

# The Hendrick Hudson Lincoln-Douglas Philosophical Handbook\*

*Version 4.0 (including a few Frenchmen)*

The **HHLDPH** (pronounced hull-duff, or Hillary Duff, depending on your native language) is not meant as a substitute for reading the primary materials, but it does sum up much of the information in readable (sort of) bite-sized pieces.

The HHLDPH is divided into six parts. They are, in order, Rights, the Social Contract, Justice, Morality, Random Principles/Arguments, and Philosophers. Read through from the beginning, or consult it as necessary. It's worth the effort either way. But keep in mind that this is a starting point, not a destination. The material here can be valuable, but the deeper you go into original sources, the better off you'll be.

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\* As always, if any of the analysis in these pages is correct, it's a miracle.

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## RIGHTS

You have to start somewhere. So let's take the situation of one individual, and try to figure out what rights, if any, that individual has. To do this, first you have to define rights. (If you can't define a term in a debate, you probably don't understand it well enough to debate it.)

### **What do we mean by rights?**

“In their strongest sense, rights are justified claims to the protection of persons' important interests,” according to the *Oxford Companion to Philosophy*. In other words, a right is not just the ability to do something that is among your important interests (whatever they are), but a *guarantee* or empowerment to actually do it, because it is the correct thing that you have this empowerment. You have a claim to the protection of that important interest because, well, that interest is so important that you're entitled to it.

Talk about circular reasoning!

For example, if you are arrested in the US, the law guarantees you the right to remain silent. The right to remain silent means not only that you have the *ability* to remain silent—the ability to physically keep your mouth shut—but that you are empowered to support that ability, and that empowerment is guaranteed to you by the government. Your important interest—in this case, your right to not incriminate yourself—is justifiably worth protecting.

So getting back to the definition, what are an individual's “important interests” that one might wish to protect? Name and define some. (This is the interactive part of these pages. I ask questions and you answer them. Bizarre, eh?) If you can't come up with any offhand, don't worry. We'll get to them in a minute.

### **Where do “protections” of rights come from?**

It is common knowledge that in the US you have the right to free speech. Why? Not because you are born with that right, that it is somehow built into your humanity, but because it is a right enumerated in the Constitution (in amendment one of the bill of rights), and protected by the force of the government behind the Constitution. It is a clearly defined legal right, with the power of law to support it. So would you also have that right to free speech in a totalitarian government such as Nazi Germany? No. No one in Nazi Germany guaranteed the protection of that right, so even though one may theoretically have had the ability to say what one wanted, if a citizen actually did say something that the government didn't like, he could pay for it with his life.

Without protection, a right is meaningless, and may even be considered nonexistent. It is not a right at all. If a government says you have the right of free speech, but does nothing to protect that right, it is simply making an empty promise. Most of what we think of as specific American rights—free speech, freedom of religion, freedom of assembly, the

right to bear arms—are legal rights specifically protected by our government, because for various reasons the government deems these rights worth protecting. It could even be said that one goal of a good society is, specifically, protection of rights. (For more on the government’s particular role, see the social contract later on.)

### **How far do rights extend?**

Obviously some rights, if not all, can be abridged. That is, at least some rights are not absolute: they do not extend forever. Usually the boundary is drawn when you use your rights to infringe on another's rights, as when your swinging arm, which you have the right to swing as you see fit, hits someone else’s nose.

In the US, for example, your right to free speech, as fundamental as we may think it, is not absolute. A classic example of the limits to free speech is that you do not have the right to shout “Fire!” in a crowded movie theater when there is no fire. The reason for this limit on speech is that this would endanger the safety of the others in the theater. If we were able to balance these things on a scale, that group's right to safety in that theater outweighs the importance of your right to so-called “free” speech.

Basically, there are two limits placed on rights: when they directly harm another person (e.g., arm-swinging at the point of someone else’s nose), or when their exercise poses a threat of harm (e.g., shouting “fire”). Supreme Court Justice Holmes called the latter limitation “clear and present danger,” because even though there is no guarantee that someone will be trampled in that theater, or even bruised, your right to shout is still limited because the chances of that happening are so good. (Rightly or wrongly, clear and present dangers are often the legal boundary set on otherwise simple freedoms.)

So what have we proven so far? That some rights, like freedom of speech, are not absolute. Often the situation at hand determines the extent of the right. Which leads to the obvious question:

### **Are there any rights that are absolute?**

That is an extremely big question. Let's start with something familiar. According to the Declaration of Independence, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed...” There's a lot in those few opening words of the Declaration, and we'll take it a little bit at a time.

First of all, Thomas Jefferson, the chief draftsman of the Declaration, said that all men are endowed with certain unalienable rights. Unalienable—inalienable to you—means essentially that “they can't take that away from me.” These are interests that are so important that nothing can make them go away, and which are entitled to just protection.

Among these rights, TJ says, are life, liberty and the pursuit of happiness. And there may be others: by putting it in the words “among these rights,” TJ weasels out of the issue of what other unalienable rights there might be, and leaves those to the imagination of the reader (old TJ was definitely the slipperiest of the Founders, bar none).

So what makes a right inalienable? Or unalienable? Or whatever? There are three traditional ways philosophers look at the endowment, or source, of rights: they were given to us by the Creator, they are simply part of our due as human beings, or we don't actually have them as a real possession, but instead we all agree that we have them in a virtual sense, which amounts to the same thing in the end.

According to TJ, all men are endowed with these inalienable rights by their Creator, and both Jean Jacques Rousseau and John Locke, about whom more later, along with many others, agreed with him. (As a matter of fact, whenever Locke paints himself into a philosophical corner, he inevitably calls on God to get him out of it.) According to Locke, it is our rationality, a gift from or perhaps an expression of God, which allows us to recognize these rights, and which is the best expression of their existence (and, therefore, of God's existence). Which is all well and good for Locke, but what if you happen to be an atheist—and it must be put forth that there are no non-atheists in debate foxholes; that is, you can't call on God to pull you out of a tough corner in a debate because God as anything other than a first creative principle defies logic, and defiance of logic is not good debate strategy. Faith, as most religions are quite adept at pointing out, is the acceptance of illogic, or at least of the unknowable or unexplainable, so we needn't go into that here. The point is, only logic wins debates. And only logic will make what I'm writing here clear to you now.

So, if God is out, we can't claim it is His provenance that gives these rights their inalienability. What if, instead of calling them God-given rights, I called them natural rights? Let's turn to Locke again: Man is born “with a title to perfect freedom and an uncontrolled enjoyment of all the rights and privileges of the law of nature, equally with any other man, or number of men in the world.” Locke talks a lot about the state of nature, which is a world without government, where I have plenty of space to do what I want without bothering anyone else at all. This is perfect freedom: I can do whatever I want to, without any abridgment of that right to freedom. Locke says further that I am born with a “title” to this, i.e., an entitlement: a right. Does it matter where that entitlement comes from? What if I say that God doesn't give me this, but my pure existence as a human being demands it—intrinsic human rights. I say, in other words, that the nature of humanity includes certain rights that belong to all people simply because they are human. These are called natural rights because they derive from the very nature of humanity. I would propose this as a first principle, an axiom, a law, a self-evident (*prima facie*) reality. It is moot, but it is not unreasonable. No more unreasonable than Locke and TJ calling on the Creator.

So the first two possibilities for accepting the existence of natural/human rights are, either rights come from God, which doesn't necessarily win debate arguments, or else they come from our very nature as human regardless of the source of that nature. The end

result, the respect for human/natural rights, is the same. But there is a third way of looking at it. There is also an intuitive argument for the acceptance of the existence of human rights (intuitive in this context means that there is no way of explaining it but that it's perceived as correct nonetheless—a direct non-cognitive connection between the senses and reality, or put another way, you know it in your gut—and intuitive arguments are considered fairly acceptable in some, if not all, philosophic circles). The intuitive argument claims that I can intuitively recognize that I am a rational person, and as a rational person I can deduce my inherent human value and the rights this value gives me to protect my humanity. My intuition also tells me that other people are also rational, and that they too can intuit that same recognition of inherent human value. So if I am rational, and my intuition is reliable, then all humans must have certain natural rights because in a state of nature those rights would logically exist without abridgment. (Of course, in a debate where your premise requires your opponent to admit that people are rational, you're highly unlikely to get that admission. In the real world however, it's pretty reasonable.)

This intuitive argument boils down to reciprocity. Let's say that nothing can possibly convince you that human rights are inherent. So be it. However, one can nonetheless make the case that human rights—which we can define as a set of basic rights granted to all individuals—are worthwhile on the simple basis of reciprocity. That is, while you may or may not think that all people intrinsically possess these rights, if you are rational, you certainly will be willing to grant them to others if, in return, others are willing to grant them back to you. The world is intuitively a better place as a result. The only problem with this line of thought is that you must prove that: 1) you are rational, and 2) others are rational, and 3) the world is really better for the intuition. As I say, in a debate you'll be hard put to get this sort of admission from an opponent whose case rests on the opposite assumption. But still, many philosophers do simply base their arguments on universal rationality, and never look back, because if humans weren't rational, then how could you explain philosophy in the first place? Or at a more intrinsic level, human intelligence?

You can, and will, do a lot of arguing about rights. And while one could argue that rights may or may not be natural and inalienable, there is no doubt that the US, at least, is based on the premise that they are. So if you're looking at the US, or most other Western societies where Locke (or the US's Declaration) was an influence, you are looking at a society that is explicitly based on natural rights.

### **Rights as defined historically in the USA**

We started by discussing the right to remain silent, which is actually an extension of the right to counsel, i.e., a lawyer, which like many other rights that we're familiar with can be categorized as a legal—or civil—right. Regardless of whether or not you believe in or are willing to argue for inherent human rights, legal rights are quite straightforward: either you have them or you don't. In any society, certain civil rights are granted to citizens, for whatever reason, and these rights are instituted and executed through legal channels. The government/people have decided that certain things are important, and hence agree to recognize them as civil rights worthy of protection.

In the US, a number of rights are clearly delineated in the Bill of Rights, and a little background might be of interest. The original Constitution itself iterates no rights. Not a one, not nowhere, not no how. The Constitution is an instrument for delineating the powers and obligations of the federal government. The preamble states clearly that the following document is created by the people, but you never hear much about the people again after that. The Constitution is devoted almost entirely to the defining of the powers of the three branches of the federal government. Which was all well and good at the time, but whole bunches of the Founders who were party to the deal—and who a decade or so previously had kicked off the American Revolution with the Declaration of Independence, a very rights-affirming document, and who had all read Paine and Locke and so forth—said that they would not sign the Constitution unless it clearly put forth a bunch of rights. Individual rights were so important to the institution of the US government, in other words, that they should be explicitly outlined. As a compromise with those who said that the Constitution was intended as a blueprint for government, period, and not a philosophical declamation, it was agreed that a series of amendments—add-ons, so to speak—would be immediately ratified along with but not precisely as part of the Constitution. These 10 amendments (there were originally 12 but 2 were crossed off the list) were the Bill of Rights, enumerating such old favorites as freedom of religion, freedom of speech, the right to bear arms, the right to not have unwarranted search and seizure, etc. By the way, the Bill of Rights specifically enumerates *some* rights that we have, not all. These were just the biggies that the FFs felt needed underlining at the time. And because the Constitution is a legal document, and not a philosophical treatise, the rights outlined are legal/civil rights, by definition.

Subsequent to ratification, the Constitution became the objective measure against which all legislation was measured. That is, even if every Senator and Representative votes to pass a law prohibiting free speech, the courts can invalidate that law because it's unconstitutional. Only laws that are in keeping with the Constitution (and the subsequent body of decisions based on the Constitution) are “legal.” FYI, the Supreme Court does not analyze *every* law; it must wait for that law to be brought to it before they jump in with their opinion. Otherwise they'd always be breathing down Congress's neck, which is not the point of judicial review as it has developed over time. In other words, a law must be enacted before it can be evaluated by the judiciary; it does not, however, necessarily have to be followed. That is, if a law is passed legalizing murder, the law can be tested by the judiciary before anybody actually gets killed.

Anyway, laws come and go, including Constitutionally guaranteed laws. And the Constitution itself can be changed through the process of amendment. Prohibition came and went, with one amendment instituting it and another repealing it. But, given the fact that the original 10 amendments were, de facto, part of the original document, you'd be hard pressed to dispense with one of them, no matter how hard you tried. They can be reinterpreted, however; the Supreme Court does do that, on occasion. But mostly they stand the way they were meant to stand, and that is a good thing.



So that's the story with US laws, about which I went into in great detail because I know about it and you should too. To cap it off, I would point out that our most essential rights-stating document, the Declaration, bears no literal legal standing. That is, it's all very nice and well-written, and it states the values we as Americans all hold dear, but it is the source of no laws, and it was never intended as a legal instrument. The first sentence points out clearly that it was written as an explanation to the world at large of why the Colonies were breaking away from England. That's why Jefferson got to write it pretty much alone: since it was meant as a transitory explanation of the status quo and not a document for the ages, the other big shot Founders, especially the egotistical Adams, let the young hotshot southerner do all the work and write the damned thing, since he was a pretty good writer and there other were more important things to do at the time for the big shots. Nice call, Johnny.

So, many of the rights that we have as US citizens are clearly defined in and granted by the Constitution, or by subsequent interpretations of or amendments to that document. Laws enacted by our legislatures only address our conduct within the framework of those rights. Even if we had no intrinsic human rights, as US citizens we do have all these legal constitutional rights. One might also say that since the US political doctrine assumes intrinsic human rights, since our political doctrine is derived from the values of the Declaration, we are also granted those intrinsic human rights (although not explicitly, since the Declaration is not a legal document). By extension, any government (which is *not* a synonym for society, by the way) controls the rights of its citizens. We'll go into government and society later on.

### **The no-individual-rights philosophy**

How about those people who believe that individuals do not have rights? Or at least that rights are the basis of human value? One such group is known as communitarians.

Communitarianism was created as a response to John Rawls' *Theory of Justice*. Rawls' theories, which we'll get into later in more detail, are a basis for much liberal political thought. According to communitarian Michael J. Sandel, liberals who based their political theory on the supremacy of individual rights are presupposing an individual who existed prior to his country, community and family, someone whose political and moral choices were completely free of the encumbrances and entrapments of human loyalties (I'm liberally quoting now from Andrew Sullivan, editor of the *New Republic*). Said individual, according to Sandel, does not exist. He argues that citizens, far from existing prior to the society or the state, are rather the creations of their political and cultural environment. These citizens have loyalties that make their choices complicated, and sometimes not choices at all. Occasionally, indeed, they understand that their rights should give way before the goods their society aspires to—goods they have come to regard as inseparable from their own sense of self. Instead of rights, communitarians prefer to talk about goods; instead of interests, they talk about virtues; instead of procedures, they talk about goals. For more, read Sandel's *Liberalism and the Limits of Justice*.

Of course, other groups do not necessarily support the idea of human rights, but not from the generous philosophical perspective of the communitarians. Human rights are, after all, a construct created by philosophers of the Enlightenment, which is both a matter of time and place. Before the Enlightenment, the subject never really came up. And outside of Western philosophical circles, it may also have never come up. It can be very dicey to claim the inherency of human rights for cultures that have no particular use for them. Nevertheless, the United Nations has attempted to do just that, with its Universal Declaration of Human Rights. The point here is, don't forget the parochialism of this discussion. We're talking modern Western culture. Any other time, and any other place, might require a different point of view.

## THE SOCIAL CONTRACT

### Contracts In General

What is a contract?

The concept of contracts is extremely important because it comes up in many contexts in debate; if you don't understand the underlying principles of what constitutes a contract, you'll be lost. So let's propose a simple definition: a contract is a binding agreement between two or more parties.

Here's what Encarta has to say about contracts. It's pretty good:

***Contract**, in law, an agreement that creates an obligation binding upon the parties thereto. The essentials of a contract are as follows: (1) mutual assent; (2) a legal consideration, which in most instances need not be pecuniary; (3) parties who have legal capacity to make a contract; (4) absence of fraud or duress; and (5) a subject matter that is not illegal or against public policy.*

*In general, contracts may be either oral or written. Certain classes of contracts, however, in order to be enforceable, must be written and signed. These include contracts involving the sale and transfer of real estate; contracts to guarantee or to answer for the miscarriage, debt, or default of another person; and, in most states of the U.S., contracts for the sale of goods above a certain value.*

#### **Types of Contracts**

*Contracts are often classified as either contracts by specialty or simple contracts. Another class of obligations, sometimes referred to as contracts of record, are conclusive legal obligations created by the judgment or order of a court of record.*

For debate purposes, we'll deal only with simple contracts, which do not depend for their validity on any particular formality in their execution, but rather on the existence of a consideration.

