DISCOVERY OF FREEDOM

LIBERTY FOR THE ONLY IRRATIONAL ANIMAL

- Man is the **only** irrational animal. Through the imagination which this facilitates, new ideas crystallised by the 17th century about rudimentary concepts of freedom and rationality.
- These creative ideas propelled mankind to frontiers of economic and scientific progress entirely unimaginable by other animals.
- The idea of the Enlightenment is, however, only skin deep. A lust for violent totalitarianism underpins all human societies, including so-called “advanced” “Western” nations - with their **lockdowns, mask mandates and vaccine mandates**.
- This book examines the grim reality of our species but optimistically suggests that through education in liberty and good governance, mankind might one day be liberated from extreme irrationality, fear and violence. Give it a thousand years.

SANJEEV
SABHLOK

Preliminary manuscript, 2012

http://discovery.sabhlokcity.com

I've started (very minor) updates on 15 January 2024, after a gap of over 11 years. I am unlikely to find time for a few more years, to review and finalise the entire manuscript.

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Dedication

This book is dedicated to:
***your* success;**
your *family's* success;
your *country's* success; and
the success of *everyone on Earth*.

Dedicated most importantly,
to your freedom to think and to *be*.

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FRONTISPIECE

Freedom is bounded by accountability

*A free person is *always* accountable for his or her actions (or inaction).

'The essence of liberty has always lain in the ability to choose as you wish to choose, because you wish so to choose, uncoerced, unbullied, not swallowed up in some vast system; and the right to resist, to be unpopular, to stand up for your convictions merely because they are your convictions. That is true freedom, and without it there is neither freedom of any kind, nor even the illusion of it.' – Isaiah Berlin, in *Freedom and Its Betrayal*[1]

'Liberty in thought and action is the only condition of life, growth and well-being: Where it does not exist, the man, the race, and the nation must go down.' – *Vivekananda*[2]

[1] Berlin, Isaiah, *Freedom and its Betrayal: Six Enemies of Human Liberty*, London: Pimlico, Random House, 2003, p.103.

[2] Cited in *Modern India*. 1986.NCERT. p. 218.

Preface

'The inherent vice of capitalism is the unequal sharing of the blessings. The inherent blessing of socialism is the equal sharing of misery.' – *Winston Churchill*

Imagine that each letter in this book represents one person – with dreams, emotions, feelings. By now over 100 'people' have been 'created' by these first few words. Now add up *all* characters in this book (about one million). You now 'own' these one million people's lives. Imagine, next, that you purchase 200 copies of this book. Now burn them! 'Kill' off these 200 million 'people'. Then buy another 600 copies and damage them: pour water, throw them into a drain. Injure these additional 600 million 'people'!

This bout of extraordinary violence against 800 books might sound crazy enough, but the actual killings of 200 million people in the twentieth century, with another 600 million others harmed, is real. Just imagining these numbers is virtually impossible.

Most of these killings or other forms of harm were undertaken by governments driven by collectivist ideologies that oppose human freedom. God did not come forward to save them. Only freedom could have saved them but that's precisely what did not have.

Freedom doesn't sound like a big thing to us, brought up as we are in relatively liberty. But it actually matters more than *anything else*, save our life. But, you object: surely money matters more! Well, in that case why don't I lock you inside a bank safe with one trillion dollars and switch off the lights? Happy now?

The difference between money and freedom is that freedom must necessarily form an intrinsic part of our lives – like oxygen. Freedom should be omni-present, without fuss, an automatic authorisation to exist, an intrinsic part of each breath we breathe. Money, on the other hand, is only a *means*. The rich man thinks that he needs a bed to sleep, but when he is really sleepy he can readily sleep on the ground. The bed, clothes, house, are all optional. Life and liberty, on the other hand, are priceless.

That we don't think much (and deeply) about freedom is a mistake that can potentially cost us our life. There is immense, unique and universal power in freedom – the power to do whatever one wants to do, unhindered. This power exceeds the mystery and attraction of romantic love, the beauty of the sunset, and the urgent necessity of air, water and food. Freedom is the stuff that lets us be (and become) who we are. It must pervade unimpeded; it must accompany us everywhere.

This is not a book but a political pamphlet – just like my earlier book, *Breaking Free of Nehru* (*BFN*). It basically asks each of us to stop interfering in other's lives, so that we can all live happily ever after.

But interference is pervasive. Isaiah Berlin asked: 'Why should anyone obey anyone else?'[1] You and I 'obey' someone else at least at some point during our day. If nothing else, we obey the traffic lights or traffic policeman. But why should we? Who stops us from driving wherever we like? Who has made traffic rules? Does it make a difference if we follow rules? (or instance, does this have anything to do with how rich or poor a society is?) These and related matters are addressed in this book.

Let me begin by taking you to the deep end and invite you to browse through my definition of freedom, below. It is not very elegant, but it is the best I could do. I invite you not to read it in detail, but to think about its clunkiness, ungainliness. Also wonder, briefly, whether it makes sense.

> ***Freedom,*** *a definition:* Freedom is a state of independent, self-directed thought and self-determined but self-restrained voluntary action of adults whose behaviour, such as the ability to trade, demonstrates

[1] Berlin, Isaiah, *Freedom and its Betrayal: Six Enemies of Human Liberty*, London: Pimlico, Random House, 2003, p.1. The essays were delivered initially as lectures in 1952 on the BBC.

> strategic capability and thus at least a modest level of rational thought. Where this state of freedom impacts on others, it is limited by countervailing accountabilities informed both by moral law as variously understood and relevant empirical evidence; and agreed upon either through implicit or explicit bilateral understandings of negotiation or, where potential claims can be made on a society's resources, through social consent usually evinced through laws.

While it is a mouthful, this definition is trying to say some important things. It suggests that when used in consonance with our internal moral compass, *and* subject to social agreements and laws, the word 'freedom' can tell us unambiguously about what we can or cannot do. At each instant, the *karma yogi* must consider options for action based on their long term consequences – without being concerned about the success or failure of his effort. That will follow if the action is the right action.

Freedom leads us like an arrow towards moral action. The free man acts with deliberation, committed to being accountable. In advancing his self-interest, he contributes to the welfare of mankind and of life on earth. This self-interest is broad, not narrow. It is competitive at times but never unethical. It doesn't harm anyone, but creates, preserves and fosters.

* * *

Both *BFN* and this book started as one intertwined manuscript in February 2005. Their bond broke eighteen months later because that manuscript become unwieldy. Therefore I snipped it into two parts: (a) the theory of freedom and history (or, rather story) of freedom, and (b) India's history of unfreedom. Part (b) was more urgent, so I finished it first (*BFN*). This, second book provides background materials for *BFN*: its philosophical and historical underpinning. Although intended to be a stand-alone piece of work, I don't plan to repeat any detailed arguments made in *BFN,* and should that be necessary, will reference *BFN* appropriately. Since *BFN* is now a free e-book, you can readily look up relevant sections.

A few remarks about style: Although I'm an overseas Indian citizen[2] (not 'full' citizen) since late 2005, I have continued writing in the same voice (citizen) with which I started it in February of that year. That will make it consistent also with the voice in *BFN*. This book presents my ideas. They were built originally without reference to all of the extensive literature I cite. I cite the literature primarily as a marketing strategy, to show that others too, have thought similarly. I have also directly used, without reference, my public domain contributions, such as in *Wikipedia* about ancient India's understanding of the social contract.

My intended audience is wider than it was for *BFN*. I hope that people from unfree countries (including India) will benefit from this book. China, Bangladesh, Pakistan and Nepal come to mind, but most Western societies can use this book as well, being only half-free according to my definition.

The coverage of a very wide range of issues makes this book particularly long. The theory of freedom can be built only on a good understanding of human nature, which must, in turn, be founded on a good understanding of what we are and how our brain works. In addition, I do undertake to cover major topics in philosophy and history. All this does take some space.

Capitalism, the system of liberty

Let me assert (at this point without 'proof') that capitalism is marvellous and that socialism is appalling. This book continues my unequivocal, proud advocacy about capitalism, an advocacy I made in *BFN*. This advocacy is not necessarily of the kind of capitalism that many people have in mind, but a capitalism where freedom is linked to self-restraint and accountability. I only talk about *accountable freedom*, a concept that I introduced in *BFN*. I do *not* talk about unbridled freedom. And because there is no unbridled freedom there is no unbridled capitalism.[3]

Freedom is *only* about doing good. No one is free to harm others. But we can't coercively demand the expression *only* of good behaviour, nor preach good behaviour. It is important to ensure that the right incentives are established that allow people to automatically express their good side. Capitalism doesn't expect anyone to be perfect. It doesn't preach perfection, either. Instead, by establishing and enforcing the right incentives (rewards, punishments) it nudges the society towards ethical outcomes. And it defends our *equal* freedom through constitutional frameworks. The results have been excellent. As Paul Starr notes, 'By opening up courts, legislatures, and political debate to the public at large and insisting on public justification of decisions, constitutional liberalism [i.e. capitalism] has made power more transparent and subjected it to scrutiny and

[2] Which is an Indian citizen without the right to vote

[3] See my article, 'Unbridled Capitalism', published in *Freedom First* in October 2009.

disagreement. Power in the liberal state has …been questioned, criticized, resisted, and constrained – and, as a result, made more legitimate.'[4]

Capitalism cannot, therefore, be exploitative, for every action is voluntarily undertaken – and accountable; and so, no harm is caused (or if caused, is compensed). True, I sometimes wish that a less emotive name had been given to the system of freedom, perhaps freedomism. But such a name doesn't sound nice and so we are stuck with the term capitalism, for better or worse.

I advocate capitalism because it is a moral system (built on accountability) and therefore desirable in itself (the deontological reason[5]), and also because its application is beneficial, it eliminates systemic and structural poverty (the consequentialist, or instrumentalist reason). While the deontological reason stands alone on its own merit, moral benefits alone don't satisfy everyone. They want to see material benefits, of which freedom has in abundance. Capitalism makes societies richer, it punishes criminals and the corrupt, it allows divergent views to flourish. Capitalism is a pluralistic democratic expression of our humanity. What more can one ask for?

My glowing praise for capitalism is at odds with many commonly held views. The word 'capitalism' more commonly conjures images of (an imagined) free-for-all market economy where the rich exploit the poor. Of course, that too does happen, but only in mafia-driven mercantilist anarchies of the kind found in Russia (and to an extent in Italy and Greece; and India). In such cases the government is effectively controlled by the rich and corrupt; and so while some wealth is produced, that is not what I'm talking about.

That is not capitalism but *crapitalism*, its travesty. Where freedom becomes license, capitalism simply doesn't exist. The genuinely free society has strong and firm lines of accountability leading from the government (agent) to citizens (principal), and between each citizen. Capitalism gives us only 'good' freedom. There is no freedom to harm. The argument of liberty can't therefore be applied to evil, corrupt enterprise. True, even the best-governed free society can only *minimise* deviant behaviour. It can't eliminate it altogether, given human nature. Therefore some unscrupulous behaviour may well remain. However (and this is it the key) where capitalism works, such unscrupulous behaviour is nipped in the bud. Cheats are quickly identified and punished. Exploitation and corruption are firmly lopped off.

The capitalism I write about is simply not possible to arrive at by extrapolating from corrupt mercantilist societies. Bad policies in the semi-capitalist West do not represent the capitalism I talk about, but merely indicate flaws in governance that need to be removed. In the vast majority of cases it is socialist, welfare-statist, Kenyesian ideas that create such flaws of governance (as I show in chapter 14 in relation to the 2008 global financial crisis). These flaws are attributable not to *accountable freedom* but to its absence.

Libertarian anarchists, on the other hand, claim to advocate liberty but they seek license. Their ill-thought out schemes (allegedly of freedom) are unworkable. They, too, *do not* represent capitalism in the classical liberal sense.

Capitalism, in the sense I refer to, is based on empirically sound theory. So I trust you'll let me finish this book and wait to make up your mind. And at no place in this book should you take my claims at face value. Critically examine my views with an open mind and accept only whatever makes sense *to you*. You must pick freedom over slavery because you think it is the right thing to do, and not do so simply because I say so.

But I fear that many Indians (and others) may not keep an open mind. Nehru's pervasive influence has crushed all desire for liberty. Most Indians oppose freedom (capitalism) as a matter of principle. Such Indians could well write off this book with sentiments like these, below:

We fought for independence and created a democratic landscape under Nehru's banner of socialism. To have someone like you – who has left India, possibly for good, and who now sits in a comfortable corner of the world in a society built around greed and exploitation – tell us that hundreds of millions of Indians have been wrong for almost a hundred years is absurd!

True, you have a few academic qualifications from India, USA and Australia. You also have extensive experience of working both in the Indian and Australian bureaucracy. But all this is worthless if what you tell us doesn't fit with our pre-conceived notions.

We prefer to continue believe in our gods, namely Nehru and his *totally corrupt* progeny, than in you. So, goodbye! Not only that, who knows! You've perhaps been paid by some fat cat monopolist to write this junk and pull

[4] Starr, Paul, *Freedom's Power*, New York: Basic Books, 2007, p.31.

[5] There are debates in the philosophical literature whether these distinctions are sensible. I think they are.

wool over our eyes! So be gone, Sanjeev! We don't want to read one word of what you are trying to tell us. Please don't destroy our main religion, socialism. Don't proselytise for freedom! We want slavery. Please leave us alone.

I trust you aren't one of those who've have made up their minds without reading further. Just for the record, let me affirm that not only has no one paid me to write this book but that I have paid an enormous personal price (physical, financial[6]) to write this book and do the many other things I've been doing since February 1998 to advance liberty in India. I don't see such effort as a sacrifice, though. I *never* sacrifice (but *care*), and despise those who claim to 'sacrifice'. I do this as part of living a *meaningful* life. This is my way of contributing useful information to India. By addressing the most significant gaps in India's social, economic, and political frameworks, I seek to optimise my contributions – without sacrificing my interests which must always come first. In brief, I care for you, but I care for myself much more. And if you don't have such an approach for yourself, you lie, and let us part company right here.

This book speaks directly from my heart, just like *BFN* did, in defence of liberty. It will be up to you to decide whether my views are worthwhile or whether India should continue the things that have failed for 60 years. Einstein said that to do the same thing over and over again, and expecting different results is insanity. India has been doing the same thing for 60 years and failed in every indicator of prosperity, health and development. Will continuing the same policies and methods yield different results?

What you get in this book is the truth *as I see it*. That's all I can offer. In the interest of full disclosure let me add that while I have no axe to grind, I believe firmly in my credentials to lead India to freedom and prosperity – as part of a team of other, similarly qualified and experienced leaders. I explained in *BFN* what I would do should I to become India's Prime Minister. That same argument underpins this book. I hope one day to lead India (as part of an outstanding team of leaders that is currently being assembled[7]) to unparalleled health, education, and wealth. It takes a lifetime of learning to build the knowledge and experience necessary to build a free society, and I have gone through the hard grind necessary to develop such knowledge and experience (and continue to do so). So this book, like *BFN*, is not an academic discourse or guide. It is a political manifesto for change. I don't make arm-chair recommendations for others to implement. I want to return to India (if feasible) to directly implement these ideas. Unless a desire for freedom awakens in India's bosom, however, and people demand change, I must remain where I now am – in Australia.

India is a Third World country (today) because some its worst people have been (democratically) elevated to its highest positions. It is a Third World country because the governance system it follows – a combination of colonial administration and socialism – destroys all possibility of freedom, and hence of prosperity. Socialism invariably criminalises the entire society, and India has been its own worst enemy.

In disclosing my personal interest in India's reform of governance, let me affirm that my happiness is *not* dependent on whether India (or any other country) implements the suggestions in this book (or *BFN*). I live my life *purely* and *solely* for my own satisfaction and care not for those who claim to live for their country. India is important to me, but not half as important as I am. I will live my life in peace and liberty regardless of the option that India picks for itself.

This is not selfishness, even though it appears on the surface to be a case of my acting precious. One of my friends (who doesn't' understood me) asked: 'Can we not build a society on something more admirable than selfishness?'

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[6] Digression: In due course I hope to write a book on the causes and cure of severe repetitive strain injury (RSI) which I've suffered for years now because of the excessive typing I undertook as part of my promotion of freedom and ethical governance in India. The financial costs I incurred have been very high, as well. For instance, by leaving a decent job in the Indian Administrative Service just a few years before completing 20 years of service and thus becoming ineligible for financial entitlements like 'gratuity' (and losing all contributions made towards a potential pension, contributions which in countries like Australia are not confiscated like they are in India from those who work less than 20 years in the government). While this was a hard decision, it had become clear to me by then that I could not improve India's governance system and policies from within. I therefore took the plunge and quit, landing in Australia without a job and virtually no savings – a truly precarious financial situation in an environment hostile to my entire managerial background. Moreover, barely touching a computer keyboard exacerbated extreme burning sensations, numbness, and shooting pain across my entire upper body. By accepting whatever job I got and starting virtually at the bottom of the ladder, I finally clawed my way back to a respectable (but still fragile) financial situation. The losses I have faced in my determination to do the right thing have been serious and extremely disruptive. No one has paid me to write *BFN* or this book! Indeed, had the things I am suggesting in these books even remotely been in place in India, I would not have needed to leave India at all. And these books would have been irrelevant, and not therefore even attempted.

[7] Freedom Team of India (http://freedomteam.in/).

But I am talking about enlightened self-interest. Doing the best we can for ourselves (ethically – at all times) is the best way forward for all societies. The more we improve our skills, the better the quality of services we provide others, the more the society benefits, the more the rewards we receive. Note that if everyone helps himself or herself (ethically), there would be no poverty nor any need for charity, or even the police. We can't possibly do better for ourselves without first doing good for others (since others pay us for the services we perform). Serving oneself is therefore compatible with serving others. If, instead of being self-interested, we were to *live* for others' sake, then things would get seriously distorted. The society would step into the quicksand of moral confusion, incompetence and hypocrisy, and would lead to poverty, ill-health, and distress.

Some Indian readers might be particularly perplexed by the central importance I give to liberty. They might ask: 'Isn't India free already?' No, India is *not* free: merely independent.

Others might claim: 'But freedom doesn't work'. That is something I've already addressed in *BFN*. Freedom works. It works beautifully. This book will add to the unequivocal evidence in this regard.

Yet others might argue that freedom is bad for us since its main exponents are Western. But what would happen if our doctors ignored modern medicine because it has largely arisen in the West? We are better off by taking the best ideas from everywhere. As the Rig Veda so wonderfully states: 'Let noble thoughts come to us from all sides'. As far as I am concerned, the thoughts of all humans belong to me. I consider them all and choose what I think is right. Only obtuseness can block us from benefiting from the best ideas of mankind.

Consider the zero: *shunya*. This concept, and the decimal system, was discovered in India. I haven't heard yet of anyone in the West who refuses to use the zero or decimal system because it was discovered in India! Moreover, as I will show in this book, Indian thought is at the root of the concept of liberty. Freedom belongs to India, but we have long forgotten it. Let's rediscover our own ideas in the more well developed shape that the West has now given them.

We don't discard topology just because the West took our decimal system and expanded it to cover new hitherto undiscovered vistas. So also liberty has been advanced in the West, and we should seek to understand and gain from these modern developments.

Advancing liberty is everyone's job

It is not for India along that I write. As an ordinary human – just like you (there are no 'extraordinary humans' in my definition) – I am determined to destroy the last vestiges of socialism, fascism, and religious absolutism across the world – knowing well that this is not the job for a single person or single generation.

I believe that everyone is entitled to liberty. I am not built to be a spectator who can watch the destruction of the creative potential of millions of people in unfree nations. Many 'rulers' of collectivist societies use fearsome coercion, often killing innocent citizens or confiscating their property in order to allegedly achieve greater equality, social justice or religious salvation. Such misguided people must be fought at all levels, including by spreading the message of liberty.

Specialists, particularly religious leaders, can't often see the forest for the trees. Too many unscientific and intolerant therefore ideas mislead and create conflict across the world. We need to fight all such intolerant and false ideologies. We who have undertaken a broad contemplation about the nature of this world and its goals for each individual must stake our claim to live in peace. Books we write can give our children the tools to avoid superstition and utopian delusions.

It was not too long ago that a handful of misguided people – Hitler, Mussolini, and the then leaders of Japan – joined hands through the Tripartite Pact of 1940 to hold the world to ransom. In that moment of madness, human life became cheap, expendable. If for nothing else but to ensure that such madmen never raise their heads again, and to ensure that if ever they do so, that humanity can unite quickly to destroy them – comprehensively, we have the obligation to learn about and to teach our children about the arduous, tortuous, and often blood-stained history of freedom.

We are jointly (with others like us) responsible for the integrity of our social contract (unlike liberals like David Hume and J.S.Mill,[8] I believe that the social contract is a useful construct). The theory of freedom lets us pursue our personal and family interests but adds a broader, joint responsibility to the mix, to assure each other of justice and security. The design of our society's governance is our common, shared responsibility. This includes

[8] Mill, J.S. [1861], 'On Liberty, *On Liberty and Other Essays*, Oxford: Oxford University Press, World Classics Paperback 1991, p.83.

the need to address issues our predecessors could not resolve in their lifetime: things like India's communal and caste tensions, or the Kashmir issue. While we are not *accountable* for having started these problems, it is up to us to resolve them. To that extent we are accountable, as a generation, for resolving our society's problems. This book is in that sense partial fulfilment of my shared responsibility to India and the world, to ensure security and justice so we can all live a peaceful and productive life.

Explorations in the history of liberty

We, who live on this isolated planet that spins mindlessly in space, have a brutal history: a history full of shame, a history that casts a dark shadow over our brow. We don't quite know why we have done (and continue to do) so many dastardly things, or what can be done to overcome our brutal human nature. Sometimes we think that people like Hitler and Idi Amin were exceptions (possibly a different species), knowing well that they were merely human: just like us. We like to think, sometimes, that we are (personally) honest and good, and only others are criminals. But we know that inside *each* us lurks clear and present danger. In this complex human nature and ignorance about ourselves surely lies at least part of the explanation for the terror, hatred, misgovernance, corruption, and chaos that surrounds us. It is crucial, therefore, that we look within, for only the truth will set us free (from our bondage to primitive impulse). I advocate freedom because it is, at its heart, scientific. It is based entirely on an understanding of human nature.

But looking within has not been easy. It has taken us thousands of years to do so. Apart, therefore, from presenting the arguments for greater freedom, this book outlines the history (or story) of freedom. I have formed a particular view about human history based on my limited readings. Therefore, some of the developments I consider seminal may not be as highly rated by other story tellers. In my defence I'd like to say that I have no intention (or even capacity) of providing a comprehensive history for such a vast subject. And so this book provides a sketch of this history from my perspective.

In this regard, I will provide a greater focus on India's contributions to liberty than most such books do. There are no copyrights on ideas. Liberty does not belong to any person or group. The concept of freedom has waxed and waned through history: advancing under favourable circumstances and fading away in others, at times to be rediscovered elsewhere hundreds of years later. Most Western writers have a (natural) tendency to consider only contributions they are familiar with – made in the West. (Christians similarly over-state the alleged contributions of Christianity.) My aim is to rectify this, by demonstrating that many concepts about liberty first arose in India and only then moved to Greece. This may surprise some readers.

Despite its many shortcomings and despite it not being the last word on liberty, I do hope this book has succeeded in presenting the key logic and history of freedom. As Heraclitus said: 'Knowing many things doesn't teach insight.'[9] My aim is to provide insight, not mere information.

Francis Fukuyama suggested recently that the end of history has arrived, with liberty being widely accepted.[10] I don't quite agree. I see only a battlefield, no victors yet. The struggle for freedom has *barely begun*. Books like this one have a crucial role to play in advancing the cause of human liberty, but most important of all is citizen action. Lord Acton's message of citizen vigilance should never be forgotten. Our 'rulers' won't countenance greater liberty if we don't wrest it from them. Therefore a long and treacherous journey awaits, a journey that will never end. How long is a piece of string?

How did I discover liberty?

Writing is the best way to clarify one's mind. In writing this I've had to challenge not only my own assumptions but those of many eminent philosophers, by undertaking a good amount of reading. By demanding coherence in others' ideas I've been forced to ensure coherence in mine. But reading books is only one way to clarify one's ideas. More important in my case has been the learnings derived from working inside the bureaucracies of India and Australia. Watching people react (as predicted) to incentives has been invaluable.

But this discovery of the underlying principles and concepts of liberty has not been easy or obvious. Although freedom is a powerful concept, its power is not self-evident. Like gravity, it first needs to be discovered.

To begin to see its true value we need to link together at least three of its characteristics: (a) freedom as the philosophy of tolerance (and justice), (b) freedom as the principle of voluntary (often economic) choice, and (c)

[9] Translation used in Roger von Oech (2001). *Expect the Unexpected (Or You Won't Find It)*. Free Press. p.12

[10] Fukuyama, Francis. *The End of History and the Last Man*, New York: Avon Books, 1992.

freedom as a limitation on the government's powers. I have found (and indeed, most people find) the last of these three to be particularly hard to discover and internalise. Being a 'government insider' all my working life has led to some ambivalence. When working inside a government agency, one assumes a natural mandate to plan for the unwashed, superstitious 'masses'. Indeed, I've come across bureaucrats both in India and Australia who tell me that people are stupid, meaning that they (of course!) know what is good for the people. How half-baked, even ridiculous, such thoughts are, is not obvious to such folk. They don't seem to observe that people quite happily manage detailed and complex events in their daily lives – buying, selling, building houses, reproducing – without constant advice and guidance from bureaucrats. On the other hand, bureaucrats also tend to look down upon theoreticians (of liberty or otherwise), even as they tend to wallow in simplistic anecdotal outpourings of so-called management 'gurus'[11] whose books will no longer be worth reading after two short seasons.

But such delusions are shattered by theories such as the public choice model which examines how bureaucrats (themselves) respond to incentives. Such theories were a rude shock to me! Upon dispassionate reflection, though, both about my own behaviour and that of my peers, it became evident that James Buchanan (a leading public choice theorist and Nobel laureate) was right, as indeed were many other 'petty' pen-pushers (whose knowledge of the world I had earlier questioned). While (a) and (b) (above) were relatively easy to imbibe, it was only after painful rumination that I bought into Hayek's view that as a bureaucrat, I was the *least* qualified to 'plan' villages, towns, states – or national economies. Not, of course, that anyone else better qualified. The more I learnt about economics the more I came to realise that there was no basis for centralised economic planning, and hence no basis for any economist to work in organisations like India's Planning Commission.

The problem with understanding freedom (unlike gravity which is obvious once pointed out) is that even relatively simple concepts like the invisible hand can take years to internalise (if ever), and need excellent teachers – who are in short supply. So how can a lay person, who votes in elections and selects law makers based on policies on offer, begin to understand liberty? Well, that's one more reason to write my books. Even if a part of what I'm saying makes sense to you, I would have helped dispel at least some ignorance about economics and liberty.

In any event, the linkages between these three manifestations of freedom came together in my mind only in late 1997. At that point, being the actor (not spectator) I am, I had no real choice but to do something about it. In fact, an understanding of liberty always forces you out of your comfort zone. It challenges you to participate in your society's governance. If, after reading this book, you do feel this strong urge to change things, it would mean I've failed in explaining freedom.

This book is only a part of the numerous actions I then initiated. By February 1998 (while I was in USA) I decided to get involved in reforming India's governance to defend liberty. It wasn't feasible any longer to continue to work as an sub-agent of corrupt governments. I had to change things.

But neither while in the USA nor while in India could I find even a handful of Indians interested in this reform task. Direct political action is anathema to educated Indians who prefer, instead, to serve the corrupt so long as their self-interest is protected. And so I left India in 2000 and pledged not to return unless a major movement for freedom was underway.

After three failed attempts to launch such a political movement, I finally gave up – in late 2005. A liberal's greatest obligation is to *himself*. It is entirely immoral for us to 'sacrifice' our personal priority for the relatively distant claims of a nation the citizens of which are disinterested in their own advancement or liberty. My interest in this mammoth task was subsequently revived to an extent while completing *BFN* during which I proposed that a Freedom Team of India (FTI) should provide a platform for at least 1500 outstanding leaders who are willing to contest elections under the banner of freedom.

In late 2007, I launched this platform in India (http://freedomteam.in), registered as a trust in 2009. Unfortunately, there is still a negligible demand for freedom in India. Just over 100 people have joined FTI so far. Many educated Indians have rationalised the existence of misgovernance and corruption. A highly qualified

[11] In addition, the LBSNAA at Mussoorie virtually blanked out the ideas of people like Hayek and Friedman; at least none of their concepts were discussed as possible models. Similarly, meaningful insights from economics, such as from public choice theory, were not heard of. I therefore came across Hayek for the first time only in 1995 while doing microeconomics in the USA. More commonly discussed in the Academy (at least in the 1980s) were people like EF Schumacher who wrote *Small is Beautiful*, a book I reviewed in my rather confused state of mind and without much guidance, somewhat sympathetically, comparing it *favourably* to Ayn Rand's *Capitalism, the Unknown Ideal* (!).

gentleman once wrote to me that 'Corruption is not unique to India'[12], as if that is even remotely relevant (even if were true, which it is not – in the sense implied by this gentleman). Be that as it may, I propose to continue my efforts as long as doing so makes sense to me. Your participation and support will encourage me to continue a bit longer than I might otherwise do.

Let me make an observation about one of the underlying difficulties of advocating liberty. The idea of liberty doesn't always lead us to things we are conditioned to support. Its implications often challenge our long-held beliefs. I believe, for instance, that marriage should only refer to a relationship between a man and woman. I do not support public nudity, tasteless 'fashion', or the increasing trend towards the use of foul language in daily discourse. Yet, I am prepared, now, to look at these issues through the lens of liberty, no matter where that might take me (that I'm raising these issues does not mean I have changed my opinion on these matters).

Such an open approach is ethical, apart from being scientific. More generally, if someone isn't directly harming us then we must learn to tolerate such a person, even if we do not support his actions or opinions. Tolerance is the kingpin of freedom. As John Stuart Mill (1806-1873) (an East India Company bureaucrat who later became a British parliamentarian) noted, 'If [someone] displeases us, we may express our distaste, and we may stand aloof from a person as well as from a thing that displeases us; but we shall not therefore feel called on to make his life uncomfortable.[13] This includes things that we may personally detest on so-called 'moral' grounds. But should anyone harm us directly we shall invoke the social contract and demand accountability.

Economics and liberty

Although economic theory and rock-solid empirical evidence underpins much of this theory I outline in this book, it is not a book of economics. I agree with Frank Knight's view that 'it ought to be the highest objective in the study of economics to hasten the day when the study and the practice of economy will recede into the background of men's thoughts.'[14] Economics is a small (but important) part of the framework of freedom. The big picture is about our ability to choose our own life and actions.

You may well ask: If freedom is so good, then why do Indians (and people from other poor nations) not value it? Rational people will presumably seek out opportunities for material advance. The most obvious strategy is to emulate the key strategies of wealthy nations. So why does North Korea not copy Suth Korea? Why does India refuse to abandon socialism? The answer lies in detailed incentives.

Once corrupt people seize power, they quickly barricade themselves behind high walls and enact laws to block and demoralise potential challengers or reformers. The power of government is used to emasculate, even decapitate the opposition. It is also individually rational for scientists and bureaucrats to join the corrupt system which offers a promising career (along with untold illicit wealth), than to fight for liberty (which is a lonely, unrewarded journey). Most experts have absolutely no morals and have no qualms about supporting dictators. Manmohan Singh is a typical example of the amoral 'expert' who lends support to criminal political parties. That is why criminal regimes flourish across the Third world.

The path to liberty is hard. It requires persuading lots of people. Most people don't even try it, or make lame statements such as 'Things will change on their own' (they will, but usually for the worse). My life journey has been different. I have decided to try.

Each writer expects something from his readers. I hope that you will take responsibility for your country's governance and your own liberty. If you are from India, please join FTI. It needs citizen leaders: a kind of human that only found in the free society.

Let's join hands – to ensure that we can each live our lives the way we wish.

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[12] Sanjay Sinha, 28 January 2010.

[13] Mill, John Stuart, *On Liberty*, 1859, Chapter 4.

[14] Knight, Frank H., *The Economic Organization*, New York: Harper Torchbooks, p.5.

