different versions, presents an ongoing cinematic account of the social contract concept as a strategy to evaluate extant social practices. This comparison highlights the accretion of refinements to the concept as a dynamic continuing event.

At the outset, we began by considering what kind of theory theorists must appeal to concerning an individual’s basic needs in determining the content of social contract theory and the justification of the principles of moral and political philosophy.
We started our analysis of each contract theory by reviewing the social and political circumstances in which each writer lived. We examined the result as each theorist, one after the other, goes to his window and observes his contemporary society. Each theorist articulates specific grounds for complaint regarding what he observes. Those complaints draw into question the characteristics it is reasonable for individuals to desire society and government to possess. Each theorist uses the social contract concept to analyze his current situation and to set out social, political, and moral recommendations designed to manage the observed then-current problem. Since our comparison is not static like a snapshot view, it shows that each theorist is renegotiating the social contract in light of his own circumstances. In this renegotiation, the theorists are progressively becoming clearer about the social, political, and moral needs of individuals and the development of a contract process by which to respond to those needs.

We can identify an important relationship between these versions by comparing the different political outcomes produced through contract thinking. This comparison shows that, in its various applications, the social contract concept has experienced a series of transitions punctuated by renegotiation so that successive political recommendations demonstrate a progressive refinement of extant social practices. The successive social contracts set out by the respective writers show a dynamic flexibility in the concept of the social contract by which subsequent theorists reconceived the whole social, political, moral project in light of their present situations. This means succeeding versions of the social contract build upon earlier demands placed upon it and respond to additional requirements. Each successive theorist observes society and places demands upon the social contract that are increasingly refined. The flexibility of the social
contract concept, in turn, responds to these social, political, and moral requirements by making improvements to social practices to which the theorist views contract makers could agree.

The important feature that becomes apparent by reviewing this collection of theories is that the process of examining extant social practices is not done only once. That is, the repetitious execution of the social contract concept demonstrates that it has the capacity to respond to more demanding requests from contract makers. Looking at one single version at a time does not encourage the idea of an evolving social and moral consciousness. The relationship between the initial conditions and the political recommendations is based upon the agreement offered by the individuals who are to be influenced by those agreements. However, when we examine the considered sets of initial conditions we must remember their origins. We must assume the idea of an original social contract to be fictional, as each of the theorists claims it is fictional. However, this fiction provides an important function in thinking about prior flaws that could have contributed to current social problems. The thought experiment described in this fiction reveals a process that is set out to examine extant social and political problems. Thus the content of initial conditions is preceded by social observation.

Our review suggests an explanation why these theorists each revisit the social contract idea as the appropriate method to convey their ideas. Each theorist is concerned with the improvement of conditions within society. The focus to bring about this improvement is on social practices. These practices guide the relations between individuals and the various societal institutions that assist in managing those relationships. Of course, just as the evening news rarely reports the favorable events of
the day, the situations in which relations are conflict-ridden or likely to give rise to conflict attract the most attention. That does not entail that the institutions, relations, and the individuals that compose them in a problematic society wholly lack good qualities. However, when setting out to improve society, it seems expedient to attend to problematic situations rather than attempt tinker with the non-problematic. Thus we share with these theorists a basic concern about bringing about better conditions in society.

Each theorist invites us to stop for a moment to observe and reflect upon the conditions within one’s own society and ask if one is satisfied with what one observes. This invitation is timeless because it rises above the particular facts of any one society. Observation is the launching place of this process of reflection. The ability to recognize conditions that could be improved does not depend on how poorly or well-situated one is within one’s society. Each observer is caught between the desire to avoid conflict and the attractive hope of obtaining more from one’s society. That is, individuals want more security, more rights protection, more opportunities, and social practices that better conduce to the well being of human beings. However, one requires a systematic way to think through the meaning of what one observes and, in turn, a method by which to derive more from society. Whereas citizens living within society can act at the practical level to introduce changes, philosophers attempt to abstract themselves from society to work out problems at a theoretical level that permits them to evaluate how ideas hang together and to introduce specialized concerns. Since each theorist evaluates extant social practices, with a concurrent concern to improve conditions in society, each faces the difficulty of how to convincingly present well thought-out conclusions to his fellows.
Since each theorist evaluates extant social practices and presents conclusions in the form of political recommendations, the most important way by which to introduce those changes into society is through agreement. Thus the social contract functions as a template by which to reach conclusions that can gain broad agreement. Each theorist sets out an invitation to note a particular problematic observation about society and then to follow a process in considering that observation. Does the reader arrive at the same conclusions as the theorist? Could the reader agree to this renegotiation of society? If the reader does not agree, why not? The social contract concept serves as a template presents a specific procedure for evaluating extant social practices.