*A simple contract may be written or verbal, or may even be implied from the acts and conduct of the parties manifesting their intentions. It usually comes into existence as the consequence of an offer and acceptance. Inasmuch as agreement must be in effect in order to create a contract, any mistake in setting forth the terms of the offer or acceptance that should be apparent to the other party negates the agreement, and no contract will arise. For instance, if you and your neighbor Bob reach an agreement whereby he will mow your lawn and you will wash his car, you have entered into a contract with him. Simply because he one day decides to pull up your weeds as well does not mean that you're suddenly obligated to wax his car too.*

*Simple contracts are frequently classified as express and implied. An express contract is one entered into on terms expressed in spoken or written words. An implied contract is one that is inferred from the acts or conduct of the parties.*

### ***Nullifying Contracts***

*The contract of a lunatic, an idiot, or a person so under the influence of a narcotic or of intoxicating liquor as not to be capable of a free exercise of will is sometimes said to be wholly void. In recent cases, however, such contracts have usually been regarded as merely voidable; and in some instances they are enforced if the other contracting party is unaware of the incompetency and the terms are fair. The contract of a minor, usually a person under the age of 18, is not void, but voidable, and it may be affirmed by that person on attainment of full age.*

### ***Breach of Contract***

*In case of a breach of contract the injured party may go to court to sue for money damages, or for rescission, for injunction, or for specific performance if money damages would not compensate for the breach. Specific performance of a contract is the right by one contracting party to have the other contracting party perform the contract according to the precise terms agreed therein. In many jurisdictions this right can be obtained only where money damages would be insufficient to compensate one of the parties. Under the law of some states a person may sue either for money damages or for specific performance.*

### **How do you break a contract?**

If a contract is made, and one side wishes to get out of it, that side cannot do so unilaterally; both sides must agree to ending a contract, no matter what steps one side might take. Here's where the consideration comes in. If I make a deal with you that you will work for me for a month for \$50, and you decide somewhere before the month elapses that you don't want to work for me any more and offer to pay me back the \$50, that's not good enough (unless there was a clause in our contract specifically allowing in advance that you could do so, which of course would have been the obvious agreement of both sides). Even paying me \$100 wouldn't be good enough. You must fulfill your contract. An agreement is an agreement. Only if we both agree to nullify the contract can it be nullified. Otherwise, you owe me the original consideration.

There is an enormous—perhaps predominant—body of law pertaining to contracts, and it is not an area you normally want to venture into unless you're a lawyer. Or at least you don't want to start arguing the ins and outs of contracts with a debater who probably knows no more about contract law than you do, in front of a judge who is going to law school and possibly *does* know more than you do. So stick to the basics. A contract is an agreement between two or more competent parties in aid of something that is not illegal,

and one can reasonably add that the agreement remains in force unless all parties agree otherwise. Let it stop there, and be done with it.

Okay, then. Is a verbal contract worth the paper it's printed on? (That's a Goldwynism, by the way. Samuel Goldwyn also said such memorable things as “Include me out!” and, to James Thurber, that the script of a certain film was “too blood and thirsty.” To which Thurber replied that, “I was horror and struck.”)

But I digress. The thing about contracts that you have to remember is that essentially an agreement is an agreement no matter what, and that at least in US law, there's an incredible body of protection for agreements regardless of seeming loopholes. If you and I come to a verbal agreement and don't get around to signing a piece of paper, it is still usually legal and enforceable, providing one side can prove that an agreement was reached—if it's your word against mine, good luck to either of us, but if there was a witness, the contract most likely will stand. That's a simple contract, as per the encyclopedia legal definition, and that's what we'll be concentrating on here.

## **The Social Contract**

So what is the social contract?

The social contract is the tacit agreement among unconnected individuals whereby they come together to create a society. And you have to know something about Hobbes and Locke and Rousseau and Rawls to really understand the social contract, but if you know nothing else, know this: there is no one way of looking at the social contract. There is no one philosophical statement of the s.c. that everyone agrees to. There is no absolute right or wrong in discussing the s.c. (as long as you don't totally make it up—ignorance of the standard texts is readily apparent to anyone who *isn't* ignorant of the standard texts). And the reason for this is simple: there is no such thing, in reality, as a social contract. At no time did any unconnected individuals come together to create a society, and when they didn't come together they also didn't come together by contractual agreement. The social contract must be understood as a philosophical construct, and as a philosophical construct only; that is, as a way of understanding society and the place of individuals within society. Understanding social contract philosophy becomes a tool, therefore, for understanding the way things are in the world, and, perhaps, the way things ought to be. Ultimately it becomes the study of the rights of individuals within society, and the rights of society granted to it by its individual members.

What happens to individuals without a social contract, that is, before they come together to form a society? It is not a pretty picture. That situation would be

*... consequent to a time of war, where every man is enemy to every man; the same is consequent of the time, wherein men live without other security, than what their own strength, and their own invention shall furnish them withal. In such a condition, there is no place for industry; because the fruit thereof is uncertain; and consequently no culture of the earth; no navigation, nor use of commodities*

*that may be imported by sea; no commodious building; no instruments of moving and removing, such things as require much force, no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish and short.*

That is the state of nature, i.e., humans without society, according to Thomas Hobbes, author of *Leviathan*. Hobbes believed that the state of nature is equivalent to a state of constant warfare. Everybody has their own stuff, which they have to protect from everyone else, all of whom want to take it from them all of the time. It's every man for himself, and devil take the hindmost. If I want something that you have I will bop you over the head to get it rather than work for it myself, and vice versa, and we'll spend most of our time defending ourselves from each other.

John Locke, on the other hand, believed a little differently. Specifically, he defined the state of nature simply as a place of absolute freedom and equality. Rousseau believed quite in the noble savage, that people without civilization were some sort of natural saints, and that civilization was a corrupter of that saintliness. We'll get into some specifics more later.

### **How does the Social Contract work?**

John Locke's *Second Treatise on Government* is that standard s.c. text. "Government has no other end but the preservation of property." By property Locke means not only territory, but the fruits of your labor on that territory—as well as your general life and liberty. Hobbes, an earlier social philosopher, says that the State can do anything it wants to you and remain intrinsically just; Locke says the State can only act correctly as it acts by its members' consent. Hobbes gives all power to the State; Locke keeps it with the people. This is a big step forward. According to Locke, men unite into commonwealths because "in the state of nature there are many things wanting... an established, settled, known law... a known and indifferent judge, with authority to determine all differences according to the established law... [and] power to back and support the sentence." Locke claims you need those three things to make up a government: laws, judges to analyze those laws in specific cases and make determinations about them, and power to enforce those determinations. So you need a legislature to create the laws, a judiciary to judge them, and an executive to make sure they're executed. Sound familiar? Does the phrase "checks and balances" ring a bell?

Locke, while not accepting Hobbes's state of war as the condition prior to society, still doesn't find the state of nature all that great a situation. Property disputes inevitably arise. "If man in the state of nature be so free, as has been said; if he be absolute lord of his own person and possessions, equal to the greatest and subject to no body, why will he part with this freedom? ... though in the state of nature he hath such a right, yet the enjoyment of it is very uncertain, and constantly exposed to the invasion of others. For all being kings as much as he, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very

unsure.” So people may be rational, but the greater part are “no strict observers of equity and justice.” As a curative for this condition, men come together via the social contract for their own benefit, to create a straightforward system of enforced laws that they can all abide by for their total benefit as a community. (Just a reminder: “life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed...”)

### **Did Any of it Really Happen?**

One issue of variance in s.c. philosophy, as noted above, seems to be the nature of the state of nature. What is the point of creating something, even if it's imaginary, called the state of nature?

What Hobbes and Locke and Rousseau, among other s.c. philosophers, are trying to do with their concept of state of nature is explain the situation that exists prior to individuals joining together to form society. They seem to think of this as a literal situation that at one point existed in the history of mankind. I would suggest, as would most present-day historians, that this was not the case. Societies were not the result of conscious decisions made by rational humans who invented the idea of society where it had not previously existed; instead, they were the natural evolution of our species. All great apes have very complex societies; human society is noticeably more complex than gorilla society to our eyes, but to the eyes of Hobbes or Locke, to whom gorillas were in fact mythical creatures, the idea that society might be intrinsic to many levels of mammals never crossed their mind. So, they came up with other explanations for human society. The state of nature, to them, had really existed, and really had been contracted out of, although even they understood that the contract was implicit and not explicit (no papers were signed, in other words). The important thing for us to contemplate is not where the old philosophers thought societies came from, but what they thought individuals gained from living within a society that they otherwise would not have gained if they had never formed society in the first place. Think about human evolution if there were no benefits from society: regardless of how societies in fact did get formed, they wouldn't have been formed—or at least not endured—if they were not beneficial. What Locke claims are the benefits of society—clearly delineated and enforceable laws that are to everyone's benefit—is his important message, not how he believed societies had been literally formed.

So what might be a better way to contemplate the concept of state of nature?

The reason we postulate a social contract is to create a starting place for defining the roles of governments and individuals in the world at large. What are the responsibilities of governments to its members, and vice versa? As soon as we say the social contract is such and such, we can logically build a social structure, complete with rights and obligations, based on that assumption. And as often as not, the responsibilities of individuals and governments, and what is fair and just between them, is the subject of our debates, which is why this is important in the first place.

This is where John Rawls, considered by some to have been our most important modern philosopher, comes in (we'll explain him in more detail later). Say what you will about Rawls's various ideas regarding justice as fairness (his main thesis), he is interesting to read because he approaches his subject with the realism of a contemporary writer. His understanding of the universe is relatively the same as ours: he lived in our time, with our problems. And too, his philosophy is the end product of much study of the philosophers, like Locke & co., who have come before. So when you read him, the way he explains what he's doing makes a lot more sense than the centuries-old disciplines of Locke or Rousseau. Rawls discusses his philosophy as a theoretical schematic, not a historical reality. At times, he looks to his goal, which is to define justice and to explain how a society can best be just to its members, and works back from there, rather than working from a premise such as acceptance of state of nature. So what Rawls proposes is "the original position," which is very much comparable to state of nature, at least in its relationship to society. By original position he means, imagine that rational individuals are about to create a society: what sort of decisions would they make about that society if their original position was such that all their decisions would be made for the benefit of the least favored member of that society? Put another way, he's saying: imagine that nothing about society exists. Now, imagine the best way to create the best society, not for you, whoever you are, but for everyone in that society. Your original position is the situation from which you make your judgments, because once you're in the society, you would have a position of power or wealth or whatever that you will want to defend or improve—i.e., you're looking out for yourself. But in the original position, you look out for the least strong, without self-interest, because that makes the most sense. The end result—the formation of a society for such and such a reason—is very similar to the social contract, the end result of which is, too, the formation of a society for such and such a reason. By the way, Rawls uses the term veil of ignorance to explain our situation in the original position. The veil of ignorance presupposes that, in the original position, we are ignorant of our own position in society; this way, since we are as likely to be the least favored as much as the most favored, it will be logical for us to make judgments in favor of the least favored, as that could be us.

So, let's sum up the social contract. I'll give you my working premise: the social contract is a philosophical construct for understanding the relationship of individuals to society. No more, no less. And it's important in L-D because many of the resolutions we debate are very much designed around the conflicts of individual versus society, and which is the most important (there's no right answer to that one). And I'll go further and say that L-D is important to real life because these issues are in fact the meat of everyday political reality. We are real individuals living in a real country with a real government that continually allows or disallows us various rights and privileges. When our government is justified in doing this, so be it. When it's not, we should be prepared to fight against it. The Founders knew that, and did that. They were willing to work hard to understand what government is all about, and they were willing to die for their belief in it (Ben Franklin said, to wit, we must all hang together, otherwise we will all hang separately—these guys knew what they were in for if they lost the war they were fighting). And the framers of the constitution, the documentary source of our US law, knew this too. The day citizens



no longer have to study and improve society, will be the day ... (fill in your own metaphor; something with pigs or monkeys is usually fun).

## JUSTICE

### What is justice?

More often than not, we tend to argue justice. Even if a resolution doesn't literally prescribe justice as the value we are seeking—although often they do—often the logic of the arguments for or against the resolution are nevertheless seeking the inherent justice of one side or the other. So it behooves us to be able to conceptualize and explain justice in such a way that everyone in the round knows what it is, and agrees on what is. The mere breathing of a drive-by definition at the beginning the round—"justice is defined as fairness" or as "giving each his or her due"—isn't really enough to support substantive argumentation. That sort of definition is a start, but you need more, at least in your head. That's what this will be about.

"Justice" refers to the way people deal with one another. It is a concept relative to a number of individuals, rather than just a single individual. (Contrast morality, which often can be seen as a personal concept.) To deal with one another justly means that everybody is satisfied with the deal. The deal is fair. Everybody's happy. This concept of fair treatment seems to be innate in human beings: cross-cultural psychological tests have demonstrated that even the youngest children grasp the idea of a fair deal, that they know one when they see one, and they know when they haven't gotten one, and it doesn't matter if they're American or Indian or African or Chinese, give or take a little leeway for cultural variations. In some cases fairness is easy to explain: if you have 8 people, and you slice a pie into 8 equal pieces, one for each person, that's a fair deal on the most elementary level. Another way of insuring a fair deal is splitting something in two, and one person does the split and the other person has first choice between the two resulting pieces. That is conceptually a little more complicated than the 8 equal pieces, but nevertheless we intuit you-split-I-chose as fair at a very young age. As we get older, the issues of fairness get more complicated. The issues in a debate are among the most complicated at all, as they may refer to how everyone in a society can be dealt with fairly and justly. It is hard to please all of the people all of the time.

What do you think of this idea: Justice is the ideal, morally correct state of things and persons. That is, there is a right way to organize everyone, a correct way. Our goal as

ethicists is to describe that morally correct state of things and persons. As a matter of fact, that is the top goal of all ethics. According to John Rawls, “Justice is the first virtue of social institutions, as truth is of systems of thought.” It doesn’t get any more important than that. Unfortunately it is not manifestly clear in all situations what justice is. So the question is, how do we distinguish justice from injustice in our characters, our institutions, our actions, or the world as a whole? By the way, this ideal, morally correct state of things and persons—justice—may not be unachievable; we are talking about an ideal here, after all. But the inability to actually achieve an ideal does not obviate attempts to get closer to that ideal; we may never be perfect debaters, by definition, but that does not mean we should stop seeking perfection, since moving closer to perfection—or justice—is better than not moving closer to it. I practice the piano to get better, not to get perfect. Sometimes debaters will argue that since there is no way to achieve perfect justice, that justice cannot exist as a goal, and therefore the resolution at hand is somehow null and void. They are saying that justice is absolute, and we can never attain an absolute. But a good analogy to refute this might be something along the lines of the concept of temperature and absolute zero. Just because we can’t attain absolute zero doesn’t mean we can’t make things colder by lowering the temperature. Any steps we take toward justice are steps toward a more morally correct state of things. Maybe not perfect, but the best we can do.

There are two major ways to think of justice. Is justice social (society-based and evaluated on a societal level, taking everyone into consideration equally), or is justice personal (individual-based, taking each person into consideration on a case-by-case basis)? For instance, look at the issue of the distribution of wealth in society, which is a really big question underlying social systems. Should it be equal, a social distribution with no dependence on the individual? Or should it be meritocratic, a distribution based on each individual’s ability? If so, which ability? Or should it be something else?

To repeat, justice is the ideal, morally correct state of things and persons. Since we’re talking about everyone being satisfied with the deal, whatever the deal is, justice can be thought of as the morally right assignment/distribution of good and bad things like wealth, power, reward, respect and punishment. Historically, justice was thought of as an

interior virtue of a person, that justice is a property of persons themselves, and only derivatively of their actions and the institutions they create. For us as modern philosophers, we mostly will regard justice as a property of actions or institutions, and only derivatively of the persons who bring them about. Some historical descriptions of justice are good to know, though:

**Justice as harmony**, a proper, harmonious relationship between the warring parts of the person or city. Those warring parts are the basic components of both individuals and societies, the conflicting internal and intrinsic elements to which everything can be boiled down. According to Plato, we have a just society when the philosophers rule (by virtue of their great wisdom), the soldiers soldier, and the workers work. This was certainly beneficial to Plato, who was a philosopher. Perhaps it's not a deal all the parties of the deal would agree to.

**Justice as divine command**, which ties justice into performing moral acts. God commands us to do what is morally right (or what is morally right is what is commanded by God). Murder is wrong and must be punished, for instance, because, and only because, God commands that it be so. It is certainly true that many people feel that morality derives from their religion, and it removes from the mind the need to figure out the difference between right or wrong, since it has already been decreed in sacred texts; that society would act according to religious principles could make sense, then, unless you have conflicting religions, which complicates the issue enormously. Which sacred texts are the objectively provable correct ones? This may be why often theocratic states have simply eliminated any of the competition.

**Justice as natural law.** Justice is a universal and absolute concept, and laws, principles, religions, etc., are merely attempts to codify that concept. This is not all that dissimilar from justice as divine command, as an objective underlying truth, but without a direct spiritual aspect.

**Justice as human creation**, as compared to our attempt to discover some sort of divine command or natural law. It is not something already there that we must find, but something we are creating to handle the situations in which we find ourselves. We are, of course, most concerned with this approach to justice. In our social contract tradition we come to see justice as mutual agreement of everyone concerned, or what people would agree to under hypothetical conditions (Rawls's original position, for example),

## **Two broad areas of justice analysis: distributive and retributive**

Justice can be divided into two broad types, addressing two very different areas. When it comes to resolutions, sometimes you're talking about one, sometimes you're talking about the other. There are other ways of looking at justice, e.g., contractual justice, but they are way thinner slices of the justice pie, and can be seen usually as subsets of these two. These main two are the ones, one or the other, that mostly concern you as an LDer.

Distributive justice is concerned with the proper distribution of so-called good things—wealth, power, reward, respect—between or among different people. For example, in one version of distributive justice (but not the only example), each person gets an equal share of the good things; this is called egalitarianism.

Retributive justice is concerned with the proper response to wrongdoing, in other words, how we handle crime. One example would be retaliation, which says that the proper punishment ought to be equal to the wrong suffered: “life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe,” that sort of thing. Again, there is more than one approach to retributive justice.