Introduction

'I believe that liberty is the only genuinely valuable thing that men have invented, at least in the field of government, in a thousand years. I believe that it is better to be free than to be not free, even when the former is dangerous and the latter safe. I believe that the finest qualities of man can flourish only in free air – that progress made under the shadow of the policeman's club is false progress, and of no permanent value. I believe that any man who takes the liberty of another into his keeping is bound to become a tyrant, and that any man who yields up his liberty, in however slight the measure, is bound to become a slave.'– *H. L. Mencken*[1]

The ascent of man from ape to God (god-kings or those with divine rights) and his descent back to an ape (after Darwin's studies) has happened too quickly for us to grasp its import. Most of mankind still doesn't know of this, imagining that we are souls, creatures distinct from animals. That the human strife witnessed throughout history is almost entirely caused by our animal nature, is known only to few.

It would sometimes appear that the less said about our demotion by Darwin into a primate, the better. And the less said about the decline of erstwhile alpha males (male Brahmins, or white Europeans) the better. These latter eminences, in particular, have fallen steeply, their purported 'superiority' over blacks, yellows, Harijans, and women given short shrift by biology (although Darwin himself mistakenly thought that races were at different stages of evolution). These poor things are just as flawed as the rest of us: being genetically equivalent to us. We are all commoners now, common primates. Males are in deep shock as ribbon-wearing girls regularly outperforming them in academia. USA has managed to get a semi-black president, and there are whispers about a woman president soon. The next thing you know – they might even have a harijan woman Prime Minister in India! One cherished myth after another is being demolished.

Our sense of place has moved even more dramatically. Once a proud species to serve the spiritual needs of which God Himself (or his children or other privileged messengers) regularly came down to us – although His inconsistent behaviour and message did create confusion, leading to numerous battles; once a proud species that lived at the *centre* of the entire universe, with twinkly stars designed to guide us both astrologically and at sea, and to provide us with viewing pleasure; we are now orphaned from God's grace: almost insignificant particles of dust about whom none seems to care.

First Copernicus demoted our universe (Earth) into an ordinary planet, placing the sun at the centre. He did try to play this down by suggesting that 'although it [the Earth] is not at the centre of the world, nevertheless the distance [to that centre] is as nothing in particular when compared to that of the fixed stars'[2]. Regardless, the truth sprung out in the West. This sad reality was already known to Indians thousands of years ago, who wrote clearly: 'The Sun never sets or rises and it is the earth, which rotates' (*Sama Veda* 121) – and Aryabhata had clarified in detail in around 500 AD – but this was news to the West. Then other bright chaps came along and demoted our sun into a run-of-the-mill star that swirls in the *outer periphery* of the Milky Way, one of a hundred billion stars. Carl Sagan seemigly mocked our place in the universe: the Earth, he said, is a 'dim and tiny planet in an undistinguished sector of an obscure spiral arm' of the Milky Way.[3] We were humbled yet again when the Milky Way was found to be merely one out of a hundred billion galaxies, all rapidly expanding outwards. The universe is actually infinite. There is no end to it in any direction. All that happens is that we can see light that began its journey 13 billion years ago.

And as if this were not enough, 'string theorists' want to demote this universe into just one of potentially countless universes (multiverses) in dimensions unknown, a prospect that sends shivers of anonymity down our

[1] Mencken, H.L., 'Why Liberty?', *Chicago Tribune*, January 30, 1927.

[2] Cited in Barrow, John D. and Frank J. Tipler, *The Anthropological Principle*, Oxford: Oxford University Press, 1996 [1986], p.49.

[3] From his book, *Pale Blue Dot*, as cited in Andrew Ferguson, 'How Steven Pinker's Mind Works' in *Human Life Review*, Spring 1998. [http://findarticles.com/p/articles/mi_qa3798/is_199804/ai_n8787548]

self-absorbed spines. Regardless, it appears that most of us still strut about with puffed-up egos! The reality of our insignificance seems to be irrelevant.

On top of this decline our, a plethora of competing (often contradictory) philosophies beguile us with their claims. So we have Gnosticism, Jansenism, Kantianism, Buddhism, Christianism, Hinduism, Muslimism, Socialism, Communism, Freedomism, Capitalism, Realism, Objectivism, Determinism, and a thousand other 'isms'. Many of these are completely worthless speculations, incapable of providing us even with the most basic evidence to justify their claims.

Our growing understandings, together with social, cultural, religious and political change, threaten to smash the ship of tradition on the sands of time, spilling out for re-examination everything previously 'known' and believed in. This much is clear, that we would be foolhardy to rely solely on our parents' beliefs (regardless of whether doing so is good or bad) to find our place in the universe. Too much is changing, for many old beliefs to be of more than incidental curiosities.

But despite this change, one thing has not changed – our body, including its computational and emotional machinery. Our brain architecture, our inner self, has remained almost fixed for thousands of years. Our mind is subject to the same thoughts, emotional states, and desires as it did in the past. Man remains, even today, 'a marvellous, vain, diverse and undulating object', which, 'in all things and throughout, is but patchwork and motley'[4].

Contradictions continue to live within us. Gandhi's magical ability to calm down violent communal mobs through sheer love fascinates us. The Buddha, who abandoned his family in order to search for the middle path (a path he did not begin his journey with!) strikes a chord with his wisdom. And yet we envy the great warriors Alexander, Attila and Chengiz Khan – and wonder what it must have been to be like them. There remain as many different worlds on this Earth as there are people; indeed, more worlds than people, for within each of us is Heaven and Hell, a veritable *Mahabharata* rages within, our personal lives an endless drama (at least to ourselves).

Our newfound knowledge has been super-imposed upon a static body and mind, has led to great turbulence. Within this flux we must surely ask – almost in desperation – is there *some* fundamental truth to which we can hitch our shaky wagon, *some* sturdy argument to anchor our lives. I believe there is – the principle of accountable freedom.

Exploring this sturdy principle is the task ahead.

Human nature

Imagine that aliens from a distant galaxy recently landed on Earth to conduct a reconnaissance on the possibility of extracting 'promethium' that is found about 100 metres below some of our largest cities. The following is the report they file:

> Took flying saucer for a spin and spent a few minutes observing each major town. A fascinating people – these Earthlings. They have traces of intelligence, a weak capacity to think strategically and (an even weaker) moral sense. They cover their intellectual and moral weaknesses with a robust sense of humour, excellent language and musical skills, and even some (confused) spirituality. And they negotiate, barter, and trade, for the most part peacefully.
>
> Riddled with contradictions, a conceited bunch they sure are. Each thinks he is superior to others. Most even believe that their particular world-view is the *only* way to run the world. Each claims his gods are loving, but then hates others' gods with a vengeance, often demolishing their places of worship.
>
> We found extremes of wealth and poverty on Earth, with most poverty concentrated in socialist countries or dictatorships. Sadly, we also witnessed thousands of people killing each other with bombs and guns, burning each other's houses, maiming children. There is brutality among humans that well exceeds anything our civilisation has seen during the last 20 million years.
>
> Based on this, we believe that it is a bad idea to colonise Earth. Humans could self-destruct soon, blowing themselves up with nuclear weapons, or poisoning the Earth. Even if they manage to survive by adopting the ideals of capitalism (which some of them seem to have begun to understand), it is likely that they will remain an unruly bunch for the next million years, too hard to manage. So let's not waste time on this violent planet, and instead, collect promethium from unpopulated planets in other galaxies.

[4] Montaigne, cited by Mishra, Pankaj, *An End to Suffering,* Picador, 2005 paperback [2004], p.192.

No doubt Voltaire (*Candide*) and Jonathan Swift (*Gulliver's Travels*) do greater justice to mankind's characteristics than my attempted alien 'report', but my point is exactly their point: that we are a challenged species which is driven by vanity, pretence and ignorance. We live on a beautiful planet which that we treat with disdain. And yet there are amazing advances humanity has made, as well. We can now clone life or modify its characteristics at the genetic level. But unfortunately we still can't seem to live in peace. During our species' adolescence we killed each other with swords and arrows. Today we kill with nuclear weapons. Fortunately, Hitler didn't have access to nuclear weapons (he didn't believe these could be invented). Had he got them, he might have taken the whole world along with him in his nihilism.[5]

But there are good tidings, with an increasing awareness of the need for freedom. As a result, pockets of peace and prosperity are increasingly being created. In such societies people go to work each morning and produce or invent new things. Terrorist bombs don't punctuate the chatter that punctuates daily life; corruption and moral decadence does not sap the people's will. Uncertainties of life have been minimised in such societies. People expect to become more educated than their parents, to live longer than their parents, and to be wealthier than their parents. These societies, founded on the philosophy of freedom (but not yet fully free), are found primarily in the West today. The quality of life these societies have achieved fills us with hope about mankind's future.

We are now entering maturity, nuclear weapons in one hand, the torch of liberty in the other. It is equally likely that we will annihilate ourselves as it is that we will live in harmony and nurture all life on earth. We can self-destruct, or we can take wing. Since self-destruction is not an option, we must find the way to greater freedom. We must build accountability into our societies.

Just as we can get useful clues about how to live longer by studying centenarians, so we can get clues about how to become richer by studying Western societies, no matter how imperfect these are today. The happy circumstance of prosperity, health and clean environment in the West is the result of the idea of freedom and its attendant system of justice. This is an open secret. Anyone can find it if they look for it.

Freedom is built on justice. It is not license to lie, cheat, steal, plunder, injure, or kill. It demands fair and honest competition. It is therefore built on the *precisely matching* concept of accountability. On the other hand, societies that emphasise equality of outcomes or some form of collectivist 'justice' must invariably destroy liberty. That leads also to the destruction of wealth. Furthermore, the idea of equality is unnatural. Our soul is built for success, not for equality. We are built for passion and competition and – only where it is in our self-interest – for cooperation. No burden of being equal to others in the economic sense is placed upon us.

If a child tells us he wants to *only* become as rich as the *average* Indian, we'd wonder what kind of parents this child has! We want children to be robust and greatly ambitious, to aim for the gold medal in every race of their life. Equality saps all human energy and makes us into unnatural hangers-on. But capitalism, the system of liberty, challenges us to be the best we can. Nothing less. The idea of freedom sends a shudder of life coursing through our veins. It unleashes ambition, passion, life. It focuses our attention. Our desire for a better, superior life brings to play all our talents and unleashes many others that we did not know exist. Freedom commands us to live like men. For only by each one of us aiming for greatness can our species, our nations, thrive. I prefer to stick with the evocative word 'capitalism' which reflects the aspirational energy of human freedom. To not be free but equal is living death, slavery.

Capitalism smells and feels of wealth and success. We *must* have it! No one wants poverty-stricken, miserable, smelly socialism. We are not built to be slaves.

The origin of the word: "Though widely credited with coining "capitalism," Marx was far from the first to use the term; neither was William Makepeace Thackeray's 1854 novel *The Newcomes: Memoirs of a Most Respectable Family* first, though it, too, is often cited as the term's first appearance. The French socialist Louis Blanc's employment of the term in *Organisation du travail* precedes Thackeray's and is, in any case, more significant in the history of both the use of the term and of social and political thought generally. As economic historian Geoffrey M. Hodgson observes, the word *capitalisme* did not appear "in at least the first five editions" of that book (1839 to 1848), but emerges in 1850's ninth edition, in which Blanc argues that the fact of capital's usefulness should not be "confused with what I call capitalism, that is to say the appropriation of capital by some, to the exclusion of others." Hodgson notes a still earlier appearance of the term, possibly the first,[1] in the English translation of an article Blanc penned during his exile in London. Writes Blanc, "The suppression of capitalism cannot, then, have anything to do with the suppression of *capital*." For Blanc, as for Proudhon,[2] capitalism was fundamentally

[5] See a powerful discussion of Hitler's nihilism in Camus, Albert, *The Rebel,* Vintage, 1956, p. 247.

about the power that capital enables the capitalist to wield.[3] In Pierre Larousse's *Great Universal Dictionary of the 19th Century*, published in 1867, capitalism is quite similarly defined as "power of capital or capitalists."[4]

The early definitions Blanc and Proudhon give capitalism align them with American individualist and mutualist contemporaries such as **William B. Greene**, Lysander Spooner, and others. Greene, also writing in 1850, looked forward to a time when "the distinction between the capitalist and the laborer would be entirely done away with," the privileges of the former swept away." - source

PART 1: A THEORY OF FREEDOM

1. Know thyself

In around 1750 AD or so, something exceptional happened in Europe. '[B]back before the industrial revolution it would take millennia for living standards to double, yet today we have grown used to our material prosperity doubling every thirty years.'[1] Entire societies erupted from poverty to wealth, from high mortality to longevity.

Before this even occurred, only the politically powerful could become wealthy. Today, hundreds of millions of people are dramatically better off than the wealthiest people of the pre-industrial era. For thousands of years before the industrial revolution, the average human life expectancy was around 30 years (often less), mainly because about half the children died before reaching the age of five. But this has changed dramatically. As the health outcomes of mothers and children have improved, people now live up to three times what the they could formerly expect to live upon birth.

Our moral lot has dramatically improved, as well. As Andrew McIntyre points out, modern civilisation 'has been not only a material triumph … but an ethical triumph as well.'[2] Free societies today not only forbid slavery, they do not condone racism and oppression of women, or even the mistreatment of animals. As Ayn Rand insightfully noted, '[c]ivilization is the progress toward a society of privacy. The savage's whole existence is public, ruled by the laws of his tribe. Civilization is the process of setting man free from men.'[3] Freedom from the necessity of following other's views is what has driven this change.

What caused this change? What led us from feudalism and superstition to freedom and prosperity? A lot of things seem to have been at work. For instance, the revival of ancient Greek philosophy, the Indian number system, the Chinese invention of printing and gun powder. But many of these things had been known for hundreds of years without motivating any spurt in living standards. Societies were not willing or capable of taking advantage of these things.

Religion was one thing that definitely did *not* motivate this transformation – even though both Protestants (with some reason) and Catholics (with lesser reason) stake their claims to having motivated this change. But both Protestants and Catholics badly persecuted scientists and innovative thinkers. Both were equally the enemies of reason and freedom. Both enforced views promoted by scriptural or other authority. It was not belief but the *neutralisation of the compulsion of belief* – or at least considerable increase in doubt – that led to modern civilisation. India had similarly gone through doubt 2500 years ago but when such doubt (critical thinking) came to an end, India's future was sealed. For the next 2500 years it was destined to play a relatively minor role in advances in wealth and technology (despite being the largest region both in terms of population and prosperity).

Modern freedom and liberalism was 'born in a political struggle …to escape from the political authority exercised by the Church. To win this emancipation …it was necessary … to neutralize the Church's tendency to intervene in political life.'[4] It was the leadership of liberal philosophers that brought about modern civilisation.

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[1] J. Bradford DeLong, 'Review of Richard Easterlin's Growth *Triumphant: The Twenty-First Century in Historical Perspective* (Ann Arbor: University of Michigan, 1997)', *Journal of Economic Literature*, Vol. 36, No. 1 (Mar., 1998), pp. 278-280.

[2] McIntyre, Andrew, 'The Modern Imperative', *Australian Financial Review*, 14 January 2005.

[3] Rand, Ayn, *The Fountainhead,* 1943.

[4] Berkowitz, Peter, 'Book review of Pierre Manent, *An Intellectual History of Liberalism*, Princeton University, 1996', *The Boston Book Review*, March 1995. [http://www.peterberkowitz.com/rediscoveringliberalism.htm]

As a result, parts of humanity (such as England) had started breaking away from tribal thinking by 1750, slowly coming to the realisation that we are free, distinct, sovereign individuals. Thus dawned the very concept of progress – a movement towards greater wealth, health and peace.

Why did it take so long to come to this realisation? Because our hardwiring makes us prefer dictators, not democracies; oppressors, not team players. Only by studying human nature objectively can we rise over it. This study must begin by asking what we are – what we are made of and where we come from. Without knowing ourselves, trying to design society is as futile as trying to design an enclosure for otters in a zoo without knowing the preferences and habits of otters (by which I don't imply any social engineering, but the minimal institutional infrastructure that is compatible with human nature).

1.1 Stardust

The world is absurdly spectacular. Images of galaxies from the Hubble telescope are beyond beautiful, angelic. The life force is another absolutely amazing thing. Even on the microscopic scale the universe surprises and makes us wonder. But surely the Big Bang was the most magical moment of all.

Science tells us, with an element of certainty, that our universe began with a bang 13.7 billion years ago, and that it still has quite a long way to go (far more than the six billion years available to our sun). At the instant of its commencement an almost infinite amount of energy spewed out, creating matter, space, and time – all presumably from a singularity smaller than the smallest pinhead imaginable (this simplistic interpretation is questioned by quantum theory). Where did this energy come from? Why is there something and not nothing? Two explanations exist: the mechanical (scientific), or semi-mechanical (spiritual, teleological).

The creation of a universe might well be cyclical, with the total quantity of energy always constant[5], and new universes sprouting into existence as others collapse. Such an idea is intrinsically very old – first articulated perhaps (in primitive form) in Jain cosmology which believes that the world is infinitely cyclical, with no beginning or end. A 2010 model, based on string theory, suggests an infinite chain of inter-linked universes, with matter being sucked through black holes into other dimensions where new universes immediately spring into being. '[O]ur own Universe may be the interior of a black hole existing inside another universe'[6]. While the sum total of energy across all universes could be constant, a particular universe might receive new energy over time, while some of it 'leaks' into other universes. Such ideas, however, are not verifiable. All we know for certain is that our universe is on a one way outward expansion, seemingly without end.

Even if we can, in the future, determine *all* the laws of the universe, we still won't be able to explain how this humungous amount of energy *first* came into being (even though it is indestructible – once created). Energy must, after all, have a first cause. Mechanistic explanations only go so far.

A range of creationist arguments step in at this stage. These include teleological – such as the anthropic principles, weak and strong[7] – which postulate 'biofriendliness' and suggest an underlying *purpose*. Had the hundreds of physical constants applicable to our universe had even slightly different values, this particular universe (and therefore human life) would not have been possible. Such coincidences that underpin human life (it is virtually impossible to replicate human-type intelligence) ostensibly prove the existence of a 'planner' who worked out these details before launching the universe. This is a 'plain vanilla' creationist (theistic) view, the strong anthropic principle in which God is effectively the planner.

This hypothesis, attractive as it may be, fails to satisfy. It is tautological and shifts the underlying problem one step back. If we posit God then who created God? If we can't explain God's creation, then why not stop at energy that just *is*? Also, could there possibly have been nothing but God in the very beginning? One could argue that there necessarily had to be *something* at the beginning even of an infinitely ancient time. Subjective evidence

[5] That energy cannot be created or destroyed in a closed system is a revolutionary idea very hard to digest. I often mix the idea of entropy with the idea that energy is continuously reduced. But the total amount of energy in the universe is constant being created only once, i.e. at the point of Big Bang. The world is cooling not because the energy is fading out but because with the expansion of the universe, the same energy is distributed across a much larger volume. Entropy is quite a different matter, altogether, essentially saying that energy is transferred from higher energy system to the lower energy system. Energy transfer does not imply any destruction of energy

[6] Poplawski, Nikodem J. 'Radial motion into an Einstein–Rosen bridge', *Physics Letters B*, Volume 687, Issues 2-3, 12 April 2010, Pages 110-113.

[7] Barrow, John D., and Frank J. Tipler, *The Anthropic Cosmological Principle*, Oxford: Oxford University Press, 1988.

about God 'exists' but is pointless, for it doesn't throw conclusive light on such a fundamental question. An anthropic principle does not advance rational thought. As Lee Smolin notes:

> [W]hen it comes to the biofriendliness of our universe, we have at least three possibilities:
>
> 1. Ours is one of a vast collection of universes with random laws.
>
> 2. There was an intelligent designer.
>
> 3. There is a so-far-unknown mechanism that will both explain the biofriendliness of our universe and make testable predictions by which it can be confirmed or falsified.
>
> Given that the first two possibilities are untestable in principle, it is most rational to hold out for the third possibility. Indeed, that is the only possibility we should consider as scientists, because accepting either of the first two would mean the end of our field.[8]

Our knowledge is not as bad as it was a few decades ago. Even though we don't know what *caused* the Big Bang, we do have a reasonable understanding of most of the major next steps. On certain matters we must be content to remain un-edified (at least at the moment), and plod on in our search.

Yet another proposal merges rational and theistic views, making it (potentially) unnecessary to identify the precise source of 'creation'. This is primarily a pantheistic view, in which the world and the 'spirit' are essentially the same, with the material being an image or illusion; only the spiritual being real. We then don't need to explain the 'origin' of the universe. God (if such a word can be used) is then no longer separate to the universe, but *is* the underlying indestructible energy (which is apparently spiritual: a form of consciousness, at the subtle level). The Indian tradition of Advaita believes that energy possesses innate consciousness. Consciousness is hypothesised to be a combination of the 'gross body' and 'subtle' body. Individual consciousness is subset (*atman*) – a reflection – of the consciousness of God (*Brahman*). Arthur Schopenhauer was attracted to this argument and thought of the Upanishads as equivalent to the 'most original, finest, and most thorough European expositions'[9]. Thus he thought that Bruno, Malebranche, Spinoza, and Scotus Erigena did not, 'bear comparison with the Upanishads of the Vedas'[10].

Such a view, while plausible, raises more questions than it addresses. I am sometimes attracted to an anthropic view which might suggest a steady flowering of the spirit, through greater freedom, but human history warns us against such teleological possibility.

No matter which view is found valid, the course of the universe through time must abide by its laws. There is no evidence for randomness in the laws themselves (This clearly shows that there is no basis for claims about ghosts, spirits, poltergeists, or miracles). The laws of the universe do not bend for anyone, nor differ across time or space.

Formation of matter

Powered by the release of a stupendous amount of energy in a micro-second, our universe began to expand rapidly, creating space (volume) as it exploded. It is now unimaginably huge (infinite), comprising at least 100 billion galaxies each with about 100 billion stars in the visible part of the universe.

Through a process which (currently) has no comprehensive mechanical explanation (in the form of a 'unified field theory'), some of this massive 'initial' energy 'condensed' into sub-atomic fundamental particles. These particles then combined into atoms.

This is an absolutely non-trivial issue. How did pure energy (wave-like) become particulate and gain mass? Theoretical physicists have been grappling with this for a long time, without much success.

> Mark Wise is a leading theorist working on particle physics beyond the standard model. At a recent seminar … he talked about the problem of where the masses of the elementary particles come from. "We've been remarkably unsuccessful at solving that problem," he said. … [W]e have no idea *why* neutrinos (or any of the other particles) have mass.[11]

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[8] Smolin, Lee, *The Trouble with Physics*, London: Penguin Books, 2008 [2006], pp.164-65.

[9] Arthur Schopenhauer, *Parerga and Paralipomena* (1851), Vol. I, 'Sketch of a History of the Doctrine of the Ideal and the Real'.

[10] In *Parerga and Paralipomena,* Vol. I, 'Sketch of a History of the Doctrine of the Ideal and the Real', 1851.

[11] Smolin, Les, *The Trouble with Physics*, London: Penguin, 2006, p. xi, xiii.

I'm no expert in physics (although I did study it diligently at the bachelor's degree level), but the more I think about it, it appears to me that mass can be thought of as energy trap. The only raw material at the time of creation of the universe was pure energy. If pure energy is assumed to have a few basic properties (such as – waves travel in a straight line, although this is subject to the complexity of quantum physics), then mass is fundamentally a combination of energy and space.

I hypothesise that intense energy is trapped inside a tiny, warped, space bubble, and travels at (or greater than) the speed of light in a straight line inside this super-warped bubble for ever. This space bubble distorts nearby space and leads to the property of attraction and repulsion which is typical of mass. Thus, mass is an appearance, not reality.[12]

The combination of mass-possessing sub-atomic particles into atoms is relatively better understood. The first atom was uni-protoned hydrogen (element 1). Over time, through fusion and repeated cycles of destruction through explosive supernovas, heavier elements like helium (element 2), carbon (element 6), nitrogen (element 7), oxygen (element 8), phosphorus (element 15), potassium (element 19), calcium (element 20), and iron (element 26) got created. Two of the most common atoms created were hydrogen and carbon. The most unique, perhaps, is carbon with an ability to bond with a number of other elements to create long chained 'organic' chemicals (why different combinations of atoms behave dramatically differently is a mystery), the underlying constituents of life. Without carbon we wouldn't exist. Other, even heavier elements like gold and uranium got created last, being a product of supernovas. Theoretically, these may well have been created in the first few instants of the Big Bang, but it appears that sub-atomic particles did not have sufficient time to cluster into the intermediate atoms.

The amount of energy that builds an atom is mind-boggling. Energy inside a pinch of atoms is sufficient to power an average house for a lifetime. But the entire known mass in the universe accounts for only a fraction of the energy gorged out at the Big Bang. Some hypotheses explain the missing energy by postulating higher than the (current) speed of light in the initial micro-seconds of the universe (something quite plausible given the space bubbles I earlier mentioned). Others explain it through 'dark matter' or 'dark energy'. But there could be other explanations.

Earth and life

Our earth, which emerged from a gas cloud 4.5 billion years ago, is the remnant of a previous star (or stars). We are made of stardust. No doubt, the earth is a very special place, but the fact that life has developed on it is perhaps not exceptionally remarkable. For instance, if each star had a mere ten planets (or planetary objects), then there would be at least 100 billion x 100 billion x 10 planetary objects – equal (at least) to number of sand particles on all the beaches of 13,000 earths, combined.[13] Out of this enormous number of planetary objects, surely a handful, if not millions, could be broadly similar to the earth. The likelihood of many Earth-like planets is increasingly being confirmed.[14] If a good number of such planets exist, then the probability of life emerging on its own in multiple places becomes very high, although the probability of finding intelligent life is lower. (In my view, the probability of finding highly intelligent life is asymptotically close to zero, given the many random occurrences needed to evolve into a human form. We are, therefore, almost certainly alone.)

Our Sun is a small pulsing star that provides us with all our energy that is not derived from previous stellar explosions (such as volcanic heat trapped within the magma), or nuclear power derived from heavy metals. Fossil fuels, on the other hand, are merely plant residue, made of the sun's energy 'fixed' through photosynthesis. Similarly, hydroelectric energy is driven by the sun's energy which warms and re-circulates water. Wind energy is also a derivative of the sun. Thus, we are basically a form of carbonaceous stardust that is warmed by the sun.

About four billion years ago, early in the earth's existence, crude life forms began to assemble themselves ('why' this happened is not yet clear, not even the how). We still can't re-create life in the laboratory. What we do know is that life can adapt to an enormous range of living conditions. (Sulphur can substitute for oxygen in some cases. Oxygen is actually toxic for obligate anaerobes and purple sulphur bacteria.) As a result, life exists in the most unlikely places on earth, and could arguably be found in a range of hostile conditions prevailing in other

[12] More speculative details at: http://sabhlokcity.com/2010/06/why-does-energy-travel-in-circles-inside-an-atom/

[13] Hawaii University calculations show that there are 7.5 x 10^{18} sand particles: [http://www.hawaii.edu/suremath/jsand.html]

[14] O'Neill, Ian: "Kepler Scientist: 'Galaxy Is Rich In Earth-Like Planets'", Jul 26, 2010, Discovery News, [http://news.discovery.com/space/kepler-scientist-galaxy-is-rich-in-earth-like-planets.html]

planetary objects (some evidence of bacterial life has been found in Mars, although this claim is not yet widely accepted[15]).

The life force is a self-replicating packet of energy that is capable of overcoming entropy. It is characterised by persistence, vigour, and adaptability. Life is an entrepreneur, surviving in unexpected circumstances. It can also cleverly change into a bird, fish, or human, to suit.

Despite being abundant, life is miraculous. In comparison to the Big Bang, though, explaining its diversity is relatively easy. During these past four billion years, life has colonised all nooks and crannies of earth and evolved into tens of millions of species – although the vast majority of them have by now gone extinct, being superseded by species that were better adapted.

Our immediately related cousin species (there were many dozens of them) evolved about two to three million years ago. (Note that chimpanzees are not our first but our second cousins, having branched off earlier – we are, therefore, not monkeys). Finally, between 100 000 and 150 000 years ago, a mutation created our sub-species, *Homo sapiens sapiens* (see Box 1).

Box 1

The biological specification of *Homo sapiens sapiens*

Currently scientists broadly agree on the following specification of our species:

Class: *Mammalia.*

Order: *Primates*

Genus: *Homo* (likely date of splitting from main branch: 1.8 million years ago).

Species: *Sapiens* (likely emergence: 1 million to 500 000 years ago).

Sub-species: *sapiens* (likely emergence:100 000 to 150 000 years ago[16]; likely place of origin: Africa).

Likely date of migration outside Africa: 60 000 years ago.[17]

Oldest pure lineage of humans outside Africa: In Andaman & Nicobar Islands and Australia.

Closely related species: A close cousin species, the Neanderthal, evolved 300 000 years ago in Middle East and Europe and became extinct 30 000 years ago. Recent findings indicate that between 1 and 4 percent of the DNA of people today who live outside Africa comes from Neanderthals. This is uniformly found in all non-African populations, not restricted to Europeans. "'Neanderthals probably mixed with early modern humans before *Homo sapiens* split into different groups in Europe and Asia." This could have occurred in the Middle East between 100,000 and 50,000 years ago before the human population spread to East Asia.'[18],[19]

Average brain volume: 1400 cubic centimetres.

Height: Generally between 5 to 6 feet as an adult.[20]

Many people don't accept the specification outlined above, which says that we are an animal on that sits at the 'top' of the evolutionary tree (not strictly speaking, though: everything alive is at the top of *its* evolutionary chain). That we are an animal species is, however, inescapably clear. The laws of genetics apply to us in their

[15] [http://news.bbc.co.uk/1/hi/sci/tech/1190948.stm]

[16] Hirschman, Charles, 'The Origins and Demise of the Concept of Race', *Population and Development Review*, Vol. 30, No. 3, (Sep. 2004), p.386.

[17] 'New DNA studies suggest that all humans descended from a single African ancestor who lived some 60,000 years ago.' cited in Mayell, Hillary, 'Global Gene Project to Trace Humanity's Migrations', *National Geographic News*, April 13, 2005) [http://news.nationalgeographic.com/news/2005/04/0413_050413_genographic.html]

[18] [http://bit.ly/9BiVdg] and [http://bit.ly/afw4JE], May 2010.

[19] Dayton, Leigh, 'Neandertal genetics study shows there's a caveman in us all', *The Australian*, 7 May 2010, http://tinyurl.com/3867btg

[20] The height of our species has varied with the primary occupation. Hunters and gatherers were taller but then shrunk to 165 cm by the time of Shakespeare (cited in Callaghan, Greg, 'Bigger, Taller, Wider', *The Weekend Australian Magazine*, April 5-6, 2008). Further, adult pygmies in parts of central Africa are a bit shorter, at around 150 cm.

entirety. Our physiology and anatomy is like any other animal's. We are born from inside our mother's womb, like any other mammal. As infants, mucus oozes out of our nose and food dribbles out of our mouth. As adults we fidget, pick our nose, and our colon generates unpleasant smells. Animal sensations – thirst, hunger, warmth, cold – beset us. At each moment our body reminds us of our unity with nature. We might not be 'ordinary' animals (whatever that means). Nevertheless, we are an animal.

But to understand ourselves even more completely, we need to look inside our brain.

1.2 A need to re-think human rationality

For thousands of years, philosophers have made claims about the uniqueness of human rationality. As Yong et al noted in 2020, "For sizable portions of humanity's intellectual history, it has been assumed that humans are the rational animal—a view that was trumpeted perhaps most notably by Aristotle, who claimed that "man alone of the animals has reason".

This assumption became more acute during the Enlightenment, with a belief in the human ability to overcome ignorance through conscious scientific and intellectual effort. Some of this led to a belief almost in human omniscience which underpins socialism – a system of centralised planning for the alleged greater welfare of the people.

Most economists believe in the dominance of rationality. This assumption has enormous predictive power and so it is not something we want to change. Predictions from economics apply mainly to market or price-related behaviour, but much of other human behaviour also fits this characterisation.

Rationality is a kind of tautology, which makes it a valid characterisation for all animals. Its main features include:

- A largely accurate assessment of reality (forming beliefs that are largely true, to the extent the costs of doing so are reasonable; this includes rational ignorance where the cost of collecting information is too high). We know a belief is largely accurate when multiple independent observers arrive at the same answer.
- Self-interest as a driver of action (including interest in one's own family and survival); this includes opportunism (i.e. opportunistically maximising one's self-interest).
- Reasoning before action. This includes some planning, but most importantly a sense of proportion in one's actions, i.e not over-doing something.