Each theorist uses a concept of the social contract as the method to build a theory with which to explain his social observations. It is not the task of this paper to ascertain the truth of the social contract idea. Instead, we focus on the fruits resulting from the influence the social contract idea has had on the cause of liberty and political process. The products of the social contract do not prove its "truth," but they help to explain why political philosophers continue to return to the idea. The social contract concept continues to provide assistance to the general causes of liberty and political progress. The English Revolution of 1688 and the American Revolution of 1776, each resulted in innovative constitutional arrangements--social "contracts"--that contributed to the cause of liberty. Those contracts broadened and secured rights for members of those respective societies. Political growth does not occur on its own: growth requires the actions of an informed human will that can resolve the emerging problems of society. The same creative force that gives rise to such acts must continue to work to provide the means for sustained political growth and refinement of liberty.
In 1958, Chief Justice Earl Warren issued an opinion concerning a Supreme Court appeal regarding a man who had lost his United States citizenship and had become stateless. The petitioner had been convicted of wartime desertion as a United States Army private. Having lost his citizenship, the petitioner was subsequently denied a passport and was unable to travel internationally. This prompted the petitioner to seek to regain United States citizenship through the Court of Appeals. In his opinion, Warren considered the implications of the Eight Amendment of the United States Constitution, which states that excessive bail shall not be required, nor excessive fines imposed, nor cruel and usual punishments inflicted. Warren opines that the phrase “cruel and unusual punishment” represents a basic principle established in the Anglo-American criminal justice tradition that can be traced from our Constitution back to the English Declaration of Rights of 1688 and further back to the Magna Carta of 1215.\footnote{422 The European Union is currently engaged in a constitution-making debate that is the heir of the Philadelphia Founding Fathers and the French Revolutionaries.} The English Declaration and the Magna Carta each represent a contractual arrangement within an extant civil society, which arrangement is designed to increase the rights and legitimate claims of individuals within that society. The Supreme Court does not provide the precise content of the Eighth Amendment and nor does it set out its exact scope because the amendment stands to insure that the power of punishment remains within the limits of judicial discretion. Responding to this problem, Warren writes, “the Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.”\footnote{\textit{Trop v. Dulles}, p. 100.}
There are several important ideas found within Warren's statement that echo the concerns addressed in this dissertation. The first idea is that the standards of decency evolve over time, by responding to greater demands placed upon the principles and practices that guide actions. Despite the fact that the substance of the concept that rejects cruel and unusual punishment can be traced back through an extensive history, we continue to hold open its operational meaning, which allows us to exercise a more changeable practical application of it. That is, the concept remains the same, yet its meaning remains flexible so that it can mirror an advancing standard of what is considered appropriate when applied to a specific practice. The second idea is that an advancing standard represents progress within a society. One of the core concepts behind the Eighth Amendment is that of the dignity of humankind. As the understanding of that principle becomes more refined, so must the interpretation that is reflected in policy. This is crucial so that the Eighth Amendment can expand in its continued support of the dignity of humankind, despite the necessity of providing adequate known punishment.

The third idea is that a society has the capacity to mature that is a matter of continually acquiring more a sensitive understanding of the standards that determine acceptable practices. In the years since Warren wrote these words, they often been applied where there are ongoing concerns that standards evolve to reflect the progress of a mature society.

Our comparison shows that the contract theory concept is utilized successively to accommodate greater and greater social, political, and moral requirements. This demonstrates the manner in which this concept has been used as a tool for analyzing social, political, and moral situations. As we proceed through the sequential contract
versions, contracting individuals become more difficult to satisfy concerning social, political, and moral institutions. They become choosier and demand more from these institutions. Furthermore, each theorist uses this concept to make recommendations for those social, political, and moral situations, based on contemporary observations.

Hobbes introduces the technique of going back and forth between social and political demands and the political institutions designed to handle them. This technique becomes the template for the social contract paradigm. His technique is to explore the source of conflict in his society and to attempt to solve the problem at its roots. He works out the substance of the social contract by going back and forth between the then-current social and political demands and institutions designed to respond to them. In a way, by trying to resolve societal problems at their roots he is using his current “hindsight” to improve the quality of solution. By doing this, he renegotiates the social contract, based on what he discovers about how human nature influences the demands required of social and political institutions. For Hobbes, seeing humankind as subjected to a cascade of passions means the political institution must be designed with enough power to control the consequences of that cascade. Only an absolute sovereign could have that much power. Hobbes maintains social stability as the most important political value and realizes that value by incorporating an absolute sovereign to influence human passion and actions. Thus Hobbes renegotiates the content of the social contract, based on a perceived demand, the necessity of resolving morbid conflict, and his preeminent political value, social stability.