## **Theories of distributive justice**

Egalitarianism According to the egalitarian, goods should be distributed equally, end of story. There is unquestionably a certain sense of fairness to this, that everyone is somehow equal and therefore somehow deserving of an equal share.

Meritocratic system According to meritocratic theories, goods, especially wealth and social status, should be distributed to match individual merit, which is usually understood as some combination of talent and hard work. In other words, we get what we deserve; we earn our goods based on our worth. Which sounds fair: if I'm smarter than you and I work harder, don't I deserve a bigger piece of the pie?

Needs-based Goods, especially such basic goods as food, shelter and medical care, should be distributed to meet individuals' basic needs for them. Marxism can be regarded as a needs-based theory on some readings of Marx's slogan, “From each according to his

ability, to each according to his needs.” This also seems fair: there are just so many resources within a society, and if they are distributed according to need, everyone would have a sufficient share overall.

**Contribution-based** Goods should be distributed to match an individual's contribution to the overall social good. Again, that does sound fair (although it also sounds somewhat meritocratic, except here it seems to more be based on virtue).

### **Fairness**

Since we are wise, contemporary philosophers, when thinking about justice and what is fair, we must look to *A Theory of Justice* by John Rawls, the classic contemporary book on the subject. Rawls is considered by many to be the most important philosopher of the 20th Century. He used a sort of social contract argument to show that justice, and especially distributive justice, is a form of fairness, an impartial distribution of goods. (And remember, we may have an innate sense of fairness.) No matter how you slice it, our distribution of the goods must be impartial to be fair; that's inherent in the concept.

Rawls asks us to imagine ourselves behind a veil of ignorance that denies us all knowledge of our position in society—our personalities, social status, wealth, talents and life plans—and then asks what theory of justice we would choose to govern our society after the veil is lifted, if we wanted to do the best that we could for ourselves. We don't know who in particular we are, and therefore can't bias the decision in our own favor. So, the decision-in-ignorance models fairness, because it excludes selfish bias.

Rawls argues that each of us would reject the utilitarian theory of justice that we should maximize welfare (see below) because of the risk that we might turn out to be someone whose own good is sacrificed for greater benefits for others. Instead, we would endorse Rawls's two principles of justice:

1. Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all. In other words, it is not that we are all intrinsically equal, but that we are equally given access to basic freedoms.
2. Social and economic inequalities are to be arranged so that they are both

a) to the greatest benefit of the least advantaged, i.e., since there are intrinsic inequalities in social justice, we make sure that the least advantaged in society get the best deal on face. So if you are, say, disabled, you would be most likely to get an extra benefit over the supremely talented and/or rich and/or whatever, who would not be in a position to demand the best possible situation.

b) attached to offices and positions open to all under conditions of fair equality of opportunity, i.e., although we may not be equally talented, we have equal opportunity to display whatever talents we have, and that only the relevant talents are the ones considered for the opportunity offered.

This imagined choice justifies these principles as the principles of justice for us, because we would agree to them in a fair decision procedure.

### **Having the right history**

In contrast to Rawls, there's Robert Nozick. Nozick argues that distributive justice is not a matter of the whole distribution matching an ideal pattern, but of each individual entitlement having the right kind of history. It is just that a person has some good (especially, some property right) if and only if he or she came to have it by a history made up entirely of events of two kinds:

1. Just acquisition, especially by working on unowned things (cf the fruits of one's labor in Locke). In other words, you ought to get whatever it is you work for.
2. Just transfer, that is, gift, sale or other agreement, but not theft. If someone gives something to you, or you inherit it, or you buy it, you are entitled to it.

If the chain of events leading up to the person having something meets either of these criteria, then he or she is entitled to it: it is just that he or she possesses it, and what anyone else has, or does not have, or needs, is irrelevant. Your property is yours, and your ownership is categorical and takes precedence over all other claims, provided it meets the criteria above. On the basis of this theory of distributive justice, Nozick argues that all attempts to redistribute goods according to an ideal pattern, without the consent of their owners, are theft. In particular, redistributive taxation is theft.

To an obvious extent, Rawls represents a Liberal position, and Nozick represents a Conservative position.

### **Welfare maximization - utilitarianism**

Another way of looking at justice is utilitarianism. According to the utilitarian, justice requires the maximization of either the total welfare or the average welfare across all relevant individuals. This may require sacrifice of some for the good of others, which is all right as long as everyone's good is taken impartially into account (shades of the original position).

Utilitarianism, in general, argues that the standard of justification for actions, regardless of the agent of action, is impartial welfare consequentialism, i.e., the results of the action. Only indirectly, if at all, does justice have to do with rights, property, need, or any other non-utilitarian criterion. These other criteria might be indirectly important, to the extent that human welfare involves them. But even then, such demands as human rights would only be elements in the calculation of overall welfare, not uncrossable barriers to action.

### **Theories of retributive justice**

With retributive justice we're talking about crime and punishment, as compared to distribution of the assets of society, so retributive justice would come into play with an entirely different set of resolutions than distributive justice. Theories of retributive justice are concerned with punishment or wrongdoing, and need to answer three questions:

1. why punish?
2. who should be punished?
3. what punishment should they receive?

### **Utilitarianism**



According to the utilitarian, as already noted with distributive justice, justice requires the maximization of the total or average welfare across all relevant individuals. For the utilitarian, punishment is the bad treatment of someone, and therefore can't be good in itself. But punishment might be a necessary sacrifice for someone that maximizes the overall good in the long term, in one or more of three ways:

**Deterrence:** The credible threat of punishment might lead people to make different choices; well-designed threats might lead people to make choices that maximize welfare.

**Rehabilitation:** Punishment might make bad people into better ones. For the utilitarian, all that "bad person" can mean is "a person who's likely to cause bad things (like suffering)." So, utilitarianism could recommend punishment which changes someone such that he or she is less likely to cause bad things.

**Security:** Perhaps there are people who are irredeemable causers of bad things. If so, imprisoning them might maximize welfare by limiting their opportunities to cause harm.

So, the reason for punishment is the maximization of welfare, and punishment should be of whomever, and of whatever form and severity, are needed to meet that goal.

Problematically, this may sometimes justify punishing the innocent, or inflicting disproportionately severe punishments, when such punishments will have the best consequences overall (perhaps executing a few suspected shoplifters live on television would be an effective deterrent to shoplifting, for instance). It also suggests that punishment might turn out never to be right, depending on the facts about what actual consequences it has.

### **Retributivism**

The retributivist will think the utilitarian's argument disastrously mistaken. If someone does something wrong, we must respond to it, and to him or her, as an individual, not as a part of a calculation of overall welfare. To do otherwise is to disrespect him or her as an individual human being. If the crime had victims, it is to disrespect them, too. Obviously human worth plays heavily in the concerns of the classic retributivist.

Retributivism emphasizes retribution – payback – rather than maximization of welfare. Wrongdoing must be balanced or made good in some way, which translates into the criminal deserving to be punished. Just as the theory of distributive justice gives everyone what they deserve (see above), retribution links justice with desert. Retribution says that all guilty people, and only guilty people, deserve appropriate punishment. This matches some strong intuitions about just punishment: that it should be proportional to the crime, and that it should be of only and all of the guilty. However, it is sometimes argued that retributivism is merely revenge in disguise. A question that might be asked is, is retribution the best you can come up with? If, for instance, I kill someone, society killing me in return is fraught with issues: the same act considered wrong by an individual is considered right if committed by society, the even-stein approach does not literally correct the initial wrong-doing, as the person I killed remains dead, and to some extent revenge is the most animalistic instinctive response and may be our worst and not our best impulse. Retribution does seem fair, in many ways, but is it right?

### **Can justice be achieved?**

Maybe, maybe not. There are often arguments made in debate rounds that, because we can never achieve the ideal of justice—because it is an ideal—any action that has justice as a goal is pointless (or perhaps even wrong). Some even argue that because justice is an ideal, it therefore does not exist at all. This kind of thinking can be applied to any ideal: for instance, we can't be absolutely good, so don't bother trying to be good at all; worse, it might be maintained that there is no such thing as good (or moral correctness) and therefore the attempt to seek is, somehow, bad. But this really doesn't stand up to the idea of seeking the best action, or the best results, which is the whole purpose of ethics. We study ethics to decide what it is that we ought to do in certain situations. Even if one accepts the impossibility of perfect justice, or the impossibility of achieving justice, the process of seeking and acting according to a concept of justice is ethically superior to ignoring the concept of justice, and the process of seeking to achieve justice through that considered concept is ethically superior to not seeking it. In other words, even if justice is impossible, seeking justice is possible, and preferable to any alternative.

## MORALITY

Morality is not the same thing as justice, but it is easy to get the terms, and the concepts, confused. Justice probably does require that actions be performed in a morally right manner, but that is not exactly what justice is all about. Justice is about making a fair deal where every party to the deal agrees that the deal is fair. Morality, on the other hand, is about whether doing something is right or wrong. Justice obviously requires a number of people; morality can just be about one person. They are simply not the same thing.

The questions that arise when we consider the moral rightness of something are many and complex. Who is making the judgment, for one thing. Some people may consider something wrong that other people do not consider wrong, especially when we look at different cultures. Is there such a thing as an objective, absolute right and wrong? Does morality cover both action and inaction (e.g., letting someone drown if we are able to save them)? Is morality both direct and indirect? Is it unique to every situation? If morality is absolute, how do we determine it? Can we determine it?

Not every action is a question of morality. We would refer to something in the sphere where morality doesn't matter as amoral, although that word unfortunately has taken on the connotation of "lacking in morals" rather than something simply not being a moral issue; to call a person amoral nowadays is to imply that they are immoral. The problem boils down to our confusing usage of the word moral itself. One of the definitions of moral is "conforming to a standard of right behavior," i.e., morally correct. If I were to refer to someone as a moral person, therefore, you would think that I meant that person was a good person. I bring this up because we need to use precise language if we wish to have our meanings understood. When you're talking about morality, make sure you don't do so in such a way as to be misinterpreted. It's confusing enough already without you mucking it up any further.

For the majority of people in the world, the questions of right and wrong are determined by authority. That is, people don't have to analyze everything they do every day to figure if it's right or wrong, because they are told by unquestionable authority whether something is right or wrong. For children, of course, this unquestionable authority is the parents. For adults, this unquestionable moral authority is usually their religion. Religious laws, either written or in oral tradition, clearly proscribe certain actions as bad (murder, for instance, is an act commonly noted as wrong) or prescribe other actions as good (honoring your parents/ancestors is commonly noted as the right thing to do). Civil laws, when they are separate from religious laws, usually perform the same function of providing an authority, the state, behind the claim that various actions are either right or wrong. But this does not necessarily mean that law is codified morality. Some people do hold this position, but it is not a universal way to understand law, which I find is as much about order and organization as any attempt to define right and wrong. Right or wrong in a legal sense means either that there is or isn't a law against it. Arguments in favor of civil disobedience would be, presumably, void on face if law was the equivalent of moral correctness. In any case, it is not going to far to suggest that, either through our religions or through our adherence to social correctness, and directly as a result of our upbringing,

we follow moral laws that have been handed down to us from authorities that we generally accept as merited. That is, if God tells you to do something, or not do something, you've got to be pretty off the beam to do something else altogether.

For ethicists trying to understand the nature of morality, we need something other than a nod to authority. This has nothing to do with our own personal religious beliefs, but is simply a recognition at the very least that there may be conflicting religious beliefs, none of which, by the very faith-inherent nature of religion, are arguable. We want to take religion out of the equation when we argue in favor of an action as being the right thing to do. Which means that we need to come up with some objective method of determining right and wrong without a claim to any authority. This is no easy business. On top of this, there is evidence available that humans, across cultural boundaries, have an innate, instinctive sense of fairness, literally an instinct for determining what is right and what is wrong. (See, for example, *Moral Minds* by Marc Hauser.) In other words, morality may be a physiological, and not a philosophical question, or at least as much one as the other. While this is fascinating material that does at the very least support the notion that there is such a thing as morality, or at least such a thing as a humanly shared sense of right and wrong, it doesn't help us in a debate round any more than saying that an action is God's command. To have a two-sided argument, we need a rational, understandable mechanism that we can agree is a good way of measuring right and wrong.

It turns out that there are two generally accepted methods of establishing the rightness or the wrongness of an action. They are quite different, and neither is definitive. You can, without too much difficulty, find flaws in either one of them. Still, they are what we have, and they are at the very least a starting point for evaluating whether an action is a good thing or a bad thing. If you are recommending that we take a certain action, you should be able to support taking that action on the basis of reason. And that's what our two ways of looking at morality are, an attempt to establish right and wrong not on the authority of God, not on a sense of our instincts or on a general vote ("most people think this is right so it must be right") but on our rationality, i.e., the thing that makes us human, our ability to reason. Rationality—thinking—is the chief tool of argumentation in debate. It makes sense that rationality is the means by which we measure right and wrong, therefore, in the debate context.

The first way to establish whether an action is right or wrong is to look at the results of that action. This is pretty straightforward. If you do something (or don't do something; there's nothing about this concept that bars us from looking at the converse), you see what happens after you do it. If the things that happen afterwards are good things, then we could say that the action is good, and if they are bad things, that the action is bad. If the action is feeding the hungry, then the result (healthier, happier people) would appear to be pretty good. If the action is kicking old ladies down the stairs, then the result (harming people, the inflicting of pain) would appear to be pretty bad. Usually the results aren't as cut and dried good or bad as these, and of course, our job as ethicists is to predict the results of an action in advance, but the idea is the same. If the outcome of an action is good, it would seem to stand to reason that the action itself is good, and vice versa. This is called consequentialism.

The second way to establish whether an action is right or wrong is to look at the action itself. That is, we determine that a certain action, regardless of the results, is either a good action or a bad action in and of itself. This is called deontology. Immanuel Kant formulated the best approach to this idea, to wit, that you must act only according to that maxim by which you can also will that it would become a universal law. That is, whatever the action is that you are going to take, you would want that to be the moral law for everyone, the accepted way of doing it. Murder, for instance, would not be something that you would want to be the accepted mode of moral action for everyone, so you would act by the maxim that you would not want killing to be accepted as right, or, in other words, that killing is wrong. Feeding the hungry, on the other hand, might be something that you would want everyone to think is the right thing to do. This obviously raises the question of why we would think anything ought to be or not be moral law; suffice it to say that Kant has a whole song and dance about that (revolving around inherent human virtue and duty) which need not concern us here. Let's accept all of that as intuitive. The point is, deontology looks at an action in and of itself. If it's wrong, it's wrong, and if it's right, it's right.

So we have two ways of looking at an action, either according to the action's results or according to the action itself. As I said, you can easily see flaws in a categorical acceptance of one of these over the other, and you can even use one to disprove the other. For example, lying is always wrong deontologically, but lying to protect Anne Frank in the attic when the Nazis come to the door and ask if she's living upstairs seems to be the right thing to do. On the other hand, if killing is always wrong, but killing one person would save the lives of a hundred people, wouldn't that justify killing the one person, thus making killing morally right? (The second example seems a little less persuasive than the first one, I must admit.) A good example of a discussion where results—consequentiality—goes smack dab against inherent immorality—deontology—is torture. Torture seems to be immoral almost without any need to explain why. But if a prisoner has information about a bomb that is about to go off, and there's no other way to get that information, and thousands will die... Is torture, which is always wrong by a variety of measures, right when the outcome is saving innocent lives? There's no easy answer to that. If there were, we wouldn't have to debate.

There are endless philosophers who have studied and written up consequential and deontological approaches to morality. All we've done here is scratch the surface, pointing out the main areas of analysis. But at least that will give you a starting point for further research.

## SOME USEFUL CONCEPTS

### **What's the most important thing to know about faking your way through a debate on philosophers/philosophy?**

Rule number one in debate is never to discuss something you don't know about, because more often than not your opponent—not to mention your judge—*will* know about it, and you'll end up looking like an idiot. If you rely on half-understood concepts from these pages or brainstorming meetings, chances are your opponent will know more than you about the subject and eat you alive.

Read the original texts yourself. Read articles about the philosophers in reference books. Search the web for other resources. Learn something. You can't fake it against someone who's done the work, so don't even try. Knowledgeable judges look with great disfavor on students who spout philosophy ignorantly. It is reasonable to assume that your judge, if it's a coach or a student (especially a college student), has read the philosophers, and has strong opinions on them. By citing any philosopher on any subject, you must face the prejudices of your judge. If you know what you're talking about, you'll be on solid ground. If you don't, good-bye Charlie.

### **What is the Marketplace of Ideas?**

The M of I is a very useful concept in debate, and a very simple one. The phrase itself was originally coined by Supreme Court Justice Oliver Wendell Holmes.

A free marketplace of ideas is a situation where ideas of any sort are exchanged without prejudice. As a result, good ideas should presumably rise to the top in this exchange, the same way any good product rises to the top in a free market environment.

John Stuart Mill's discussion of free speech is a good starting point for understanding the M of I in philosophical terms. According to Mill, we search endlessly for the greatest truth. An idea, any idea, is of value because of three possibilities: first, it might be true, in which case its value as truth is self-evident; second, it can be partially true, in which case it will improve our position by adding to the truth we already have whatever is contained in this particular piece; or third, it will be totally false, in which case it will by comparison enhance the truths we already know by making their truth that much more apparent. Hegel's *dialectic* is a comparable concept, where in a progression toward truth ideas are improved through the process of thesis/antithesis/synthesis. (See below.)