The fact that an animal has survived in the evolutionary chain is because its actions must have been rational at some level, whether consciously or instinctively. Rationality of the kind mentioned above need not be conscious. Thus, if something is too hard to achieve, an animal will stop that attempt. For instance, if a prey is too fast or otherwise difficult to catch, a cheetah will stop the hunt. That's a rational decision, regardless of whether it is made by the limbic brain or the neocortex.

To the extent humans have survived and blossomed as a species, they are fundamentally rational. However, a bustling literature that is largely on the fringe of economics talks about systematic human biases. But it is extremely hard to reproduce these claims. Further, such claims have little actionable content. Behavioural economics (which derives its findings from these biases) claims that economists should "nudge" society in a particular direction, but this assumes that economists are somehow free of bias and that their recommendations about what people should be doing, have sufficient merit to be forced on the entire society. That is entering into dangerous territory, which economics should avoid. Overall, such "biases" barely make a dent on the fabric of rationality, therefore economics is on solid grounds to continue to use the rationality assumption for most things.

However, there are some characteristics of the human species which can make us undertake some rather severely irrational actions. Abnormal psychology is primarily a human issue, although animals do feel anxiety. There are many of books on dog anxiety – but dog anxiety has "rational" reasons, that typically include some form of mistreatment or poor handing by their owners. With love and care, dogs typically return to normal. For humans this return to normalcy takes longer because humans are not necessarily being mistreated by others: they have a fertile imagination and can imagine things that might or might not exist. Imagination is a feature unique to humans: a wild and often uncontrolled imagination. Therefore, only humans are susceptible to panic, i.e. sustained anxiety – typically for things that exist purely inside their own head. To that extent, humans are the least rational of animals, vulnerable to weird behaviours. This is particularly so in relation to the fear of death (what I call the Death Singularity), which is probably something only humans experience.

In other words, while the fear response in other animals is extremely limited in scope and comes to an end once its causes are removed, the human fear response is almost unlimited in scope. While "biases" are rather trivial in terms of their overall impact on society, the fear-panic proclivity of humans is non-trivial and can significantly disrupt human welfare through mass-panics.

The field of abnormal psychology focuses on isolated cases of irrational, self-harming behaviour. But the roots of mass-panic are the same: these relate to the structure and form of the human brain. History is replete with examples of mass panics and hysterias based on imaginary dangers. Most such hysterias pass fairly quickly, thus any harm caused is relatively temporary. But some hysterias are more pernicious and of much longer duration. Most of these pernicious hysterias occur around so-called "pandemics", where the fear of death is activated. The worst of all these hysterias was the covid panic which I have dubbed the Great Hysteria.

The assumption of rationality has no predictive power to explain panics like the Great Hysteria. In such a situation, the limbic brain does not allow any data to be considered that might contradict the (false) belief that has been formed. This shutting down of the cerebrum is also happening as we speak, today, with almost all economists and doctors refusing to reassess their fear response to covid. Two hundred and sixty five Australian economists went into meltdown in early 2020 and wrote a letter in which they specifically abjured the concept of trade-offs: "Some commentators have expressed the view there is a trade-off between the public health and economic aspects of the crisis. We, as economists, believe this is a false distinction". Through this single statement, these "economists" gave up their right to be called economists, since there is no separation between "public health" and the "economy". Health (of all kinds) is a part of an economy. Health does not come free, it has costs. By shutting down the economy, huge costs are imposed on health. The reason these "economists" forgot this basic fact is that they went into panic.

Typically, economists are able to remain objective when someone else is dying. They are good at assessing the statistical value to society of someone else's life. But when their own life is at stake – for instance, during covid – their rationality can disappear. Many of them made the same blunder they accuse others of making – they put a close-to-infinite value on their own life.

To understand this kind of behaviour is crucially important. Denying such behaviour (as many people continue to do) is counter-productive, leaving us exposed to dangerous over-reactions in the future. Studying the biology and prevalence of the Death Singularity and associated mass-panic is important because all of us are susceptible to it.

My studies to date have confirmed that humans are unique among animals, but not for their rationality. Instead, they are unique for their wild imagination (and creativity) and capacity for mass panic. Given the Great Hysteria and hundreds of other mass hysterias recorded in human history, we need to re-think the concept of human rationality.

1.3 Mirror neurons

We are susceptible to tribal frenzies because our brain is a receptacle of excitement and passion. Mirror neurons. That's where this all begins.[21] We have a *tabula rasa* (cf. Locke), along with an in-built tendency for empathy.

We bond with others, including groups, like a newly-hatched duckling bonds with the first moving thing it sees. If we find Christians around us in our childhood, we will become Christians (or favour Christianity positively). (Babies aren't born as Hindus, Christians or Muslims, they are *made* into one.) We prefer to eat the food we ate as a child. We will affiliate with the culture of our youth. Edward de Bono calls our brain a *self-organising system* which adds new perceptions onto *existing* patterns and beliefs. Just as the drop of water falling on a surface takes the shape of that surface, our more recent perceptions fit into existing grooves of thought. Things that don't fit with our pre-conceived notions are discarded without scrutiny. The Hindu dismisses the *Koran* equally as the Muslim dismisses the *Vedas*. Our brain does not evaluate each new information afresh, but fits it into existing frameworks. This is economical in terms of brain energy used, but it risks biased approaches which can actually harm our interests.

Neuroscience has progressed dramatically in the past decades. Today, we know that our brain is extremely malleable and keeps building connections, until one day we speak with the group's mind. Socialisation and subliminal indoctrination goes well beyond mimicry of our group. We actually seek to understand, at least in

[21] For details about mirror neurons, see V. S. Ramachandran's *The Tell-Tale Brain: A Neuroscientist's Quest for What Makes Us Human.*

outline, why our group really thinks the way it does. We have a Theory of Mind. Our 'models' of the world help us predict others' thoughts, arguments, reactions, and feelings. Genetic studies have shown that we have a very high density of mirror neurons, and so, while nearly 98.7 per cent of our genome is identical to a chimpanzee, we differ strongly in the way we process information. Steven Pinker, professor of psychology in the Department of Brain Cognitive Sciences at MIT, explains this difference:

> A friend of mine lived and worked with a chimpanzee for several years, and tells the story of how the chimp loved to imitate things that she did. For example, after she washed the dishes the chimp would wash the dishes, but the chimp's idea of washing the dishes was very different from ours. It went through the same muscle movements; it would pick up the sponge, let the warm water roll over his hands, would rub the sponge on the plate, but didn't get the idea that the point of washing the dishes was to get the dishes clean. It just liked the feel of rubbing a sponge over the plate. It could wash the same dish over and over again, it could rub some of the dirt off and not get all of it off, because what it was imitating was the particular physical sequence. What it didn't think about was what was the goal of the human performing the action. And the ability to guess what other people's goals are is a key part of human intelligence, and it makes us very different from our primate cousins.[22] [New studies show that this view of chimpanzee behaviour is perhaps a bit too limiting, for chimpanzees may actually possess advanced 'thinking' abilities such as the ability to conceive the past and plan for the future.[23]]

The most intriguing difference is not just about a Theory of Mind, it is about our self-consciousness. We are able to watch our body and mind work, as if we were an independent observer. Does this mean we have a soul? Not at all. It is increasingly becoming self-evident that self-awareness is a property of our brain. Experiments are now able to pinpoint and therefore break up our 'self' into many component parts, each component created by a different action or part of the brain.

At a simplistic level, these differences arise from our brain's volume which is much larger than the chimp's brain. When the first hominids branched off about six million years ago, their brain size was around 350 cc: roughly the size of the modern chimp brain. But during these last three million years, the hominid brain has tripled in size. An intermediate bipedal species to ours – *Homo habilis* (which lived approximately two million years ago) – had a brain size of 750 cc. Our direct ancestor, *Homo sapiens*, came into existence three to four hundred thousand years ago with a brain size of about 1200 cc. Our sub-species, *Homo sapiens sapiens,* has a brain of around 1400 cc. (some of us have a brain as big as 2000 cc). Note that the brain size of all human 'races', (e.g. pygmies or Caucasians), is almost the same, disproving further again the concept of 'race'). There is evidence that our brain is still growing, being only constrained by the capacity of our spine to hold even more weight, and the capacity of the heart to pump even more oxygen to the brain.

Intellectual calibre, however, is only partially related to brain size. While the Neanderthal's brain was 100 cc larger than ours, it wasn't as smart as us. Similarly, men have slightly bigger brains than women but both men and women are, on average, equally intelligent on most tasks. Girls, due to their diligence, often generally outperform boys in academics. Men, on the other hand, make better taxi drivers, having a larger spatial area of the brain to help them figure out their whereabouts. But basically, once the brain becomes large enough, it is not its size but the way it is wired that matters. Women seem to be better communicators than men, on average, because their fetal brain cells sprout more connections in key communication centres including those that process emotion.[24]

In taking a closer look at the brain, I will now cite the Triune brain model which is useful despite limitations. As Pinker notes, 'the forces of evolution do not just heap layers on an unchanged foundation. Natural selection has to work with what is already around, but it can *modify* what it finds.'[25]

1.3.1 *The lower brain: our body manager*

Evolution tries to be as efficient as possible, innovating only where it is absolutely necessary, preferring to reuse existing machinery. Thus, organs that have worked well for millions of years still live on within us. These include

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[22] In an interview filmed by PBS for the film: 'Evolution: The Mind's Big Bang', 2001. Transcript available online. [http://www.pbs.org/wgbh/evolution/library/07/2/l_072_03.html]

[23] Osvath, Mathias, 'Spontaneous planning for future stone throwing by a male chimpanzee', *Current Biology*, 19:5, 10 March 2009 [http://www.cell.com/current-biology/abstract/S0960-9822(09)00547-8]

[24] Brizendine, Louann, *The Female Brain*, New York: Morgan Road Books, 2006, p.14.

[25] Pinker, Steven, *How the Mind Works*, London: Penguin Books, 1999, p.371.

our lower brain, the 'reptilian' brain, so named because it first evolved in reptiles around 500 million years ago.[26] Comprising mainly the spinal cord, brainstem and diencephalon, and looks after basic bodily functions (breathing; maintaining blood pressure, body temperature and blood sugar). It signals hunger, thirst, sleep, and readiness to reproduce. It responds rapidly in emergencies. Most of its actions are involuntary, which makes breaking 'bad habits' (which are embedded into our lower brain) so difficult.

1.3.2 *The middle brain: our motive force*

The mid-brain comprises the cerebellum and limbic brain, and came into existence about 400 million years ago (some people consider the cerebellum to be part of the lower brain). This second brain looks after proprioception (awareness of the body's location in space) and allows us to voluntarily control muscles, and thus, our physical movements. Perhaps its most significant component is the almond shaped *amygdala*[27] which signals feelings and emotions. The other crucial aspect of the mid-brain is the hippocampus ("seahorse"), which converts short-term memories into long-term ones.

Emotions are vital, for they make us *do* things. (Many other animals have an *amygdala* and perhaps experience primitive emotions, as well. Emotion is far more common than intelligence among animals.) The *amygdala's* response to a situation determines which events in our lives get stored as memories. Events that evoke a strong emotional response are retained longer than boring, mundane things. The middle brain is crucial in socialisation, by helping us bond with our family and tribe. The *amygdala* is larger (perhaps ill-formed?) in autistic children.[28] The capacities of our mid-brain could well be behind much our discord and drama, but also behind our eloquence, poetry, art and music.[29]

1.3.3 *Our rational and aspirational higher brain*

The cerebrum (also known as the cerebral cortex or neocortex) is the main part of our higher brain. It is like icing on the cake – not crucial for our basic survival, but good to have. (In comparison, the more 'primitive' parts of our brain are more important, and damage to these parts can quickly lead to death.) Within this, the frontal lobe is most significant, although doesn't seem to have much to do with 'technical' intelligence. When excised, our IQ (as measured by standard tests) is barely affected, but dramatic changes occur in our social behaviour, personality, and ability to learn new things (which could impact on certain aspects of IQ).[30]

According to Robin Dunbar (evolutionary psychologist) it is in this part of the brain 'where information from the rest of the brain is interpreted'. This 'capacity to interpret information underlies social interactions."[31] Jane Bradbury, citing him hypothesises that 'the number of problem-solving cognitive tasks you can do may well depend on how much frontal lobe volume you have and how it is organised.'[32]

Overall, our higher brain is responsible for cognitive skills and self-consciousness. Its advanced development in humans distinguishes us from other species (noting that intelligence does not necessarily have to reside in the cerebrum (different parts of the brain can perform slightly different functions, including cognitive intelligence, in different species).

Broadly speaking, though, the cortex came into being the last of all. It commenced its evolutionary journey last, about 200 million years ago, and is found, in less developed form, in many other animals. The human cortex is far bigger (relatively speaking) to what other animals have. It is also relatively large within our overall brain. And within it, our forebrain (frontal lobe) is massively disproportionate to what early hominids had. To overcome space constraints within our skull (the cranium), the number and depth of convolutions in our cortex has increased dramatically, thus expanding the cortex surface area and increasing its processing power. Many other

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[26] Bergland, Christopher, *The Athlete's Way: Sweat and the Biology of Bliss*, Macmillan, 2007, p.80.

[27] Famous for its role in our emotional life—already pointed out in chapter 1.

[28] Research in the May 2009 issue of the *Archives of General Psychiatry* [http://tinyurl.com/nr4rv4].

[29] 'Why music?' *The Economist*, December 18 2008.

[30] Stuss, D. et al., 'Subtle neuropsychological deficits in patients with good recovery after closed head injury', *Neurosurgery*, 17, 1985, pp. 41-47.

[31] Both citations from Bradbury, Jane, 'Molecular Insights into Human Brain Evolution', *PLoS Biology*, 3:3, March 2005. Available in full on the internet.

[32] Bradbury, Jane, 'Molecular Insights into Human Brain Evolution', *PLoS Biology*, 3:3, March 2005.

things have also changed over these last few million years. As Pinker explains in *How the Mind Works*, our brain's olfactory bulb (which we use for smell) and cortical area (for vision and movement) has shrunk to make way for auditory (listening and vocalisation related) areas, which are crucial to modern social intelligence.

As a result of these evolutionary refinements, our brain is now well adapted for speech, logic and memory, functions that give us the strategic ability to consider consequences and anticipate others' responses. The frontal lobe also plays a crucial role in our moral sense. Much of our moral decision-making happens in a split second. As Gerd Gigerenzer notes, '[r]easoning rarely engenders moral judgement; rather it searches to explain or justify an intuition after the fact'[33]. Similarly, we have intuitions about justice. Other animals can't think this way, although some do display a rudimentary sense of fairness.[34] The frontal lobe thus enables us to exercise some control over emotions, enabling us to change even well-entrenched habits after we are convinced. (Of course, complete self-control remains a distant dream). A key aspect of this reasoning is abstraction, or the ability to generalize from specifics. The work of Temple Grandlin is a crucial pointer to the vital importance of abstraction as a primary characteristic of the cortex, without which it is impossible to even consider the idea of generalized systems of knowledge.

[For next version also extract key insights from http://edge.org/conversation/the-argumentative-theory]

1.3.4 *The mind and self*

Self, being the consciousness of a separate entity, is great mystery. This requires us to understand both mind and consciousness. The mind seems to be a machine that generates thoughts without pause, even when we are asleep. But far more difficult to understand is our sense of self, which seems to be located outside of these thoughts, with power to control which of our thoughts are allowed 'to run' further, and which nipped in the bud; as if it were the cinematic director of the story playing out on the 'big screen' of our mind's eye. There is therefore a wholeness to the end product (mind-story) which over-rides the constant fluctuation in mind activity: an overarching integrated identity, an organising self and even a pure consciousness that seems to go beyond this self, and reaches out to our unknown spirituality.

Some yogis have managed to achieve a level of conscious control over their mind and body that is generally well beyond the realm of the average person. Knowledge of our self, of our consciousness, can help us increase control over our mind. We can also – through yogic routines –tune our mind as a mechanic might tune a car. We can train ourselves to experience high amplitude alpha and theta brain waves (instead of the more agitated beta and delta waves)[35]. Thus reverting to a calm state of mind, we are better placed to explore truth. It is very hard to understand the self, but hopefully we will ultimately understand the mechanics of the self.[36]

While our higher brain is responsible for cognitive aspects including, possibly, self-consciousness, the atcual consciousness or even mind is not brain material, but transcends it. The brain supplies the underlying piping, memory, sensing equipment (camera, thermostat); the body supplies energy to this mechanical brain; but then, the result is extra-material. Raw energy – that arose from the Big Bang – is combined into mass, then into a fine-tuned brain, resulting in an abstraction known as consciousness.

Further discussion would take me into the realms of speculation that I'm not prepared to undertake. Suffice to note that re-creating consciousness (not just artificial intelligence) from scratch in the laboratory is a non-trivial issue that will require the best of our scientists to keep working on the problem for many more years, even centuries. A fully self-aware, conscious robot will be the true demonstration of our understanding.

Despite this mechanistic view, it is important to note that I do not imply a deterministic view. We are always free (within this framework of biological mechanics) to choose our actions. That ability – to choose freely – is perhaps the hallmark of consciousness itself. Indeed, without free will, the concept of freedom becomes meaningless, nor any responsibility attributable to anyone.

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[33] Gigerenzer, Gerd, *Gut Feelings*, London: Penguin, 2007, p.191.

[34] Dogs have recently been found to display a sense of envy (Carroll, Rebecca, 'Dogs Can Feel Envy, Study Suggests', *National Geographic News*, December 8, 2008 [http://news.nationalgeographic.com.au/news/2008/12/081208-dogs-envy.html]

[35] Hoffmann, Erik, 'Mapping the brains activity after Kriya Yoga', *Bindu*, No. 12, likely 1998-99. [http://www.yogameditation.com/articles/issues_of_bindu/bindu_12/mapping_the_brains_activity_after_kriya_yoga]

[36] E.g. see Pinker, Steven, *How the Mind Works*, London: Penguin Books, 1999.

1.4 Which part of our brain predominates?

'The collective expression for hominoids, "a shrewdness of apes," tells a story. Primates are sneaky baldfaced liars. They hide from rivals' eyes to flirt, cry wolf to attract or divert attention, even manipulate their lips into a poker face. … One chimp, shown a set of boxes with food and one with a snake, led his companions to the snake, and after the fled screaming, feasted in peace.' – Steven Pinker[37]

Despite the enormous computational capacities of the human brain, its perceptual and cognitive capacity, and capacity for good judgement is not unlimited. And the higher brain does not always dominate. Neuropsychology and neuroeconomics are at the frontier of such analysis. In Nobel Prize winning studies, Kahneman and Tversky found that we are likely to draw erroneous conclusions based on the different ways in which information is presented. These biases include anchoring, availability, framing and representativeness, the base rate fallacy, conjunction fallacy, loss aversion, peak-end rule, preference reversal, status quo bias and fundamental attribution error. A recent study, for instance, demonstrated that we make systemic errors in purchase options that are framed as 'special deals'.[38] And of course, we easily slip into logical fallacies. Our mind doesn't always think as rationally as it could, after it has been properly trained to spot errors of logic.

[Digression: For an excellent overview of our biases, I recommend Jason Zweig's entertaining book, *Your Money & Your Brain* (2007), as well as Nassim Nicholas Taleb's (at times very wrong but also sometime insightful) books such as *Fooled by Randomness (2001) and The Black Swan* (2007).[39]]

If this is the case, then rephrasing some situations in a more natural or 'intuitive' manner can help us overcome some biases[40]. It is also now clear that such failures of rationality occur largely when a situation is *new*. People will arrive at the rational solution after practice (learning by doing). It is irrational to expect us to be able to calculate the complex physical movements needed to ride a bike the very first time, without falling. And, being a biological organism, with a brain that is not just required to absorb information but to process it a way so as to *understand* it, it is clear that such understanding is not costless or formed instantly. It is entirely irrational to expect a biological organism to master (understand) complex and subtle matters in the very first exposure to such complexity. Such 'failures' of 'perfection' do not by any means 'prove' that we are irrational. All that these 'biases' therefore tell us is that complex arguments of rationality (even reason) are learned, not innate. While economists are fond of emphasizing imperfect information (which they then seek to overcome through government intervention) they are well advised to allow for time to learn (*and cost*) for the optimization equations that might take even them in their 'perfection', days, even months, to formulate accurately and test.

It takes time and effort to think, so we generally resort to simple heuristics or rules of thumb to make decisions. We do not calculate the complex mathematical models that economists produce. Instead, we reach instinctively for decisions that will benefit us. In this process, most *ex-ante* decisions are found, *ex-post*, to have been consistent the predictions of the standard economics model.

The cost of time and effort to think through complex issues is enormous. Or instance, we therefore often choose default options – and don't change them: 'Many people would rather avoid making an active decision, even if it means life or death'.[41] I believe that some of this is also attributable to the way we adapt to uncertain environments. We (often rightly) assume that experts (who are trained to understand the uncertain environment better than us) have offered us the most 'reasonable' default option. This saves us significant amount of time and effort. Such delegation of decisions, or accepting default options, is in such cases a rational decision.

Emotion seems to be a source of some alleged 'irrationality'. For instance, many of us don't invest in shares even though over the long run it is almost certain that these will yield the highest return. We are afraid of loss (no matter how unlikely) than excited about the happiness we will experience by making a profit. Loss aversion is based on the sinking feeling in our guts when we lose money, no matter how little. To avoid this feeling we take

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[37] Pinker, Steven, *How the Mind Works*, London: Penguin Books, 1999, p.193.

[38] "The Impact of Price Frames on Consumer Decision Making", Office of Fair Trading, UK May 2010 [http://www.oft.gov.uk/shared_oft/economic_research/OFT1226.pdf]

[39] Also the 1974 experiment, Reconstruction of Automobile destruction, by Elizabeth F. Loftus and John C. Palmer: http://www.garysturt.free-online.co.uk/loftus.htm

[40] Pinker, Steven, *How the Mind Works*, London: Penguin Books, 1999, p.343-348.

[41] Gigerenzer, Gerd, *Gut Feelings*, London: Penguin, 2007, p.185.

the *seemingly irrational* decision to invest in bonds, say, instead of shares. But under many circumstances it is perfectly rational to avoid loss, for we, *individually*, suffer the consequences (sometimes fatal). In the evolutionary a bird in hand is worth two in the bush. Far better to eliminate the possibility of losing what we have, *before* indulging in pipedreams about what we might gain if things to well. With good economics education, we might learn to take some carefully calculated risks, but all such rationality must work in tandem with emotion to ensure our evolutionary survival (which is far more important than the generalized 'rational' logic of a well-settled, well paid economist).

True, our emotion can potentially take our 'reason' dangerously astray – such as to suicide, which is the worst evolutionary outcome. We are the only animal known to take its own life, albeit very rarely. Worries (real or imagined), self-consciousness, and stress are among the emotional miasmas that beset us. Our rational mind can be easily overpowered by fear. Self-interested rationality underpins most of our behaviour. Our 'faith' in reason is challenged when we look around at this world. But if we mean by rationality only to *an attempt to reasonably achieve one's self-interest*, given limitations of information and experience, then almost all human behaviour is rational.

If being 'truly' rational were to mean perfection, then it would also be plausible to expect tennis games go on for ever. But are various physical limitations come in the way. So, also, reason, or rationality, is not a guarantor of perfection or the truth. We can very well reason wrongly – but that's still the use of reason. Indeed, one of the most irrational things is spiritualism, but even here, there might be a reasonable belief that spiritualism could yield social (hence material) gain. To such extent even spiritual beliefs are self-interested, hence 'rational'.

We err when we imagine that reason or rationality only applies to our mental processes. Consider simple bodily movements. Our cerebellum makes enormously complex mathematical calculations that can defeat all known computers in order even to make a robot undertake a slight movement, such as writing down a short sentence by hand on a book in a moving bus. So also our emotional behaviour can be driven by underlying calculations, possibly reason that, at times, is deliberately hidden (by our sub-consciousness) from our conscious self. Gerd Gigerenzer argues that 'love at first sight' is a *rational* solution to the problem of finding a mate, because it prevents us from undertaking a *seemingly rational* search for partners that can often become counter-productive, hence harm our evolutionary chances.

In 1611, Kepler, 'after an arranged and unhappy first marriage, …began a methodical search for a second wife.' He "investigated eleven possible replacements within two years. Friends urged him to marry candidate number four, a lady of high status and a tempting dowry, but he persisted with his investigation. Insulted, this suitable match rejected him for toying with her.'[42] It is optimal to stop our search fairly quickly. Emotions, by putting a brake on endless, 'rational' search, are more rational than our reason. This is somewhat similar to a dynamic programming 'parking problem' which involves deciding whether to park in the first empty spot or to move on and look for a spot closer to one's destination. The problem of marriage is a two-sided parking problem, with both sides searching for a match (place to park), but with added problems of uncertainty and strategic gaming (a parking lot doesn't game with you; a potential partner well may). Even the rational solution might turn out to be (assuming that we, or anyone, can do the maths) to decide on marriage within the first three or four opportunities. Regardless of the maths involved, humans do tend to marry within the set of the first few partners they investigate, with as many as 'a third of Americans born even as recently as the 1960s and early 1970s' marrying their first partner[43]. I suspect these, latter marriages, are likely also to be more stable.

Our evolutionary reason makes us 'fall in love' to deliberately block out so-called rational thought, which only creates doubt. If we were purely rational (in the commonly used way of thinking about it) we would *never* marry, nor reproduce. Therefore, '[o]ften what looks like a reasoning error from a purely logical perspective turns out to be a highly intelligent social judgment in the real world'[44]. Our 'gut feelings [may] …have a rationale based on reasons'[45].

It is also important to consider the value of time, in our considerations of rationality. Teenagers *know* that the fun they are having won't ever come back, so they (rightly) ignore calls to forego fun at the seeming expense of even

[42] Gigerenzer, Gerd, *Gut Feelings*, London: Penguin, 2007, p.58.

[43] Gigerenzer, Gerd, *Gut Feelings*, London: Penguin, 2007, p.54.

[44] Gigerenzer, Gerd, *Gut Feelings*, London: Penguin, 2007, p.103.

[45] Gigerenzer, Gerd, *Gut Feelings*, London: Penguin, 2007, p.192.

more study and preparation for their future. Once time is taken into account, the rationality of many of our decisions becomes even more evident. People therefore *rationally* take imperfect decisions on *minor* matters [*cf.* Demsetz]. Our mid-brain also observes many things subliminally – many of which do not register on our consciousness. In that sense we make use of whole-body knowledge when we decide on most routine matters.

By now a large stream of literature, starting with Gary Becker's work, demonstrates that most aspects of our behaviour are best explained through self-interested rationality, even though, on the surface, such rationality might not always be evident. The behaviour of drug addicts, criminals (and even animals in many cases) has been shown to abide by the predictions of rational choice model. Standard economic models therefore provide excellent insight. David M. Kreps's provides an excellent discussion about this in the introduction to his 1990 *A Course in Microeconomic Theory*. Models of rational choice, of course, cannot *perfectly* predict human behaviour. All they aim to provide is an indication of direction (tendency) and comparative dynamics. Convincing demonstrations of the predominance of rationality are found in Steven Levitt and Stephen J. Dubner's books, *Freakonomics* (2005) and *SuperFreakonomics* (2009); and Tim Hartford's *The Logic of Life* (2008).

There is a perception that by weaking the definition of rationality we end up losing its meaning. As Sonia Jaspal wrote on my blog, 'One person's rationality is another person's irrationality. Even murderers think they are being rational.' True, the fact that we can justify virtually everything makes us very dangerous. In this category would be the 'extreme rationality'-based thinking attributable to Hegel, Nietzsche and Heidegger: the kind of thinking which ultimately created Hitler. Such evil does not believe it is evil, for it has its own 'reasons'. It even denies that there are values. But this is too pessimistic. The average jury can determine whether a particular killing was accidental or otherwise unintended, even 'justified'. Mitigating circumstances (being defensible *reasons*, hence rational) might lead to far lower punishment being imposed. By applying their mind to the facts of the case, most independent observers should arrive at the same conclusion. Such independent rationality is the basis of all scientific advance. The ultimate test is therefore of universal objectivity, like the test of the truth.

Taleb is therefore wrong when he writes: 'Legions of empirical psychologists of the heuristics and biases school have shown that the model of rational behaviour under uncertainty is not just grossly inaccurate but plain wrong as a description of reality'.[46] He is plain wrong because rational choice models are only an approximation of human behaviour since they can't access all relevant information, often hidden from view. Rationality is merely a claim about human self-interested optimisation *subject to* one's local circumstance (including information). A decision that is perfect in some form is not the standard of rationality. I will therefore assume in this book that despite their limitations, humans are predominantly rational and strategic (i.e. self interested).

That doesn't mean that emotion has only a 'rational' role. Through our powerful but imperfect brain, with its great capacity for imagination, we are led to heroic deeds, great poetry, or – at times – to terrible crime. For instance, chimpanzees can't inflict the level of harm we can (with our atom bombs) but also can't build skyscrapers or write sonnets. Without emotion, all romance, drama, poetry, art and 'colour' will drain out, leaving behind a hollow, insipid package. We have potential both for good and for evil. Political principles must recognise and build on this.

DN: Cite the 2013 experiment regarding political biases (https://www.motherjones.com/politics/2013/09/new-study-politics-makes-you-innumerate/)

1.5 Human nature

We do have something that can be called 'human' nature, like a lion has 'lion nature' and a sheep, 'sheep nature'. Although Gandhi and Hitler are poles apart, they both expressed aspects of human nature.

It will be exaggerating things to claim that 'laws' of human nature are like laws of physics: precise, uniform, invariant. Nevertheless, the description of human nature is amenable to sufficient precision. We all respond virtually identically to incentives. Human nature is (at least statistically speaking) consistent enough, even permanent, having evolved over millions of years. As Hans Morgenthau noted, 'Human nature, in which the laws of politics have their roots, has not changed since the classical philosophies of China, India, and Greece endeavoured to discover those laws.'[47] It is clear that all the world's philosophers and all its men (and women) of

[46] Taleb, Nassim Nicholas, *The Black Swan,* London: Penguin Books, 2007, p.185.

[47] Morgenthau, Hans J., and Kenneth W. Thompson, *Politics among Nations: The Struggle for Power and Peace*, New Delhi: Kalyani Publishers, 1985, AN EARLY PAGE – CHECK.

religion (or even the gods themselves) have singularly failed to change us. Indeed, humanity has killed people in the name of these very teachers. Any excuse to kill is good, it appears, so blood thirsty are we. Hatred is perhaps the *leitmotif* of mankind. We hate 'otherness' with a vengeance. It is crucial, therefore, that a theory of society should be built on the facts of human nature, not imagined or idealised speculations about what it ought to be.

So now I explore and characterize human nature.

1.5.1 *Individual and group nature*

Individuals who momentarily, coincidentally, walk together in a street do not constitute a group. Groups are formed for a common theme or purpose – a common belief, objective or activity. Groups can range from an audience which politely applauds a stage performance, all the way to a well organised army marching in unison. They also need a place (even an internet place, an internet forum), and usually but not always, they need leaders. Once formed, groups tend to expand by inducting new members. Various stages occur (forming, storming, norming). Groups often become a significant part of peoples' lives.

Human nature is tailored to each of the *individual* roles we perform (such as father, son, husband, bread-earner, friend). In some of these roles our self-interest is more evident in others less so. In relation to groups, we behave either as self-interested *individuals* operating within a group umbrella, or as persons whose personality is fully submerged to the group's.

Individual *human nature* and group *human nature*

Individual *human nature*
- individual as an independent unit

Individual-group *human nature*
- individual with a specific role in a group

Group *human nature*
- group acting as a single unit, e.g. a mob.

Old World societies were predominantly collectivist, emphasising group nature. The modern society, with greater focus on freedom and individualism, seeks to retain our individual sovereignty in the midst of groups. Of course, our biological foundations aim to (if such a word can be used for what is essentially a random process) propagate the *species* and don't care for *particular* individuals. The challenge for us, in going forward, is to develop our individuality without threatening the survival of the species. Some of these issues can be explored by understanding individual and group needs.

1.5.2 *Our needs, motivations, and intent*

Our *individual* needs arise from the structure and demands of our body and brain. As Pinker points out, '[t]he mind has many parts, some designed for virtue, some designed for reason, some clever enough to outwit the parts that are neither.'[48] It 'accommodates not only ugly motives but love, friendship, cooperation, a sense of fairness, and an ability to predict the consequences of our actions'[49]. In brief, our brain structure accommodates a wide range of needs.