Locke refines the value of social stability by adding demands of accountability by the sovereign to the citizens served. He retains social stability as a political value.
However, he places additional demands on the means designed to create stability. For Locke, social stability cannot be acquired at a cost greater than the loss of freedom necessary to enter into a civil situation. He sees mankind as able to create and sustain social relationships with each other only up to a certain point, after that point, relationships deteriorate and societal conflict is generated. Conflict requires a civil government and a sovereign to settle differences. Locke places limits upon Hobbes’ absolute sovereign by requiring accountability of the sovereign. This means modifying the role and power attributed to a sovereign through the political process. Locke renegotiates the social contract by introducing stricter safeguards designed to manage the sovereign who, in turn, manages the citizens.

Rousseau increases the demands placed on the value of social stability by requiring the proper development of all the human qualities within a society structured to support that growth. By making this demand, Rousseau shifts the focus of society away from simply dealing with the resolution of conflict to the endeavor of human development. In particular, Rousseau maintains that persistent inequality between citizens, despite social stability, is contrary to genuine morality. Rousseau renegotiates the social contract by introducing the idea of a political institution that is designed specifically to promote the proper development of humankind.

Kant refines Rousseau’s value of social growth by selecting the possession of reason as the most stable element of humankind. For Kant, social stability is best served by constructing political institutions that insure external right and promote the continuous development of humankind. Of preeminent importance to this dissertation, Kant introduces, in his essay on “What is Enlightenment?,” the idea of iterative social contract
that, over time can insure the continued responsiveness of political institutions. The particulars of Kant’s external right are worked out through a series of sequential contracts. At any given time in this sequence, the purpose of renegotiating the contract is to explore the limits of reason to construct better political institutions that facilitate better relationships between people. For Kant, the goal of this exercise is the procedural use of human reason itself rather than the attainment of social stability. For, Kant, social stability is merely a peripheral benefit of the proper use of reason. By introducing the idea of sequential contracts, Kant permits continual exercise of reason within different contexts. This permits reason to be responsive to new problems and situations as they arise. While problems continually emerge, reason remains constantly responsive to providing solutions. Thus rather than requiring reason to construct a social contract that could stand for all time, Kant sets out a procedure for constructing and renegotiation.

Rawls refines Kant’s idea of reason functioning to determine the limits of external right by specifying the principles of justice. Rawls introduces the idea of separating the public discussion of the principles of justice from the private decision regarding the realm of religious, philosophical, and moral doctrines as a system of reasonable comprehensive doctrines. By doing this, Rawls leaves the issues of comprehensive doctrines unresolved and permits reasonable pluralism to co-exist within the context of political agreement. The political conception of justice can be worked out without taking into account a singular comprehensive doctrine and focuses on finding the common ground for a shared sense of justice.

Taken together these examples represent a series of choices regarding the content of civil institutions. Certain aspects of the social contract concept are refined each
subsequent time it is used. Thus taken together, these accounts form a social contract paradigm that responds to perceived moral, social and political problems within an extant society. The social contract paradigm treats the thought process that creates the social contract as a system for solving problems.

The method of the social contract paradigm is a set of reasonably simple and straightforward steps. One begins by identifying a problem within one's society to be solved. The social contract concept sets out the technique for solving social, moral, and political problems by supposing that the current society is founded upon a basic original contract. However, because of the existence of the identified problem, one assumes there are certain flaws in the features of that original contract. Armed with the desire to find a solution, one then looks for the roots of the identified problem. The important assumption is that certain prior choices could have avoided the current problematic social condition. Thus identifying the origin of the problem assists in seeking its solution. Applying the solution to the problem at its origin should eliminate or reduce its influence in society. Once one selects the social contract concept as the general framework of the solution, however, a number of auxiliary problems become apparent. One then works out these auxiliary problems—the specific details about the agreement—within the framework of the social contract, and makes specific moral, social, and political recommendations. Essentially, one is renegotiating the original social contract in the light of current problems because current experience is used to inform what course of action should have been taken to avoid the existing predicament.

This conclusion shows a process of maturation and adaptation that the social contract concept has endured. In the future, as more social practices are questioned in the
light of experience, we can anticipate that additional demands will be placed on the refinement of the principles held in common that guide those practices. The social contract paradigm does not appear to have exhausted its use in this endeavor. Now, with the introduction of discourse ethics, the practice of genuine dialogue between individuals holding diverse beliefs and values is the standard of attaining acceptable solutions to social and political problems. The social contract concept will continue to hold open a general method of finding these acceptable solutions, while staying receptive to specific modifications in practice that demonstrate effectiveness in achieving a more harmonious moral and political society.
REFERENCES

Locke, John. *Two Treatises of Government*. Edited by Peter Laslett. Cambridge University Press, 1988. All Treatise references to this text except where noted.