### **What is the Dialectic?**

Hegel's dialectic in simple terms: You have an idea, which is called the thesis. Contrary or opposite ideas are the antithesis. When the two meet—specifically when the two clash—they produce a better idea known as the synthesis. Hegel's dialectic is to some extent (although not literally) a highfalutin philosophical term for synergistic compromise, where two opponents pool their resources (in this case mental resources)

and come up with something better than either had to begin with, their “goal” being progress; Hegel was very into the idea of progress, and the dialectic is a constant progression toward an end, that end being the Truth with a capital T. The clash concept is what keeps the dialectic from literally being a compromise.

Students throw Hegel around willy nilly; don't be put off by that. They don't usually know what they're talking about and have seldom if ever read the man. If you want to win the debate, read him yourself and then challenge them. They'll dry up and blow away almost immediately. Of course, this is always true of all debate materials.

Let's go back to the encyclopedia:

*Concerning the rational structure of the Absolute, Hegel, following the ancient Greek philosopher Parmenides, argued that “what is rational is real and what is real is rational.” This must be understood in terms of Hegel's further claim that the Absolute must ultimately be regarded as pure Thought, or Spirit, or Mind, in the process of self-development. The logic that governs this developmental process is dialectic. The dialectical method involves the notion that movement, or process, or progress, is the result of the conflict of opposites.*

The idea of progress is also important in relationship to the marketplace of ideas. The goal of the M of I is not to sit around bloviating our opinions. It is to get our opinions “bought” by society in that marketplace so that society can progress (or else we'll get better opinions). Hegel's dialectic is the process of progress through the conflict of opposites.

*Traditionally, this dimension of Hegel's thought has been analyzed in terms of the categories of thesis, antithesis, and synthesis. Although Hegel tended to avoid these terms, they are helpful in understanding his concept of the dialectic. The thesis, then, might be an idea or a historical movement. Such an idea or movement contains within itself incompleteness that gives rise to opposition, or an antithesis, a conflicting idea or movement. As a result of the conflict a third point of view arises, a synthesis, which overcomes the conflict by reconciling at a higher level the truth contained in both the thesis and antithesis. This synthesis becomes a new thesis that generates another antithesis, giving rise to a new synthesis, and in such a fashion the process of intellectual or historical development is continually generated. Hegel thought that Absolute Spirit itself (which is to say, the sum total of reality) develops in this dialectical fashion toward an ultimate end or goal.*

As stated above, this is not all that different from the idea of Mill's partial truth illuminating a previous truth. One might suggest that either there is no ultimate truth, so the process is on-going and eternal, or that the ultimate truth is in the final analysis not achievable by man (at least while he's alive).

## What is a Slippery Slope Argument?

A slippery slope argument can be either very persuasive or totally disingenuous. A slippery slope argument states that if we are to accept a certain premise, that acceptance marks the first step on an inevitable path of problems that will become worse as one progresses; i.e., slides down the slippery slope. For example, physician-assisted suicide is the first step on a slippery slope that would lead to legalized euthanasia, and ultimately the murder at will of any defective society members.

The problem with slippery slopes is that they are neither provable nor refutable. As a rule, they take a premise and push it out of its context. So if I'm arguing for physician-assisted suicide, if you say that this is the first step on a slippery slope to X, I must then turn that around against you. My rebuttal becomes that you must identify the underlying causes that make this a slippery slope, as compared to your just making an unwarranted assumption that the slope is inevitable. You've got to prove the slopiness. 'Tain't easy.

Of course, that slopiness might in fact be there, and your opponent could indeed prove it. One could say, for instance, that allowing nudity in the movies in the late sixties was the beginning of a slippery slope that led to virtually “anything goes” in the movies, including the ready availability of porno online. The slippery slope argument would not be on solid ground to me as a judge if you based it on the fact that we did in fact progress from the nudity to the pornography. That is a logical fallacy: i.e., that because one thing happened after another thing, the first thing caused the second thing (known officially as *post hoc, propter hoc*). But if you based your argument on the predilection of Hollywood producers to stretch the limits of public acceptance for their own commercial gain, and could make a good case for the venality of these producers—i.e., if you identified the slippery slope's underlying causes—then I might listen to you.

On that presumption, there is one generic response to slippery slopes. If any particular step would lead us to the slippery slope, why aren't we already there? That is, usually the issue at hand has aspects already perceivable as a step on the slope, but it hasn't proven slippery. Back to physician-assisted suicide. If this would lead us to euthanasia because of slippery slopes, why hasn't passive allowance of death (a doctor's refusal to take extraordinary if ultimately futile measures to prolong life), which is accepted practice today, led already to the acceptance of physician-assisted suicide? That is, if your opponent claims that your argument would lead to a slippery slope, you might be able to turn around and state that if a slippery slope were relevant, we'd already be doing what you happen to be advocating. Since we're not, the slippery slope is therefore proven not to exist.

Debates are generally more satisfying if you can steer clear of really extreme examples... and that is what slippery slope arguments boil down to. Just watch out.



### **Let's Discuss—Again—Utilitarianism.**

Utilitarianism, mentioned throughout these pages, is a big subject, still very lively in philosophical circles, that certain practitioners of L-D have decided to dismiss on the basis on gross oversimplification. I would not recommend that you base your arguments on utility, unless you are fully versed in the subject, and are able to overcome the prejudices against it.

In essence, utilitarianism evaluates morality in terms of pleasure versus pain, preferring acts that yield the former to those that yield the latter. The justice or morality of an act can be judged on the scale of its yielding the greatest good for the greatest number: any action is moral or just if it yields more good (pleasure) to more people than it yields pain to other people. Early utilitarian Jeremy Bentham created a “calculus” for performing the math that would actually evaluate the measure of pleasure/pain—which to us, of course, is patent foolishness (AKA “nonsense upon stilts” at the time).

To a degree, the measurement of morality in terms of the greatest good for the greatest number makes sense in many situations, but unfortunately, not all, including one in particular that undermines the entire concept when it's taken as universal (advice: never take any philosophy as universal). If I perform a certain act, two guys will be freed from slavery but one other guy will become a slave. On the utilitarian scale, then, this act is moral or just, because more will benefit than will suffer. But if I judge morality by the nature of an act itself, that is, if I say that it is unjustified to enslave anyone, period, then the action of making someone a slave can never be justified. (Even though you still have to measure this against the act of keeping two people enslaved, but this is subsumed by the action required for one and the inaction required by the other.) By the same token, murder is wrong. If I could kill one person to save the lives of a thousand others, I would still not be justified in that one murder, because murder is intrinsically wrong.

Isn't it?

Anyhow, utilitarianism is always reduced in rounds to the greatest good for the greatest number, period. There's more to it than that, and Mills' *Utilitarianism* is especially recommended if you wish to learn the reality of it.

### **The Tragedy of the Commons**

From Garrett Hardin (professor emeritus of human ecology at the University of California at Santa Barbara), this is a great way to understand the complications of group interaction.

*The rebuttal to the invisible hand in population control is to be found in a scenario first sketched in a little-known Pamphlet in 1833 by a mathematical amateur named William Forster Lloyd (1794-1852). We may well call it “the tragedy of the commons,” using the word “tragedy” as the philosopher Whitehead used it: “The essence of dramatic tragedy is not unhappiness. It*

*resides in the solemnity of the remorseless working of things.” He then goes on to say, “This inevitableness of destiny can only be illustrated in terms of human life by incidents which in fact involve unhappiness. For it is only by them that the futility of escape can be made evident in the drama.”*

*The tragedy of the commons develops in this way. Picture a pasture open to all. It is to be expected that each herdsman will try to keep as many cattle as possible on the commons. Such an arrangement may work reasonably satisfactorily for centuries because tribal wars, poaching, and disease keep the numbers of both man and beast well below the carrying capacity of the land. Finally, however, comes the day of reckoning, that is, the day when the long-desired goal of social stability becomes a reality. At this point, the inherent logic of the commons remorselessly generates tragedy.*

*As a rational being, each herdsman seeks to maximize his gain. Explicitly or implicitly, more or less consciously, he asks, “What is the utility to me of adding one more animal to my herd?” This utility has one negative and one positive component.*

*1. The positive component is a function of the increment of one animal. Since the herdsman receives all the proceeds from the sale of the additional animal, the positive utility is nearly + 1.*

*2. The negative component is a function of the additional overgrazing created by one more animal. Since, however, the effects of overgrazing are shared by all the herdsman, the negative utility for any particular decision-making herdsman is only a fraction of - 1.*

*Adding together the component partial utilities, the rational herdsman concludes that the only sensible course for him to pursue is to add another animal to his herd. And another.... But this is the conclusion reached by each and every rational herdsman sharing a commons. Therein is the tragedy. Each man is locked into a system that compels him to increase his herd without limit—in a world that is limited. Ruin is the destination toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in a commons brings ruin to all.*

That seems pretty clear without further elucidation. One easy application of the concept is environmentalist resolutions.

### **Reciprocity**

I picked this up from *Bowling Alone* by Robert D. Putnam. Interesting reading all along, but when he talks about social capital (the thing that we have, in varying and variable amounts, that makes us valuable in society), he also talks about general reciprocity, to

wit, doing something not because there will be a direct result, but because of the potential indirect result. He gives two good explicatory quotes:

*Your corn is ripe today; mine will be tomorrow. Tis profitable for us both that I should labor with you today, and that you should aid me tomorrow. I have no kindness for you, and know you have as little for me. I will not, therefore, take any pains upon your account; and should I labor with you upon my own account, in expectation of a return, I know I should be disappointed, and that I should in vain depend upon your gratitude. Here then I leave you to labor alone; you treat me in the same manor. The seasons change; and both of us lose our harvests for want of mutual confidence and security. --David Hume*

*Each individual act in a system of reciprocity is usually characterized by a combination of what one might call short-term altruism and long-term self-interest: I help you out now in the (possibly vague, uncertain and uncalculating) expectation that you will help me out in the future. Reciprocity is made up of a series of acts each of which is short-run altruistic (benefiting others at a cost to the altruist), but which together typically make every participant better off.—  
Michael Taylor*

## PHILOSOPHERS

### Thomas Hobbes

The following quotes all come from *Leviathan*.

\* In nature, the first thing a man has is liberty or “the right of nature... the liberty each man hath, to use his own power, as he will himself, for the preservation of his own nature... of doing any thing, which in his own judgment, and reason, he shall conceive to be the aptest means thereunto.” In other words, you're free to do whatever you please, provided that you are physically able to do it—the combination of the will to do something and the power to actually do it. This is Hobbes' first law of nature.

\* “Naturally every man has a right to every thing.” Not only are you free to do what you want, but you have the right to do it. You have total freedom—assuming of course that there's no one around to argue that your freedom is impinging on their freedom.

\* But what about the fact that there *are* other people? That leads to the second law of nature, “that a man be willing, when others are so too, as far-forth, as for peace, and for defense of himself he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himself.” In other words, I'll agree to give up a little of my freedom if you'll agree to give up a little of yours, so that we'll get a little peace between ourselves.

\* But wait a second. First the guy says you have a natural right to liberty, and then he says that you can bargain it away for self-preservation. I thought liberty was an unalienable right! “Whensoever a man transferreth his right, or renounceth it; it is either in consideration of some right reciprocally transferred to himself; or for some other good he hopeth for thereby. For it is a voluntary act: and of the voluntary acts of every man, the object is some good to himself. And therefore there be some rights, which no man can be understood by any words, or other signs, to have abandoned, or transferred.” In other words (you have to say “in other words” a lot with Hobbes), I'm not really giving up my right, what I'm doing is trading it in for my own benefit, but sort of keeping a balance of rights going for the long run. I'm not so sure Hobbes is on the right track here; other philosophers explain a little better the benefit of giving up rights. Old Hobbesie seems to want it both ways, if you ask me.

\* In keeping with the above, we come together as a society (or commonwealth, as Hobbes thinks of it—and there is a difference) thusly: “I authorize and give up my right of governing myself, to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorize all his actions in like manner.” In other words, I'll give up my absolute liberty to govern myself to some third party, if you will too; we'll both delegate that right to the same man, or assembly of men, i.e. government.

\* Hobbes says that our agreement creates a sovereign, an artificial man—Leviathan, “of greater stature and strength than the natural, for whose protection and defence it was

intended.” Hobbes, because he starts from a position of constant warfare, continues the analogy by saying we come together for common defense from each other.

According to Hobbes, we give up power to the sovereign, the Leviathan, and as a result the state becomes the ultimate power-holder. He makes a number of statements about the sovereign which one might find patently unacceptable, including an implication that all acts of the sovereign are by definition just since they are reflections of our own individual innate justice writ large due to our explicit pact—”nothing the sovereign representative can do to a subject, on what pretense soever, can properly be called injustice... because every subject is author of every act the sovereign doth.” Tell that to the Jews in Nazi Germany. But one must remember that Hobbes is the product of his times, which were pretty screwed up, and that he attempted to justify the reigns of both Cromwell and Charles II—no easy feat.

Anyhow, the best value of Hobbes, aside from providing us with the idea of the state of nature as constant warfare and some early musings that eventually become the social contract, is the absolute logical precision of his presentation. He begins with a premise and develops it inevitably, with impeccable logic, seldom going off the track into ungrounded material. So if you agree with his premises, you are logically bound to agree with his conclusions—which is the nature of debate, now, isn't it?

### **Hobbes Background from the Encyclopedia:**

*Hobbes, Thomas (1588-1679), English philosopher and political theorist, whose mechanistic and naturalistic theories led to suspicion and controversy in political and ecclesiastical circles.*

*Born in Malmesbury, April 5, 1588, Hobbes was educated at Magdalen Hall, University of Oxford. In 1608 he became the tutor of William Cavendish (before 1557-1626), later earl of Devonshire; in the following years he made several tours through France and Italy with his pupil and, later, with the son of the latter. During his travels Hobbes met and talked with several advanced thinkers of the time, including Galileo and the French philosophers Ren Descartes and Pierre Gassendi. In 1637, while in England, Hobbes became interested in the constitutional struggle between King Charles I and Parliament. He set to work on a little treatise in English in defense of the royal prerogative. This work was privately circulated in 1640 under the title *The Elements of Law, Natural and Politic* (pub. 1650). Hobbes feared that Parliament might have him arrested because of his book, and he fled to Paris, where he remained in voluntary exile for 11 years.*

*In 1642 Hobbes finished *De Cive*, a statement of his theory of government. From 1646 to 1648 he was mathematics tutor to the prince of Wales, later King Charles II, who was living in exile in Paris. Hobbes's best-known work, *Leviathan; or, The Matter, Form, and Power of a Commonwealth Ecclesiastical and Civil* (1651), is a forceful exposition of his doctrine of sovereignty. The work was interpreted by*

*the followers of the exiled prince as a justification of the Commonwealth and aroused the suspicions of the French authorities by its attack on the papacy. Again fearful of arrest, Hobbes returned to England.*

*In 1660, when the Commonwealth ended and his former pupil acceded to the throne, Hobbes again came into favor. In 1666, however, the House of Commons passed a bill including the Leviathan among books to be investigated on charges of atheistic tendencies. The measure caused Hobbes to burn many of his papers and to delay publication of three of his works. He died December 4, 1679.*

Name the British rulers from Henry VIII to James II. Then figure out why understanding the times a writer exists in is essential to understanding the writer.

## John Locke

### Empiricism

Locke's empiricism emphasizes the importance of the experience of the senses in pursuit of knowledge rather than intuitive speculation or deduction, i.e., pure reason. The empiricist doctrine was first expounded by the English philosopher and statesman Francis Bacon early in the 17th century, but Locke gave it systematic expression in his *Essay Concerning Human Understanding* (1690). He regarded the mind of a person at birth as a *tabula rasa*, a blank slate upon which experience imprinted knowledge, and did not believe in intuition or theories of innate conceptions. Locke also held that all persons are born good, independent, and equal.

### Political Theories

Locke, in his *Two Treatises of Government* (1690), attacked the theory of divine right of kings and the nature of the state as conceived by the English philosopher and political theorist Thomas Hobbes. Note: Here's the absolute biggest difference between Hobbes and Locke. In brief, Locke argued that sovereignty did not reside in the state but with the people, and that the state is supreme, but only if it is bound by civil and what he called "natural" law. Hobbes gave all power (except, apparently, the power of life and death) to the state. Many of Locke's political ideas, such as those relating to natural rights, property rights, the duty of the government to protect these rights, and the rule of the majority, were later embodied in the U.S. Constitution.

Locke further held that revolution was not only a right but often an obligation. He advocated a system of checks and balances in government, which was to comprise three branches, of which the legislative is more powerful than the executive or the judicial. He also believed in religious freedom and in the separation of church and state.

Locke's influence in modern philosophy has been profound and, with his application of empirical analysis to ethics, politics, and religion, he remains one of the most important and controversial philosophers of all time.

### How does Locke describe the state of nature?

Locke's state of nature is a lot nicer than Hobbes's, but then again, whose wouldn't be? Locke claims that for all men it is "a state of perfect freedom to order their actions, and dispose of the possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending on the will of any other man." He's saying that you can do anything you want, within the bounds of the law of nature. What's the law of nature? "The state of nature has a law of nature to govern it, which obliges every one, and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty or possessions." A mouthful, but fairly straightforward if you read it carefully. What Locke is saying is that we are all, by nature, reasonable beings, and the law of nature is our rationality. And

further, as rational people, it makes sense to do unto others as you want them to do unto you—the Golden Rule. (A lot of philosophers are proponents of the Golden Rule, but usually they give it a fancy name to disguise the obvious. But the G.R. does make sense, and Locke does base much of his thinking on it. If all judgments we make are based on how we would like to be judged ourselves, and we're all rational to boot, we're on our way to designing a pretty decent way of life.)