Abraham Maslow suggested a hierarchy of needs: a pyramid starting with physiological needs at the base and, in order of lesser urgency – safety, love, belonging and esteem, and self-actualisation.[50] I believe that Maslow ignored the *most basic need of all*, our need for liberty. We don't want to be well-fed and safe, but in solitary confinement. Equal freedom is what we need, and that includes reasonable equality of opportunity and justice.[51] These, to me, appear to be more basic than love, belonging, or esteem. At the other end of the spectrum there is

[48] Pinker, Steven, *How the Mind Works*, London: Penguin Books, 1999, p.424.

[49] Pinker, Steven, *How the Mind Works*, London: Penguin Books, 1999, p.518.

[50] Maslow, A. H., 'A Theory of Human Motivation,' *Psychological Review*, 1943, 50, pp. 370-396.

[51] E.g., Taylor, A. J. W., 'Justice as a basic human need,' *New Ideas in Psychology,* Vol. 21, Issue 3, December 2003, pp. 209-219.

perhaps a need higher than self-actualisation – the need for a values-based leadership that transcends the individual and aims to influence the entire world for sustained improvement in everyone's quality of life.

These needs lead to three kinds of behaviour: competition, indifference, and co-operation. When the quantity of a desirable thing is fixed, the need for such a thing can only be met at the expense of someone else's need. These are ***zero-sum needs***. If I want a particular job, but so does someone else, then clearly both of us can't get it. These needs lead to *competition* and (potentially) to aggression, even violence (violent computer games are based on this competitive spirit: We are hard-wired to gather (and win scarce resources, sometimes through violence). Theory X of human motivation[52] is based on such a perspective. It assumes that the average person dislikes work and avoids it. It believes we are self-centred and don't care about organizational goals. It postulates that the average human will resist change, is gullible, and not particularly thoughtful. Economic theory, similarly, sees us as opportunistic (i.e. driven by strategic self-interest, with potential to deceive). These unflattering views have considerable merit, particularly given that most needs are zero sum.'

Non-zero-sum needs are met without significantly reducing other's chances. For example, when I buy bread I am indifferent to others in line who want to buy bread as well, provided there is plenty of bread to go around. (Under conditions of scarcity, our strategic side will revert.) No doubt, price competition exists among its sellers, but at a given price customers pick the particular bread they want, and don't compete *directly* with other buyers. Such needs lead to *indifference* (peace). We may, at times, feign indifference while being competitive, under situations of scarcity.

Collaborative non-zero-sum needs can only be met by working together. I can meet my need for justice only by creatin an appropriate social contract. These needs lead to *cooperation*. Opposing parties cooperate with the justice system while seeking different outcomes. Workplace teams cooperate to produce common outputs, but each member also seeks to do better than other team members, so as to be promoted.

Douglas McGregor's theory Y suggests that our higher needs (such as for self-esteem and self-actualization) motivate us even more than competition or collaboration. Those who drive themselves in search of the truth or meaning are not thinking either about competition or about cooperation. Inquisitiveness, creativity and ingenuity matter most, and beyond a (modest) level of material comfort, neither money nor fame matters. We live to exceed ourselves, to go into the 'zone' where we are truly living. Monks, scientists, adventurers and mountaineers put their energy into things that can't be explained by (competitive) greed, lust, or power – or even a search for collaboration.

Thomas Alva Edison reportedly used to become so immersed in his work that he would forget to eat. Charles Darwin was generally the first to rush out of *The Beagle* at its various ports of call, to try to collect natural specimens. Not money, nor fame mattered – only curiosity. Theory X fails to explain our greatest achievements. Theory Y therefore suggests that to get the best out of others, we must treat them as people who innately *want* to achieve great things.

The truth about us lies somewhere in between. We display a mix of indifference, competition, cooperation, and self-actualisation. Frederick Herzberg (1959) suggested that our competitive urges must be at least partially met (being hygiene factors) before we start to cooperate and look beyond – to self-actualisation. A reasonable economic and social status ('maintenance factor) is helpful in motivating cooperation. Economic theory calls this minimum level the *participation constraint*. After we have achieved some respectability, we are ready to excel (*incentive constraint*).

Turning now to our needs *as members of* groups. Group needs are conceptually similar to individual needs but more complex. Groups behave competitively or cooperatively (with other groups) depending on whether they seek zero-sum outcomes (such as territory) or non-zero sum outcomes (such as participating in a yoga class where everyone benefits).

Groups tend to build commitment of members through stories, myths, and rituals. When cooperative activities are involved, this is usually harmless. But when group mythology leads to delusions of grandeur about one's 'culture' and competitiveness with other groups and cultures, groups can become dangerous once hatred or fear has been stoked, morphing into fearsome mobs. as with grasshoppers that morph into locusts. At that stage,

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[52] McGregor, Douglas, *The Human Side of Enterprise,* 1960.

human mobs can become mindless killing machines. While delusional individuals can be relatively easily isolated, it is very hard to do so with delusional groups.

As Pinker notes, 'people in all cultures feel that they are members of a group (band, tribe, clan, or nation) and feel animosity toward of the groups'.[53] He adds, 'often the best way to benefit one's group is to displace, subjugate, or annihilate the group next door'[54], '[j]ingoism is alarmingly easy to evoke.'[55]

Mobs tend to look to others as insects to be crushed, not humans who have feelings and experience pain. Thus, in *Mien Kampf,* Adolf Hitler compared Jews with maggots. Seemingly 'ordinary' people can get infected with mob psychology; not just 'bad' people. During communal riots, gangs of religious fanatics roam the streets of India, with violence feeding upon itself as each sub-group retaliates against others. The only way to prevent such madness is through love and reason, but when hatred strikes we become almost immune to love or reason. Mob violence must therefore usually be cured by authorised counter-violence by the state. When mob frenzy d*oes finally subside, after innocent lives have been brutally lost, the members of the mob must surely wonder how they could have so lost their head. In most group killers severe remorse and post traumatic stress would perhaps become the norm, except for sociopaths.

Note, thought, that this doesn't mean that those who participate in mob behaviour are not accountable. Participating in mobs is a personal choice. Love of freedom means being able to look a group of fanatics in the eye – and not blink. Those who join violent groups are directly accountable for their actions.

1.5.3 *Range of behaviour*

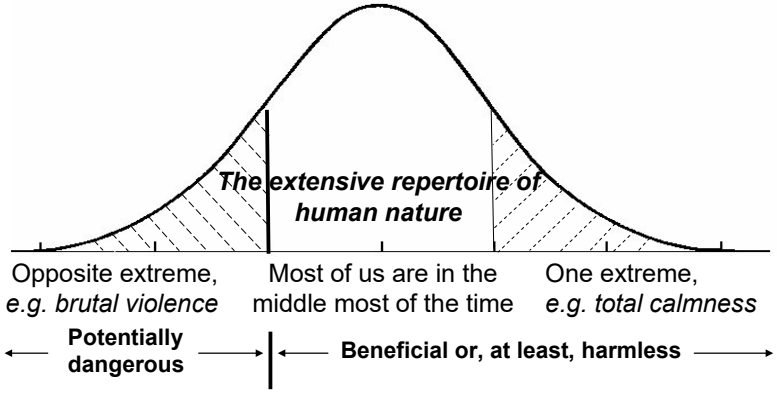
Human needs cover a wide range, and humans behaviour commensurately displays a wide repertoire. Each of us can potentially behave, depending on our (internal and external) circumstance, along an entire spectrum of human behaviour on virtually each possible trait (or dimension). Such dimensions can be assumed, for simplicity, to be distributed 'normally', although we don't really know much about this distribution except that while most of us display behaviour in the 'middle' part of the range, the extremes are extremely wide, and uncertain in their distribution.

The 'middle' represents the average person who is keenly self-interested and competitive, but also willing to volunteer and cooperate with others, given both strategic interests and empathy. He is generous but often (rationally) short-sighted and somewhat prejudiced. These 'imperfections' arise largely from the very steep time and cost of learning the correct solution. When all is said and done, though, he is generally harmless and idiosyncratic, the most harm caused being an irritation to others. In this section I outline commonly observed regularities.

[53] Pinker, Steven, *How the Mind Works*, London: Penguin Books, 1999, p.509.

[54] Pinker, Steven, *How the Mind Works*, London: Penguin Books, 1999, p.406.

[55] Pinker, Steven, *How the Mind Works*, London: Penguin Books, 1999, p.513.



But it is the *negative extremes* that concern us. Many obnoxious human behaviours seem to occur with relatively monotonous regularity – things like murders, throwing children into the sea from a bridge, incest, cannibalism. The reduction of such negative extremes of behaviour is the primary task of government. Note that some such behaviour may overlap with abnormal psychology, but most of these extreme behaviours are not driven by psychological abnormality. People like Hitler, Stalin, Mugabe and Osama bin Laden might have been normal from the psychiatric perspective and might not even have directly killed anyone (with their hands), but they did inflict severe damage to humanity. Political theory must spend considerable time in understanding such dangerous people and how their emergence can be prevented through education, incentives (including checks and balances), or captured and decapitated before they devastate entire societies.

Human nature (let's call it *H*) can now be visualised as the set of all behavioural traits or dimensions of human beings, weighted cardinally by their impacts (negative impacts weighted more). Thus, very simplistically, and incompletely, $H = \left\{T_1\Big|_{-\infty}^{\infty}, T_2\Big|_{-\infty}^{\infty}, ..., T_n\Big|_{-\infty}^{\infty}\right\}$ where T_i is the ith trait, mapped onto a cardinal scale of intensity.

1.5.4 *Regularities*

There is considerable value in studying the 'average' person. If we can eliminate (or at least reduce) the negative extremes, society could agree to give full play to the regularities of our nature. In his book, *Human Universals*, Donald Brown has assembled traits that he thinks are found in all human cultures: 'prestige and status, inequality of power and wealth, property, inheritance, reciprocity, punishment, sexual modesty, sexual regulations, sexual jealousy, a male preference for young women as sexual partners, a division of labour by sex (including more child care by women and greater public political dominance by men), hostility to other groups, and conflict within the group, including violence, rape, and murder.'[56] While this is a useful summary, I've suggested a few key features below.

1. Our most prominent characteristic: ignorance

John Locke noted that:

> Our minds are not made as large as truth nor suited to the whole extent of things… It will become us better to consider well our own weakness and exigencies, what we are made for, and what we are capable of, and to apply the powers of our bodies and faculties of our souls, which are well suited to our condition, in the search of that natural and moral knowledge, which, as it is not beyond our strength, so is not beside our purpose, but may be attained by moderate industry, and improved to our infinite advantage.[57]

In regard to ourself and our circumstance, our knowledge can be considered close to perfect, if for no other reason that none other can do better. Of such information we are undoubtedly the best judge. But even on these aspects, and more generally, we are beset with great ignorance and false premises. Today, information is far more readily available to us than it was ever before. The main constraint is the time to learn, a constraint that is asymptotically infinite as we tend towards our death. I believe (without evidence to offer), that at least half of

[56] Cited by Steven Pinker, *How the Mind Works*, London: Penguin Books, 1999, p.427.

[57] Locke, John, 'Knowledge, Its Extent And Measure', Quod volumus facile credimus, Feb. 8, 1677, in *The Life and Letters of John Locke,* with extracts from his Journals and Common-place Books, by Lord King, London: George Bell & Sons, York Street, Covent Garden. 1884, Google Books.

what we think we 'know' is false (or will ultimately be found to be false, or very partially correct). This is not really too bad compared with the perhaps 99 per cent of what mankind thought it 'knew' in the past being false. With advances in the scientific method and hence human knowledge, such mass ignorance has reduced somewhat.

Not only are we ignorant, mankind is beset by *eversion to ignorance*. Each infant starts out with the same level of ignorance that infants started out with 10,000 years ago. Knowledge must be acquired by each of us afresh.

Despite gaping hole in our knowledge, though, surprising few of us admit to this basic human characteristic, particularly those who call themselves as 'experts'.

2. The primacy of self-interest

As George Washington said, 'A small knowledge of human nature will convince us, that, with far the greatest part of mankind, interest is the governing principle; and that almost every man is more or less, under its influence'[58]. Acting in a self-interested manner is therefore much to commend itself. As Thomas Jefferson noted, 'Self-interest, or rather self-love, or egoism, has been more plausibly substituted as the basis of morality'.

The disciplines of psychology and economics examine our self-interested behaviour and arrive at many useful conclusions. Psychology finds that our needs are broadly similar, and that self-interest is embedded deeply inside our psyche, e.g. at the subconscious level. Economics arrives makes many interpretations based on simple assumptions about self-interested behaviour.[59]

The first assumption is that we can choose. Our preferences are *complete*. This assumption notes that *we know our mind* and can discriminate across *all* goods and services. And given that we have an opinion on everything under the sun, this assumption is not too far fetched.

The second assumption is that there is consistency in our views and choices. This implies that our preferences are *transitive*, e.g. if we prefer apples to bananas, and bananas to oranges, then we (should) prefer apples to oranges. This one is a more stringent requirement than the first assumption, and, at times, fails (for instance, the way choices are framed can impact on our choices, and also changed information or bodily change in the long run).

The third assumption is that we prefer more of a good thing to less of it. When we are offered a choice between taking Rs. 10 or Rs. 20, we choose Rs. 10. This is an actual iron law: never violated.

Finally, the fourth assumption is that we prefer more variety to less of it. We are therefore willing to give up things of which we have a lot, in return for things of which we have less. If I have 1000 tonnes of wheat but only no chocolate, I will give up some wheat for a chocolate, to own a greater variety of things I like.

When these postulates are combined in mathematical form, and our choices face a 'budget constraint', we get many useful predictions that hold very well (on average). That our behaviour can be so predicted confirms that human nature has many regularities. These predictions are put to use in many areas, such as in policy making and marketing.

Note that these assumptions apply to everything that is scarce and desirable (including time, children, marriage partners, parking lots). Therefore, such analysis can predict a wide range of observed behaviour. For instance, my doctoral dissertation examined the number of children that parents will choose to have. I considered the behavioural consequences of the costs and benefits of having children which I then empirically tested and found to be statistically valid.[60] We ordinarily don't think that people's decisions to have children is rational – but it is; at least on average.

But aren't primitive tribals who barter ivory for glass beads not behaving in their own self interest? Not so. Since they can't make lass beads themselves but enjoy the variety of ornament they afford, they are rational in giving up ivory (of which they have plenty) in exchange. This is not more bizarre than the farmer who gives away a lot of wheat in return for Swiss chocolate.

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[58] From *The Writings of George Washington*, cited by Morgenthau, Hans J., and Kenneth W. Thompson, *Politics among Nations: The Struggle for Power and Peace*, New Delhi: Kalyani Publishers, 1985, p.11.

[59] These assumptions are paraphrased from Frank, Robert H., *Microeconomics and Behavior*, Boston: Irwin McGraw-Hill, 1997, pp.73-78.

[60] See my PhD dissertation online. [http://www.sanjeev.sabhlokcity.com/almaak/Dissertation/dissertation.html].

3. Strategic behaviour and opportunism

A corollary of being self interested is strategic behaviour – including opportunism. We can safely predict that people seek to maximise power and wealth. Our actions motivated by these desires are often opportunistic. Those in positions of power often reach these positions by belittling and oppressing others , and by colluding with those that have it.

Indeed, in their interactions with others (including, sometimes, within families), people often try to squeeze out all advantage they can. Strategic behaviour underpins the game-theoretic *balance of powers* social contract that I refer to in chapter 4. In this, everyone aims to grab just a little bit more for himself. Deception (even self-deception) and counter-deception are widely prevalent. Yet, despite these often significantly questionable behaviours, the highest ethical standards can (and do) emerge in genuinely free societies through reputational effects (which I'll discuss later). What we note at this stage is that strategic behaviour is a very significant aspect of human nature.

A few remarks on deception (including self-deception[61]) are perhaps in order. The need to detect deception among others perhaps explains the rapid and massive growth in the human brain over the past million years: 'Deception and belief manipulation are key aspects of many strategic interactions, including bargaining, poker games, military operations, politics, and investment banking.'[62] Common idioms betray the suspicion with which we intrinsically hold each other – often for good reason. These include: 'wolf in sheep's clothing', '*munh mein* Ram, *bagal mein churi*' (who chants the name of God Ram but has a knife hidden inside his jacket – to strike us), 'the fool and his money are soon parted' and 'a sucker is born each day'. People in positions of power often display extremely deceptive behaviour. Even religious personalities are not exempt (indeed have perhaps, at least in a few cases, reached there because of such deception). For instance, the reputation of the Roman Catholic church is suffering intensely because of serious misdemeanours by some of its priests.

Deception (including stealth) is not to be looked down upon, being a vital skill in some circumstances, such as during war. Humans are generally very good at strategic deception (sometimes even we don't know our own motives – or sub-consciously bury them deep inside). Virtually everyone is capable of deception. We can predict that the son of a mafia chief almost certainly won't question his father and will join in the gang (that Rahul Gandhi won't give up the advantage he gets from the corrupt wealth of his family, is thus a given). Socialists are particularly prone to deception, but even others are not exempt. I know of well-known libertarians who have extremely weak moral standards and can easily cheat or even steal. Not a pretty sight – humanity.

Deception represents a complex level of human rationality (gullibility is its opposite – although sometimes 'pretend' gullibility could form part of the package of deception). Both traits are usually found in the same person. That's why tricksters like the infamous Uri Geller flourish (at least for a while) till their tricks are caught out. That's why 'faith healers' get away with huge lies. That's why religious ceremonies focus on choreography and musical chants, so as to dampen our inquisitive spirit and critical thinking.

In this opportunistic and strategic world, all conceptions of 'rights' are questionable unless we have built institutions to protect them. Ask the people of Zimbabwe or North Korea about their rights: they have none, because their deception-filled leaders who claim to be working for the people offer them no rights. In the complex (very complex) game of human interactions, there are no pre-determined outcomes – hence no rights. Consider the strategic problems that an ordinary chess player faces, and multiply these problems a million-fold – *that* is life. Note that while a chess player anticipates the opponent's moves, that's not enough to guarantee that he will succeed. The reactions (an capabilities) of others are critical to the outcome of the game. Yet no one has a choice not to play this complete 'game' of life. And so, humanity evolves better and better strategic capabilities.

Novels and short stories are full of descriptions of this complex, strategic, opportunistic and deceptive human behaviour. Indeed, courting someone is a strategic enterprise as well. The intermingling of emotion, subconscious instinct (to reproduce), and rationality in this process of mating is seamless. The wooed girl (who may well become a domineering matriarch after marriage) blushes naturally, but at some underling subconscious level, perhaps strategically. No one knows. Nature works its charms for a purpose (reproduction). The design of robots that will behave like humans in such subtle matters not just boggles the imagination, but is perhaps beyond impossible.

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[61] Pinker, Steven, *How the Mind Works*, London: Penguin Books, 1999, p.421-22.

[62] Ettinger, David and Philippe Jehil, 'A Theory of Deception' in *The American Economic Journal: Microeconomics,* 2010, 2:1, p.1.

Strategic behaviour has its dirty secret, its underbelly. Should opportunities present themselves, people will often make use of them – disregarding moral imperatives. This can involve cheating, lying, hiding the truth and manipulating circumstances or people. People will also try to capture the benefits of a particular action while passing on the costs to others (e.g. throwing rubbish on the road). People prefer to pollute other's property to paying for the pollution they cause.

But no one is *perfectly* strategic. We can't visualise the future perfectly, nor prevent (entirely) our emotions from driving our behaviour. This leads to mistakes (yet another typical human regularity).

4. Drive for relative status

Economic theory, for the convenience of modeling mathematically, does not usually consider some of our more subtle traits. Thus, we have an innate preference for being king of a hill (or village) than a well-off but average cog in the wheel of a large and powerful company or nation. People will readily forego some income for this 'privilege'. As Robert Frank pointed out:

> Consider a choice between these two worlds:
>
> World A: You earn $110,000 per year, others earn $200,000.
>
> World B: You earn $100,000 per year, others earn $85,000.
>
> The income figures represent real purchasing power. Your income in World A would command a house 10 percent larger than the one you could afford in World B, 10 percent more restaurant dinners and so on. By choosing World B, you'd give up a small amount of absolute income in return for a large increase in relative income.
>
> So which would you pick? A majority of Americans, it turns out, choose World B.[63]

Consider also this (story about Robert Frank's own experience of such positional relativity):

> As a young man, I served for two years as a Peace Corps volunteer in Nepal. The one room house I lived in had no plumbing or electricity, and its thatched roof leaked during heavy rains. At no time, however, did I feel it was unsatisfactory in any way. Yet I could not live in that same house in the U.S., even in the poorest neighborhood, without experiencing a profound sense of humiliation.(*ibid.*)

These things seem to violate the assumption of economics that we prefer more of a 'good' to less of it. But this behavior is not inconsistent when we weigh various 'goods'. People value a higher relative status – particularly after their subsistence has been achieved. This seemingly inexplicable situation could have evolutionary fitness reasons (relative status equips us to attract better partners). Relative status shouldn't matter to those of us with a strong sense of self-respect, but even Swamis and gurus are envious of those who pull in bigger crowds. Self-knowledge doesn't eliminate envy. We ignore this human characteristic only at our peril, for it is this trait that, taken to the extreme, often creates evil and mayhem (and underpins the theory of socialism).

5. Strategic altruism

Psychologists have found that "[in] contrast to other primates, we humans not only give and share outside our families or when sharing proves costly, but we can get angry if someone does not"[64]. Thus, predictions of rational choice models do not always eventuate (e.g. the caterpillar game-CITE). Despite some concerns about the design of these experiments [CITE], this is a genuine puzzle.

A plausible explanation is that we humans strategic self-interest, more appropriately called *enlightened* self-interest. We realise that there are situations in which we might need others' largesse, and therefore it is optimal for us (as insurance), to give at least something to others – even total strangers. The reputational risk of incurring others' ill-will by being seen as stingy is motivation enough.

6. Our weak moral sense

James Q. Wilson believes that our intuitions (such as our moral sense) are usually hardwired. This explains why moral norms are similar across distinct societies. For instance, it is widely believed that parents should take care of children. There are universal taboos against incest and cannibalism; and prohibitions against homicide. This moral sense perhaps leads to evolutionary fitness. But our moral sense is tenuous, intermittent, and unreliable:

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[63] Frank, Robert H., 'Why Living in a Rich Society Makes Us Feel Poor', *The New York Times Magazine*, October 15, 2000.

[64] Gigerenzer, Gerd, *Gut Feelings*, London: Penguin, 2007, p.67.

> Mankind's moral sense is not a strong beacon light, radiating outward to illuminate in sharp outline all that it touches. It is, rather, a small candle flame, casting vague and multiple shadows, flickering, and sputtering in the strong winds of power and passion, greed and ideology. But brought close to the heart and cupped in one's hands, it dispels darkness and warms the soul.[65]

In addition to these, there are many other regularities of human nature. Rewards and punishments work similarly everywhere, even if the specific incentives used differ. At the philosophical level, we seem to value things similarly as well – like freedom and justice (although conceptions about these can sometimes be culture-specific). We perceive things similarly, too. For instance, we can watch a movie (without subtitles) in a language we don't understand, and still grasp the gist of the story merely by observing the facial expressions of the actors.

Human nature thus offers us great opportunities to advance liberty, but also acts as an obstacle. While our self-interested desire for a good reputation ensures that we conduct our economic and social transactions with some regard for others, not everyone seems to care about their reputation. While it will be a stretch to say that cheating and deception are rife, these are not uncommon. Many otherwise reputed organisations have falsified their accounts, report half-truths, under-supplied, over-invoiced, misled consumers, and generally presented themselves in better light than they deserve. For decades, tobacco companies hid the facts about the dangers of smoking. Even today, some researchers are motivated by some drug companies to falsify test results expedite approvals for unproven, even harmful drugs (although it is true that regulatory excesseses are the other side of the story). Some mining and oil drilling companies similarly take shortcuts, injuring, even killing, thousands of workers each year, and destroying extensive natural habitats. Similarly, some restaurants practice poor hygiene, harming their customers.

While only a few businesses are truly inhuman, there are more 'bad eggs' out there than we need. Ethical failures (misleadingly called 'market' failures) of some private organisations are not uncommon. When these companies do bad things, the entire society often has to pay (at least through increased regulation). Potentially corrupting and ineffective regulation adds to the mess, for government regulators are themselves flawed, often leading to government failure, which is more common than market failure.

Therefore, achieving a free society is a never-ending task. The main thing about capitalism is it doesn't make heroic assumptions about people's goodness. By accepting that some people are, at times, *excessively* greedy and at times, evil, capitalism builds strong mechanisms that ensure accountability. We waste our time in hectoring others. Instead, we will be well advised to design systems that curb our bad side. When only our good side can find expression, a decent society will result. But designing and building such institutions is not easy, hence not cheap. There is no free lunch. We must pay what it takes to tame human nature.

1.6 The initial condition: State of nature

Armed with some basic knowledge about ourselves and our nature, we are now ready to propose the society we want. The society we live in must be true to our nature, to our deepest needs and interests. For instance, it must allow some expression of tribalism (such as through sporting events).

What would happen in an unregulated society? What would be its initial condition? Presumably, we will have some form of anarchy, some form of disorder. But how do we find data about this – to confirm our hunch?

Two ways suggest themselves. First, we can use our knowledge of human nature to make deductions. Second, we can study primitive societies to determine what happens without modern organisation. Societies where political structures have broken down because of the fall of a government can also throw light.

1.6.1 *Deductions from human nature*

Our understanding of human nature doesn't necessarily lead to a single perspective on the sate of nature. There are two alternative possibilities – competition and collaboration.

Type A: Competitive

If our self-seeking attributes (cunning, egoistical, aggressive, covetous, brutal) come to the fore, then the state of nature will be competitive.[66] Xenophobia (tribalism) and ethnocentricity are often part of this mix. Belligerence

[65] Wilson, James Q., *The Moral Sense*. New York: The Free Press, 1995, p.251.

[66] Kapur, Anup Chand, *Principles of Political Science*, Delhi: Premier Publishing, 1957, p.54.

leads to a chronic struggle or power. Things are seen as a zero-sum game. Family, power, sexual, intra- and inter-group rivalries are rife. As conflict and war revisits its history, a cycle of revenge sets in, leading to ceaseless disruption. Unrestrained egotism and strategic competition tends to turn towards aggression, with a desire to forcibly acquire the wealth produced by others. Plundering is, historically, often a celebrated way to social success.

This may be a daunting and unpleasant view of the pristine human condition, but it does accurately reflect most human history. As a result of these human proclivities, the demand for a strong ruler necessarily builds up: someone who can, with the exercise of power, reduce conflict. Civilisation emerged in history only after such strong rulers enforced justice – no matter how rudimentary and whimsical.

Ancient Hindus understood the state of nature quite well. In the *Mahabharata* , (a scripture created between 3000-300 BC), Bhishma says: 'A kingdom in which anarchy prevails becomes weak and is soon afflicted by robbers.' He adds: 'It hath been heard by us that men, in days of old, in consequence of anarchy, met with destruction, devouring one another like stronger fishes devouring the weaker ones in the water.'

Niccoló Machiavelli (1469-1527) was an early proponent of such a view in the West. In his 1517 book, *The Discourses*, he wrote:

> For whenever men are not obliged to fight from necessity, they fight from ambition; which is so powerful in human breasts, that it never leaves them no matter to what rank they rise. The reason is that nature has so created men that they are able to desire everything but are not able to attain everything: so that the desire being always greater than the acquisition, there results discontent with the possession and little satisfaction to themselves from it.[67]

Thomas Hobbes (1588-1679) extended this insight further. Recognised by some[68] as the founder (or co-founder, with Locke) of the underlying philosophies of classical liberalism, Hobbes based his model of society on the scientific analysis of human nature. In doing so, he established politics as a science. I cite from John Danford:

> Hobbes's lifelong ambition was to establish the first genuine political science, which by "a clear and exact method" would establish the basis for any legitimate civil, order. He studied very carefully the emerging natural science of Galileo and Descartes, great continental philosopher-scientists, and applied the method of science to the study of man. He believed that if he could achieve a truly scientific understanding or human nature it would be possible to show how natural needs lead men to constitute political society in order to satisfy their prepolitical, natural needs—namely self-preservation, security, and the means for "commodious living." It is important to grasp that Hobbes intended his science to apply to *all* human beings, to men and women in any cultural or historical setting. To do this he believed that science must strip away all merely cultural or historical accretions and study human beings as they exist *before* particular customs or societies distort or influence human behaviour.
>
> Hobbes believed political science could *not* begin from the answers different cultures have given to the question… All Hobbes's predecessors, he wrote, failed to use the scientific method. ... 'To reduce this doctrine to the rules and infallibility of reason,' he said of political science, 'there is no way, but first to put such principles down for a foundation, as passion not mistrusting, may not seek to displace'. [69]

In this forthright and pitiless analysis, he noted the chronic competition for power (to him 'power' included wealth and social status). Thus, from a 'perpetuall and restlesse desire of Power after power, that ceaseth onely in Death'[70], there arises perpetual war 'where every man is enemy to every man'[71]. Man sleeps like a dog, with ears alert. This leads people to seek security with 'their own strength, and their own invention'.[72]

Such war – aggressive competition – has been with us throughout history. In ancient India it was customary that '[a]s soon as a king has established himself on the throne he should, as a matter of course, attack his

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[67] From a translation attributed to Henry Neville, first published in 1675 and reprinted in 1772. [http://www.constitution.org/mac/disclivy.txt]

[68] Such as by Pierre Manent and John W. Danford.

[69] Danford, John W., *Roots of Freedom*, Washington: ISI Books, 2000, p.78-79.

[70] Hobbes, Thomas, *Leviathan*, Ch. 11, Project Gutenberg. [http://www.gutenberg.org/dirs/etext02/lvthn10.txt]

[71] Hobbes, Thomas, *Leviathan*, Ch. 13, Project Gutenberg.

[72] Hobbes, Thomas, *Leviathan*, Ch. 13, Project Gutenberg.

neighbours'[73]. In similar vein, Kautilya wrote that '[t]he king who is weaker than "the other" should keep the peace; he who is stronger should make war.'[74]

Along with Hobbes, John Locke (1632-1704) is the co-founder of liberalism. Fearing persecution, he published his most important work – *Two Treatises of Government* (1689) – anonymously. He had earlier fled to Holland for five years, returning only after the 1688 Glorious Revolution – in motivating which his ideas played no mean part. Locke at first appears to criticise Hobbes by arguing that the state of nature is *not* a State of War but is characterised, instead, by 'peace, good will, mutual assistance and preservation'[75]. It would be unnecessary to seek the security of a sovereign under such conditions. But Locke soon slips into Hobbesean arguments, noting that the state of nature is in fact 'a condition, which, however free, is full of fears and continual dangers'.[76] These dangers are both external (from chronic exposure 'to the Invasion of others'[77]) and internal (from the corruption and 'vitiousness of degenerate men'[78]).

Type B: Cooperative

Jean-Jacques Rousseau, Karl Marx and Robert Nozick (a group you'd not always associate with each other), among others, viewed humanity more charitably, suggesting that we are predominantly cooperative; and that therefore peace comes naturally to mankind. People can apparently work cooperatively without control or coordination. Presumably they are like bees and will naturally cooperate to hunt, grow food, educate their children, and to partake in cultural festivity. Bad behaviour is apparently rare and sporadic, and common methods of dispensing justice are feasible. The benefits of community including some division of labour [although how a cooperative society can organise this is not made clear], friendships, and a shared religious and cultural life – are presumably widely shared.

Although voluntary cooperation sounds attractive and plausible, it is not sustainable without the basic freedom to maximise our competitive, innovative nature. The competitive state of nature, based on theory X, is superior in its explanatory power and more likely to be reflective of the truth. If the state focuses on preventing the negative outcomes of our competitive human nature, the cooperative society is likely to more spontaneously emerge (*cf.* Hayek – for the concept of spontaneous order).

1.6.2 *Evidence from primitive tribes and the breakdown of political order*

Evidence from the breakdown of order leads us to support the competitive, not cooperative theory. In March 2003, Iraq degenerated into mass looting, theft, even murder, minutes after the fall of Saddam Hussain. Criminals come out from the woodwork the moment political order broke down. That happens when the cost of crime (namely, punishment) drops significantly in the disordered state. 'Rational' criminals therefore increase their demand for crime, by pulling out their guns, unhindered by the state. Mayhem begins. Indeed, looting by thugs from shops and homes whose owners have temporarily left in the aftermath of natural disasters, occurs even in otherwise 'civilised' societies.

To this, one can add the constant struggle in developing societies to overcome corruption and crime. And the constant pressures for redistribution of wealth in the West, well beyond the social insurance that is sufficient to provide for a frugal social minimum.

Evidence from extant tribes rudely confirms the competitive theory. Thus, before some control could be exercised by the state over the violent behaviour of India's North Eastern (NE) tribes, these tribes lived peacefully *within* their group but engaged in frequent internecine warfare. The eminent scholar of NE tribes, Verrier Elwin wrote about his 'age-old heritage of war' in the North East Frontier Agency, which:

> meant that many villages have been established for security reasons on the tops of hills and widely separated from each other. … The heritage of war has given the tribesmen spears, swords, the ubiquitous and invaluable dao, the cross-bow and the ordinary bow, and has made them good

[73] A.L. Basham – cite page etc.

[74] In *Arthashastra.* See Basham, A.L., *The Wonder that was India,* Fontana, 1971, p.127 and 126, respectively.

[75]Locke, John, *Two Treatises of Government*, Chapter III, s.19, [http://socserv2.mcmaster.ca/~econ/ugcm/3ll3/locke/government.pdf]

[76] *Two Treatises of Government*, Chapter IX, s.123.

[77] *Two Treatises of Government*, Chapter IX, s.123.

[78] *Two Treatises of Government*, Chapter IX, s.128.

> marksmen and expert hunters. …In certain tribes it has stimulated the corporate men's dormitories, which were originally guard-houses for warriors.[79]

Anthropologists [cite from *Science of Liberty*] have largely confirmed this theory, as well. Hobbes was right. The state of nature is violent and brutish not peaceful or idyllic.

1.7 Our 'racial', tribal, and national identities

During the past 5 000 generations – since our sub-species first came into being in Africa – we have spread across the planet through countless migrations. These migrations led to the emergence of many cosmetic differences between various groups, differences arising from local adaptation. Among these is the difference in what is commonly perceived to be 'race', as well as real differences – in religion, language and culture. (Note that I enclose the word 'race' in inverted commas since this is, scientifically speaking, a fictitious concept.) These cosmetic and (real) cultural differences divide us, often politically. These divisions can sometimes be sharp, almost as if we belong to different species. At the political level, we therefore have great disunity. Our common great-great- - grandmother, possibly an African lady, would not have imagined that her progeny would split into so many different groups, battling each other. In the rest of this section, I explore some of these alleged differences, for only then can we comprehend the political constraints under which humanity works, and suggest an approach to address them.

1.7.1 *'Race'*

Evolution is unrelenting. It doesn't stop – even for a single generation. Millions of mutations occur in *each* generation, as the life force engages in active experiment to prepare itself for contingencies. The overwhelming majority of these mutations die. Millions of unsuitable human foetuses are aborted by nature every year; and thousands of defective ones that are born, quickly disappear. Only 'good' mutations, that give (or can give) the species a competitive edge, survive. This evolutionary process allowed our ancestors to roam the earth, adapting to all its environments with relative ease. Only the children best adapted to the environment cold survive. In this process a number of cosmetic differences emerged.

We all seem to have descended from dark skinned African forbears who were adapted to intense equatorial sunlight (to block out harmful wavelengths). As humans moved to the higher latitudes they found less sunlight, making it hard the dark-skinned to produce sufficient vitamin D. In the high latitudes, children with a mutation that helped them produce less melanin (lighter skin) had better odds of survival than their darker siblings. Over time, the so called 'white race' evolved, as a local environmental adaptation. Note that being a function of random chance, evolution doesn't lead to *exactly* the same 'solution' or adaptation everywhere.[80]

Similarly, children with mutation for longer hair survived better in higher latitudes than those with Afro- (or short, curly) hair because long hair keeps the head warmer. Once these mutations had emerged, other factors such as their 'popularity' (sexual adaptation, which is often linked with fitness), would have come into play.

A range of 'hidden' adaptations which are not cosmetic but otherwise crucial to survival, also emerged. For instance, those Europeans who had a mutation which protected them from bubonic plague survived the Black Death. Those without the mutation, died. As a result of this, the progeny of the survivors (being most of the Europeans living today) are also resistant to the plague.

While such adaptations have led to many (minor) differences, overall, these differences account for less than 0.01 per cent of the variation in the human genome. We are identical in 99.99 per cent of our genes. Scientists tell us that '[i]t is impossible to look at people's genetic code and deduce whether they are Black, Caucasian or Asian.'[81] Variation amongst individuals within a so-called 'race' is generally far greater than variation across so-called 'races'. Thus, 'modern human genetics … deliver[s] the salutary message that human populations share most of their genetic variation and that there is no scientific support for the concept that human populations are discrete,

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[79] Elwin, Verrier (1957), A Philosophy for NEFA, Shillong: G.C.Ray, p.8.

[80] E.g. Johan Moan, of the Institute of Physics at the University of Oslo, said in a research paper: "In England, from 5500-5200 years ago the food changed rapidly away from fish as an important food source. This led to a rapid development of ... light skin." *The Australian*, 31 August 2009. [http://www.theaustralian.news.com.au/story/0,,26004285-26040,00.html. Also, Nina Jablonski's work.]

[81] Henderson, Mark, 'Gene tests prove that we are all the same under the skin', *Times Online*, October 27, 2004, [http://www.timesonline.co.uk/tol/news/uk/health/article499598.ece]

non-overlapping entities.'[82] The myth of 'race' had long ago been exploded (such as in *Man's Most Dangerous Myth: The Fallacy of Race* written by anthropologist Ashley Montagu in 1942), most people continue to believe in this concept. Our use of such a term is a really bad habit. It falsely creates categories where there are none, and distorts the social and political discourse.

We are one big family and ought to learn to treat each other as such. Indeed, scientists are now beginning to ask the opposite question: Why are we so similar? William James Burroughs believes that '[g]iven the length of time humans have existed, there should be a wide range of genetic variation, yet DNA from people throughout the world is surprisingly similar.'[83] There are competing theories about why this is the case. One plausible explanation is that human population declined to just around 5 000 to 10 000 around eighty years ago, before clawing back from near extinction.[84] If true, then all of us have potentially evolved from a single tribe, or a handful of closely associated tribes in North Africa just about 75 000 years ago, which explains our extremely low diversity as a species.

Racism simply has no legs to stand on. But this mis-conception won't go away so easily since most humans have very a poor understanding of biology. Only the spread of education will eliminate this myth about 'race'. In Chapter 13 I will discuss the history of this concept, and what can be done to banish it.

1.7.2 *Languages, religions, and cultures*

In addition to appearance, we stereotype others on the basis of language, culture and religion. We differ in what and how we eat, in what we wear, in our ways of marriage, in our burial or cremation rites for our dead. In most of such things, superficial differences seem to matter a lot. Differences in religions, in particular, have created havoc.

1.7.3 *Tribes and nations*

We all live in some kind of tribal group (such as nation). This has drawbacks when taken to the extreme – such as headhunting, cannibalism, human sacrifice, slavery and inhuman torture; but in principle, living in groups is a useful way to defend ourselves (against other groups), and help us meet our various needs (although there are few, if any, self-sufficient groups). Within tribes, as well, as Charles Darwin noted, evolutionary pressures favour the development of morality: 'although a high standard of morality gives but a slight or no advantage to each individual man and his children over the other men of the same tribe ... an advancement in the standard of morality will certainly give an immense advantage to one tribe over another.'[85] Morality leads to empathy and thus to cooperation which must surely improve the ability of tribes to defend themselves. This tribal form of organisation predominates human society even today. No political principle works outside its ambit. As villages and small tribes reduce in relevance, much stronger tribes – the nation states – have taken their place. And football. 'The weird fact that many men's emotional life rotates around a ball – baseball, basketball, or football – seems to spring from the … community instinct'.

While belonging to a tribe can give us a sense of identity and security, it imposes serious costs. Incessant brutal, even predatory intra-tribe warfare (or national warfare) is possibly aggravated by such organisation. While a tribe can unite within, it is often divisive. Even within modern nations, ancient tribal loyalties can lead to perennial unrest. Almost all groups or tribes in India want a separate district or state. And when powerful nations (or empires) collapse, the centrifugal tribal tendencies split entire nations rapidly (as happened with the Roman empire and the erstwhile USSR).

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[82] Lynn Jorde and Stephen Wooding of the University of Utah, cited in Henderson, Mark, 'Gene tests prove that we are all the same under the skin', Times Online, October 27, 2004. [http://www.timesonline.co.uk/tol/news/uk/health/article499598.ece]

[83] Burroughs, William James, *Climate Change in Prehistory: The End of the Reign of Chaos*, Cambridge: Cambridge University Press, 2005, p.138. Google books.

[84] Transcript of Cusack, Sinead, 'Supervolcanoes', *BBC2* 9:30pm Thursday 3rd February 2000. [http://www.bbc.co.uk/science/horizon/1999/supervolcanoes_script.shtml]

[85] Darwin, Charles, *The Descent of Man*, 1871.

Human tribes seem to share key social organization with a shrewdness of apes[86] that are organized around an 'alpha' male. Humans have dominant alphas (males or females) in pecking orders[87] which manifest in politics, organised religion, in workplaces, even inside families. This tendency for power (status) is so strong that it rivals, at times, even basic biological needs in its intensity. Physical prowess does have something to do with this: 'Better fighters have higher rank, and men who look like better fighters have higher rank. Sheer height is surprisingly potent.' Thus, my calculation shows that the taller candidate has a 68 per cent probability of winning American presidential elections.

While true leadership is about ideas and vision, about helping others achieve their potential, not about dominance[88], humanity subsumes such non-coercive, persuasive dominance relationships into leadership. The ideal model, of self-leadership, transcends dominance entirely, since everyone gets to voluntarily participate as an equal in all decisions. Regardless, some sort of structured, often hierarchical decision making framework seems to be an integral part of all human societies. Someone has to make the final call in each family, group, or tribe – particularly when time-critical decisions that preclude the possibility of wider discussion – have to be made. Problems only arise when authority becomes repressive.

Another way by which tribes exercise group authority is through peer pressure (herd-instinct). On July 13, 1942, 53-year old major Wilhelm Trapp informed the five hundred middle-aged German policemen under his command that he had received orders (from higher authorities) to shoot down nearly 1000 Jews women and children. Given this involved serious ethical questions, Trapp gave his men the option of not obeying this order. Astonishingly, only 12 stepped out. Later studies failed to explain why most of these policemen, agreed to kill innocents even though they could have opted out. A study shows that 'based on how men in uniform identify with their comrades', the men must have felt 'the strong urge not to separate themselves from the group by stepping out'. 'Stepping out meant losing face by admitting weakness and leaving one's comrades to do more than their share of the ugly task.'[89]

Gerd Gigerenzer calls this the 'don't break ranks rule'. We stand in line at the school assembly and over the years become systematically indoctrinated into following our peers. This socialisation overwhelms not just teenagers but most grown-ups. (Gigerenzer shows that peer pressure can be reduced by re-phrasing the situation. For instance, had Major Trapp asked those who 'felt up to the task' (of killing innocents) to step forward, then perhaps only a handful would have done so.[90]

Peer pressure explains (at least partly) why tribes band together during war. '[M]ost tribes, religious groups, or nations advocate virtues of patriotism, loyalty, and heroism, and individuals from time immemorial have sacrificed their lives for their ingroup. In times of war, "support our troops" is the prevailing patriotic feeling, and criticizing them is seen as betrayal'[91]. And indeed, a level of tribal sentiment is necessary to underpin the fortress which I talk about in chapter 4. When attacked, we must unite and fight the enemy. Charles Darwin noted that this is adaptive, in the evolutionary sense:

> A tribe including many members who, from possessing [a high degree of] the spirit of patriotism, fidelity, obedience, courage and sympathy, were always ready to aid one another, and to sacrifice themselves for the common good, would be victorious over most other tribes; and this would be natural selection.[92]

This behaviour, however, leads to significant problems when dominant tribal leaders use group pressure deviously to persuade tribe membres to expand territory. Human history has been a history of violence and war. Village-based tribes never became as dangerous as modern ideological groups, though. 'Modern' European like the Nazis, 'modern' Asians like the Pol Pot regime, and 'modern' Africans like Idi Amin, have exhibited brutality beyond the imagination of men of the past. When hatred of others is evoked (e.g. Christian hatred of Jews in

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[86] Groups of apes are called 'shrewdness'.

[87] Eg. Dutton, Denis, 'Hard-wired for the ups and downs', *The Australian*, 12 March 2008.

[88] The modern conception of ethical leadership (e.g. Collins, Jim, *Good to Great*, Harper Business, New York, 2001) of people like Abraham Lincoln and Gandhi, for instance, is moving our expectations to leadership by the best.

[89] For the case study, and the quotations, refer to Gigerenzer, Gerd, *Gut Feelings*, London: Penguin, 2007, p.179-181.

[90] Gigerenzer, Gerd, *Gut Feelings*, London: Penguin, 2007, p.192.

[91] Gigerenzer, Gerd, *Gut Feelings*, London: Penguin, 2007, p.188.

[92] Darwin, Charles, *The Descent of Man*, 1871.

Nazi Germany), these two elements of our tribal ancestry: (a) alpha male and (b) group pressure, create an incendiary mix.

Adolf Hitler used this effectively to goad Germans into group think as a precursor to unprecedented violence. He wanted to stop thinking of themselves as separate individuals and think of themselves as Aryans first: 'If in its historical development the German people had possessed the unity of herd instinct by which other peoples have so much benefited, then the German REICH would probably be mistress of the globe to-day.'[93] Benito Mussolini wrote in similar vein, 1932:

> The keystone of Fascist doctrine is the conception of the State, of its essence, of its tasks, of its ends. For Fascism the State is an absolute before which individuals and groups are relative. Individuals and groups are "thinkable" in so far as they are within the State… [F]or the Fascist, everything is in the State, and nothing human or spiritual exists, much less has value, outside the State. In this sense Fascism is totalitarian, and the Fascist State, the synthesis and unity of all values, interprets, develops and gives strength to the whole life of the people. …[W]hen one says Liberalism, one says the individual; when one says Fascism, one says the State.[94]

Albert Camus remarked that fascists 'never dreamed of liberating all men, but only of liberating a few by subjugating the rest.'[95] And Marxists 'aimed', he wrote, 'at liberating all men by provisionally enslaving them all'. No animal but man tortures any other, or revels in wanton destruction of property. A social or political philosophy that fails to overcome our violent tribal nature cannot be of any use. We need to always remember our tribal roots.

1.8 Two approaches to political society

If the state of nature is a battlefield for survival, punctuated by murder, rape, war and theft, how did mankind bring up children for so many millennia? Clearly we did find a solution.

A king (or tribal chief) was the main solution. Thus the state arose – no matter in how rudimentary a form. Some form of coordinated governance (including a justice system) was put in place. *Srimad Bhagavatam* (known also as the *Bhagavad Purana*) identifies four tools of governance: *saama* ('diplomacy' or pacifying); *daana* (charity, or, possibly, incentive); *bheda* (divide and rule); and *danda* (punishment).[96] Kautilya's *Arthashastra* reaffirmed these. In similar vein, Machiavelli suggested that human behaviour should be manipulated through money, fear and choreographed shows of grandeur. Stalin and Hitler, we know, were particularly adept at grand displays of power. Modern theories of economics, e.g. principal-agent and public choice, similarly suggest incentives (carrot) to elicit cooperation, and punishments (stick) to discourage unwanted behaviour.[97] Many of these basic ideas are have been used in designing the institutions of governance of free societies.

What about those who believe in the cooperative state? While the individual-centric view (capitalism) extends prediction as far as possible (within the bounds of accountability), the society-centric view (socialist) takes a rosy view of human nature but rides rough-shod over the individual by either glorifying the state (as Hegel did) or rejecting it (anarchy). I will discuss libertarian anarchy (or rather, an unduly minimal state) in chapter 3 as part of a discussion about Robert Nozick's views. At present, let me focus on collectivism.

1.8.1 *Collectivism (including the religious state)*

Collectivism often (but not always) idealises the common man, with the wealthy being portrayed as (in the case of socialism) exploiters. More fundamentally, collectivism treats the individual as a cog in the society's wheel – raw material to be used for the 'purposes' and direction of the society. Karl Marx and Frederick Engels thought that man was innately good, but were unwilling to trust this goodness to lead to good outcomes without

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[93] James Murphy's translation of Adolf Hitler's *Mein Kampf* on Project Gutenberg. [http://gutenberg.net.au/ebooks02/0200601.txt]

[94] Mussolini, Benito, Fascism: Doctrines and Institutions, *Encyclopaedia Italiana,* 1932. Cited in Adams, Ian and R.W. Dyson, *Fifty Major Political Thinkers*, London: Routledge, 2003, p.178, verified at [http://library.flawlesslogic.com/fascism.htm].

[95] Camus, Albert, *The Rebel*, Vintage, 1956, p. 247.

[96] 7.5.19, [http://srimadbhagavatam.com/7/5/19/en]

[97] Jensen, M.C., and W.H. Meckling, 'Theory of the firm: managerial behavior, agency costs and ownership structure', *Journal of Financial Economics,* 3: 1976, pp. 305−360.

comprehensive state direction. The state must mould its citizens they thought, to ensure that private interests *coincide* with so-called 'social' interests (which were apparently known only to Marx and Engels). Thus:

> There is no need for any great penetration to see from the teaching of materialism on the original goodness and equal intellectual endowment of men, the omnipotence of experience, habit and education, and the influence of environment on man, the great significance of industry, the justification of enjoyment, etc., how necessarily materialism is connected with communism and socialism. If man draws all his knowledge, sensation, etc., from the world of the senses and the experience gained in it, then what has to be done is to arrange the empirical world in such a way that man experiences and becomes accustomed to what is truly human in it and that he becomes aware of himself as man. If correctly understood interest is the principle of all morality, man's private interest must be made to coincide with the interest of humanity.[98]

Unfortunately, forcing collaboration is not a trivial task. When natural interactions are over-ridden by direction from above, crude simplifications become the norm. People are lumped into simplistic classes, creating baseless class war.

What is the difference between socialism and communism (a matter that comes up ever so often in the public discourse)? Turning to John Stuart Mill we note his definitions, thus:

> ***Socialism***: 'The word Socialism, which originated among the English Communists, and was assumed by them as a name to designate their own doctrine, is now [1849], on the Continent, employed in a larger sense; not necessarily implying Communism, or the entire abolition of private property, but applied to any system which requires that the land and the instruments of production should be the property, not of individuals, but of communities or associations, or of the government.'[99]
>
> ***Communism***: 'the Communistic doctrine, which forms the extreme limit of Socialism; according to which not only the instruments of the land and capital, are the joint property of the community, but the produce is divided and the labour apportioned, as far as possible, equally.'

Careful reflection shows, however, that these terms are merely two shades of the same thing. Both prioritise the collective over the individual interest. Both advocate, even glorify, the state theft of property (redistribution) for so-called social ends. Both lead to violence. Communism motivated severe state-led violence in Stalin's USSR. Socialism, on the other hand, has killed millions of people *indirectly* through corruption, wasted resources in in governmental 'production' of goods, and bureaucratic incompetence at all levels (as with India). There is not much point in making painstakingly distinguishing between these two. I use these terms interchangeably.

Collectivist ideas can only be implemented through *statism* – or the glorification of the state. (Plato was perhaps the first major statist, but to Hegel must go the blame for a detailed theory of statism: not Hobbes, whose social contract argument was based on a focus on individual protection). Hegel reduced individuals into abstract objcets of a social pattern. He celebrated 'the authority and power and the greatness of the State … against the whims or individual inclinations of this or that citizen or subject'.[100] In doing so he added the dictator to the mix. 'For him, such questions as whether the great man, the earth-shaker, is good or virtuous or just are absolutely meaningless, and indeed petty, for the values implied by these words are themselves created and superseded by those very transformations of which the great man is the Herculean agent.'[101] Amoral Hegelian approaches are behind communism and fascism.

Hegelian perspectives are (unfortunately) very popular, and seem to re-emerge in every generation. Preaching the arguments of freedom is largely worthless unless a way can be found for to wrest control of the state from the statists. What is the use of love of liberty if socialists or fascists get to rule the world? Ever-present Hegelian ideas must be contested by each generation.

Collectivism can often take religious forms. The crusades and on-going jihads are a good reminder. Religions are known to support oppressive hierarchies (like the caste system), and elevate certain individuals, such as the Pope, over entire groups. In this manner, collectivism can take many shapes and forms.

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[98] Marx, Karl and Frederick Engels (1845), *The Holy Family or Critique of Critical Criticism. Against Bruno Bauer and Company.* 1956 English translation is by Richard Dixon and Clement Dutts. [http://www.marxists.org/archive/marx/works/1845/holy-family/index.htm]

[99] Mill, J.S., *Principles of Political Economy*, Chapters on Communism and Property, respectively.

[100] Ibid, p.94.

[101] Berlin, Isaiah, *Freedom and its Betrayal: Six Enemies of Human Liberty*, London: Pimlico, Random House, 2003, p.93.

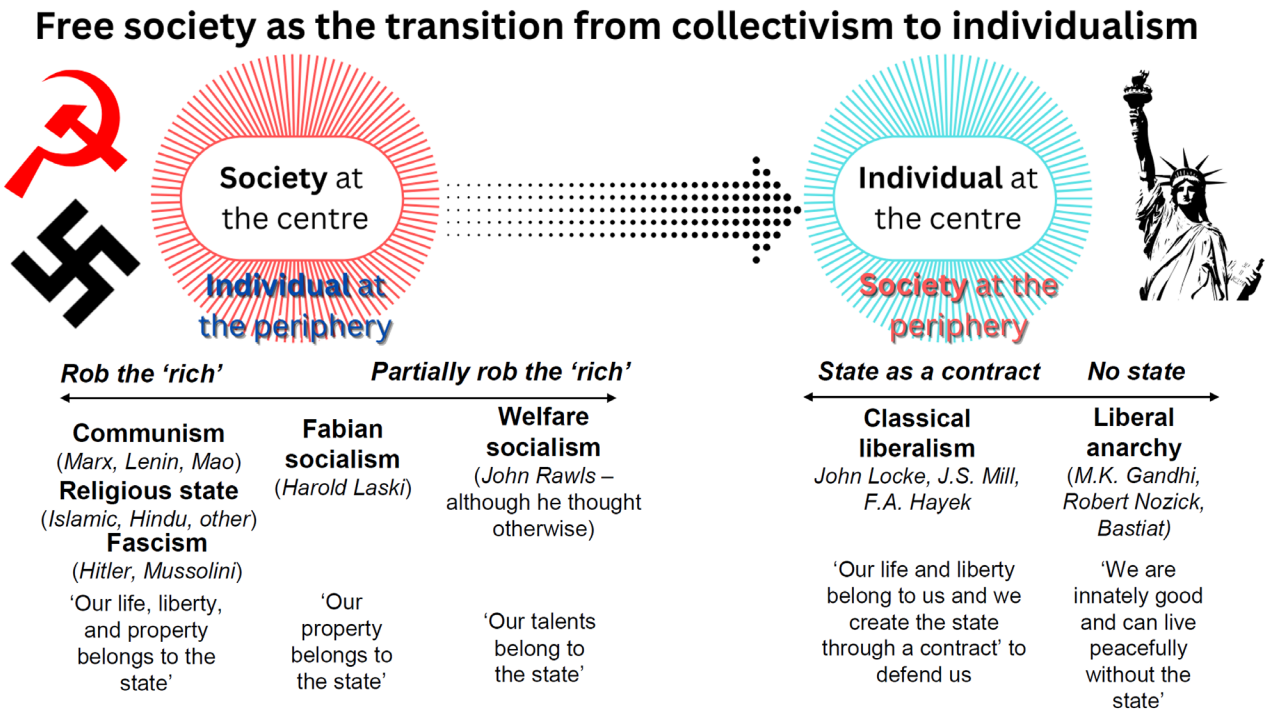
1.8.2 *Individualism, or liberalism*

The alternative perspective – classical liberalism (or capitalism) – derives essentially from a competitive perspective. It argues that there is little to be gained and much to be lost by idealising humans. In sticking to the facts, it seeks to defend us against aggressive forms of competitiveness, and other, worse, forms of evil. By placing the individual's existence squarely at the centre, the society becomes the periphery. Everything then exists to support the individual. It's hope is that under a well-designed (democratically agreed) governance arrangement, people will work cooperatively even as they remain competitive.

Capitalism does *not* glorify anyone, unlike Friedrich Nietzsche's superman ('I teach you superman. Man is a something that shall be surpassed'[102]). The liberal has no heroes; he never fawns on 'great men', for all of us are 'flawed' (if that is the word). We cannot rely upon or 'follow' anyone else, uncritically. Liberalism is a philosophy of the everyday man, not of the 'great' man. Everyone must be accountable. Far better it is to be a nation of shopkeepers than to be a nation of Nazi megalomaniacs, or a nation of socialists where someone at the top herds others like sheep.

We must also observe what people *do*, not what they say. I've not seen any excess of *intrinsic goodness*. Instead, goodness is often strategic, motivated by the carrot or stick. Capitalism, built on checks and balances, creates conditions where everyone can trust others, on pain of public accountability. While not denying the need for a nation state, capitalism sees it as an artifact of our convenience: not an end for which we are born. The government is our *servant*, not master. Therefore, freedom is about voluntary participation in the collective (Figure UU).

Figure UU:



[102] From, *Thus Spake Zarathustra*, 1883, cited in Durant, Will, The Story of Western Philosophy, London: Ernest Benn Ltd., 1948 [1947] p.360.

Evaluating these ideas

To me classical liberalism appears wiser, the socialists and communists deluded. Classical liberalism is based on a firm understanding of human nature. It does not advocate a society in which citizens put others interests *ahead* of their own. The happy coincidence – that in advancing our own interests we (generally) advance the best interests of society – was Adam Smith's great discovery.

Socialism claims, contrary to human nature, that we are innately good and cooperative, but then it elevates our worst emotion: envy, to its highest pedestal, with a demand for economic equality, thus making society rancid, bitter. Succeeding through enterprise is envied, choking out all progress. Such collectivist ideologies (socialism, communism, fascism) end up in the massacre of innocents. Rudolph Rummel found that non-democratic governments (almost entirely collectivist) killed over 262 million people in the 20th century.[103] I would venture to suggest that this figure appers to be too low. I know for sure that hundreds of millions of Indian lives have been cut short by Nehruvian socialism through enforced poverty and malnutrition, tragically poor health outcomes, and primitive occupational and traffic safety. Socialist India can't even provide basic police and justice. The mafia, the wealthy, and the powerful are never held to account. Bribery can get you virtually anything, at great ruin to society.

In the classical liberalism everyone is free to roam this beautiful world and do whatever he pleases, subject only to accountability (justice). Capitalism has only positive consequence. First, prosperity. While wealth is not the primary reason to demand freedom, such is its welcome by-product. Through freedom of trade, a well-organised democracy, and free scientific inquiry, the free society achieves a decent, even wealthy, lifestyle for most of its citizens.

Second, healthy competition that achieves overall social cooperation. The sharp edge of competition is crucial if people are to be challenged to achieve their best. As Immanuel Kant (1724-1804) wrote, 'Man wishes concord; but nature knows better what is good for his species: and she wills discord, in order that man may be impelled to a new exertion of his powers, and to the further development of his natural capacities.'[104] Freedom prompts everyone to put their best foot forward.

And all this without any demand to change human nature. Classical liberalism does not preach morality. It is non-intrusive. In this calm, natural manner, it leads to desirable – what can be classified as moral – outcomes. For only by serving others' interests can we hope to maximise our own interest. Self-interest in this sense does not motivate 'selfishness', for such narrow interest will be self-defeating, nor its counterpart at the 'national' level: mercantilism or jingoism. Instead, it involves our rational evaluation of (long-term) consequences of our actions, which necessarily leads us to respect others and to help them so they may help us in turn.

Society's leaders must appreciate human nature. Gullibility, believing that others are always good, can harm society by failing to build checks against deception and harm. Neville Chamberlain, as Morgenthau noted, was inspired by good intentions, but 'his policies helped to make the Second World War inevitable, and to bring untold miseries to millions of people.' Winston Churchill, on the other hand, was interested in 'personal and national power, yet the foreign policies that sprang from these inferior motives were certainly superior in moral and political quality.'[105]

Similarly, Maximilien Robespierre was said to be saint-like, but his actions to force saintliness on others (in his own misguided way) in the aftermath of the French Revolution led to the death of thousands of innocents people. We need practical strategists, not dreamers. Had Gandhi led Britain during World War II, England would have been decimated, destroying liberty across the world. The 'good' won't always win. But the well-prepared strategist may.

Classical liberalism, based on its understanding of mankind, believes that *everyone* can be either good or bad. It aims for an *incrementally better*, not perfect, society. Perfection is, as the saying goes, the enemy of the good.

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[103] R.J. Rummels' website. [http://www.hawaii.edu/powerkills/]

[104] Immanuel Kant, cited in Durant, Will, *The Story of Philosophy*, London: Ernest Benn Ltd., 1948 [1947], p.250.

[105] Morgenthau, Hans J., and Kenneth W. Thompson, *Politics among Nations: The Struggle for Power and Peace*, New Delhi: Kalyani Publishers, 1985, p.6.

Reducing crime through an effective law and order machine is the challenge it asks us to accept, not through exhortation or coercion. The free society will never be perfect but will always be better than *any* other alternative. That is the price we pay for our humanity

Nehru's propaganda led the majority of Indians to believe that capitalism stifles competition and thus empowers the rich at the expense of the poor. Under capitalism, mean-minded village moneylenders apparently charge exorbitant interest rates and squeeze out the last drop of blood from the poor. Gandhi indirectly added fuel to the fire by suggesting that the world has enough for everybody's need but not for anyone's greed. I'm not suggesting that there can ever be enough for even a single person's greed. But this sentiment should not be taken to mean (as it often is taken to mean) that there is extreme scarcity. There is actually more than enough for everyone's modern needs. Had Gandhi had the opportunity to read Julian Simon (who, of course, wrote his magnum opus, *The Ultimate Resource* in 1981, well after Gandhi was dead), I'm sure he would have clarified more precisely what he meant by this sentiment.

Leaders in post-independence India told us that property rights, free markets and individual justice won't help the poor. Contrary to Adam Smith's findings, they insisted that capitalism increases poverty. By falsely demonising capitalism, they have made Indians accept heartbreaking and dehumanising poverty. For if even socialism can't remove poverty, then what, people ask, can capitalism do? In *BFN* and this book I have tried to prove that there no political system does more for the poorest of the poor than capitalism. Hopefully, these efforts will help displel the befuddlement of the Indian mind.

1.9 Imagining the future

It is not obvious that history has any meaning, leave alone direction. Despite a plethora of teleological arguments and Hegelian claims of 'progress', there is no reason to believe that the world is moving towards a freer, happier, or more prosperous future. People like Marx will keep emerging, who believe their ideas will lead to an 'inevitable' progression to communism. Such collectivist ideas, that require people to hand over their sovereignty to a wise 'ruler', will continue to take the world backward, like the game of snakes and ladders: two steps forward, one step back. The future success of mankind is not assured. There is no automatic process of progress. Deluded ideas will need to be fought, and liberty advanced, one mind at a time.

One thing is sure, though. Five billion years into the future – approximately 170 million human generations from now – our Sun *will* burn out its stock of energy, becoming a huge and fiery red star first, then a white dwarf. The Earth would have long vapourised by then. Well before that, mankind will need to leave Earth for some other habitable planet. This will involve a voyage of millions of years in a self-sufficient spacecraft. Billions of years after that challenge has been met, though, even intergalactic migration won't help, as the universe cools down and eternal silence descends before, perhaps, a new universe is created.

As Julian Simon noted, 'We now have in our hands—really, in our libraries—the technology to feed, clothe, and supply energy to an ever-growing population for the next seven billion years.'[106] It is therefore not science but our failure to govern ourselves that limits our reach. Institutions to ensure freedom with accountability still don't exist in large parts of the world. Just a few deranged people could well destroy mankind, long before we settle down for the long haul. Our challenge, as Ayn Rand pointed out, is of saving man from (the collective) men by overcoming our tribal ancestor who still lives within us.