In his state of nature, Locke allows one to contract for “truck,” i.e., to bargain for goods without having to first agree to a social contract. That is, you can get on with other people without a social contract, at least to some degree. Mostly his state of nature comprises family groups. In fact, Locke goes to great lengths theorizing that the sources of the social contract were family ties, with a patriarchal chieftain, which eventually led to non-familial societies, and that if we had the written records of this ancient past, we could be able to track this down. This attempt to rationalize the social contract as a historical reality may be the biggest stretch of logic in Locke, but you can make your own judgments on that.

Locke also does throw out the state of nature = state of war equation, which he claims some men have “confounded” (he's very gentle about saying that Hobbes was full of it—he was “confounded.” I wouldn't recommend accusing your opponents of a like confounding—”My opponent seems 'confounded' in his understanding of my value.”). In Locke's state of nature, peopled by rational beings, if men are living together according to reason, they will not be in a state of constant warfare; however, they will lack arbitrary judges of disputes. This is a key idea for Locke, who claims that a political society only exists when people give up their natural power to preserve their property into the hands of the community; it is the community that will punish offenses and handle disputes. “Those who are united into one body, and have a common established law and judicature to appeal to, with authority to decide controversies between them and punish offenders, are in civil society one with another; but those who have no such common appeal, I mean on earth, are still in the state of nature.” Note the “on earth”—Locke's inarguable common authority over all mankind is God.

So what else did Locke do for a living?

John Locke is the author of *An Essay Concerning the True Original, Extent and End of Civil Government*, familiarly known as the second treatise (for original read “origins”). This book is the bible of social contract theory (Hobbes is merely a precursor); freshmen will immediately begin reading this book tomorrow. Buy it, don't borrow it, as you'll need to underline it every time you reread and consult it in the future. It is short, but neither nasty nor brutish as these things go (although for my money the easiest philosophical read of all remains Mill's *On Liberty*, which we'll get to shortly).

And the encyclopedia?

*Locke, John (1632-1704), English philosopher, who founded the school of empiricism.*



*Locke was born in the village of Wrington, Somerset, on August 29, 1632. He was educated at the University of Oxford and lectured on Greek, rhetoric, and moral philosophy at Oxford from 1661 to 1664. In 1667 Locke began his association with the English statesman Anthony Ashley Cooper, 1st earl of Shaftesbury, to whom Locke was friend, adviser, and physician. Shaftesbury secured for Locke a series of minor government appointments. In 1669, in one of his official capacities, Locke wrote a constitution for the proprietors of the Carolina Colony in North America, but it was never put into effect. In 1675, after the liberal Shaftesbury had fallen from favor, Locke went to France. In 1679 he returned to England, but in view of his opposition to the Roman Catholicism favored by the English monarchy at that time, he soon found it expedient to return to the Continent. From 1683 to 1688 he lived in Holland, and following the so-called Glorious Revolution of 1688 and the restoration of Protestantism to favor, Locke returned once more to England. The new king, William III, appointed Locke to the Board of Trade in 1696, a position from which he resigned because of ill health in 1700. He died in Oates on October 28, 1704.*

## **John Stuart Mill**

The LD Mill book of choice is *On Liberty*. *On Liberty* is about the “limits of the power which can be legitimately exercised by society over the individual.” We've talked a lot about that vis-à-vis the social contract. This is the first required text for LDers, even more important than Locke. It is chock-filled with wisdom and logic and understanding of what the rights of individuals ought to be in the world, and it's very hard to disagree with it on much of anything. But, since as LDers you have to argue both sides of the resolution, you'd better get started.

### **What is the Will of the Majority?**

The government, insofar as it expresses the will of the people, must be understood as expressing the will “of the most numerous or the most active part of the people—the majority...[and] the people, consequently may desire to oppress a part of their number, and precautions are as much needed against this as against any other abuse of power.” What Mill is talking about here is the will of the majority: just because the majority want to do something doesn't make it right; in fact, much of the design of the US Constitution is intended to prevent such majoritarian abuse (checks and balances, bicameral legislature). Fear of the tyranny of the will of the majority is one of the caveats with which Mill begins his essay. Mill does believe in utility, but he also believes that some acts are *prima facie* illegal or punishable.

### **Where does Government Power Start and End?**

“The object of this essay is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual ... that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do so or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise or even right... Over his own body and mind, the individual is sovereign.”

Wow, this stuff is quotable! “The only freedom which deserves the name is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs or impede their efforts to obtain it.”

### **What about Freedom of Speech?**

“If all mankind minus one were of one opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind.”

“Judgment is given to men that they may use it. Because it may be used erroneously, are men to be told that they ought not to use it at all?”

Mill's rationale for freedom of speech is classic: “The beliefs which we have most warrant for have no safeguard to rest on but a standing invitation to the whole world to prove them unfounded... we may hope that, if there be a better truth, it will be found when the human mind is capable of receiving it.” Mill explains why with four points.

1. Not allowing—silencing—others' opinions “is to assume our own infallibility.”
2. Even though the silenced opinion “be an error, it may, and very commonly does, contain a portion of truth... it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied.” So the “wrong” opinion with a small truth could in fact clash with the “right” with its larger truth, and the two together will become a still greater truth. (This is similar to Hegel’s dialectic—thesis, antithesis, synthesis—discussed earlier.)
3. Further, by challenging our beliefs, we have the possibility of further strengthening the “truth” we believe if the challenge is proved untrue: The truth: “unless it is vigorously and earnestly contested, it will, by most of those who receive it, be held in the manner of a prejudice.” Received wisdom, in other words—the things people believe without thinking about them—is not as wise as the things people believe that are constantly tested in the fire of discussion and reappraisal. In the business world, this translates as, “we've always done it this way”—and them's fightin' words, ma'am.
4. Finally, the truth will “be in danger of being lost or enfeebled... the dogma becoming a mere formal profession...preventing the growth of any real and heartfelt conviction from reason of personal experience.”
5. I would add a fifth analysis: viz., that our “truth” may not be the truth at all. How else to learn the truth but by constantly seeking it?

### *A Mill Grab Bag*

You can find a lot of material in Mill for many things, including arguments on protecting individuals from themselves. Ultimately Mill says that what's my—the individual's—business is my business, and what's your business is your business. Occasionally the two are one and the same, although usually they're not. When they are, that's when government/legislature/society comes in. When they're not, myob.

\* “The liberty of the individual must be thus far limited; he must not make himself a nuisance to other people.”

\* “In things which do not primarily concern others individuality should assert itself.”

- \* “He who does anything because it is the custom makes no choice.”
- \* “Whatever crushes individuality is despotism, by whatever name it may be called.”
- \* “Originality is the one thing which unoriginal minds cannot feel the use of.”
- \* “If a person possesses any tolerable amount of common sense and experience, his own mode of laying out his existence is the best, not because it is the best in itself, but because it is his own mode.”
- \* “Everyone who receives the protection of society owes a return for the benefit.”
- \* “No person is an entirely isolated being; it is impossible for a person to do anything seriously or permanently hurtful to himself without mischief reaching at least to his near connections, and often far beyond them.”

## Immanuel Kant

Kant in one bite-sized piece. Don't blame me if your opponent has actually read the guy. To begin with, some encyclopedia stuff.

*Kant, Immanuel (1724-1804), German philosopher, considered by many the most influential thinker of modern times.*

### Life

*Born in Königsberg (now Kaliningrad, Russia), April 22, 1724, Kant received his education at the Collegium Fredericianum and the University of Königsberg. At the college he studied chiefly the classics, and at the university he studied physics and mathematics. After his father died, he was compelled to halt his university career and earn his living as a private tutor. In 1755, aided by a friend, he resumed his studies and obtained his doctorate. Thereafter, for 15 years he taught at the university, lecturing first on science and mathematics, but gradually enlarging his field of concentration to cover almost all branches of philosophy.*

*Although Kant's lectures and works written during this period established his reputation as an original philosopher, he did not receive a chair at the university until 1770, when he was made professor of logic and metaphysics. For the next 27 years he continued to teach and attracted large numbers of students to Königsberg. He died February 12, 1804.*

### Kant's Philosophy

*The keystone of Kant's philosophy, sometimes called critical philosophy, is contained in his Critique of Pure Reason (1781), in which he examined the bases of human knowledge and created an individual epistemology. Like earlier philosophers, Kant differentiated modes of thinking into analytic and synthetic propositions. An analytic proposition is one in which the predicate is contained in the subject, as in the statement "Black houses are houses." The truth of this type of proposition is evident, because to state the reverse would be to make the proposition self-contradictory. Such propositions are called analytic because truth is discovered by the analysis of the concept itself. Synthetic propositions, on the other hand, are those that cannot be arrived at by pure analysis, as in the statement "The house is black." All the common propositions that result from experience of the world are synthetic.*

*Propositions, according to Kant, can also be divided into two other types: empirical and a priori. Empirical propositions depend entirely on sense perception, but a priori propositions have a fundamental validity and are not based on such perception. The difference between these two types of proposition may be illustrated by the empirical "The house is black" and the a priori "Two plus two makes four." Kant's thesis in the Critique is that it is possible to make*

*synthetic a priori judgments. This philosophical position is usually known as transcendentalism. In describing how this type of judgment is possible Kant regarded the objects of the material world as fundamentally unknowable; from the point of view of reason, they serve merely as the raw material from which sensations are formed. Objects of themselves have no existence, and space and time exist only as part of the mind, as “intuitions” by which perceptions are measured and judged.*

(Here comes the L-D stuff:)

*In the Metaphysics of Ethics (1797) Kant described his ethical system, which is based on a belief that the reason is the final authority for morality. Actions of any sort, he believed, must be undertaken from a sense of duty dictated by reason, and no action performed for expediency or solely in obedience to law or custom can be regarded as moral. Kant described two types of commands given by reason: the hypothetical imperative, which dictates a given course of action to reach a specific end; and the categorical imperative, which dictates a course of action that must be followed because of its rightness and necessity. The categorical imperative is the basis of morality and was stated by Kant in these words: “Act as if the maxim of your action were to become through your will a general natural law.”*

Got it? The categorical imperative—an action is judged by the action itself, not by its ends. As we said before in our discussion on morality, this is also called deontology. “Do unto others as you would have them do unto you?” Well, almost. Maybe it's more, do unto others as you would want others to do unto others.

Of course, you could go out and read the guy. Send me a post card when you get there.

[2005 update]

*This article is an excellent summary of the Great Critiquer:*

“I need not think, if only I can pay – others will easily undertake the irksome work for me.”

Heinrich Heine once said sarcastically that “the history of Immanuel Kant’s life is hard to describe, because he had neither a life nor history.” In many ways, Immanuel Kant seems to have been exactly what you’d expect a German professor to be like, a parody of himself, so to speak: pedantic, punctual, rigid. All of these are true of him, but clichés are just clichés and not real people. There is a bit more to the ‘Chinaman of Königsberg’, as Nietzsche cynically called him. Who was this man who could be driven to despair by a chair in his flat being out of place?

If you had rung his doorbell in Koenigsberg it would almost certainly have been his old servant Lampe who would have answered the door for you. If you had then made it into the inner sanctuary of the house, you might have been disappointed to find that the great thinker, of whom Coleridge said that his words had gripped him with “a giant’s fist”, was in fact a small and very slight person, puny even, and of fragile health. However, his lively blue eyes might have betrayed something of his great wit and sense of fun, which made him very popular, especially with women. Apart from being a famous philosopher he seems to have been a bit of a party animal, and was an all-the-rage regular at social events in Koenigsberg. He loved playing pool and talking with friends.

One of these friends reports that the old philosopher was an early riser: he had instructed Lampe to wake him at five. This is an early start by anybody’s standards, and so Kant would often be reluctant to get up, but had to since he had given Lampe strict orders not to let him oversleep by even a minute, no matter how much he’d beg him. Kant would then spend some time writing until his early morning lectures. One must not imagine Kant as a leisurely scholar with lots of time on his hands for navel-gazing and beautiful thoughts. He was a full-time lecturer, with a schedule of twenty hours of class contact a week. However, Kant was very happy with his post which it had taken him so long to acquire. His career path is not unfamiliar to academics seeking tenure today: After years as a private tutor to rich kids and then as an hourly paid lecturer, Kant, fourth of the nine children of the saddler Cant, was finally given a chair of philosophy at the age of forty-seven. He could not afford the luxury of specialising in only one field, such as philosophy, but was required to lecture on natural law, mechanics, mineralogy, physics, mathematics and geography. The image that many people have of him as a sour-faced, boring little man stands in stark contrast to the reports of his contemporaries who proclaim him to have been an inspiring and witty speaker, with a natural sense of humour.

After the morning lectures, Kant had an elaborate luncheon for which he was joined by many friends. This was his only meal of the day. After a long conversation Kant went for his afternoon walk along the river followed by his servant carrying an umbrella in case it

might rain. Then Kant spent some more time studying before retiring at exactly ten o'clock. Even going to bed involved a special ritual: Kant had a special technique for rolling himself up completely in the sheets so that they fitted tightly around him. In this cocoon he would sleep.

Kant could get very upset if well-meaning acquaintances disturbed his routines. Accepting on one occasion an invitation to an outing into the country, Kant got very nervous when he realised that he would be home later than his usual bedtime, and when he was finally delivered to his doorstep just a few minutes after ten, he was shaken with worry and disgruntlement, making it at once one of his principles never to go on such a tour again. This is just one example of many rules by which Kant led his life. If he was convinced to the value of a particular maxim he would adhere to it without exception. Examples of this concern ethics as well as the practicalities of everyday living, and extend even to considerations about health. Kant had very strong views on health, and he would adjust his lifestyle accordingly, even if it caused him displeasure. An example is Kant's love of coffee: he adored the taste and smell of it but persistently resisted drinking it (making do with extremely dilute tea instead), because he was convinced that the oil of coffee beans was unhealthy. Kant even wrote a little book about the subject of physical wellbeing, detailing for instance how one must not sleep too much because he believed that each person had a certain measure of sleep allotted to them, and if all of it was used up too soon it meant an early death.

Kant published widely, on a large number of subjects, including science, resulting for instance in the Kant-Laplace theory, or the 'nebular hypothesis' concerning the origin of the solar system. In philosophy, his interests were also manifold, and since Kant was very widely read so were the influences on his thought. Famously, he declared in the *Critique of Pure Reason* that David Hume had awoken him from his "dogmatic slumber". Another important influence was Jean-Jacques Rousseau, whose *Emile* fascinated Kant so much that he even gave up his daily walks for a few days.

So what does Kant want to do in his philosophising? Kant himself declares: "it is metaphysics which it is my fate to be in love with" because on it rests "the true and enduring welfare of humanity." Therefore we cannot be indifferent to it. There are three respects in which metaphysics is important to Kant: Is there something in human beings that transcends their contingent existence? Is the world a realm of pure causality, or is there the possibility of uncaused acts? Is there anything on which the world is ultimately based? These considerations lead Kant to ask the questions which he believes metaphysics cannot avoid: the questions of immortality, freedom and God. It is no secret that these questions are difficult to answer, and Kant acknowledges that there has been much "tapping in the dark" by philosophers who have tried to find answers. Therefore, we cannot simply begin by straightforwardly answering these questions, but there is a lot of philosophical preparation that has to be carefully worked out beforehand: Why is metaphysics so elusive, what makes it so? This is the question to which Kant dedicates the *Critique of Pure Reason*. Finally Kant discovers that there cannot be any certain answers. His approach is that of 'transcendental' philosophy, i.e. the enquiry into the conditions necessary for the possibility of something, such as knowledge or morality.



What has to be in place for us to be able to acquire knowledge, or to make moral judgements?

Kant believes critique to be the true task of his era, including criticism of religion and legislation. Kant extends this approach to his own philosophical tradition, Rationalism, which he significantly calls ‘dogmatism’, as well as Empiricism, which he calls ‘scepticism’. The *Critique of Pure Reason* reveals that both approaches have merit but need to be put in perspective: We need experience to acquire knowledge but process the information experience gives us through human faculties. No matter how hard we try, we are therefore never going to know what the world is like *per se* but only how it presents itself from a human perspective. The idea that our minds shape our world rather than vice versa was a significant reversal of what had previously been assumed – a ‘Copernican revolution’.

Kant’s 856-page *tour de force* went unnoticed for a few years before it became clear what an epochal work he had produced. Kant’s contemporaries, such as Fichte, seem to have grasped the enormity of the *Critique*’s importance. However, this does not mean that it was welcomed by all with open arms: Mendelson called Kant an “all-mincer”, and Herder believed it was a book full of innumerable fictions, which would lead to the “ruin of young minds.” Schopenhauer, not usually known as a thinker full of happy praise for anyone or anything, held it to be “the most important book ever written in Europe”. Believe it or not, the *Critique of Pure Reason*, despite its many virtues so dry a book that it is not usually seen as easily exiting any passions, made emotions flare up on a few occasions: One philosophy student at the time said to another that Kant’s book was so difficult to understand, that the other would have to study it for another thirty years before understanding any of it. He must have hit a nerve, since the other student was so enraged that he challenged the insulter to a duel – the continuation of a philosophical argument by other means...

My old philosophy professor who was once asked which book he would recommend as an introduction to philosophy, answered “Kant’s *Critique of Pure Reason*”. On the one hand this is obviously absurd: trying to read a book like this without a good deal of philosophical training is like going on an Arctic expedition in jeans, t-shirt and flip-flops. On the other hand this is quite sensible: what Kant can definitely teach us is – how to think philosophically.