We are fortunate that it was USA and not Hitler's Germany, Stalin's USSR, or Mao's China that gained ascendency after the decline of the British empire. We watch with trepidation the political rise of a totalitarian, semi-communist China, a country that displays no regard for basis human dignity. A world faces a threat to its humanity as China becomes a dominant power. The world faces an even more serious threat from tribalism practiced in the name of Islam.

The good thing is that only free societies ultimately become rich and healthy, and in the long run only the rich and healthy will survive. Freedom could increase, therefore, through the evolutionary fitness it imparts. But emotions cloud us; economic equality and socialism attracts us instinctively. Arguments for greater freedom are usually counter-intuitive. Not everyone is capable of understanding the benefits of liberty.

Some people oppose freedom because the choices it gives lead to incessant change. But surely it is better to have new ideas that can improve our lot, than certainty of violence and poverty. Freedom can't give us happiness

[106] Simon, Julian L, 'The State of Humanity: Steadily Improving', Cato Institute: Cato Policy Report, September/October 1995.

(which is a matter of personal belief) but it can prevent premature death and increase our knowledge. Surely more life is preferable to less life.

Aware of the challenges in the spread of liberty, John Stuart Mill noted that advances in freedom occur slowly.

> The entire history of social improvement has been a series of transitions, by which one custom or institution after another, from being a supposed primary necessity of social existence, has passed into the rank of a universally stigmatized injustice and tyranny. So it has been with the distinctions of slaves and freemen, nobles and serfs, patricians and plebeians; and so it will be, and in part already is, with the aristocracies of colour, race, and sex.[107]

I***t was*** a momentous occasion for mankind when, on 4 July 1776, the American Declaration of Independence affirmed this, that '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.' In doing so, its authors meant only that white, propertied men 'are created equal'. Poor white men, women, and blacks (the latter being mostly slaves back then), were tacitly excluded. While the Declaration waxed eloquent about liberty, its signatories owned tens of slaves – which must have jarred at least those with some sensibility.

Only after slavery was comprehensively abolished in 1865 in USA did this bold declaration become credible. But even then, genuine freedom remained far away for the blacks. While the 1870 (15th) Amendment of the US Constitution gave male African Americans the right to vote and prohibited state and local governments from denying this right, the lower levels of government imposed other obstacles (such as literacy tests for voters, paying poll taxes and the like) for almost a hundred years, to prevent blacks from voting. This discrepancy between the blacks' legal rights and what they experienced was resolved only in 1965 with the *Voting Rights Act*. Similarly, Native Americans – the original Americans – got the vote only from around 1947. On the other side of the world, Australia's *Immigration Restriction Act, 1901* (part of the White Australia policy) effectively created two categories of residents till such requirements were abolished in 1973.

Martin Luther King, Jr., in seeking the *meaning* of the Declaration, famously said: 'I have a dream that one day this nation will rise up and live out the *true meaning* of its creed: "We hold these truths to be self-evident, that all men are created equal" [italics mine]. It took 190 years for basic equality to be achieved. One hopes it won't take that long for India to become free.

Despite many failings, the USA is the world's torch-bearer of liberty, an island of freedom (often) in an ocean of tyranny. But most Western governments don't fully understand liberty, and most are steeped in paternalism. The more the academic credentials that people acquire, the more they imagine a licence to constrain others, purportedly for their own good. The more the academic credentials that people acquire, the more they imagine they have received a licence to constrain others, purportedly for their own good. After all, a PhD should have a 'right' to control a less educated human being. Right?

Therefore, as Hayek rightly noted, '[t]here has never been a time when liberal ideals were fully realized, and when liberalism did not look forward to further improvement of institutions.'[108] We need a more powerful beacon than USA to lead the world onto greater freedom. India should step up to this role. We must switch to indicators of freedom as primary measures of welfare (instead of GDP). These indicators (not to be mixed up into a meaningless index) could be based on the pillars of freedom of the sort I outline later in this book (initial attempts in this direction have already been made by Freedom House and Heritage Foundation[109]). Measurement of the level of freedom will anticipate a nation's future prosperity, which is contingent on freedom.

Given the feeble levels of world freedom today, it may take another 200 years for freedom to be more widely accepted as the main driver of public policy. But things are beginning to look up, as Box YY shows.

Box YY

People are beginning to speak out for greater freedom

[107] Mill, J.S. [1861], 'Utilitarianism', *On Liberty and Other Essays*, Oxford: Oxford University Press, World Classics Paperback 1991, p.200

[108] Hayek, Friedrich A., 'Why I am not a Conservative', *The Constitution of Liberty*, Chicago: Chicago University Press, 1960. Copy of essay available online. [http://www.fahayek.org/]

[109] See [http://freedomhouse.org/] and [http://heritage.org/]

Below are a few positive statements people have made about freedom.

- 'We know what works: Freedom works. We know what's right: Freedom is right. We know how to secure a more just and prosperous life for man on earth: to free markets, free speech about free elections and exercise of freedom unhampered by the state.' – George Bush (Sr.) [110]
- 'The truth is found when men are free to pursue it'. – Franklin D. Roosevelt[111]
- 'Everything that is really great and inspiring is created by the individual who can labor in freedom'. – Albert Einstein[112]
- 'Freedom is not worth having if it does not connote the freedom to err'. – M.K. Gandhi[113]
- 'Liberty is the possibility of doubting, the possibility of making a mistake, the possibility of searching and experimenting, the possibility of saying 'No' to any authority - literary, artistic, philosophic, social, and even political.' – Ignazio Silone[114]

Societies have changed dramatically through increased uptake of liberty. Not only has slavery come to an end, racism is rapidly declining, and prosperity is rising. Till around a century ago, mankind generally lived an ignorant, violent, and fear-stricken life. Before that, humans revelled in public displays of brutality (gladiators in the Colosseum). Death by stoning, burning at the stake, breaking people at the wheel (and breaking their joints with a hammer), gagging people's tongues and chopping off their body parts were 'normal' practice – even in 'advanced' societies. Only now are such things (including bull fighting and torture of animals) slowly going extinct.

World security has also improved, albeit not as much as we need. Recall Rudolph Rummel's estimate[115] that 262 million people were *directly* killed by governments in the 20th century. Steven Pinker conducted a similar analysis and arrived at a smaller figure – of 'only' 100 million. Whichever figure we use, these killings are low in the historical context. Pinker found that '[i]f the wars of the 20th century had killed the same proportion of the population that die in the wars of a typical tribal society, there would have been 2 billion deaths, not 100 million.'[116] War and genocide was very common in the past (although not as vivid, without TV and the internet). While refinement of methodologies could change these estimates, the overall trend – of diminishing brutality – is likely to gain strength.

Based on this trend, Pinker asks a different question altogether: 'Why is there peace?' Ruling out the possibility of significant genetic change over the last few hundred years, he suggests that Western institutions of governance have reduced our innate brutality. He perhaps underestimates the key role played by philosophers of liberty in proposing and advocating these institutional arrangements. These institutions did not arise exclusively from recent 'Western' thought, though. These emerged by reclaiming what the West had *long rejected*, namely, ancient Greek thought which, in turn, had been vitally influenced by Indian thought. (Some writers claim ancient Greek to be 'Western', even as places like Australia held Greeks with racist contempt till recently).

Freedom is now coming back full circle: back to India, from where the first ideas of liberty and critical thought emerged.

But it would be best to state that the development of freedom's institutions has been broad-based, with experiments occurring throughout history. China, India, and Arabia (though Islam) played a crucial role in its development.

It is true that liberty blossomed in Western Europe (more precisely, in England) a few hundred years ago. But perhaps the most powerful influence on liberty in the 20th century was a diminutive Indian named M.K. Gandhi whose non-violent opposition to imperialism and racism played such a pivotal role in the advancement of

[110] George Bush (Sr.) in his inaugural address, 20 January 1989.

[111] Franklin D. Roosevelt, in a speech at Temple University, Philadelphia, 22 February, 1936.

[112] Albert Einstein (1950) in *Impact*.

[113] M.K. Gandhi quoted in *Saturday Review*, 1 March 1959.

[114] Ignazio Silone (1950) in *The God That Failed*.

[115] R.J. Rummel keeps track of such data online. [http://www.hawaii.edu/powerkills/welcome.html]

[116] In 'Man's Inhumanity to Man', *The Age*, 26 May 2007.

modern freedom that without his ideas the concepts of freedom, as propounded in the West, can make no sense. It is intolerable hypocrisy to have imperialism and racism and still talk about liberty.

And remember: Gandhi was merely articulating India's genius for tolerance and critical thought, a genius that remains intact even after thousands of years of dust and sediment.

As mentioned, there is nothing automatic about advances in liberty. The millions of people killed during the 20th century by collectivist ideologies are a brutal reminder that peace on earth is a distant dream. These and thousands of people die because utopian elements in human society refuse to appreciate the simple message of freedom and respect for others. Good education, self-knowledge, and plenty of humility is needed.

In *BFN* I outlined the many material benefits of freedom. In this book I focus on its theory and institutional frameworks. But without further ado, join me first in exploring the meanings of the word 'freedom'.

2. The meanings of freedom

'The God who gave us life gave us liberty at the same time.' – *Thomas Jefferson*[1]

Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty or give me death! – *Patrick Henry (American, 1736-99),* ***March 23, 1775***.

Liberty has two main connotations: one (negative liberty) that leads to self-respect, independence, and free choice; the other (positive liberty) that leads to theft, even murder by the collective. This variation in outcomes from two different meaning is quite startling. With the former, we stand tall in dignity, proud of our sovereignty; grateful to be alive, given the opportunity to reach out to the starts. The latter meaning, however, makes us pygmies, slaves. It makes us grovel and beg, and in our jealousy of others, makes us very dangerous to entire societies. The former meaning is the protector of life, a precept that gets rid of slavery and racism, and can become, in the hands of the likes of Gandhi, a *sudarshan chakra* to destroys all enemies who lower our dignity. The latter has, however, reduced people to beggary for their alleged 'rights' to a job, 'rights' to food. In this envy-fostered, demoralizing and decadent environment, it creates monsters out of men.

I will now dissect the meaning of freedom and try to build a definition. It would be presumptuous for me to suggest that my interpretation (and theory – in chapter 4) of freedom represents the 'true' meaning (or theory) of freedom, but I hope that with the reasoning I propose, we could end up tolerating each other, and therefore living and letting live. That, in the end, is the essence of liberty.

2.1 What the dictionary says

Since the English language is relatively new, the words '*freedom*' and '*liberty*' are also relatively new – about seven to eight hundred years old. Both these words commonly represent the same thing (despite attempts to differentiate them[2]). I therefore use these words interchangeably. The etymology or origin of these words throws useful light on their intended meaning.

The word *liberty* is derived from the Latin root, *liber*, which comes from the earlier Italian (Venetic) ***leudheros***. Thus, the free man in Rome was *liberos*. The Greek branch of this word led to *eleutheros* (still used in modern Greek) which represents either of 'to go as I wish' or 'citizenship in a polis' – both these being strongly related to the modern conceptions of liberty. A Greek variant, *eleutheria* (ελευθερία), stands for democracy, confirming the strong affinity between liberty and democracy. Other European derivatives include *libertà* (Italian), *liberdade* (Portuguese), *libertad* (Spanish), and *liberté* (French). The Anglo-Norman tribes, who migrated to England from medieval France, converted the French *liberté* into the English ***liberty***.

The word *freedom* belongs to the Indo-European group of languages and has an equally hoary ancestry. The verb ***pri,*** or 'to love', evolved in Gothic into the word 'free'[3], and through Anglo-Saxon migrations led to the English word, ***freedom***. Its European derivatives include: *die Freiheit* (German)*, frihed* (Danish), *vrijheid* (Dutch), *frelsi* or *frjálsræði* (Icelandic), *frihet* (Norwegian), and *frihet* (Swedish). Hindi, with its roots in an unidentified proto-Indo-European language (through Sanskrit), has closely related words. Thus, *priya* (beloved) is related to the root, 'to love'. Branches of this word (such as *riha)* refer directly to freedom (*riha* becomes *baree* in Assamese, reverting closely to '*pri*', and may have arisen from the original root.).

[1] Jefferson, Thomas, *A Summary View of the Rights of British America,* 1774. University of Virginia E-text. [http://etext.lib.virginia.edu/]

[2] An example of the debates: Pitkin, Hanna Fenichel, 'Are Freedom and Liberty Twins?' *Political Theory*, 1988, 16(4).

[3] See discussion in Pitkin, Hanna Fenichel, 'Are Freedom and Liberty Twins?' *Political Theory*, 1988, 16(4).

Armed with these clues about its original meaning, let's now look at various English dictionaries and assemble some clusters of meaning.

Negative liberty

1. **Liberty of person and protection against abuse of power. This group of meanings refers to** 'civil liberty' and calls for the ***absence of*** slavery, unnecessary detention, arbitrary exercise of authority or physical oppression.

2. **Unhampered.** This is a similar cluster of meanings, and refers to the absence of restraint: being unimpeded. It includes the capacity (authority and power) to act without external interference. In a somewhat related sense (looseness or openness) it refers to the unhampered facility of movement. It also connotes unrestricted use or access.

3. **Self-determination**. This cluster of meanings relates to our capacity or power to choose, and therefore to exercise free will. It includes self-rule (as a society) and the (individual) 'right to be a participant in government' (Hannah Arendt[4]).

If any of these three groups of meaning are taken out of context, they can contradict each other. In particular, the concept of freedom is closely associated (rather, integrated) with the idea of accountability, else it degenerates into license. We are not 'free' to steal, pollute, kill, hold slaves, or libel.

Other meanings don't concern us much. For example, there is a connotation about the political independence of nations. **For instance, w**hen people talk about India's 'freedom' movement, or a book is entitled, *Freedom at Midnight*, people mean independence of the nation state, which is only a necessary but not sufficient condition for individual freedom. Stalin's Russia, Mao's China, and Nehru's India were independent but the people were unfree.

In another form (irrelevant to us for this book), freedom means 'an exemption from unpleasant or onerous conditions. This meaning is often used to mislead, and totally contradict the root meaning of freedom. Such usage is etymologically close to the Latin *apathia* or Greek *apatheia* (absence of suffering). Amartya Sen talks about poverty as unfreedom, suggesting that 'economic unfreedom, in the form of extreme poverty, can make a person a helpless prey in the violation of other kinds of freedom.'[5] But this is incorrect. Freedom *never* means 'freedom from poverty'. Slavery is the main unfreedom; poverty is the *consequence* of unfreedom. A cause must be distinguished from its outcome. A waterfall is caused by gravity. Gravity and waterfall are not the same thing. We can test Amartya Sen's concept of freedom by enslaving him in a cage and giving him food and shelter. Thus being made 'rich', he may feel 'free', but no one else will trade off liberty for food and shelter.

Figure HH: Unlike Amartya Sen, humans do not like being treated like chicken.[6]

To talk about things like 'freedom from hunger' (a phrase bandied about these days) is a serious misuse of the term freedom. Nature has ordained that each creature look for and find its own food. *There is no free lunch*. Only

[4] Cited in Barber, Benjamin R., 'Shrunken Sovereign: Consumerism, Globalization, and American Emptiness', *World Affairs*, Spring 2008.

[5] Amartya Sen's autobiography at the Nobel Prize website. [http://nobelprize.org/nobel_prizes/economics/laureates/1998/sen-autobio.html]

[6] Even chicken perhaps do not deserve to be kept in such conditions.

death can release us from hunger. There is no obligation on any society to feed the hungry. No doubt a well-designed social insurance scheme (funded through taxes) will ensure reasonable equality of opportunity, including a frugal payment to those below the poverty line. But this is not what the proponents of such ideas want. They want 'freedom from hunger' as a 'right'. The only real right, however, is to freedom – subject to accountability.

This is not semantics. This is serious demarcation of boundaries. Meanings matter. We must mean precisely something when we say a word. By confounding meanings we cannot understand. Meanings matter. Demanding anything beyond basic freedom destroys freedom. A 'right' to work implies that a job should fall into our lap regardless of our suitability. But we must not only meet a job's requirements, we must be asked to provide our services as part of a contract. We just can't barge into a factory and demand work for that would destroy the employer's freedom to earn his livelihood by hiring anyone *he* finds suitable. He alone is the judge, for good or bad, of his own factory. The idea of freedom as 'an exemption from unpleasant or onerous conditions' is wrong. Edmund Burke showed that there can be no free lunch ('by having a right to everything [men] want everything'[7]). We can't want everything. We must deserve what we get.

While on the topic of word meanings, let's also look at the term, *capitalism*. None of the founders of liberalism (Thomas Hobbes, John Locke, or Adam Smith) coined this term. Instead, Smith said that wealth generation required a 'system of natural liberty'. It was the utopian William Godwin who first used the term *capitalist* in 1793: 'The landed proprietor first takes a very disproportionate share of the produce to himself; the capitalist follows, and shows himself equally voracious.'[8] Karl Marx thereafter made use of this term pejoratively in the *Communist Manifesto*, in which he claimed that capitalists enslave labour through machines and 'overlookers' (supervisors) and that '[t]he more openly this despotism proclaims gain to be its end and aim, the more petty, the more hateful and the more embittering it is.' Nasty, the judgement on entrepreneurs and wealth creators. Adam Smith would have strongly disapproved of such language.

The term *capitalism* was used for the first time by Karl Marx in his 1867 *Capital* (Volume 1) in referring to the entrepreneurial and industrial system. Since a reader would have objected to his hatred of 'natural liberty', he used a word with pejorative connotations, instead. A clever ploy, that till today clouds the system of liberty in foul smoke.

The savings grace is that the system of communism has self-destructed, leaving the system of natural liberty behind. It has essentially come out unscathed from false impuations on its fair name, and is now recognised as the friend of the poor. Ayn Rand and Milton Friedman, among others during the 20th century used the word capitalism – regardless of its dubious origins – to represent the system of freedom and prosperity. I use it in that sense, therefore, in this book: to represent Adam Smith's system of natural liberty. Now capitalism gives *direct* and forthright battle to socialism. Of this we are now clear: that capitalism does not refer to exploitation, and there is no such thing as 'unbridled' capitalism.[9] A well regulated system of liberty is what we mean by capitalism.

2.2 Further exploration of freedom

Rousseau famously remarked: 'Man is born free, yet he is everywhere in chains.'[10] Victor Frankl argued, however, the opposite (after experiencing Hitler's concentration camps). According to Frankl, '[e]verything can be taken from a man but ... the last of the human freedoms – to choose one's attitude in any given set of circumstances, to choose one's own way.' We can be 'free' in a sense, according to him, even when bound in chains. So what's the truth? To answer this, we must first demarcate the types of freedom.

2.2.1 *Inner vs. outer freedom*

Our actions are of two types: voluntary and involuntary. The idea of freedom applies meaningfully only to those of our actions over which we are in a position to exercise at least some control: our *voluntary* actions.

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[7] Burke, Edmund, *Reflections on the Revolution in France*, p.151 [CHECK]

[8] William Godwin in Book VI: Of Opinion Considered as a Subject of Political Institution, of his book, *Enquiry Concerning Political Justice*, published in 1793.

[9] See my article, 'Unbridled Capitalism', published in *Freedom First* in October 2009.

[10] Rousseau, Jean Jacques, *The Social Contract*, 1762.

Of these voluntary actions, some affect only us, primarly. These could affect others, but very only indirectly, tangentially. Our private thoughts during a quiet walk in a remote jungle, or when brushing our teeth, are inner-oriented. Victor Frankl was referring to such things. Even in solitary confinement we can choose – our attitude. No doubt, this requires strength of character not commonly found (or tested). Frankl showed us that it can be done, so we can take him in good faith. On some of the more routine aspects of our physical and mental well-being, though, we can readily agree that we exercise a level of choice and freedom; and responsibility.

J.S. Mill was referring to this (inner) freedom, from the boundaries of which our external liberty begins. He wrote about our 'inward domain of consciousness; demanding liberty of conscience, in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological.' This freedom then expands outward, and includes 'liberty of tastes and pursuits; of framing the plan of our life to suit our own character; of doing as we like'. The default position on inner freedom is *total* and unbounded. Freedom of speech, the direct derivative of our inner freedom, must likewise be total and unbounded.

What concerns us, though, are the external expressions and actions on others. Charles Darwin is free to think whatever he likes but his thoughts begin to concern us once he acts on them by publishing them. At that point such freedom needs to be closely examined and limits (if any) established [I argue that there are only limitations on freedom of action, not on freedom of an expression that someone believes is true].

It is not easy to distinguish between inner and outer freedom. Actions intended to impact *only* on us may end up impacting on others. Smoking is one such case, but self-harm, more generally, falls into this category.

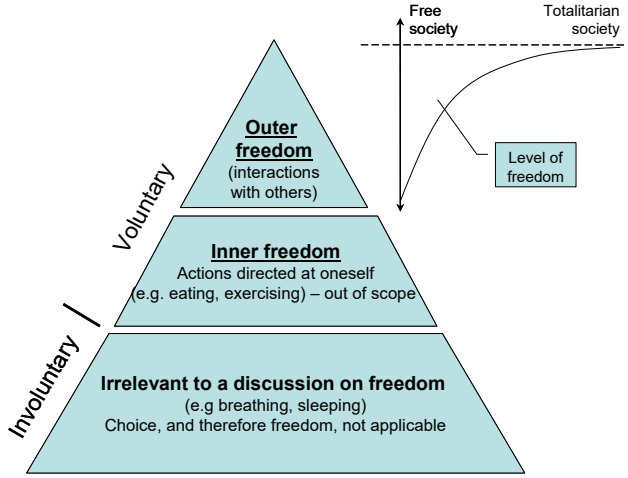

Figure YY: Freedom only exists meaningfully in our relationships with others

The 'level of freedom' depicted in Figure YY clarifies that some outer freedom is present even in totalitarian societies, although such a level may not be meaningful. Coercive government action or social norms limit our outer freedom. Rousseau was perhaps referring to these restraints when he wrote that we are 'born free but are everywhere in chains'. He suggested, though, that if we have created chains ourselves then we should be deemed free. But the social contract should create only the least restraints so that everyone can be free. The option to exit (migration or secession) must also be included in the contract. The free society must aim to return us as close as possible to the level of freedom we are born with – the level experienced by Robinson Crusoe.

In this way, through the social contract we choose an optimal (not maximal) level of freedom. As Montesquieu wrote, 'In a true state of nature, indeed, all men are born equal, but they cannot continue in this equality. Society makes them lose it, and they recover it only by the protection of laws.'[11] The task before us is to recover freedom from the state and society, through a sensible regime of protection of laws.

2.2.2 *Negative and positive liberty*

I have introduced the terms positive and negative liberty earlier. A few detailed observations of this distinction are perhaps in order.

2.2.2.1 *Negative liberty as the absence of unnecessary constraints*

We have noted that liberty of person is the most basic meaning of freedom, being sharply set off against bondage. As Isaiah Berlin noted, the 'fundamental sense of freedom … [is] freedom from chains, from imprisonment, from enslavement by others. The rest is an extension of this sense.'[12] Berlin included in this the absence of coercion, where '[c]oercion implies the deliberate interference of other human beings within the area in which I could otherwise act.' In ancient Greece, the free citizen was sharply distinguished from slaves.[13] This is precisely what David Hume (1711-76) meant when he wrote:

> By liberty, then, we can only mean a power of acting or not acting, according to the determinations of the will; this is, if we choose to remain at rest, we may; if we choose to move, we also may. Now this hypothetical liberty is universally allowed to belong to every one who is not a prisoner and in chains. Here, then, is no subject of dispute.[14]

Negative liberty has strong implications. Being outside the walls of a prison is a necessary but not sufficient condition. Even outside the prison, we must not be subject to coercion that does not arise from the principles of justice. The ever-present threat, in the USSR, of being sent to Gulag at the drop of a hat is an example of the

[11] Montesquieu, *The Spirit of Laws*, Bk. VIII, Ch. 3.

[12] Cited in Pitkin, Hanna Fenichel, 'Are Freedom and Liberty Twins?', *Political Theory*, 1988, 16(4), p.544.

[13] Discussed further in Patterson, Orlando, *Freedom in the Making of Western Culture,* New York: Basic Books, 1991.

[14] Hume, David, *An Enquiry Concerning Human Understanding*, chapter 8.

threat that will reduce negative liberty. Afraid of the state in such cases, we become subservient, unable to say or do without peril what we wish please. The entire society becomes a prison. Our private and public preferences and beliefs no longer match.[15] 'Unforeseen' political revolutions, like the 1991 break up of the USSR, can then take place – the outcome of mental dissonance, of having unrelenting will to freedom. Decades of suppression cannot diminish the human will.

In this manner, countries like China, Cuba, Myanmar, North Korea, Saudi Arabia and Iran are ripe for revolution, albeit in unpredictable ways. Dictators who imprisoned Aung San Suu Kyi for over fourteen years are only buying time. Their fate was sealed the day they denied freedom to the people of Myanmar.

We don't want to be prevented from establishing our business, determining the price for the services or goods we choose to supply, from living in a city (place of our choice within our country), or marrying the person we want to. People need the 'perfect freedom to alter their Actions, and dispose of their Possessions, and Persons as they think fit, within the bounds of the law of Nature, without asking leave, or depending upon the Will of any other Man.'[16]

Freedom means being able to flap one's 'wings' freely – so long as, in doing so, we don't collide with other's wings. To be free is to be free to choose[17], prepared to live with consequences of our choices. This includes freedom to invent new choices, new ideas, new objects, new products. The state (or society) can't restrict our choices, either political, economic or social (e.g. India that only allows socialist parties to contest elections[18]). We can't be free if we can't choose our own theory of society. We can't be free, either, if we are compelled to hold beliefs that our parents or society have handed down. We can only be free when we aren't constrained in thinking afresh about anything under the sun. Freedom is not only the absence of physical, social, or political barriers, it is the absence of *any* barrier our humanity.

Freedom thus imagined empowers life energy to course freely through our veins. It allows us to experience the wholesomeness of life as it should. Only then can we seek out our purposes in life. We are born to be independent, self-reliant. Charity thrust upon us when we can fend for ourselves (no matter how feebly) with our own effort, offends us deeply. We must remind those with charitable intentions towards us that they owe us nothing. We're happy to be taught but thereafter we must seek our own fortune in competition with everyone. We must make our own destiny, learn from our mistakes. Only then can our potential can be realised.

No doubt, if we are particularly unlucky, we might need to hold out our hand. Should that ever happen, our soul would desert us and a beggar's soul enter in its place. The spark of *tough, independent pride* must then surely elude us. The free man prefers to die than to beg.

2.2.2.2 *Self-determination and self-realisation (positive liberty)*

Positive liberty, as Isaiah Berlin noted, 'derives from the wish on the part of the individual to be his own master.' In its simplest form it is about things we might want to undertake in 'pursuit of happiness'. Unsupported by the state, this is merely a re-affirmation of our self-determination. We don't want to be shielded from our follies. Fs Herbert Spencer noted: 'The ultimate result of shielding men from the effects of folly is to fill the world with fools.'[19]

Once negative liberty is assured then the concept of self-determination emerges. We are left free to do what we want. We can choose (if we wish) self-realisation, self-knowledge or self-awareness. Or we may choose perdition. What we choose to do with our freedom is a private matter for each one of us. In doing so, we remain responsible for our choices, no one else. Let's defend our liberty to do or become whatever we wish.

Our pursuit of happiness does not depend on actions by the state beyond the defence of our (negative) liberty. The problem only arises when people believe that the *state should intervene* to *help us* achieve *our* goals; by creating

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[15] Kuran, Timur, *Private Truths, Public Lies: The Social Consequences of Preference Falsification*, Cambridge: Mass. Harvard University Press, 1995.

[16] Locke, John, *Two Treatises of Government,* Book II, para 4.

[17] Are our actions determined by forces outside our control or do we 'really' choose them? I would agree with S. Radhakrishnan (in his *An Idealistic View of Life*) that 'It makes little difference whether the self is moved from without or from within.' There is a bustling literature on metaphysical issues surrounding the self, freedom, cause and consequence.

[18] The law in India forbids political parties which are not avowedly socialist.

[19] Spencer, Herbert, *Essays: Scientific, Political, and Speculative,* vol. 3, 1891, STATE-TAMPERINGS WITH MONEY AND BANKS. [First published in The Westminster Review for January 1858]. [http://bit.ly/dpgYvt]

conditions that *enhance* our capability for self-determination. Such arguments essentially require all intellectual, psychological, and economic handicaps to be eliminated by the society, else people presumably can't master their destiny.

This is a dangerous argument. While a modicum of equal opportunity can exist in the free state as part of a frugal social minimum (through social insurance that includes, for instance, basic education for children of the poor and emergency health care for all), the state is not responsible for supporting us. Welfarism and paternalism would directly conflict with the basic meaning of liberty, and entirely destroy our person. It would be as if our body were owned by society.

Even simple things like mandating school education impinges on our liberty, for instance, to not educate our children should we so choose. For tens of thousands of years, most parents did not educate their children – there being no schools in the first place. Just because we now have some schools doesn't mean we force parents who choose not to send their children to school to do so. We can talk to them, persuade them, but can't force them. There can be no coercion in the free society 'for our own good'. Let everyone learn and grow at their own pace.

Rousseau's battle cry for 'liberty equality, fraternity' claimed to glorify liberty but ended up – by authorising the collective to determine what is good for us – destroying liberty. Hegel went even further. State policy therefore became divorced from considerations of life and liberty. It was this positive 'liberty' that motivated Marx, Lenin, Nietzsche and Heidegger, views that, as we well know, led to horrific collectivist massacres and unimaginable oppression. Oor the positive liberty concept necessarily leads to slavery of the person to the state.

Marx opposed the French Declaration of the Rights of Man, claiming that it 'legitimised the "withdrawal" of bourgeois man from society, thereby undermining his communal life and eroding his civil responsibilities.' He wrote, jointly with Engels:

> If man is unfree in the materialistic sense, i.e., is free not through the negative power to avoid this or that, but through the positive power to assert his true individuality, crime must not be punished in the individual, but the anti-social sources of crime must be destroyed, and each man must be given social scope for the vital manifestation of his being.[20]

Marx's goal – of taking us towards our so-called 'true individuality' – led to the statist superstructure of communism. We must shun positive liberty like the plague. People are entitled to become whatever they wish to be – but only through their own enterprise. The state can't either set out their goals for them, or prod them into such goals, or support them in any such enterprise.

2.3 A definition of freedom

Different writers highlight different aspects of liberty. Most explanations come with a range of shortcomings because either they fail to provide the complete picture or can be misinterpreted. Consider first the writers who emphasise *negative liberty*.

According to Milton Friedman: 'The essence of political freedom is the absence of coercion of one man by his fellow men.'[21] The problem with such an approach is that it doesn't spell out the critical importance of accountability. Taken literally, it can prevent us from detaining even a murderer.

So let's try Lord Acton's definition: 'By liberty I mean the assurance that every man shall be protected in doing what he believes his duty against the influence of authority and majorities, custom and opinion.'[22] But just doing what we believe doesn't always lead to defensible outcomes. Hitler thought that it was his 'duty' to kill the Jews. A belief in duty doesn't necessarily lead to freedom. Accountability and justice are key ingredients, for only then can we determine which, out of a wide range of free actions, is valid.

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[20] Marx, Karl and Frederick Engels (1845), *The Holy Family or Critique of Critical Criticism. Against Bruno Bauer and Company.* 1956 English translation is by Richard Dixon and Clement Dutts. [http://www.marxists.org/archive/marx/works/1845/holy-family/index.htm]

[21] Milton Friedman, The New Liberal's Creed: Individual Freedom, Preserving Dissent Are Ultimate Goals (1961) [CHECK – got from wiki]

[22] John Emerich Edward Dalberg, Lord Acton, *The History of Freedom and Other Essays,* ed. John Neville Figgis and Reginald Vere Laurence (London: Macmillan, 1907). [http://oll.libertyfund.org/title/75]. Chapter 1.

Consider, next, those who emphasise *positive liberty*. William Howard Taft defined liberty as 'the means in the pursuit of happiness.'[23] This doesn't constrain our actions through justice, but most importantly, whose pursuit of happiness are we talking about? Ours or others'? Socialists, for instance, want us to live for others. Even otherwise, a 'happy' slave might imagine that his happiness is achievable only through (his own) slavery. But free societies can't possibly permit slavery. Worse, a Hitler might find happiness in killing Jews. Such unqualified definitions are a recipe for disaster.

Consider, then, Giuseppe Mazzini's definition: 'Liberty, misunderstood by materialists as the right to do or not to do anything not directly injurious to others, we understand as the faculty of choosing, among the various modes of fulfilling duty those most in harmony with our own tendencies.'[24]

Tacit in this view is a *socially endorsed* way of selecting duties 'in harmony with our own tendencies'. To the extent we are free to choose among our own duties, this is consistent with the individual-centric perspective of liberty. But Mazzini appears to be trying to get us to follow a socially selected set of duties. J.S. Mill rightly cautioned us, though, that: 'The only purpose for which power can be rightly exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant.'[25] We must be free to define our own duties the way we see them. Negative liberty is enough.

Other, somewhat better definitions do exist, but most are insufficient. Consider J.S. Mill's own view: 'The only freedom which deserves the name, is that of pursing 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.'[26]

No doubt this is better, focusing on negative liberty, but it pays insufficient attention to our social relationships. It also doesn't tell us how we can determine whether our actions are depriving others of *their* freedoms. I am free to eat and sell beef, but am I also free to establish a beef shop outside a Hindu temple (noting that not all Hindus are, or were averse to beef eating)? Where should the line to be drawn? For instance, can a liquor shop or brothel be established just outside the gates of a high school? Mill's definition fails to limit freedom sufficiently.

Mill believed, 'as one criterion of the goodness of a government, the degree in which it tends to increase the sum of good qualities in the governed, collectively and individually'[27]. Such a perspective enters into dangerous territory, being paternalistic. Indeed, Mill's more 'progressive' perspectives – which he expressed in his later life – went on to violate the basic requirements of liberty.

I will now list below (without comment) a few other definitions that are broadly valid but fail, upon critical examination, to persuade.

- J.S. Mill: 'The liberty of the individual must be thus far limited; he must not make himself a nuisance to other people.'[28] Also: 'The individual is not accountable society for his actions, in so far as these concern the interests of no person but himself'[29], and 'for such actions as are prejudicial to the interests of others, the individual is accountable, and may be subject either to social or legal punishment, if society is of the opinion that the one or the other is requisite for its protection'.[30]
- F.A. Hayek: 'Liberty not only means that the individual has both the opportunity and the burden of choice; it also means that he must bear the consequences of his actions. ... Liberty and responsibility are inseparable.'[31]

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[23] In a speech in Fresno, California, 10 October 1909.

[24] In *On the Unity of Italy* (1861).

[25] In his *On Liberty* (1859).

[26] Mill, John Stuart, *On Liberty*, 1859.

[27] Mill, J.S. [1861], 'Considerations on Representative Government', *On Liberty and Other Essays*, Oxford: Oxford University Press, World Classics Paperback 1991, p.227.

[28] Mill, John Stuart, *On Liberty*, 1859.

[29] Mill, John Stuart, *On Liberty*, 1859.

[30] Mill, John Stuart, *On Liberty*, 1859, Chapter 5.

[31] In his 1960 *The Constitution of Liberty*.

- Abraham Lincoln: 'My faith in the proposition that each man should do precisely as he pleases with all which is exclusively his own lies at the foundation of the sense of justice there is in me.'[32] Elsewhere, he wrote: 'Those who deny freedom to others deserve it not for themselves.'
- Frederick Nietzsche: 'Then what is freedom? It is the will to be responsible to ourselves'.[33]
- Walt Whitman: 'The shallow consider liberty a release from all law, from every constraint. The wise see in it, on the contrary, the potent Law of Laws'[34]
- Daniel Webster: 'Liberty exists in proportion to wholesome restraint.'[35]

And so, let me now revert to the definition I had unveiled in the introductory chapter. This definition is based partly on the analysis made up to this point in the book, but also on discussions yet to come. Some aspects of this definition will become clearer after the fourth chapter.

My definition clearly focuses on negative liberty and self-direction, with an exceptionally strong emphasis on accountability. Not only do I believe that this aspect has been given insufficient focus in the literature, but that accountability is the perfect obverse of freedom. No political or moral philosophy matters if people, in following its dictates, behave unaccountably. My definition therefore also incorporates the process for arriving at agreements on accountability.

While my definition is longwinded, I believe that anything shorter will mislead and confuse. Wherever, therefore, I refer to freedom, I mean it in this holistic sense.

> Freedom is a state of independent, self-directed thought and self-determined but self-restrained voluntary action of adults whose behaviour, such as the ability to trade, demonstrates strategic capability and thus at least a modest level of rational thought. Where this state of freedom impacts on others, it is limited by countervailing accountabilities informed both by moral law as variously understood and relevant empirical evidence; and agreed upon either through implicit or explicit bilateral understandings of negotiation or, where potential claims can be made on a society's resources, through social consent usually evinced through laws.

This definition identifies the principles by which the meaning and boundaries of freedom are determined, and the processes that ensure freedom. It notes that the free citizen will naturally tend to live in self-restraint, either on moral grounds or because the good reputation built through the exercise of self-restraint is in his self-interest. Ohe definition also acknowledges that self restraint may not suffice. We need social frameworks that *only* tolerate good behaviour failing which penalties are imposed. The society's governance must complement our self-restraint.

The definition thus highlights the importance of social norms and laws that create secondary, but vitally necessary incentives for greater self-restraint. These general laws (accountabilities) must be consistent with widely accepted moral principles and emerge with our consent.

The definition also deals with potential claims that someone might make on the society's resources. Thus, our choice to harm ourselves is largely irrelevant unless, upon having harmed ourselves, we ask taxpayers to 'fix' the problem we have created for ourselves. That is when the society must draw line. The society won't therefore intervene in our over-eating, excessive drinking, or addiction to loud music – so long as we pay the *full* cost of the harm we cause ourselves (and others). The moment, however, drunkards, drug addicts or the (self-created) obese expect taxpayers to fund their rehabilitation, then the plug must be pulled on their freedom to cause self-harm. Given the difficulty, however, of distinguishing (for instance) between those who will pay for themselves and those who won't, the society is entitled to limit *everyone's* liberty (for instance, to drink excessively) and impose appropriate penalties (e.g. for drink driving). [One way to distinguish between the two types is that society can insure everyone for emergency care but none for long term care.]

We have no right to take possession of others' resources – and definitely not of those who, exercising self-restraint, worked hard throughout a life to earn a livelihood. Grasshoppers can't be allowed to make claims on

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[32] Abraham Lincoln in a speech in Poria, Illinois, 16 October 1854

[33] 'Skirmishes in a War with the Age' in *Twilight of the Idols* (1888)

[34] Walt Whitman (1881) in 'Freedom', *Notes Left Over*.

[35] Daniel Webster in a speech at the Charleston Bar, 10 May 1847.

the ant. Where grasshoppers try to latch on to the hard-working taxpayer, the state must necessarily slap them down. Where the state redistributes or rewards those who harm themselves, moral hazard is created. People take more risks than they would otherwise, and the entire society becomes a parasite. That marks the end of all enterprise but theft.

We are obliged to consider all effects of our actions on others. We can excoriate someone or his beliefs – but only to the extent that we are accurate and justified. It is reasonable, also, to regulate the time and place for certain types of expression or action. The use of foul language can be proscribed for TV programmes meant for children, but we must learn to tolerate it on pay TV programmes rated for adults. Similarly, a flimsily clad woman can be allowed to dance on a table in a nightclub but not on the table of a Supreme Court judge. Regulation of this nature is yet another acceptable limitation on our freedom.

With the greater spread of liberty, self-restraint will perhaps become the norm. At that stage, governments could step back and keep a watching brief, as a night watchman would. But one shouldn't hold one's breath, for this is unlikely to happen any time soon, given the habits of slavery and dependence that most of mankind has developed over the past millennia.

It is worth pointing out that another aspect of freedom is implicit in this definition – Rose Wilder Lane described as the difference between 'grant-liberty' and 'inner-liberty'. In England, she pointed out, liberty was seen as a grant from the king, while in America there has always been self-directed, 'inner-liberty'. This distinction is implicit in my definition. I believe with Wilder Lane that liberty must be self-directed.

2.4 The challenge of ensuring a free society

Capitalism generates many obvious benefits, and if we were truly rational, a capitalist society would naturally arise. But despite the persuasive arguments of anarcho-capitalists who suggest that capitalism is the natural state of man, this is not so. Cuman nature prevents that from happening. Instead, socialism, communism and fascism arise more naturally, along with a wide range of oppressive social and religious norms. Obstacles to free them come from human nature, ideology, governments and society. J.S. Mill was one of the first to point out (in his essay, *On Liberty*) that even social norms adversely impact liberty, sometimes far more than what governments. I discuss below some typical barriers to freedom, with focus on India. It goes without saying that the mere existence of a barrier doesn't necessarily give rise to a role for the government.

Social norms often prevent girls from studying, thus depriving girls of their freedom to prepare optimally for their future. A related but more complex situation obtains with child labour which achieves similar outcomes. Such barriers to freedom can be addressed through greater economic freedom in society that increases the value of the educated child, making it unprofitable to indulge in harmful social norms.

Misguided religious leaders and fanatics are a major barrier to freedom. People have been killed for not converting to particular beliefs. This can go both ways. Thus, Harijans are sometimes forcibly prevented from converting to a religion other than Hinduism. Such matters require stringent law enforcement but can ultimately only be resolved through social reform.

Dictatorships and monarchies often prevent our freedom to choose political leaders by killing and imprisoning 'dissidents'. Stuffing of ballot boxes in weak democracies like India is a less extreme version of the same thing. In such a case there is a role for civil society action if governments can't prevent and punish vote stuffing, or directly prevent political choice.

Women's freedom is regularly threatened in India in many ways. For instance, by threats to directly punish those who observe Valentine's Day (I don't observe this 'day', but that doesn't mean others can be prevented from observing it). In similar vein, women have been threatened with violence in some parts of North East India if they wear 'non-traditional' attire. Governments in France and Turkey have forcibly tried to prevent Muslim girls from wearing a head-dress. Interference in our choice of dress is inappropriate, for we can't harm anyone merely by wearing particular clothes.

Some religions prevent so-called 'lower' caste people from acquiring knowledge or pursuing occupations that are 'reserved' for so-called upper castes. Harijans are prevented in some villages from drinking from the village well or entering a temple. Inter-caste or inter-religion marriages are also commonly opposed in India, sometimes viciously. These problems can primarily be addressed through social reform although the state has a role wherever violence is used.

Similarly, social and religious pressure is often applied to censor books or movies.

It is important for the role of social reformers and governments to be kept separate. Although I have my own views on social reforms needed in India (such as the need to eliminate the caste system) I don't envisage any role for the government in this regard. The government must be non-discriminatory and therefore punish all violent actions regardless of social intent, and insist on non-discrimination in recruiting to any government job. Addressing a society's ills must be left to social reformers.

The government's key role in relation to our freedoms is to ensure and enforce individual accountability. For instance, no workplaces free to injure its workers. By regulating workplaces for safety, and by punishing employers for negligence, capitalist societies significantly reduce avoidable injuries and death. The rate of workplace injury in capitalist societies is therefore much lower (by an order of magnitude) than comparable rates in socialist societies. Similarly, by regulating for safety the food that is offered for sale and the production, sale and use of potentially dangerous chemicals; and through prudential regulation of banking and insurance, a capitalist society ensures accountability across the entire range of human activity.

The abuse of power by businesses is relatively mild, however, in comparison with governments' abuse of power. As Hayek said, 'The power which a multiple millionaire, who may be my neighbour and perhaps my employer, has over me is very much less than that which the smallest fonctionnaire possesses who wields the coercive power of the state, and on whose discretion it depends whether and how I am to be allowed to live and work.'[36] Elaborating, he said: 'The greatest danger to liberty today comes from the men who are most needed and most powerful in modern government, namely, the efficient expert administrators exclusively concerned with what they regard as the public good.'[37] Our rulers often become our greatest enemies. That is where the greatest threat to our freedom comes from.

It probably begins with the paddings of power. Political leaders, heady with self-importance, soon disregard the 'masses'. VIPs in India, with flashing red lights on their cars, get precedence over 'commoners', often creating significant traffic jams. This can mean the difference between life and death for a citizen who becomes ill in such a jam and needs to reach hospital quickly. Indian Ministers and bureaucrats also let their cars be driven at reckless speed on narrow village roads, often killing or maiming people – even as their masked bodyguards bark out contemptuously: 'Hey, you stray 'dog'! Get out of our way!' Demagogues threaten violence against political opponents: even against entire groups. Political power is rarely exercised benevolently. We can't let our guard down against the government.

[36] Hayek, in his 1944 *The Road to Serfdom.*

[37] Hayek, in his 1960 *The Constitution of Liberty*

3. Two modern theories of justice (freedom)

[A] right to life is not a right to whatever one needs to live; other people may have rights over these other things – *Robert Nozick*[1]

'To employ the coercive apparatus of the state in order to maintain manifestly unjust institutions is itself a form of illegitimate force that men in due course have a right to resist.' – *John Rawls*[2]

We can understand freedom better by considering existing theories of freedom. Two philosophers are particularly useful in this regard, John Rawls and Robert Nozick, whose views provide valuable counterpoints and insights. Rawls (in his 1971 work) is a social liberal. Nozick (in his 1974 work) is a libertarian, possibly anarcho-libertarian. Both theorists have played an important role in 20th century debates. But before I examine these two, let me briefly comment on the other main philosophers of freedom.

3.1 Overview of the theories of freedom

Some of the precursors of classical liberalism go back more than 2 500 years. Many early contributions to the idea of liberty arose in early India where sceptical thought preceded – and influenced – Greek sophistry which, in turn, led to Socratic dialectical thinking.[3] Given a strong fightback by Vedic Hinduism, however, India's intellectual prowess soon faded away – even as its Greek students pushed ahead. But even Greek philosophy was overtaken by events, when Christianity suppressed all philosophy. It was much later, just around 800 years ago, that Greek (and indirectly ancient Indian – let's not forget that!, and ancient Chinese) ideas were rediscovered by Western Europe. Thus, the interrupted journey of freedom resumed.

So far there was no clear and coherent conception of liberty. But new, mind-expanding ideas about liberty began to arise in Europe broadly but more particularly in England between the 15th and 17th centuries. In the 18th century many of these ideas were significantly filtered and refined and took entirely new direction in newly created USA. Thereafter, in the 19th century, first the British and then the Austrians created the formal foundations of political economy, which we now call economics. Improved understandings about freedom then came about in the 20th century most prominently in the portals of American academia. As a result of this, the torch of liberty has now been widely lit across the West (though the haze of the welfare state and social democracy increasingly diminishes its visibility). Large parts of the world, including India, however, lag far behind.

It has taken people like the ancient Indian sceptics, the Buddha, the authors of Hindu epics, Socrates, Aristotle, and later, St. Aquinas, Machiavelli, Francis Hotman, Thomas Hobbes, John Milton and John Locke (among many others) to plant and nurture the seed of freedom. Thomas Hobbes, in my view, should be considered as the Father of Freedom together with John Locke, who expanded and refined his comprehensive work a few decades later.

Hobbes is not typically given this status by most others. But arguments underpinning the free society were first brought together by Hobbes – through his 'laws of nature'. And he highlighted the importance of accountability. His analysis was based on a scientific analysis of human nature. His *second law of nature*, for instance, recognises strategic behaviour. A man should 'be willing, when others are so too, … to … be contented with so much liberty against other men as he would allow other men against himself."[4] This is a rather modern ('tit-for-tat')

[1] Nozick, Robert, *Anarchy, State and Utopia*, New York: Basic Books, 1974, p. 179.

[2] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p.342.

[3] Rahula, Basnagoda, *The Untold Story about Greek Rational Thought: Buddhist and Other Indian Rationalist Influences on Sophist Rhetoric*, PhD dissertation, December 2000, Texas Technical University.

[4] *Leviathan*, 1651, Chapter 14 http://ebooks.adelaide.edu.au/h/hobbes/thomas/h68l/chapter14.html

conception of liberty. Hobbes is best known for his advocacy of the social contract that generates a strong government to protect our liberty, a concept later expanded and appropriately restrained by Locke.

(Rousseau, who wrote about the social contract, as well, was not in this tradition. His focus on positive liberty and the 'general will' gave the state unlimited powers to dictate its 'will', creating dangers that the world only came to recognize much later, at a great human cost. Rousseau is 'troublesome' in many ways. As Heinrich Heine wrote, in 1834: 'Note this, you proud men of action, you are nothing but unconscious tools of the men of thought … Maxmilean Robespierre [whose authoritarianism we shall come across later when we look at the French Revolution] was nothing but the hand of Jean-Jacques Rousseau'. Rousseau's interpretation of freedom (positive liberty) is at odds with the classical liberal view.)

It was clear in both Hobbes and Locke that without a strong state that enforces justice we are susceptible to the beast within us, for 'during the time men live without a common power to keep them all in awe, they are in that condition which is called war; and such a war as is of every man against every man'[5].

His *third law* hits out at those who think they have liberty of action without accountability:

> The fool hath said in his heart, there is no such thing as justice, and sometimes also with his tongue, seriously alleging that every man's conservation and contentment being committed to his own care, there could be no reason why every man might not do what he thought conduced thereunto: and therefore also to make, or not make; keep, or not keep, covenants was not against reason when it conduced to one's benefit.

To me this Hobbesian focus on individual justice is absolutely critical. He requires 'men [to] perform their covenants made'[6]. We must meet our commitments. That, to me, summarises the limits of liberty. The social contract can thus be 'contracted [summarised] into one easy sum, intelligible even to the meanest capacity; and that is: Do not that to another which thou wouldest not have done to thyself'[7]. The Golden Rule, a fundamental principle of justice, along with his argument for a state as an institution necessitated by human nature, makes Hobbes, in my view, the main founder of classical liberalism.

One does not have to agree with everything he wrote, in order to give him this honour. Being an early thinker, his ideas left much to be desired. I would debate his arguments for rehabilitation, not punishment: 'we are forbidden to inflict punishment with any other design than for correction of the offender, or direction of others.' In my view, a precisely accountable system will first ensure an equivalent punishment. Deterrence is a naturally (and desirable) outcome of punishment. The goal of reform must be largely consequential, and achieved by treating the criminal with respect as a human, with the crime being distinguished (for the purpose of punishment) from the criminal.

His *ninth law* – about political equality – is particularly important. It asks us to 'acknowledge another for his equal by nature.'[8] No one is therefore privileged: 'no man can … reserve to himself any right which he is not content should he reserved to every one of the rest'[9]. A more precise statement of political equality is hard to find.

But then he goes overboard. Upon handing over our sovereignty (in part) to the sovereign, Hobbes suggests that the sovereign then becomes *above the law*. This idea – of our *sovereignty* being handed to anyone, or of the 'sovereign' being above the law, is entirely incompatible with rule of law, and therefore the modern concepts of classical liberalism. Buchanan critiqued Hobbes's conception of the state, thus: 'Hobbes failed, himself, to share the liberal vision; he failed to understand that an idealized structure of social interaction is possible in which no person exerts power over another.'[10]

Regardless of these issues, it remains a fact that most ideas of classical liberalism were first brought together by Hobbes. Without his book, *Leviathan*, to test our ideas against, we would not have had the scientific theory of the liberal state. The *Leviathan* is to modern society as Darwin's *Origin of Species* is to modern biology. It is perpetually pertinent.

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[5] *Leviathan*, 1651, Chapter 13 http://ebooks.adelaide.edu.au/h/hobbes/thomas/h68l/chapter14.html

[6] *Leviathan*, 1651, Chapter 15 http://ebooks.adelaide.edu.au/h/hobbes/thomas/h68l/chapter15.html

[7] *Leviathan*, 1651, Chapter 15 http://ebooks.adelaide.edu.au/h/hobbes/thomas/h68l/chapter15.html

[8] *Leviathan*, 1651, Chapter 15 http://ebooks.adelaide.edu.au/h/hobbes/thomas/h68l/chapter15.html

[9] *Leviathan*, 1651, Chapter 15 http://ebooks.adelaide.edu.au/h/hobbes/thomas/h68l/chapter15.html

[10] Buchanan, James, 'The Soul of Classical Liberalism'.

While the government must exercise no sovereignty over citizens, its is an authorised power. What Hobbes fails to appreciate is that the exercise of whimsical power by the 'sovereign' is incompatible with the idea of liberty and justice. He did not appropriately bind the sovereign, which John Locke (1632-1704) was to do a few decades after him, thus becoming far more influential today than Hobbes[11].

Locke was one with Hobbes on the importance of accountability. Thus, in his *Two Treatises of Government,* he wrote:

> that 'though this be a State of Liberty, yet it is not a State of License, though Man in that State have an uncontroleable Liberty, to dispose of his Person or Possessions, yet he has not Liberty to destroy himself, or so much as any Creature in his Possession, but where some nobler use, than its bare Preservation calls for it.'

Not advocating accountability as the primary constraint on liberty would amount to advocating the State of License. Anarchists largely treat this as a voluntarily enforced constraint (which is not consistent with human reality), but Hegelians and other statists entirely ignore this constraint. The trick is to chain the state as one would a guard dog, with a chain long enough to enforce accountability, but not an inch longer, for that would reduce our freedoms without cause.

Locke's view about human nature was more optimistic than Hobbes's, at least on the surface. He seems to suggest, almost like socialist utopians, that people will live in harmony even without government. Danford believes that Locke deliberately chose, in the early parts of his book, to temper Hobbes's arguments. In this manner he avoided a potentially disruptive conflict with theologians. But partly into the book, Locke regurgitated Hobbesian arguments and arrived at the same conclusions, that we need a strong social contract to defend liberty.[12] The key difference between Hobbes and Locke is this, that Hobbes thinks we lose, in a fundamental way, our claim to sovereignty (and hence liberty) after we hand our powers to the state, whereas Locke insists that our sovereignty and liberties continue, being inviolable.

Locke's views were not completely consistent, as can be expected from an early piece of philosophy. Our ideas about liberty are still evolving, being refined by a deeper understanding of human nature. We are indebted to many who followed these two leaders, including: Richard Cantillon (1680-1734), Voltaire (1694-1778), David Hume (1711-1776), Adam Smith (1723-1790), Immanuel Kant (1724-1804), Edmund Burke (1729-1797), Thomas Paine (1737-1809), Baron de Montesquieu (1743-1797), marquis de Condorcet (1743-1794), Thomas Jefferson (1743-1826), James Madison (1751-1836), Jean Baptiste Say (1767-1830), Henri-Benjamin Constant (1767-1830), Wilhelm von Humboldt (1767-1835), David Ricardo (1772-1823), Frédéric Bastiat (1801-1850), Ralph Waldo Emerson (1803-1882), John Stuart Mill (1806-1873), Henry David Thoreau (1817-1862), Herbert Spencer (1820-1903), Lord Acton (1834-1902), Carl Menger (1840-1921), Eugen Bohm-Bawerk (1851-1914), Ludwig von Mises (1881-1973), Friedrich Hayek (1899-1992), Ayn Rand (1905-1982), Isaiah Berlin (1909- 1997), Milton Friedman (1912-2006), Peter Bauer (1915-2002), James Buchanan (1919-), Murray Rothbard (1926-1995), Gary S. Becker (1930-), and Robert Nozick (1938-2002).

Deliberately excluded from this list are potential 'candidates' such as the social ('modern') liberals T.H. Green (1836-1882) and John Rawls (1921-2002). Excluded, without much need of explanation, are the direct advocates of statism like Hegel and Nietsche whose ideas destroyed liberty.

I'd like to make a few observations about Ayn Rand, often misunderstood but in my view a major member of the classical liberal pantheon. Her work has been exceptionally influential in the 20th century, even though she stayed away from academic portals or political life. A Russian by birth, she left communist USSR at 21 for USA where she wove the logic of capitalism into outstanding stories like *Atlas Shrugged* (1957). Her clearest articulation of liberty is found in a few tightly written essays in the book, *Capitalism: The Unknown Ideal* (1946)[13]. She was particularly good at exposing flaws in collectivist thinking.

As all writers reflect their own limitations of training and experience, as well as the prejudices of their times, no single writer is, or can be, the final word on liberty. Some of the writers I have cited were racist or even practiced slavery (people may say one thing but then do something else); others believed that women could not be trusted

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[11] His writings include *A Letter Concerning Toleration* (1689), *Two Treatises of Civil Government* (1690), *Some Considerations of the Consequences of the Lowering of Interest, Raising the Value of Money* (1692), and *A Vindication of the Reasonableness of Christianity* (1695).

[12] Danford, John W., *Roots of Freedom*, Washington: ISI Books, 2000, p.90.

[13] One of the contributors to her book, Alan Greenspan, is perhaps more widely known in some quarters than even Ayn Rand is.

to vote sensibly. The final word on freedom will never be written. It is up to each generation, indeed for each of us, to rediscover the meaning of freedom and mould it into our life as a living principle.

As new thinking is done, many earlier ideas are found to be flawed. For example, following Locke's deduction of property rights from the labour we mix with something, Adam Smith assumed that value is determined by the *amount* of labour in production. That view, elaborated by Marx, led him into monumental blunders. These blunders were fixed by Carl Menger (1840-1921) who showed (rediscovered what had been first articulated by Scholastics[14]) that 'there is no connection between the value of a good and ... quantities ... [of] labor ... applied to its production' (*Principles of Economics*, 1871). Like beauty, value is in the eyes of the beholder. If Pablo Picasso and I are given the same materials and time to paint, you are likely to pay Picasso more for his absent-minded doodles than for my beautiful work. Your evaluation (no matter how unreasonable it may be) determines the worth of my work. Similarly, many earlier errors have been addressed, and valid insights refined.

This overview is no substitute for first-hand reading of original works which are mostly available online, free of cost. Such are the blessings of the modern age. But I must keep moving.

3.2 Two unsatisfactory theories of freedom and justice

Let me turn now to my main task for this chapter, to assess the theories of liberty of John Rawls and Robert Nozick. I don't plan to summarise their work. Instead, by discussing my key findings of the outset and by stepping you through my critique of these two theories, I aim to take you though what would otherwise have been a mere black box (my mind). The first three chapters of this book are mere background to the main product: the theory I present in the next chapter.

Rawls's book, *A Theory of Justice,* according to Nozick, 'is a powerful, deep, subtle, wide-ranging, systematic work in political and moral philosophy which has not seen its like since the writings of John Stuart Mill.'[15] But that doesn't mean it approaches Mill in the quality of analysis. As Nozick himself points out, Rawls's approach is flawed.

Rawls wants to deprive us of the *comprehensive* 'right to own … means of production'. Consistent with his positive liberty worldview, Rawls advocates ongoing redistribution, an idea that has killed millions of innocents to date, and will kill many more in the future. Redistribution is in any event pointless, for the *brain*: the greatest means of production, and our *character*: even more important than the brain, can't be redistributed. A

Rawls then talks about an alleged 'social basis of self-respect', apparently based on our relative economic and social status. There can surely be no worse driver of social policy. Envy makes for disastrous policy analysis. Let's grow up. That a philosopher of 'ethics' considers the lowliest element of human nature worthy of driving social organisaton should make us very concerned.

Nozick's (1974) ideas, on the other hand, are more conducive to liberty, being founded as the hour on the primacy of property rights. Unfortunately, his conception of liberty ends up undermining life (as I will presently show). He also denies equal opportunity. Frédéric Bastiat ranted against the state and taxation. Nozick follows him by equating taxation with 'forced labour'[16]. But this is a baseless claim. Taxes are dues for security and justice. Not everyone will pay for such goods (even when they can) because of the free rider problem, even in the pure anarchy. Therefore, a level of compulsion is justified, being voluntarily agreed upon as part of laws created by representatives, the social contract. A democratically imposed (partially) progressive tax, broadly on the pattern of a price-discriminating monopolist is, in my view, the most justifiable way for the state (a monopoly) to price its security and other services. Either way, the goal is to have a transparent and representative tax-setting process based on general underlying principles. Once that is achieved, and everyone understands why we have taxes, then there can be no tenable claim that these constitute forced labour or theft.

A small digression on the concept of anarchy. Even a dictator, in my view (and Hobbes's), is preferable to anarchy. As Mancur Olson noted:

> Under anarchy, uncoordinated competitive theft by "roving bandits" destroys the incentive to invest and produce, leaving little for either the population or the bandits. Both can be better off if a bandit sets

[14] CITE THE 15 AUSTRIAN ECONOMISTS BOOK

[15] Nozick, Robert, *Anarchy, State and Utopia*, New York: Basic Books, 1974, p. 183

[16] Nozick, Robert, *Anarchy, State and Utopia*, New York: Basic Books, 1974, p. 169

> himself up as a dictator – a "stationary bandit" who monopolizes and rationalizes theft in the form of taxes. A secure autocrat has an encompassing interest in his domain that leads him to provide a peaceful order and other public goods that increase productivity.[17]

In 1989 Nozick identified and addressed gaps in his 1974 theory ('[T]he libertarian position I once propounded now seems to me seriously inadequate, in part because it did not knit the humane considerations and joint cooperative activities it left room for more closely into its fabric'[18]). To the extent his 1989 view refers only to social capital based on voluntary association, it is not a significant shift. It might have marked a shift had it recogised the social contract, which it doesn't. (An aside: Not only libertarians like Nozick but also Tories oppose the social contract, arguing that a contractual relationship cannot exist between citizens and the king – although even Hobbes would have challenged this view).

3.2.1 *Rawls's conception of 'social' justice*

Martha Nussbaum, a distinguished philosopher herself, referred to John Rawls in 2001 as 'the most distinguished moral and political philosopher of our age'[19]. This claim is highly contestable, though, given a field comprising F.A. Hayek, Ludwig von Mises, Murray Rothbard, and Ayn Rand, among others. While Rawls's work is wide-ranging, his influence has been relatively modest (compared with, say, Hayek's) and his mistaken ideas will almost certainly fade away.

Rawls is best known for a 'thought experiment' he proposed his 1971 *A Theory of Justice*. This experiment seeks to identify the principles of 'social justice' (of justice *across* the society – a concept which Hayek points out belongs not to 'the category of error but to that of nonsense'[20]). At its heart, *A Theory of Justice* is a pitch for coercive redistribution. Rawls is a modern Marx, although he is not quite there. But in the same tradition. He believes that:

> persons are not indifferent as to *how the greater benefits produced by their collaboration are distributed*, for in order to pursue the ends they each prefer a larger to a lesser share. A set of principles required for choosing among the various social arrangements which determine this division of advantages and for underwriting an *agreement on the proper distributive shares* [emphasis mine].[21]

While Rawls is more sympathetic to (negative) liberty than Marx was, his approach takes him directdly towards redistribution, being focused on positive liberty concepts (Box PP illustrates this with a selection of his ideas).

Box PP

A sampling of Rawls's thoughts

- '[T]he plans of individuals need to be fitted together so that … they can all be carried through without anyone's *legitimate expectations* being severely disappointed. Moreover, the execution of these plans *should lead to the achievement of social ends* in ways that are efficient and consistent with justice' [emphasis mine].
- In his second principle (listed below) he wrote about social and economic inequalities being *arranged* to achieve certain ends.
- He specifically ruled out 'the right to own certain rights to property (e.g., means of production) and freedom of contract as understood by the doctrine of laissez-faire.'[22] Rawls thus split property into two: personal – which he allowed; and means of production and contracts – which he disallowed.

[17] Olson, Mancur, 'Dictatorship, Democracy, and Development', *The American Political Science Review*, Vol. 87, No. 3 (Sep., 1993), p. 567.

[18] Nozick, Robert, *The Examined Life,* New York: Simon and Schuster, 1989, pp.286-87.

[19] Nussbaum, Martha, 'The Enduring Significance of John Rawls', *The Chronicle Review*, 20 July 2001. [http://chronicle.com/free/v47/i45/45b00701.htm]

[20] Hayek, F.A. *Law, Legislation and Liberty* Vol. 2: The mirage of social justice, Routledge & Kegan Paul Ltd., 1982 , p. 78.

[21] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p.4.

[22] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p.54.