As we have seen, Kant posits the human being as caught up in an insoluble tension: Wanting to know and yet by our very nature being unable to know. This is the dilemma which we see portrayed in Goethe’s *Faust*. Faust seeks knowledge with such passion that his insight that true human knowledge is impossible distresses him to the degree of contemplating suicide (and ultimately entering into a contract with the devil). It was a tension that the Idealist philosophers of the 19th century could not bear, hence for instance Hegel’s hope of overcoming in history by means of the dialectic. Kant, however, tells us that we have to live with this conflict, it is the human condition.

Another conflict that makes us human is the conflict between culture and nature, between

our rational insight into the moral law and our natural desire to act in our self-interest. As human beings we have to constantly check and correct our own behaviour. Kant faced the same problem Plato had faced. Why had the Sophists been so successful? Was it because people were too stupid to see through them? Plato might have thought so. But Kant didn't. The Sophists had been successful because they met with the expectations that people had, with the wishes they wanted fulfilled. Kant admits that as an academic he was tempted to be sceptical about the abilities of "ordinary" human beings, but reading Rousseau had taught him very powerfully that morality was not the exclusive field of expertise of philosophers but that there could not be any experts in this area: Human beings act morally quite independently of philosophers philosophising about it. What moral philosophy can do is help us achieve clarity about what motivates us in our moral behaviour and can give us reasons and confidence. This is what the critical method is designed to do in the field of ethics. Reason, common to all human beings, must be properly controlled: Reason itself is not an unqualified good but must be employed critically to lead to moral principles.

One of his main arguments in Kant's *Religion within the Boundaries of Mere Reason* is that people can understand the moral law without the aid of organised religion. It is simply redundant as a moral aid. He goes even further: There is an inherent tension between morality and religion because there is a danger that people may act morally not because it is the right thing to do but because their religion prescribes it. This would take away the value of a good act: Kant is convinced that we can do the right thing for the wrong reasons, which would be devoid of moral merit. Achieving desirable outcomes is not enough; moral merit lies in the right intentions that are freely willed. Freedom is the necessary ground for the existence of the moral law.

In his *Critique of Practical Reason* (and no, the slimmer *Groundwork of the Metaphysics of Morals* is not going to give you the full picture on Kant's ethics), Kant elaborates on his ideas about how moral judgements can be made. A maxim, a moral belief, must stand the test of the 'categorical imperative' before it can become a moral law. Moral laws, thus believes Kant, are not contingent, they are not 'hypothetical' imperatives, but universal principles, 'categorical' imperatives. Pure reason fails in the area of knowledge but comes into its own in the area of moral judgements. We can rationally figure out what to do by identifying the principle that lies behind a proposed course of action: What do I commit myself to by doing x? Next, we need to find out whether the principle can be a categorical imperative by asking ourselves if we could will it to be a universal law, as unbreakable as a natural law. The categorical imperative is strongly bound up with a belief in the dignity of the human individual. It would be absurd to deny that all human beings are moral lawgivers, and as such merit our respect. It is therefore rational to treat them accordingly, i.e. never to simply use others for our own ends but to respect that they too have ends.

Kant once said that in philosophy we are interested in three great questions: "What can I know?", "What should I do?" and "What may I hope?" These three, however, can be subsumed under one great question: "What is a human being?" If making a contribution to this project is the aim of all philosophising, we must go further than talking only about

knowledge and ethics. Kant therefore writes a third *Critique*, the *Critique of Judgement*, concerned with the areas of aesthetics and religion. After all, the question of the human being would be very inadequately answered if we didn't for instance examine the fact that we can appreciate things from an aesthetic point of view. Kant's critical philosophy is not opposed to system-building, and the three *Critiques* constitute a system of a kind.

What has Kant ever done for us? Let's see... In the case of many thinkers of the past we'd now have to try so hard to find good reasons for reading them today, the strain might make the veins stand out on our foreheads. In the case of Kant there is so much to say, it's hard to make a choice of what to mention. Apart from his enduring groundbreaking contributions to the philosophical fields of epistemology, ethics and aesthetics, Kant demonstrates that there are definite limits to what philosophy can do, and so asks us to give up on a number of pet projects, such as attempts to prove the existence of God. Kant's short but important essay on 'Perpetual Peace' acquires more and new relevance in the light of events today and continues to inspire many contemporary thinkers. Kant's thought contributes in important respects to our globalised world: it paved the way for our contemporary understanding of human rights, the United Nations and human freedom.

The Enlightenment philosopher Immanuel Kant makes it very clear that he believes his age to be one of enlightenment, where a process of emancipation has become possible, but *not* an enlightened age. Two hundred years further on – where are we now?

## Ayn Rand

The good news is, that at the moment Rand is in the descendent; one doesn't hear her name very often these days, where debaters are more likely to deal in pomo nuts than anti-Commie nuts. Still, she's worth a mention.

Ayn Rand as a novelist is, in my humble opinion (I'm educated in literature, trained as a professional editor with decades of experience, and I've written and published fiction and nonfiction) the pits. According to her own theories, she is therefore objectively the pits. Of course, either you like her or you don't, and some people are profoundly affected by her work. Give her a try—*The Fountainhead* or *Atlas Shrugged* are the major works. There are also umpty-ump nonfiction collections, and they help to counteract any serious Kantian leanings. Also, if you really go in for masochism, take a look at the movie version of *The Fountainhead*. Ouch!

Rand's shtick is called Objectivism, which exalts laissez-faire capitalism and promotes rational selfishness, the belief that society functions best when people pursue their self-interests. Her point is not all that far from self-actualization, in that she says people are defined by what they do, and that great people are defined by what they do greatly. She assesses people's value by their work. Her point is that, if people are allowed to do what it is that they do well, all of society will benefit. Rand, a Russian émigré, saw Communism as sapping people's strength; the idea that we'd all work hard at different levels of achievement but all share equally in the results was, to her, patently unfair. If I work harder than you, I should benefit more. But by the same token, the results of my work in society will probably benefit you indirectly anyhow, so we'll all benefit. Her dirtiest word was altruism, the idea that you might perform an act for someone else out of selflessness. She preaches that others will most benefit, as will we, from our selfishness, not its opposite.

It's hard to understand what Rand is talking about at times, because the context of her philosophy is so ephemeral, plus she's an atrocious writer. Or maybe it's my own liberal bent that finds her, well, a whack job. Read her at your own risk.

### **Rand in a Little Depth (with Rand, a little depth is a dangerous thing)**

As mentioned, the philosophy (although some would argue that it is not a philosophy at all, and not worthy of that designation) of Ayn Rand is called Objectivism, which is based loosely on the premise that there is an objective way of measuring good and bad. "By philosophically objective, I mean a value estimated from the standpoint of the best possible to man, i.e., by the criterion of the most rational mind possessing the greatest knowledge, in a given category, in a given period, and in a defined context...Values are not determined by fiat, or by majority vote." So if I'm the most educated literary person in America today, I would be the best judge of good and bad writing, not because of any personal taste but because of my objective literary credentials. A conclusion that Rand would draw in this analogy, that E. L. Doctorow is categorically better than Jackie Collins, is simplistically satisfying because of the vast gap between the two; the logical

extension of that conclusion, however, would say that you could objectively evaluate narrower or perhaps even non-existent hierarchies like Doctorow versus Updike (or Jackie Collins versus James Patterson) and come up with which one is “better.” I don't buy it. Certainly an objectivist argument could claim that Beethoven's Fifth is better than Sergeant Pepper, but the question of just whose objective standards we're judging by starts coming into play. The bottom line is the issue of, is there is an objective best, and how broad or narrow the categorization must be to determine that objective best. My reading of Rand so far offers me no solid overall answer, and to me sounds more like back-of-the-bus bloviating than reliable philosophy. “The objective theory holds that the good is neither an attribute of 'things in themselves' nor of man's emotional states, but an evaluation of the facts of reality by man's consciousness according to a rational standard of value...the good is an aspect of reality in relation to man--and it must be discovered, not invented.” Make of that what you will.

In any case, Rand is a great promoter of the achievements of the individual, and objectively measuring someone by their work. That's not a bad thing (provided that your definition of work is inclusive enough), and in fact it is quite attractive to think that we are judged to some extent by our accomplishments, if in fact we have any. To Rand, an individual's greatest achievement is to do something well, and of course she makes the objectivist claim that the “well-ness” can be measured. When an individual does something well, that individual is creative and productive, and both the individual and society benefit, but the benefits to society are of no intended consequence and merely a happy accident. The individual is in it for his own benefit; since in her definition (which is fairly straightforward social contract, by the way) society is nothing more than a collection of individuals, a lot of individuals benefiting would obviously translate into benefits for society.

Rand calls rights a moral concept. “Individual rights are the means to subordinating society to moral law.” In other words, an individual's rights are what keep society moral: individual's rights keep society from doing immoral things to individuals. Also, “The social recognition of man's rational nature--of the connection between his survival and the use of his reason--is the concept of individual rights.” Without rights—specifically the right to use your brain—you ain't got nothing. You need your brain to survive, and government must allow you to use your brain as you see fit. “The Bill of Rights was not directed against private citizens, but against the government—as an explicit declaration that individual rights supersede any public or social power.” To Rand there is only one fundamental right: “a man's right to his own life...The right to life is the source of all rights—and the right to property is their only implementation. Without property rights, no other rights are possible. Since man has to sustain his life by his own effort, the man who has no right to the product of his effort has no means to sustain his life. The man who produces while others dispose of his product, is a slave.” Rand is obviously using property in the Lockean sense. “The good of the majority,' too, is only a pretense and a delusion: since, in fact, the violation of an individual's rights means the abrogation of all rights.”

Rand is, to put it mildly, a laissez faire capitalist—i.e., government keeps its hands off business. “The moral justification of capitalism lies in the fact that it is the only system consonant with man's rational nature, that it protects man's survival qua man, and that it's ruling principle is: justice...Capitalism is the only system based on an objective theory of values...The free market represents a social application of the objective theory of values.” Rand rails strongly against the U.S. anti-trust laws, which she claims give government arbitrary power over business. It is the free market, and not government, that should—and will—regulate competition and business. In a business sense, the free market is the rational objectivist mechanism for achieving good. Abuses against individuals by businesses, it would seem, are at worst transient states in the progress toward the individual's betterment, because the free market system will ultimately work toward a rational conclusion in an objective sense. Because of the free market, the best products will sell the most, the best business practices will be the ones that rational people choose to practice, etc., etc., because the free market will rationally lead to the best ends. Hence, there is an article in *Capitalism: The Unknown Ideal* in favor of child labor during the industrial revolution (to Ms. Rand's credit, not written by her, and only sanctioned by its inclusion) that says that these kids were better off than if they hadn't been laboring their little butts off, and ultimately they were able as a class not to have to labor as children any more, thanks to the rational processes of the free market. So you bleeding heart liberals should stop complaining and see that at Nike and Walmart are keeping those little Hondurans off the street, you wimps!

## Abraham Maslow

### What is Maslow's Hierarchy of Needs?

Maslow is another name from the LD past, but it won't hurt to mention him. Maslow presented useful concepts, but they are better understood as underlying premises than argued in and of themselves. What Maslow stated was that people are motivated by certain needs, and that these needs can be arranged in a logical order. Unless you have satisfied the needs at the bottom, you can't be thinking about the needs at the top.

*Maslow, Abraham Harold (1908-70). Maslow developed a theory of motivation describing the process by which an individual progresses from basic needs such as food and sex to the highest needs of what he called self-actualization—the fulfillment of one's greatest human potential.*

Self-actualization—another old debating term. We self-actualize when we reach our greatest potential, usually as individuals. We find what it is we want to do, that we do well, and we do it, and our motivation for doing it is because it is our thing. As the old pop song put it, “I Gotta Be Me.” In the sixties this was finding yourself, then doing your own thing. As Shakespeare put it, speaking through Petronius, “To thine own self be true.” It ain't a new idea. But after one finds oneself, there is even a greater goal; curiosity about the universe beyond one's self. If our ultimate goal, and ultimate area of achievement, is merely to do our own thing, are we as well off as if we look beyond ourselves?

*In a human being, motivation involves both conscious and unconscious drives. Psychological theories must account for a “primary” level of motivation to satisfy basic needs, such as those for food, oxygen, and water, and for a “secondary” level of motivation to fulfill social needs such as companionship and achievement. The primary needs must be satisfied before an organism can attend to secondary drives.*

*The American psychologist Abraham Maslow devised a six-level hierarchy of motives that, according to his theory, determine human behavior. Maslow ranks human needs as follows: (1) physiological; (2) security and safety; (3) love and feelings of belonging; (4) competence, prestige, and esteem; (5) self-fulfillment; and (6) curiosity and the need to understand.*

*Curiosity and the need to understand can be further explained as exploratory behavior, the need for variety, and aesthetic reactions.*

Rumor has it Maslow renounced Maslowism on his death bed; this may or may not be true. Rumor also has it that he theorized that only three people had ever self-actualized: Jesus Christ, Mahatma Gandhi, and Abraham Maslow. If you accept everything Maslow says, some might argue, you must accept this too, which somehow negates the man

because of its silliness. But you can accept much of what a philosopher says without accepting every word he ever uttered. This is true of all sources of knowledge.

**Give a good example of why Maslow's hierarchy of needs does not apply to all situations.**

Of course, no philosophy or ethical construct applies to all situations. According to the motivationists, our first motivation is food. Makes you wonder about guys like Gandhi or the Irish loyalist starvation dieters, doesn't it? I mean, here were people who were willing to go hungry to make a political/humanistic point. Tell me, please, how Gandhi hadn't self-actualized.



## John Rawls

*A wonderful article follows that says it all, even though I didn't write it.*

### Prospect - Selected Features - Portrait John Rawls

In 1971 a reclusive American academic revived liberal political philosophy with *A Theory of Justice*. Why did he write it? And why was it applauded and then ignored by the left?

I have before me a copy of a new book called *Collected Papers*, by John Rawls. It does not have the feel of an important book. Its language is often blunt and lifeless; certain phrases--"a well-ordered constitutional democracy," "the fact of reasonable pluralism," "the criterion of reciprocity"--seem to crop up again and again, as if part of a strangely unpoetic mantra. For the most part its headings are dry and academic: Chapter 12: "Reply to Alexander and Musgrave"; Chapter 13: "A Kantian Conception of Equality." Its arguments seem remote; they are certainly difficult.

Yet the publication of this book *is* an important event. Since the appearance of Rawls's epoch-making *A Theory of Justice* in 1971, he has been acknowledged as America's--perhaps the world's--leading political philosopher. On a conservative estimate, there are now about 5,000 books or articles that deal with it, at least in part. Where once the foundations of western civilisation went from Plato to Freud, nowadays it is from Plato to Rawls. Most American and British, and ever more European students of politics or philosophy study his ideas. The story of "How John Rawls Revived Political Philosophy and Rejuvenated Liberalism" is part of academic legend.

Given all this, you might think that Rawls would be a familiar figure--that his reputation would have seeped beyond the academic world. Yet nearly 30 years after the publication of *A Theory of Justice*, almost nothing is known about him. Nor is it obvious that his ideas have had any great impact on the "real" world. His influence was greatest on the centre left during the neo-liberal ascendancy in the 1980s. But as the centre left has returned to power so Rawlsian ideas seem to have been left behind.

Rawls is a sophisticated and ambitious thinker. His arguments are informed by a deep sense of history and draw on an array of different disciplines. Still, as Isaiah Berlin was fond of saying, underlying most great philosophical systems there lies a fairly simple set of ideas. This is true of Rawls. Almost everything he has written is animated by an urgent concern with reviving and extending a neglected liberal tradition--the tradition of rights-based social contract thinking.

At the centre of Rawls's system is the inviolability of basic civil and political rights. Rawls believes, following his hero Kant, that the most distinctive feature of human nature is our ability freely to choose our own ends. Our most fundamental duty in dealing with our fellow citizens is to respect this capacity for autonomy; to let them live according to their own lights; to treat them, in Kant's famous phrase, "as ends not as means." Rawls

gives priority to the “right” over the “good”--to claims based on the rights of individuals over claims based on the good which might result from violating those rights. “Justice,” as Rawls insists in the first rousing paragraphs of *A Theory of Justice*, “is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust... Justice denies that the loss of freedom for some can ever be made right by a greater good shared by others.”

To understand what is radical in this (perhaps innocuous-sounding) approach, we must contrast it with some of its rivals. First among them is utilitarianism--the doctrine that we ought to seek to maximise the aggregate well-being of a society's members regardless of its distribution. There was much that Rawls admired in utilitarianism. It had the scope and rigour he wanted for his own theory, and possessed a good track record as a progressive principle, inspiring directly or indirectly a great deal of social and political reform. And yet it had one flaw: it did not take human rights seriously. Utilitarians might maintain that, as it happens, the general good will usually be served by respecting human rights, but they are committed to the position that when a conflict between individual rights and general well-being arises, it is the claims of the latter which count. Thus, the greatest happiness principle could have permitted slavery. Or, more to the present point, it could be used to defend what is often said to be an unstated principle of the modern market economy: that in the battle for low wages and low inflation, the life chances of some are sacrificed for the good of the rest.

Utilitarianism is the first target of Rawls's criticisms, but there are others. Although *A Theory of Justice* has little to say about Marxism, that creed was alive and well when Rawls was working on his book; and like utilitarians, Marxists tend to regard the notion of natural human rights as nonsense. Finally, Rawls challenges various “perfectionist” and communitarian theories--theories which look to the state to advance a single value system, such as Christianity, Islam, or indeed some version of liberal humanism.

These standpoints all permit the sacrifice of human rights to some other good--to utility, the interests of the proletariat, or some religious ideal of the good life. It is as an alternative to these theories that Rawls champions the social contract. Society is, of course, involuntary, and our place in it largely beyond our control, but Rawls asks what arrangements people would consent to if it *were* freely entered into, and then tries to construct society on that basis.

Rawls suggests a thought experiment, asking us to imagine ourselves into his now famous “original position.” People in this position are situated behind what he calls a “veil of ignorance”; they are denied knowledge of everything which makes them who they are: their class, skills, age, gender, sexuality, religious views and conception of the good life. Rawls argues that the principles which these people would choose to regulate their relations with one another are definitive of justice.

An enormous amount of ink has been spilled on explaining, attacking and defending the original position, but the thinking behind it is plain enough. The veil of ignorance is meant to ensure that our views on justice are not distorted by our own interests. “If a man knew that he was wealthy, he might find it rational to advance the principle that various taxes for welfare measures be counted unjust; if he knew that he was poor, he would most likely propose the contrary principle...”

Rawls believes, contentiously, that if we were participants in the original position, we would pursue a low-risk strategy and agree to principles which are basically egalitarian--principles which guarantee the highest possible minimum levels of freedom, wealth and opportunity, even at the cost of lowering average levels. Rawls suggests that we would elect to be governed by two principles (his famous “two principles of justice”), the first concerning liberty, the second the distribution of wealth and power.

The first point on which men and women in the original position would agree is the importance of guaranteeing their freedom to live their lives as they see fit. Rawls's first principle holds that each person should have a right to the most extensive basic liberties (the right to vote, freedom of thought, and so on) compatible with a like liberty for others. Rawls contends that the state should remain neutral between different conceptions of how to live, simply safeguarding the freedoms which allow us to live according to our own conception of what makes it valuable. This principle does little more than offer a more general guarantee of the freedoms protected by the US Constitution's First Amendment.

Rawls's second principle, however, is more original. The “difference principle” states that social and economic inequalities are acceptable only in so far as they benefit the least advantaged. The best way of understanding this principle is as a radical alternative to the principle of equality of opportunity. The proponents of equality of opportunity argue for a market society in which people who have the same talents, and a similar willingness to use them, enjoy the same prospects of success. Rawls, however, argues that it is not only wrong that our lot should be determined by our class or educational opportunities, it is equally unjust that our position should be determined by our abilities and talents. These, just as much as the class positions of our parents, are the outcome of what he describes as a “natural lottery.”

Rawls's point is echoed in other critiques of meritocracy (Michael Young's, for example): it seems unfair that just because someone is especially strong, intelligent or dexterous, they should have a higher standard of living than someone with less marketable skills. The “natural lottery” argument jettisons the notion of desert as it applies to rewards at work and often turns into an argument for equality of income. But Rawls says that there is a better way of dealing with the unfair distribution of abilities: by allowing inequalities that benefit the worst off. Rawls argues that unlike the inequalities we see all around us, inequalities based on the difference principle would not be felt by the less well-off as unmerited or degrading.

Thus, *A Theory of Justice* showed that left-wing liberalism was not, as its opponents on the right liked to think, an incoherent mishmash of socialist and capitalist values, but an

intellectually respectable political philosophy. Ronald Dworkin, himself a leading liberal theorist and an old friend of Rawls, also points out that part of Rawls's appeal is the brilliant phrase-making: “the difference principle”; “the original position”; “the veil of ignorance.” It is true, too, that the book has a regal quality. Rawls never uses the first person and never once refers in the text to a living author. It would, however, be taking admiration too far to pretend that Rawls is a gifted writer: his work is slow moving and oddly graceless. Reading it, one feels the pain that went into writing it.

Still, Rawls's influence has been enormous. *A Theory of Justice* has sold more than 200,000 copies in the US alone and has been translated into at least 23 languages. Dworkin says that Rawls has quite simply set the terms of the debate: “I do not even have to think where to start; it is automatic that I start with him. My present view is opposed to his in some ways, but only from within a field defined by him.”

The impact of *A Theory of Justice* also has something to do with the fact that it was published at a time when political philosophy was on the defensive. The dominant philosophical currents--logical positivism and linguistic philosophy--were hostile to large-scale theorising; the extravagances of Marxism and fascism had given ideology--even liberal ideology--a bad name. Dworkin explains: “The 1950s were a complacent period and there was a feeling that the US was on the right path. Then the Vietnam war and the civil rights movement cast doubt on all that. Here suddenly was a book which raised all the issues--it gave people a way of arguing about these questions that suddenly seemed so important.”

There is, though, another point about the success of *A Theory of Justice*--it has a lot to do with Rawls himself. Rawls is an extraordinarily private, self-reliant man in a very American mould. He has long since withdrawn his name from *Who's Who*, declines to accept honorary degrees and refuses to be interviewed. When I wrote to him to request an interview, I received a cryptic but touching reply: “I am sorry, but I have not been well, and for that and other reasons I am unable to give an interview. I am sorry. Sincerely yours, John Rawls.” His friends were willing to talk to me, but they were universally cautious and reserved. I understood how Ian Hamilton must have felt in attempting to write the life of another shy New England writer--JD Salinger.

For all his shyness, Rawls has exercised a great influence on those who come into personal contact with him. Recently I spent ten days in New York and Cambridge, Massachusetts, talking to people who know him. The experience was heartening. I telephoned Rogers Albritton, an old friend from the 1940s: “My principal sense of Jack is of a man who has an incredibly fine moral sense in his dealings with other human beings. He is not just the author of a great book, he is a very admirable man... he is the best of us, the best of America.” Albritton's testimony was repeated again and again. One eminent philosopher (he did not want to be named) said: “I find it hard to express what I feel about Jack. He has a much more refined sensibility than I even aspire to. He is a rare creature. He has a much more developed moral and social instinct than most people.” Joshua Cohen, a former student and now a friend, says: “Not since Rousseau has anyone had such a profound sense of the harm done by inequality.”

At the centre of Rawls's system is a very radical attitude to fate. It is not unreasonable to suppose that this attitude might have a source in Rawls's own life. It is the duty of society, Rawls believes, to ensure that our opportunities are as little affected by our circumstances as possible. It is not that he believes that social institutions have to ensure that everyone is as happy as everyone else--that is our own responsibility. But he does insist that, as far as possible, we should all be given similar opportunities to achieve happiness--that our family upbringing, our abilities and talents, our looks and health, our whole genetic and environmental heritage, should not be allowed to give us an unfair start in life. Life will contain its afflictions and troubles without unjust institutions adding to its lot. This, you might say, is a conventional left-wing conviction, but in Rawls's case it was not the product of a deprived upbringing. Instead, it seems to be the outcome of a life which has been full of very good luck or of very close shaves. "He has," as one former student put it, "an unusually strong sense of 'there but for the grace of God go I.'"

John Borden Rawls was born in 1921 into a rich Baltimore family, the second of five sons. His father, William Lee Rawls, was a successful tax lawyer and constitutional expert. Rawls's mother, Anna Abell Stump, from a distinguished German family, was a feminist and president of the local League of Women Voters. Isaiah Berlin, an admirer, used to say that he couldn't but see Rawls as a Puritan "in a tall black hat," and it is true that there is something deeply puritan in Rawls's austere, aspiring life. Yet other friends point out that Rawls comes from an old southern family and has a patrician sense of *noblesse oblige*.

Rawls appears to have given only one interview in the course of his career, and that to a small Harvard student magazine. The only other source for his life is the first chapter of a German book on Rawls by Thomas Pogge. Rawls described to Pogge the formative experience of his early life: the death of two of his younger brothers, both through illnesses they contracted from Rawls; the one from diphtheria, the other from pneumonia. These events constitute some of Rawls's closest shaves. Joshua Cohen says that they are reflected in *A Theory of Justice* in discussions of the "arbitrariness of fortune" and the "unmerited contingencies" of life. It was about this time that Rawls developed his stutter; he traces it back to his brothers' deaths.

Rawls spent a short spell in a public school in Baltimore, but most of his high-school years were spent at Kent, a smart, strict, Episcopalian private school in Connecticut. According to Burton Dreben, another Harvard friend and colleague, Rawls himself went through a religious phase about this time, and although he has not remained a believer in any conventional sense, the experience left its mark. As his later writings attest, he shows more feeling for religious values than most of his liberal-left colleagues.

Like his two remaining brothers, Rawls went to Princeton--in 1939 still very much what it had been in the days of F Scott Fitzgerald, the northernmost outpost of a southern gentleman. It was at Princeton, under the influence of Norman Malcolm, a friend and follower of Wittgenstein, that Rawls became interested in philosophy.

Finishing Princeton early, he joined the army and saw action in the Pacific, serving in New Guinea, the Philippines and Japan. Rawls belonged to those years worst hit by the war--17 in his year at Princeton were killed; 23 died in the year below. Dreben says that he never talks about his experiences as a foot soldier, but they were certainly horrific.

Rawls was still in the Pacific when, in August 1945, US planes bombed Hiroshima. Fifty years later, he wrote an article in the American political journal *Dissent*, in which he argued that although in times of extreme crisis a liberal democratic regime waging a just war can be justified in attacking enemy civilians, the US army in 1945 was facing no such crisis; in Rawls's view, it followed that the firebombing of Japanese cities and the dropping of the atomic bomb were "very great wrongs." The *Dissent* article is the only one Rawls has ever written tackling a concrete political issue. His willingness to write it can perhaps in part be explained by the fact that he was in Japan soon after the bombings, and saw some of the consequences of what had been done. But Joshua Cohen suggests that something else also weighed upon him: Rawls knew that if the bomb had not been dropped, he and his fellow soldiers would certainly have had to fight a conventional campaign in Japan. Once again Rawls was "lucky" to get away with his life.

Although he was offered the chance of becoming an officer, Rawls left the army early, as a private, in 1946. He returned to his *alma mater* to write a doctorate in moral philosophy. In his last year as a student, 1949-50, Rawls took a course in political theory; it was then that he formed the idea of writing a treatise on justice. *A Theory of Justice* was 20 years in the making.

In 1949 Rawls married Margaret Fox, a graduate fresh from Brown, and they have had five children. She became a painter; Rawls--himself a connoisseur of painting, especially American painting--has often sat for her. The couple spent their first summer together drawing up an index for a book on Nietzsche by Walter Kaufmann. Rawls also did the index to *A Theory of Justice* and it is a masterpiece of the art. Rawls's thoroughness, indeed, is the stuff of legends. Ronald Dworkin remembers a midnight conversation in the deserted bar of the Santa Lucia hotel in Naples in June 1988. He, Rawls and one or two others found themselves in the middle of a very fruitful discussion about Rawls's later work. In the middle of the exchange Rawls halted the conversation, asked no one to talk while he was gone, retrieved from his room a yellow pad and sat down among the wine-stained tablecloths to take notes.

Princeton failed to recognise Rawls's genius. On his return from a year at Oxford in 1953, Rawls joined his old mentor Norman Malcolm at Cornell, in a department which was emerging as one of the best in the US. At Oxford he had begun to formulate the concept of the original position, although his real breakthrough appears to have come when he devised the veil of ignorance; the results appeared in a seminal article, "Justice as Fairness," in 1957. Rawls was in his mid-30s and it was only his third article. Students remember, however, that by 1960 Rawls was already using an early draft of *A Theory of Justice* as the basis for his seminars. The next decade was spent honing its arguments.

In the early 1960s Rawls was given a tenured position at MIT. Two years later he moved to Harvard, where he has remained, living in the same large Lexington house for almost 40 years.

Vietnam provoked the same conflicts at Harvard as everywhere else. One of the philosophy department's leading lights, WV Quine, was a staunch conservative, another, Hilary Putnam, a Maoist. From the beginning, Rawls was opposed to the war, and made his opposition known. He participated in an anti-war conference in Washington and, back at Harvard, taught a course on international law as it applied to Vietnam. He also campaigned against the "2S" deferment, which allowed students "in good standing" to have their call-ups deferred. According to Rogers Albritton: "Both of us thought that it was wrong that the sons of the privileged should be allowed to stay out and accumulate grades, while someone who wanted to start a filling-station was sent off." In retrospect, Albritton saw the irony in their position: "There was something a bit bizarre about saying we were against the war, but our students should go to fight in it."

Rawls seems to have been unprepared for the success of *A Theory of Justice*: "I thought I would publish it and some friends might read it. I had been writing it for a long time, so I would finally get it off my desk and then do something else." But despite his intellectual stardom his life remained that of an anonymous, hard-working, rather tortured academic. His wife was for a long time a member of Lexington council and he reads and writes mainly at home: "I am a monomaniac really. I just like to get something right." Slight and lithe, until recently he used to run --and his healthy eating habits are famous.

If the measure of the importance of a work lies not only in the amount of agreement it elicits, but in the quality of its opposition, then Rawls's book is important indeed. There is scarcely a page in it which has not been criticised; there are utilitarian, feminist, conservative, libertarian, catholic, communitarian, Marxist and Green critiques of Rawls's work. Michael Sandel, professor of government at Harvard, who made his name as one of Rawls's critics, distinguishes three stages in the book's reception.

First it sparked a debate about utilitarianism. "Rawls fairly clearly won that debate," says Sandel; rights-oriented, anti-utilitarian liberalism is now the philosophical orthodoxy. The next argument, of the late 1970s, took place within rights-oriented liberalism, and pitted Rawls's brand of liberal-egalitarianism against the sort of right-wing libertarian views which found their most powerful voice in Robert Nozick's *Anarchy, State, and Utopia*. This debate, Sandel says, "corresponds roughly to the debate in American politics between defenders of the market economy and advocates of the welfare state." There is a sweet irony in the fact that the egalitarian position should have been defended by Rawls, a wealthy "wasp," and the neo-liberal one by Nozick, a poor Jew from Brooklyn.

The last and longest-running of the arguments has been between Rawlsian liberals and "communitarians," including Michael Walzer, the Canadian Charles Taylor and Sandel himself. The "communitarian critique" of liberalism revolves around the charge that Rawls's ideas are excessively individualistic. The communitarians claim that Rawls's

work surreptitiously draws on an implausible version of individuals as free from all deep moral ties and thus bound only by ends and roles they choose for themselves. The fact is that most of what we value is not a matter of choice but inheritance--what really matters is the sustenance of strong communities, in which we can live out the values in which we have been brought up. The communitarians also attack Rawls's ideal of a neutral state: in pursuing the goal of absolute neutrality, the Rawlsian state offers no support for the sort of strong communities we all need. Rawls's work is an apology for the weak, atomistic and relativistic culture which we see all around us.

Rawls has responded to some of the criticisms by reworking his theory. He has published about 15 articles since the book came out; six years ago he collected some of them in revised form in *Political Liberalism*. At some point in the late 1970s Rawls came to realise that *A Theory of Justice* was inconsistent. It offered the ideal of a society in which individuals--Christians and Muslims, theists and aesthetes, heterosexuals and homosexuals, puritans and hedonists--could live life according to their own conception of the good. Yet, as Rawls came to see it, his argument appealed to a single conception of the good; it rested on a Kantian version of a secular liberal outlook, according to which each of us has a right and a duty to actively search out our own good from the alternatives available to us. This will seem reasonable enough to a secular liberal, but it won't appeal to, say, a catholic; catholicism teaches that a life which faithfully accepts church tradition is superior to one spent ceaselessly exploring moral alternatives--it rates fidelity and submission over autonomy or experimentation. Rawls came to believe that while his society was meant to permit a great diversity of value systems, the argument he advanced for it would only ever appeal to those who accepted one set of values--those of secular liberalism.

The main concern of Rawls's later work is to argue that this in itself should not undermine the liberal project. Instead, we need to recast liberalism as a strictly political creed--one which appeals not to contentious views about God, morality or the person, but to the less contestable values of reciprocity, fairness and mutual respect. In this way, Rawls hopes, a conception of justice rooted in liberal values--equal political and civil liberty; equality of opportunity; economic reciprocity; mutual respect between citizens--can become, even in a society like the US, where there is little agreement about fundamental moral questions, the basis for an "overlapping consensus."

As he has grown older Rawls has come to recognise that many of the most powerful statements of principle within the liberal tradition do not rest on the sort of individualistic Kantian foundations he constructed in *A Theory of Justice*: Lincoln's Gettysburg Address, or Martin Luther King's Letter from Birmingham Jail, to take two American examples, champion liberal civil and political rights, but they invoke a religious world-view to do so. *Political Liberalism* tries to do justice to this fact--to argue that liberalism as a historical phenomenon has always been the subject of an overlapping consensus and that its future lies in understanding itself in this way.

The 25th anniversary, four years ago, of *A Theory of Justice* was marked with a large conference at Santa Clara. Rawls expressed his concerns about developments in the US



with surprising force. He is especially exercised by the way in which the lack of limits on political donations is being allowed to distort the political process; in Rawlsian terms, the value of political liberty is now almost infinitely greater for some than it is for others. "I think," says Joshua Cohen, "his hopefulness has been shaken by the world. His feelings have soured."

Two days after the Santa Clara conference, Rawls was struck by the first of a succession of severe strokes. He continues to work, although he is weaker than he was. The introduction to the paperback edition of *Political Liberalism*, finished after the strokes, has more passion than anything that he has published before. Similarly, "The Idea of Public Reason Revisited," published two years ago, includes a blunt criticism of the way in which American politics "has become dominated by corporate and other organised interests who through large contributions to campaigns distort if not preclude public discussion and deliberation."

Even Rawls's critics cannot deny that he has had an enormous impact on political theory; yet Rawls's own despair about politics in the US suggests that his teachings have had very little influence on political debate more broadly. There are some qualifications to be made. It is said that *A Theory of Justice* has had an influence among dissidents in China and was seen at Tiananmen Square. Sebastiano Maffetone, who wrote the preface to the Italian translation, reports that it is common to find left-wing politicians citing his ideas in Italy. Various left-of-centre politicians in Britain--Anthony Crosland, David Owen, Shirley Williams --have invoked Rawls's book. Roy Hattersley still does. On a literary level, Margaret Drabble's latest novel, *The Witch of Exmoor*, opens with its protagonists playing a game--"The Veil of Ignorance"--in which they imagine themselves in the original position.

Still, most of the Rawlsians I spoke to confirmed that Rawls's ideas have had little impact in the US. Ronald Dworkin says he can think of no Supreme Court decisions which drew on Rawls's ideas, and they have had little influence on either American political party. As in the US, so in Britain; the Commission on Social Justice, which articulated the thinking behind New Labour's social and economic policies, was quite explicit in rejecting Rawls's strictures against letting individuals profit from their natural skills and endowments.

Rawls's principles remain extremely egalitarian, and he has argued that they could only be realised in a "property owning democracy" or "a liberal socialist regime" and not in a modern welfare state. The difference principle only allows inequalities in so far as they benefit the worst off--even then they might not be permitted if they give the rich unequal influence over the political system. New Labour politicians on the other hand, have repeatedly suggested that they do not care how rich the rich become. It is true that Labour is committed to raising the income of the poor and reintegrating the excluded back into society, but there is no suggestion that the earnings of the rich need be limited by this goal. All the evidence suggests that the gap between the rich and the poor will increase over the coming decades, yet this is not a trend that Blair or Clinton have set themselves against. The left-of-centre parties now in power all over the west speak the language of community, not of individual rights; of equality of opportunity, rather than equality of

outcome; of desert rather than the difference principle. For the moment at least, the egalitarianism which animated old-style socialism or social democracy and still animates Rawls's work appears to be dead as a political force. People don't care about equality any more: they want good public services and they want to see a safety net for the weak, but they are also happy to see talent "rewarded." No one complains about the earnings of a Steven Spielberg, a Geri Halliwell, a Michael Jordan; these are popular heroes.

Rawls's critics argue that this attests to the irrelevance of his ideas. John Gray, one of his British critics, says the spirit of the times demands a pluralist political morality, "concerned to satisfy basic human needs... foster inclusion and promote meritocracy." We also need to acknowledge that these values can conflict. "A truly pluralist political culture will not indulge the illusion that fairness is simple. It will openly negotiate the conflicting dictates of fairness." Rawls's friends, on the other hand, tend to adopt a long-term perspective, arguing that Rawls's time will come--his ideas are just too powerful, too profound, not to have an effect. There is a third position, one perhaps occupied by Rawls himself in his bleaker moments. That for all their importance, for all their power, his ideas are simply too radical--too many people have too much to lose. The development of a more global economy and the corresponding decline in the power of the nation state have, if anything, made a Rawlsian state harder to achieve now, at the time of *Collected Papers*, than it was at the appearance of *A Theory of Justice*--and it was hard enough then.

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## Jacques Derrida

The next big idea we're going to look at is deconstruction, the most misunderstood, misused word in contemporary dialogue.

Deconstruction is primarily associated with the French thinker Jacques Derrida. Note that I do not call him a philosopher. (Those who subscribe to his theories *do* call him a philosopher.) I'm agnostic about the depth of JD. There may or may not be a philosophical construct underlying deconstruction as it relates to Derrida. For that matter, there may or may not be truth underlying deconstruction as it relates to Derrida. I don't know. The reason I don't know is that Jacques D is the epitome of the unreadable writer. Is he dense because he's deep or because he's confused? Is his narration confused because he believes that narration cannot be anything but confused, or is he just a confusing writer? Depends on your point of view. You love him or you hate him, and you love or hate his writing depending on that starting point. Everything that I understand about him I have gotten through secondary resources. If you can read him and make sense of him, be my guest. He's all yours.

Anyhow, the principle of deconstruction goes like this (quoted from a true believer): "The guiding insight of deconstruction is that every structure—be it literary, psychological, social, economic, political or religious—that organizes our experience is constituted and maintained through acts of exclusion. In the process of creating something, something else inevitably gets left out. These exclusive structures can become repressive—and that repression comes with consequences.... Derrida insists that what is repressed does not disappear but always returns to unsettle every construction, no matter how secure it seems. Mr. Derrida understood all too well the danger of beliefs and ideologies that divide the world into diametrical opposites: right or left, red or blue, good or evil, for us or against us. He showed how these repressive structures, which grew directly out of the Western intellectual and cultural tradition, threatened to return with devastating consequences."

That's a pretty clear explanation. Societal structures have inherent exclusions. For instance, women are excluded from modern government structures based on Locke, because women were excluded from 18th Century politics. That exclusion can lead to (or be) repression, e.g., women not voting. And that repression can have bad effects today, as in, even though women are theoretically equal, in fact they are still second-class citizens socially, economically, politically, whatever. The issue is, it may be hard to see how women are second-class citizens, since legally that's not supposed to be true. The deconstructionist can point out how.

So if you take this a few steps further, it's not what you say that matters, but what you don't say. It's not the text/narrative that's the problem, it's what underlies the text/narrative. The process of exclusion is structural (inherent). What you don't say represses/excludes something important. And that exclusion leads to problems.

So is this philosophy? Sociology? Politics? Frenchness? Take your pick. One thing, though, it's extremely popular in academic circles, especially in the subject of literature. A literary example of deconstruction could be, say, Dickens. We analyze what Dickens *doesn't* say about women to understand the antifeminist subtexts of Victorian England. Not that Dickens's works aren't filled with women, except that his women are usually his least interesting or memorable (or, for that matter, well-drawn) characters. But their blandness or forgetability is indicative of a subtext of exclusion of women (or, perhaps, exploitation of women, or hatred of women). What do *Copperfield's* two wives tell us about women in the 19th century? We deconstruct the text, evaluating the child bride versus the practical adult woman, and since neither of these is a real individual, we attempt to extrapolate the situation of real individuals from these fictional constructs.

Deconstruction is often done for political ends (to understand or expose the repression of groups), and therein is the problem for deciding if decon is "right." Should every text be reread against what it doesn't say? Is there a hidden subtext to everything? Is this a good way to go about changing the world? Let's say that we set out to prove that there is antifeminism in Dickens. So what? It doesn't solve anything. That's not so bad when you're talking about Dickens and literary criticism, but if you approach politics as a deconstructionist, the question is, then what? You go about pointing out that some group or other is excluded, but the deconstructionist offers no solution.<sup>1</sup>

And what if you deconstruct debate resolutions? Point out all the exclusions? The inherent flaws? Well, you're a Frenchman sitting in a cafe with a filtre, a Galouise and a chip on your shoulder. You're not changing the world, you're merely complaining that the world sucks, and showing us how it sucks. *Comme ca*. Thanks a lot. The lack of an ethical construct to solve for the problems delineated by the deconstructionists (kritikers?) is why so many people find them jejune.

As far as literature is concerned, critics of deconstruction and its cousins like critical theory (about which more later) claim that this approach to literature has made much academia into a joke. Newspapers reprint the list of topics at the annual Modern Language Association meetings to hold them up to ridicule, especially when the academics are venturing into popular culture. It's one thing to search for anti-Black exclusionism in 19th Century jurisprudence, for instance, and another thing altogether to look for it in Bugs Bunny cartoons. But people do. And then they write like Derrida, in sentences no one can read. Academia becomes a joke. Which is another kick against this approach in debate. Most high school teachers are concerned with narratives *qua* narratives, what writers said, not what they didn't say. It's hard enough to teach literature to 15-year-olds without having to battle rabbits that are both wascally and wascist. Teachers can be touchy about students dabbling in an arena in which the teachers are made out to be idiots. Can't say as I blame them.

In the real world, deconstruction has come to mean an awful lot of things other than what is meant in the Derrida sense. But when used in the Derrida sense, it can be a core of

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<sup>1</sup> And as some would say, e.g. Camille Paglia, this approach to art is false and misses the point of literature. When that is all you're learning in a literature class, I concur.

political activism. Deconstruct the State of the Union speech, for example. In the Derrida sense, you'd evaluate how it points up the exclusions of modern America and refer to what wasn't referred to, and make a call to arms out of it. A call to arms to do *what*, however, is what deconstruction doesn't offer.

And the other big Derridean thing we'll come back to is the oppositions, the clash of opposites. The excluded group being somehow the opposite of the included group.

## Michel Foucault

The appeal of Michel Foucault to debate, not only LD but Policy, is that he talks about power. And certainly the nature of power—and who possesses it and who doesn't—is an issue in both areas of forensics. What Foucault says has a strong ring of truth to it: he is not your everyday French crackpot. What Foucault says is also very simple and very obvious, when you think about it. And it ties in directly to things like deconstruction. If deconstruction is the search for subtexts indicating who is excluded from the texts, it isn't a long leap to decide that those excluded folks are, one way or another, the powerless.

To begin with, there is a very simple underlying starting thesis to Foucault's work: to wit, Knowledge is Power. Sure, it's a cliché, but in Foucault's hands, it's quite meaningful, especially when you remember that his first work in this area was in the field of mental illness. Let's look at the specifics.

According to Foucault, there are a handful of people who have special knowledge about something. This special knowledge provides a source power for them. And this power, derived from knowledge, allows them to define what is normal and what is not.

As I said, the first big area for Foucault was mental illness—madness (later he wrote about sex). According to Foucault, it is the doctors, with the power stemming from their knowledge, who decide who is mad and who is normal. The people in asylums are not there because there is some objective measure of sanity and madness. The people in asylums are there because someone (in power) said these people do not conform to a norm (established by the knowledge of the powerful). Since there is no objective normal, the normative is merely a construct, and it's the powerful who determine the construct. It's the powerful who decide who is mad and who isn't. It's the powerful who decide what is normal and what isn't.

(It's an easy step to see how this can also be applied to sex. Foucault was gay, and lived most of his life during a period when being gay was generally considered a perversion. The powerful decided that being gay was not the norm, in other words.)

And here's where you start forgetting about the knowledge side of the equation. Normal is what the powerful decide is normal. You can see where this leads. The powerful determine right and wrong in a subjective universe, because the powerful have the power to enforce punishments for doing wrong and rewards for doing right. (That bit about punishment and rewards is pure Foucault.) Might makes right in the purest moral sense, and you don't necessarily need knowledge to be mighty...

According to this analysis, the normative is what the powerful say it is, not the mean of what everyone does on some sort of objective continuum, which is how you would usually understand the concept of normative/normal. There's no objective right or wrong, there's only conforming to the normative as laid down by the powerful (who may or may

not have achieved their power through knowledge). Running Foucault, therefore, applies a comparable equation to a debate topic.

One down side of running Foucault is actually finding where he says any of the stuff that I've just cited. If you read *Madness and Civilization*, for instance, you'll learn about the history of mental illness, and leprosy—originally the so-called mentally ill stayed with the family until leprosy was cured, and the resulting emptying of the leprosy asylums opened up space so they became mental asylums where we could now hide away our crazy people—and about the transference between a patient and a psychiatrist, but you'd have to be quite the hound to derive what I've said about power and the normatives. He is as much a historian as any sort of philosopher, if you ask me. In any case, at least he is readable. If you plan to run him, then read him. You have no excuse not to.

## Jean Baudrillard

Yeah, another Frenchman. The best place to start with Baudrillard is *Simulacra and Simulation*, a book you can actually read and understand. (It's the book where Neo hides his computer disk in *The Matrix*).

Baudrillard talks specifically about art in the postmodern world. A **simulation** is a representation of reality. For example, the France attraction in Epcot is a simulation. (Baudrillard loves talking about Disney.) The exhibit, with its versions of real French icons like the Eiffel Tower, is an attempt to recreate France, or maybe more to the point, the *essence* of an idealized France. (The Paris hotel in Las Vegas does the same thing in very much the same way; as a whole, Vegas is nothing more than another version of Disney, according to this line of thinking.)

But according to Baudrillard, art and reality are moving closer together in the modern world. And when the border between art and reality disappears, you get a **simulacrum**: "The distinction between the signs and what they refer to breaks down." For example, Main Street, in the Magic Kingdom, is a simulacrum, defined as the recreation of something that never existed.

The recreation of something that never existed?

In this case, it's the recreation of the idealized *image* of a small town. This particular small town never actually existed; we just like to think that it did.

The next step from here is Baudrillard's point, that the simulations and simulacra of influential places like Disneyland have run over into everyday life, to the point that we are living in houses and towns that are not real anymore. We are simulating real life. And, probably, we don't even know what real life is anymore.

These are the ideas that Baudrillard kicks around: Theming, the meaning of McDonalds, the meaning of "America" in very large quotes. To me, the essence of cultural studies starts with JB, so if you're interested in the meaning of these things, he's a good place to start.

I have done a lecture on the Old Baudleroo and *Simulacra and Simulation*, available separately on my podcast page. Since then, I've also tracked down his thoughts on art, one of which may be the best intro to his thinking. In *The Conspiracy of Art* Baudrillard talks about (among other things) how the Duchamps readymades (to wit, the toilet he installed in a museum, named "Fountain" and signed R. Mutt) redefined art. At the point where *anything* could be a piece of art (because the artist said so), the boundary between art and reality disappears. Any work can be a work of art, even a common manufacture. Baudrillard brackets this with Andy Warhol's soup cans. Here, an ordinary commodity, the can of soup, becomes the subject of a traditional work of art, a painting. So art completely becomes commodity, commodities completely become art, commodification



supplants artistic creation, etc. (The whole commodification thing—e.g., the buying of the Disney souvenir, the mass production of Warhol silkscreens—plays large in Baudrillard’s analyses.) The key thing here is that this elimination of the line between reality and unreality, or art and reality, or whatever you want to call it, comes up a lot in Baudrillard’s work. The “fountain” as art is a good way to understand this.

## Critical Theory

Not a person but a movement. There is much writing about specific political and historical subjects done in something called critical theory. Sometimes this is just referred to as theory. In either case, CT is the application of the ideas of postmodernism (to which my Caveman lectures/essay are devoted) to specific problems.

A prime (and seminal) example of CT is critical legal studies. The background of critical legal studies commences with the Reagan Administration: “As more and more Republicans were tapped during this Republican era, most of the Federal judges appointed were conservative, leaving many more liberal colleagues behind them teaching in the law schools. Those liberal legal scholars believe that the system of law reflects the privileged subjectivity of those in power and that the system of law cannot be unbiased.” These liberal academics (and I hate the association of liberal politics with CT but the connection is, alas, real) formed critical legal studies. In other words, they were saying that the system of law is inherently flawed and biased. You can clearly see the influences of Foucault, and Derrida in this “critical” analysis.

CLS people emphasized class and economic structure in their analyses. One major spin-off was Critical race theory. CRT insists that race is more critical to social structure than class/economics. Critical race theorists consider race up front and personal. They use narrative to provide the stories that bring some understanding of the unstated assumptions of privilege. They want more than the theorist's contemplation of doctrine and principles. They want change. And they want it now. (Unfortunately, I'm not sure how they expect to get it, the fundamental problem of Foucaultian analysis.)

You can approach CT from a variety of angles. Another obvious big one is feminism. There's plenty of orthodox CT feminist doctrinists out there, and they are often used in debate.

So here's what you ask yourself if you want to apply critical analysis: Where do you see the problem? In the individual? In the social structure? And where do you see the solution? In the individual? In the social structure? The CTer says the social structure. For example, look at teenage crime: If we believe that by providing security, basic needs, a family environment, and support for adolescents, they will not fall into delinquency, that is a structural approach. But if we believe that if we teach morals and strength of integrity to our young people, they will not fall into delinquency, that is an individual approach. We will find different policy approaches depending on the different theoretical perceptions of the social problem and the way it can be expressed as a function of tension between the individual and the social structure.

The Feminist approach to addressing social problems in CT is comparable. One often thinks of the radical feminist as one who views social problems structurally: The power structure excludes women, so we need to change the power structure. But to the extent that one believes that it is the individual woman who has “false consciousness” and must

be made to see the falsity of her position, then both the problem and the solution to some extent are in the individual herself. That is, the social structure is out to get you, and worse, you've bought into it (a key feminist doctrine that seeks to explain why so many women aren't feminists). You can see here the metanarrative dictating individual narrative.

This whole CT discussion is based on a sort of Foucault model, the people in power create the normative, mixed with deconstruction, try to find the group that is excluded. There is no "normal," there's only what the powerful claim is normal. Feel free to apply it to religion, democracy, etc. Find some disempowered group, claim that they're excluded by the normative of the powerful, and you've got a case.

The next step in this line of logic, by the way, is to assert that there is no reality, only what the powerful say is real.

Which is, if you've ever been to the movies, the Matrix, which for some people is the absolute definition of relativistic postmodern deindividuation.

## Baudrillard

Finally, because he connects back to a lot of what we've been talking about, which is the arts, there is Jean Baudrillard. Yeah, another Frenchman. The best place to start with Baudrillard is *Simulacra and Simulation*, a book you can actually read and understand. (It's the book where Neo hides his computer disk in *The Matrix*).

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