- He advocated that '[a]ll social values – liberty and opportunity, *income and wealth*, and the social basis of self-respect – are to be *distributed equally* unless an unequal distribution of any, or all, of these values is to everyone's advantage' [emphasis mine].[23]
- At another place, he says: 'there is no more reason *to permit* the distribution of income and wealth to be settled by the distribution of natural assets than by historical and social fortune' [emphasis mine].[24]
- While the liberal conception seems clearly preferable to the system of natural liberty, intuitively it still appears defective. For one thing, even if it works to perfection in eliminating the influence of social contingencies, it still permits the distribution of wealth and income to be determined by the **natural distribution of abilities and talents**. Within the limits allowed by the background arrangements, distributive shares are decided by the outcome of the natural lottery; and this outcome is arbitrary from a moral perspective. There is no more reason to permit the distribution of income and wealth to be settled by the **distribution of natural assets** than by historical and social fortune. (*ibid*)
- The difference principle represents, in effect, an agreement to regard the distribution of **natural talents as in some respects a common asset**. (*ibid*)

Rawls's approach is alarming. To talk about 'legitimate expectations', 'arranging' economic inequalities, and ensuring an equal distribution is frightening enough. But his reference to 'social ends' takes the cake. This is a collectivist approach, strongly inclined to positive liberty concepts. Rawls claims social ownership of our talents (natural assets) and in doing so, destroys our real (negative) liberty comprehensively.

The free man refuses to let the society determine *his* ends. We delegate our animal power to the government so we can better achieve our *personal ends* – of life, liberty, and self-determined pursuit of happiness. This delegation does not authorise the government to tell us what our goals should be. Government representatives are our agents, *not* masters. They must always remember that we are the masters. If they fail to understand this, we must be prepared to recall them, and if they refuse to relinquish power, to chop off their heads (and I don't make this statement in jest.)

As individuals we are free to promote collectivist goals – such as nationalist or religious, or any other – so long as we offer these ideas to others without any coercion. Rawls is therefore free to preach his views but should any government act on such views, it would immediately become illegitimate, having violated the social contract to defend our liberty. I, too, promote a collective goal, of a Great India, because I think that a great nation can be good for me and my broader family, and that having a Great India is a personal goal that is worth having. People who believe in this goal can join me on the Freedom Team of India[25]. But I can't impose these aspirations and plans. Our views do not constitute a 'social' goal.

The very idea of 'society' is debatable. As Margaret Thatcher rightly said: 'there is no such thing as society'[26]: many classical liberals had raised this prior to her. Individually, we are the only thing that is permanent (till, that is, we die). Nations may outlive us (like the banks of a river), but societies constantly change, like water that flows within the banks of a river. Heraclitus said: 'You can't step into the same river twice' (for what we are stepping into has changed). Likewise, we can't experience the same 'society' twice.

Society (nation, religion, association) exists for our convenience; we can move across societies, changing our 'container', even as we, the 'molecule' that comprises 'society' remains unchanged. Some relationships in society are fixed (e.g. genetic), but everything else is subject to change. The society changes, evolves, changes shape. The idea of social 'ends' is therefore nonsense on stilts. All we need is a *process* that lets individuals determine their own goals and direction, and remain accountable for their choices.

But Rawls saw himself as a 'wise' philosopher. He could tell all of us what our 'ends' *ought* to be. He basically said: Let's redistribute our wealth to increase everyone's self-respect and make everyone happy. But it is grossly inappropriate for anyone – philosopher, economist, or politician – to tell us what we shall strive for or how we

[23] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p.54.

[24] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p.64.

[25] [http://freedomteam.in/]

[26] Prime minister Margaret Thatcher, in an interview published in *Woman's Own* magazine on 31 October 1987.

shall achieve self-respect. That's purely our own business. No one, least of all the state, can demand that we follow their view of how the world should look like.

'Social justice' is a vacuous concept because justice is a property of the actions of individuals, not of groups. '[O]nly situations that have been created by human will can be called just or unjust',[27] as Hayek noted (he meant *individual human will*, not the *general will* of Rousseau[28]). Justice does not apply to entire societies. Te principles of justice can only allow *individuals to* maximise their freedoms, subject to accountability. The society does not enter into the picture.

As Hayek showed, the complex pattern of property holdings in a free society is the result of the independent actions of people operating in their self-interest, each action subject (at the greatest possible level of detail that is possible) to the dictates of justice. A further notion of 'social' justice can't then be superimposed across the relative holdings of an *entire* society. Such 'double dipping' (supra justice) concepts undermine justice. '[T]he prevailing belief in 'social justice' is … probably the gravest threat to most … values of a free civilization'.[29] '[N]othing has done so much to destroy the juridical safeguards of individual freedom as the striving after this mirage of social justice.'[30] But Rawls is running after this mirage, and does not understand the harm it can cause.

Economic redistribution by the state is theft. While I firmly oppose theft by the state, let me note that it is perfectly sensible for the state to impose progressive taxation (being price discrimination for services provided) and a fully funded, actuarially fair social insurance scheme (see Chapter 4). But redistribution is simply not acceptable. And inequality is not an issue for the state to dabble with. Envy can't be a fit driver of state policy. When the liberal insists (as I do in *BFN*) on eliminating poverty and educating everyone to year 12, he does so *not* on the basis of the mindless concept of 'social justice' but as an implication of a sustainable social contract which must necessarily include reasonable equal opportunity (noting, however, that this is a second order state function, relevant only after security and justice have been ensured).

Rawls raises envy to a pedestal. He assigns considerable value to our 'severe disappointments' and 'legitimate expectations' (but what can possibly be 'legitimate' – except in the context of individual justice). Such indefensible focus on envy must necessarily draw us away from justice. *Ad hoc* decision-making seems to be typical of the Rawlsian regime, in which every issue is seen through the prism of individual-specific 'social justice', over-riding general rules.

Rawls asserts that not liberty but self-respect is the *primary good.* 'On several occasions', he emphases lest we forget, 'I have mentioned that perhaps the most important primary good is that of self-respect'[31]. Obtaining this requires that we pursue our plans 'with pleasure' (!). Without pleasure, apparently, 'nothing may seem worth doing'. An interesting distortion of utilitarianism and socialism, is Rawls's theory. So he advocates an extreme version of positive liberty – society should ensure that 'our person and deeds [are] appreciated and confirmed by others who are likewise esteemed and their association enjoyed.'

But why must a society (state) undertake such extreme paternalism? What gives it any capacity, power, even mechanism, to do so? Doesn't the market already do much of this on a daily basis – by valuing the services and goods we produce? A 'society' (being a Rawlsian dictatorship, presumably?) has no business to tell us whose company we must keep, or 'reward' us. I would be deeply offended by *any* state commendation, for it would mean that my *servant* has become so vain that he now pretends to reward me with *other people's* money. Let only the market – free people in their free judgements – reward us.

Rawls basically treats all of us – his mental 'inferiors' presumably – like teenagers driven by trinkets, baubles, or awards from his 'society'. We would presumably get depressed and commit suicide should such regular pats on our back from Rawls (or his minions) not be forthcoming. But this is delusional arrogance. Others' approbation, regardless of whether it is welcome, is no substitute for their money. Let their approbation be signalled through

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[27] Hayek, Friedrich August, *Law, Legislation and Liberty,* Vol.2*,* 1973, Routledge, p. 33.

[28] The general will is a dangerous concept: "whoever refuses to obey the general will shall be compelled to do so by the whole body. This means nothing less than that he will be forced to be free", said Rousseau.

[29] Hayek, F.A. *Law, Legislation and Liberty* Vol. 2: The mirage of social justice, Routledge & Kegan Paul Ltd., 1982*,* pp. 66-7.

[30] Hayek's Wincott Memorial Lecture (1973) entitled, "Economic Freedom and Representative Government" published by IEA, p.13.

[31] Rawls, John, *A Theory of Justice* (1971)*,* Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p.386.

their purchase of our services. A fair exchange will do well enough, without any 'society' (government) system of rewards.

Real grown-ups often provide some 'services' without any expectation of reward or 'exchange'. Alexander Solzhenitsyn didn't write the *Gulag Archipelago* to get a Nobel Prize but to express his horror at communist USSR brutalities. He well knew that he could be jailed, even murdered, for his writings. But he wasn't fighting for approbation (like Rawls), but for liberty: something Rawls has no idea about. The free man, firmly living a life of dignity, cares not a fig for what others may think about him. He does what he must. He is not a whimpering puppy who needs a pat from every passerby. A society's 'recognition' is a matter of no consequence.

We will, undoubtedly, choose to only work for those who value and treat us well, but requiring that as social justice condition is stretching things too far. All we insist on is (negative) liberty, after which we will make our choices including how we deal with others. The free man cares for the good as *he* defines it, not for the pleasant. As the *Kathopanishad* (I-ii-1) says:

> The good is one thing, the pleasant another. These two lead to very different ends. The wise are not deceived by the attraction of the pleasant. They choose the good. Fools are snared into the mere pleasant and perish.[32]

But regardless of what anyone says, the free man's choices are his own business. Not the society's.

Only the approbation of those we value matters. *You* must deserve *my* respect in order for me to bother about your approbation. There are Presidents like Robert Mugabe whose approbation I would wash down my toilet. On the other hand, the esteem of people like the Mahatma – without any possessions or 'rank', would make my day. Many officials from USSR – presumably well rewarded – abandoned that corrupt land and defected to freedom, to begin life once again, in penury. I too, abandoned the approbation of the Indian Administrative Service, to work humbly in free Australia. Liberty, dignity. Rawls doesn't understand these basic values.

Naturally, Rawls wants *complete* equality of income, wealth and the like, calling these the fundamental attributes of social justice. But if our income has been earned from fully accountable voluntary interactions, then what 'justice' can take our earnings away?

Rawls asks us to visualise a situation where existing economic and social structures are dismantled and rebuilt from scratch behind a *veil of ignorance*. Everything is now subject to change. This precursor of change: a position of uncertainty and ignorance, he calls the 'original position'. It is a distant cousin of Hobbes's 'state of nature'.

Under this veil:

> no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance. This ensures that no one is advantaged or disadvantaged in the choice of principles by the outcomes of natural chance or the contingency of social circumstances.[33]

The principles of justice for the new society are determined behind the veil. Existing roles are then reassigned randomly, and people re-born into these new roles.

Before discussing other, associated issues, let me make note, first, of problems with such 'thought experiment'. The veil of ignorance doesn't account for human nature. In particular, Rawls doesn't consider strategic behaviour. Therefore, the Rawlsian 'contract' (basically the wishful think of Rawls) is 'unstable since people may well break the contract as soon as they know their own position in society.'[34] This flow is absolutely critical. Dreams do not work.

The real world (for clarifying which this experiment is presumably conducted), has *no* veil of ignorance. Everyone has a store of local knowledge and circumstance. Using a vivid imagination to inform political principles, instead of determining how this local information can be used to advance everyone's joint interests without central direction, must necessarily result in folly.

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[32] Rajagopalachari, C. *Hinduism: Doctrine and Way of Life*, Bombay: Bharatiya Vidya Bhavawan, 1959, p116.

[33] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p.11.

[34] A comment by Hans O. Melberg on the internet.

The integrity of human knowledge hinges upon sticking firmly to reality. Rawls should have asked *real* people about what they want and how they actually behave, not imagine how fictitious people would behave under an imaginary veil. Not unsurprisingly, there is no scope even for notional democratic decision-making behind the veil. Rawls's conclusion fail to hold with real people. Rawls's theories have been falsified empirically, whenever his difference 'principle' has been tested,[35] albeit (necessarily) in a contrived manner. Thus:

> 'The main results of these experiments can be summarized as follows: (1) experimental groups are able to reach unanimous agreements, (2) most of the groups choose the same principle of income distribution, and (3) the most often chosen principle is not the Rawlsian principle of distributive justice. Instead, a mixed principle that maximizes the income of the average member of the group, subject to a constraint that the lowest income does not fall below a certain level, has been the most popular alternative in the earlier experiments.[36]

A 2004 experiment further confirmed 'that the veil of ignorance does not generate Rawlsian choices.'[37] Real people prefer the maximum income they can possibly get, while ensuring that those who fail to achieve a minimum level are looked after. This is entirely consistent with maximisation of freedom with reasonable equal opportunity, and inconsistent with any form of redistribution.

Having noting fatal deficiencies in Rawls's unscientific 'experiment', let's explore his 'deductions' – being his principles of social justice. The first of these principles is that:

each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.[38]

One can't quarrel with this, except to note that the language of 'rights' is inappropriate. Rawls partially addressed this flaw by renaming 'rights' as 'claims' in his 1993 formulation (In his 1993 *Political Liberalism* Rawls modified his first principle, thus: 'Each person has an equal claim to a fully adequate scheme of basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value'[39]). However, that didn't really resolve the issue. Wherefrom do 'claims' arise? (The only legitimate claims are those linked to the principles of accountability. No generic claims unrelated to accountability, can exist.)

As part of this principle, Rawls noted a number of freedoms: freedom of thought; liberty of conscience ('liberty as applied to religious, philosophical, and moral view of our relation to the world'[40]); political liberties (including representative democratic institutions, freedom of speech and free press, and freedom of assembly); freedom of association; freedoms specified by the liberty and integrity of the person (freedom from slavery and serfdom and freedom of movement and choice regarding occupation); and political rights and liberties covered by the rule of law.

It is a mystery to me how Rawls arrived at these liberties (but not others: Rawls's formulation explicitly *excludes* key aspects of property rights) under the veil of ignorance. His second principle is extremely jarring. Two of his alternative formulations are listed below:

Social and economic inequalities are to be arranged so that they are both (a) to the greatest expected benefit of the least advantaged and (b) attached to offices and positions open to all under conditions of fair equality of opportunity.[41]

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[35] Eg. Frohlich, Oppenheimer, and Eavey 1987a, 1987b; Frohlich and Oppenheimer 1990; Lissowski, Tyszka, and Okrasa 1991; Bond and Park 1991; Frohlich and Oppenheimer 1992; Jackson and Hill 1995; de la Cruz-Doiia and Martina 2000; Oleson 2001 – as cited in 'The Role of Information in Choices over Income Distributions' by Kaisa Herne and Maria Suojanen, in *The Journal of Conflict Resolution*, Vol. 48 (2). April 2004), pp. 173-193.

[36] 'The Role of Information in Choices over Income Distributions' by Kaisa Herne and Maria Suojanen, in *The Journal of Conflict Resolution*, Vol. 48 (2). April 2004), p.183.

[37] 'The Role of Information in Choices over Income Distributions' by Kaisa Herne and Maria Suojanen, in *The Journal of Conflict Resolution*, Vol. 48 (2). April 2004), p.183.

[38] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p. 53.

[39] *Political Liberalism*, p.5-6.

[40] *Political Liberalism,* p. 311.

[41] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p.72.

A slightly different version, in the same book, reads:

Social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity.[42]

The 'difference principle' (being the first part of this second principle) is the most baffling. Its practical implications end up in confusion. No doubt equal freedom includes a level of equal opportunity – but what Rawls is talking about is not just equal opportunity. What he wants is *equal outcomes*, at least in principle.

Assume that I have an intellectual disability that prevents me from becoming Bill Gates. Rawls seems to require not only that I must be given equal access to education but that I must be given *priority* over Gates at *every* step so that my life outcomes (not just opportunities) can be equalised with those of Gates. Note that he doesn't demand perfect equality of outcomes (a small mercy), but asks the state to *continually* shift the *relative status* of weaker persons incrementally upward ('continually to correct the distribution of wealth'[43]) – outcomes, not opportunities. This is an extremely strong form of socialism which gives the state a blanket cheque to modulate our lives at every step, destroying any chance of liberty and free will. A more nonsensical claim about 'justice' cannot be imagined.

It is a basic reality (regardless of as many 'original positions' as we can cook up) that inequality is *built into*, and embedded into very aspect of the human condition. Therefore, it is not possible to equalise people's opportunities (leave alone outcomes) entirely, nor (more fundamentally) is it anyone's business to try to do so. No normal (self-interested) person can support Rawls's difference principle, for it not only destroys *all* work incentives, it destroys our liberty comprehensively, nullifying Rawls's first principle.

Yet another (not insignificant!) problem: the term 'least-advantaged'. This terms, used in the difference principle, is loaded with subjectivity. First, why are we responsible in any way for the least advantaged? Did we bring them into this world? If not, then why are we expected to take over their parents' responsibility? Second, who are least-advantaged, anyway, and who is to determine that? This is not a trivial matter at all.

The 'state', of being disadvantaged is *relative* to others and this can change. I may be poor today but because I am smart, I am guaranteed to become rich in the future. If so, how justified is it for the state to force a middle-class, hard working boot-maker to pay for my education today, given the likelihood that as the world's largest shoe manufacturer in the future, I will knock this boot-maker out of business, impoverishing him? This is a typical outcome, by the way, of public funding of higher education: where the poor are forced to pay for the (future) rich.

This state is completely subjective and does not take into account crucial health factors. I might be rich but if a stroke paralyses me, I become disabled for the remainder of my life, creating a disadvantage that no amount of money can fix. Much disadvantage is not even visible, and can't be measured with any machine.[44] Chronic pain is invisible, but extremely debilitating. The rich man in great pain is more disadvantaged than a poor man in perfect health. A rich sick man would happily trade (if he could) all his money for health. The concept of 'least advantaged' is clearly not amenable to rational discussion, and is *entirely worthless*.

The liberal believes in a different approach altogether – that if everyone is provided with a reasonably level playing field (reasonable equality of opportunity) then no further need arises to deal with the concept of 'least-advantaged'. A simple income-based insurance scheme is all that we can set up. No disadvantage-based program is feasible. Any enhancements beyond this income based social minimum should be left to the fine tuning of private charity and social relationships (such as between parents and children).

In the same vein, consider the idea of 'greatest benefit'. All we can say is that trade is Pareto optimal[45]: resources being traded are allocated between the traders such that neither can become better off without making the other

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[42] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p. 266.

[43] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p.245.

[44] I have gone though nearly eight years in extreme, shooting, pain in my upper body as part of the RSI I spoke of in the acknowledgements in *BFN*. I struggled through my job, not sure if I would have the mental resources to want to live beyond the following month. All this while, my pain was totally invisible to others, and simply not measurable. I may have been intelligent enough to somehow get and to hold on to a job—and thus appear to be without disadvantage, but I was battling for survival.

[45] There is a large literature on imperfect information and information asymmetry under which Pareto optimality may not hold. But I believe these are grossly over-hyped. Thus, mechanism design has failed to persuade me, and in many cases has led to significant losses to

trader worse off. If, instead of this freely agreed system of trading we want ignorant and arrogant bureaucrats to arbitrarily certify whether *each* transaction has met delivered the greatest benefit to the least advantaged, then all trade will come to an end. The 'greatest benefit' concept would bring the entire society to its knees, given that it is impossible to agree on the idea of 'greatest benefit'. Few more foolish policies can be imagined, but Rawls is not reluctant to rush in where angels fear to tread. His deep ignorance of how an economy functions comes through vividly at every step.

The fact is that people don't care about economic inequality. When Arthur Brooks of Syracuse University asked people whether inequality bothered them, he was surprised. '[F]ew expressed any shock and outrage at the enormous wealth of software moguls and CEOs. On the contrary, they tended to hope that their kids might become the next Bill Gates.'[46] This is how real people think. In brief where sufficient opportunities exist, '[r]ising inequality can even raise our happiness by demonstrating the success that our future may hold.'[47] Brooks found that 'economic inequality doesn't frustrate Americans at all. It is, rather, the perceived lack of economic opportunity that makes us unhappy.' And as he pointed out: 'If the egalitarians are right, then average happiness levels should be falling [since income inequality has been increasing in the USA]. But they aren't.'

People are enthused (*not* disheartened) by economic inequality – *provided* it signals opportunity. Thus, people make a beeline for USA from across the world because it is perceived as the land of freedom and opportunity. Migrants know that they will start at the bottom of the ladder, but they are still willing to become American citizens – knowing that merit will be rewarded. Therefore, as Brooks noted, 'To focus our policies on inequality, instead of opportunity, is to make a grave error'.[48]

Consider yet another problem. Rawls said that it is an open question whether his principles would be 'best realised by some form of property-owning democracy or by a liberal socialist regime.'[49] Personally, in his later 2001 *Justice as Fairness: A Restatement*, he veered towards property-owning democracy as 'an alternative to capitalism'[50]. In doing so he extensively cited the proposals James Meade had made in his (1964) book, *Efficiency, Equality and the Ownership of Property*[51]. Rawls wanted the 'wide dispersal of property' which, he believed, 'is a necessary condition … if the fair value of the equal liberties is to be maintained.'[52] That is absurd. The very act of forcibly dispersing property (re-distribution) would end all liberty as we know it.

Meade was an extreme socialist. He thought that 'ownership of property in property-owning democracy could be equally distributed over all the citizens in the community'[53]. But given the embedded inequality in the human condition, equal property can never be sustained. Along with John Ruskin, Janet Albrechtsen noted that '[p]eople with bright ideas, or who work harder to get ahead, are more successful more quickly.'[54] Clearly, neither Meade nor Rawls can prevent the smarter farmers from buying off their less efficient brethren. To then try to forcibly equalise farm lands again – and *yet again* – would be *totally indistinguishable from communism*.

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governments by opening holes for gaming by the street-smart (i.e. normal) market players. Time tested market mechanisms have, over the millennia, overcome most information gaps, and markets therefore usefully extract most relevant information without needing economic design to overcome alleged imperfections. Markets are therefore largely frictionless and 'perfect'. I can't see any economist outsmarting or out-designing them consistently. If all possible value is squeezed out of the trade, then Pareto optimality must, in-principle, prevail; trade being voluntary. Plus I believe in rules of thumb. First rule: voluntary trade is good (precise Pareto optimality or not doesn't bother me).

[46] Arthur C. Brooks (Professor, Syracuse University) 'What Really Buys Happiness?' in *City Journal* Summer 2007. [http://www.city-journal.org/html/17_3_economic_inequality.html]

[47] Arthur C. Brooks (Professor, Syracuse University) 'What Really Buys Happiness?' in *City Journal* Summer 2007. [http://www.city-journal.org/html/17_3_economic_inequality.html]

[48] Arthur C. Brooks (Professor, Syracuse University) 'What Really Buys Happiness?' in *City Journal* Summer 2007. [http://www.city-journal.org/html/17_3_economic_inequality.html]

[49] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p.xv.

[50] John Rawls, *Justice as Fairness: A Restatement*, ed. Erin Kelly (Cambridge, MA: Harvard University Press, 2001), p. 136 - CHECK

[51] James Meade, *Efficiency, Equality and the Ownership of Property*, (London: George Allen and Unwin, 1964).

[52] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p. 245.

[53] J.E. Meade. *Liberty, Equality and Efficiency*. The Macmillan Press Ltd., 1993, pp. 41

[54] 'Don't get sniffy at 'affluenza'', in *The Australian*, July 31, 2007, [http://tinyurl.com/lkc39l].

Meade also advocated a heavy tax on inheritance. We would, in consequence, be able to acquire wealth but not pass it on. That is so ridiculous it is not worth even mentioning, but we must, for such foolish ideas are widespread among the 'intelligentsia'.

We live through our children, and while we may not work *only* for their sake, we have in mind the continuity of life that our children represent. Our children *are* us. Why would anyone labour if they can't pass on the fruits of their labour to their children? This amounts to the destruction of the entire system of nature, and imposing values that are totally inconsistent with the way nature has progressed to date. If parents can't look after their children and therefore ensure that their genes are passed on successfully into the future, then we are essentially saying that we disagree with life itself. The transfer of assets from one generation to another should necessarily be treated seamlessly, thus ruling out inheritance tax. This is also fundamentally flawed, because families that tend to die at an average age of 50 would then be taxed far more heavily than those that die at age 90[55].

Rawls contradicted himself right through the book. He wrote, confoundingly, that 'One naturally imagines that the greater wealth of those better off is to be scaled down until eventually everyone has nearly the same income. But this is a misconception, although it might hold in special circumstances'[56]. This contradicts his statement that '[a]ll social values – liberty and opportunity, income and wealth, and the social basis of self-respect – are to be distributed *equally*' [emphasis mine]. To say that Rawls's work is replete with confusion would be an understatement.

His confusion is worse confounded by his ridiculous prescriptions to implement his difference principle. Thus he asks each generation to put aside a 'suitable amount of real capital accumulation' or savings for the common use of society. But, he admits that 'it is not possible … to define precise limits on what the rate of savings should be.'[57] The central planner is exposed – he has no clothes. He can't frame a basis for this interference in the savings rate. Deep ignorance of fundamental economic principles of supply and demand elude Rawls. Only through individual optimisation decisions wherein people trade in their savings and borrowings over a lifetime to smooth out their consumption and achieve an optimal level of capital accumulation can any 'appropriate' rate of savings be achieved. All else will lead to the destructive disruption of people's choices. What citizens need to know is simply this: that today's laws will apply tomorrow, and the country's money will not be degraded by inflation. We don't need central planners to tell us how much to save for an *entire society's* future.

In such bizarre and ridiculously confused ways does Rawls's attempt a series of *ex-post* redistributions and appropriations of property. His is a Marxian perspective with red tape.

Clearly Rawls is very superficially attached to the concept of freedom. The concept of negative liberty means nothing: his being a positive liberty perspective. Nowhere does he exhibit any trust in the outcomes of freedom.[58] His kind of regulatory regime will lead us only to a statist, totalitarian, socialist state. His ideas have killed millions in the past and such ideas will kill many more innocent millions in the future. We must excise Rawls surgically from the lineage of classical liberalism. While Rawls is not Marx, and there appear to be things (on the surface) that one can agree with, his overall ideas are false and dangerous. He does talk sense in some aspects, such as safeguards against political corruption through state funding of elections. But these ideas have nothing to do with is concept of justice. It is therefore best that we discard Rawls altogether.

Through this sharp critique of Rawls's theory I have tried to highlight the basic fact that all we need is equal (negative) liberty. Once that is ensured, we will find our own way in life, success being defined in our own way. We'll take this simple message further in chapter 4. But let us also learn from Nozick.

3.2.2 *Nozick's extrapolations from self-ownership*

Let's turn now to Nozick's book, *Anarchy, State, and Utopia*. I examine his theory only from a few angles, just enough to draw useful conclusions, and have no ambition of summarising all his arguments.

Nozick believes that his views reflect those of Locke. But it would appears that in some ways, he mirrors Edmund Burke's (1729-1797) early views (*Vindication of Natural Society*), and Frédéric Bastiat's views (*The Law*).

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[55] See details at http://sabhlokcity.com/2010/12/the-case-against-inheritance-tax/

[56] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p.252.

[57] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p.252-3.

[58] Quentin P. Taylor, in 'An Original Omission? Property in Rawls's Political Thought', *The Independent Review*, v. VIII, n. 3, Winter 2004, p. 387-400. [http://www.independent.org/pdf/tir/tir_08_3_taylor.pdf]

Libertarian is the word. Nozick, however, moved quite far from Locke. Nozick's model is different to Locke's because of his failure to base his arguments on a study of human nature. He assumes people's underlying goodness, rationality, and ability to deal voluntarily and amicably with others. He assumes that people's 'rights' are mutually respected in the state of nature, and that 'generally people will do what they are morally required to do'[59]. This is utopian, even delusional – to imagine that people will generally do what they are 'morally' required to do. He is, however, despite his belief in people's goodness, excessively sceptical of governments. But if his ideas about human nature are correct, then shouldn't there be fewer reasons to worry about government functionaries?

a) The matter of rights

Nozick begins his book by asserting that: 'Individuals have rights, and there are things no person or group may do to them (without violating their rights).'[60] Nozick notes, though, that his 'book does not present a precise theory of the moral basis of individual rights'. This is true, for Nozick fails to explain where these rights come from.[61] We need both the moral and the practical basis of rights, else they become meaningless. He observes the existence of this problem: 'The major objection to speaking of everyone's having a right to various things such as equality of opportunity, life, and so on, and enforcing this right, is that these "rights" require a substructure of things and materials and action; and *other* people may have rights and entitlements over these.'[62] But he doesn't expand on this crucial matter. It should be evident upon some reflection, however, that rights must be embedded inside an enforceable social contract, else they are noting but hot air. As Bentham colourfully observed:

Natural rights is simple nonsense: natural and imprescriptible rights, rhetorical nonsense,—nonsense upon stilts. But this rhetorical nonsense ends in the old strain of mischievous nonsense: for immediately a list of these pretended natural rights is given, and those are so expressed as to present to view legal rights. And of these rights, whatever they are, there is not, it seems, any one of which any government can, upon any occasion whatever, abrogate the smallest particle….

Right, the substantive right, is the child of law: from real laws come real rights; but from imaginary laws, from laws of nature, fancied and invented by poets, rhetoricians, and dealers in moral and intellectual poisons, come imaginary rights, a bastard brood of monsters, "gorgons and chimæras dire."[63]

We must sharply distinguish these two – the conception of rights, and our animal powers. When Nozick talks about 'rights', he is actually talking about our animal powers. Hobbes wrote about 'the Liberty each man hath, to use his own power, as he will himself, for the preservation of his own nature; that is to say, of his own Life; and consequently, of doing anything, which in his own Judgement, and Reason, he shall conceive to the aptest means thereunto'.[64] This kind of raw 'liberty' is founded on our animal powers. And, indeed, Nozick observes, too, that '[i]n a state of nature an individual may himself enforce his rights, defend himself, exact compensation, and punish.'[65]

But our animal powers are not rights. Our inborn potential to secure our survival and freedom; our potential animal capacity to enforce our property ownership through force (if needed) is our natural endowment, not necessarily protected by society. It is only when society agrees to recognise and jointly enforce the justifiable exercise of powers (usually delegated to the state) that 'rights' gain a real form and shape.

For instance, try telling a woman brutally stoned by Taliban for suspected adultery (ancient Jews used similar punishments: see Deuteronomy 22:13-29) that Nozick thinks she has rights and should therefore relax. Within a society, others constrain our so-called 'rights' through the exercise of force. Therefore rights to be meaningful must be agreed and enforceable. They must be legal rights, not just 'innate'. We create enforceable legal rights

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[59] Nozick, Robert, *Anarchy, State and Utopia*, New York: Basic Books, 1974, p. 119.

[60] Nozick, Robert, *Anarchy, State and Utopia*, New York: Basic Books, 1974, p.12.

[61] Den Uyl, Douglas J. and Douglas B. Rasmussen, 'Self-Ownership', *Good Society Journal*, Pennsylvania State University, Volume 12:3, 2003, pp. 50-57.

[62] Nozick, Robert, *Anarchy, State and Utopia*, New York: Basic Books, 1974, p.238.

[63] Bentham, Jeremy, *The Works of Jeremy Bentham*, published under the Superintendence of his Executor, John Bowring (Edinburgh: William Tait, 1838-1843). 11 vols. Vol. 2. Chapter: A CRITICAL EXAMINATION OF THE DECLARATION OF RIGHTS, Accessed from http://oll.libertyfund.org/title/1921/114230 on 2010-05-29

[64] Carnoy, Martin, *The State and Political Theory*, Princeton: Princeton University Press, 1984, p.16.

[65] Nozick, Robert, *Anarchy, State and Utopia*, New York: Basic Books, 1974, p.12.

because if everyone were to exercise their animal powers, the society would get mired in perpetual conflict and retributory honour killing[66]. Our natural powers do inform these legal rights, but as 'off-equilibrium' threats – the threat that if society won't enforce our entitlements, we *may* take the law into our hands.

Note that legal 'rights' restrict our innate freedoms dramatically. For instance, we can no longer avail of our innate power of revenge. In the wild, I *will* hunt down my child's killer (if any) without let or restriction, but in civilised society I agree to forswear such premeditated revenge and let the society apply its rules of accountability through a due processes of evidence-based and independent justice. If that doesn't happen, then all bets on my participation in the social contract is off. Our animal powers being absolute and boundless, we can take these back whenever we conclude that society is incapable of dispensing justice.

Nozick, on the other hand, denies the very possibility of a social compact, noting (plausibly at first glance) that there is no evidence in human history of any 'unanimous agreement to create a government or state'[67] (of course, referenda to agree to constitutions do exist). But he misses the point entirely by categorising social contract as a tautology something that would presumably dictate even 'the distribution on a given evening in a given city of who is in what movie theatre, sitting where'[68]. True, not just Nozick but many others from the time of David Hume have mocked this concept, but this concept is not devoid of meaningful content.

Social contracts are not always explicit. Historically, social contracts have largely been implicit. By not opposing the rules of the society we are born into them we implicitly accord them our consent. David Hume objected that we cannot deduce social consent from the fact that we have not left a particular society. But the existence of the option to leave matters. If we are happy with out place in life and with the society around us we have no reason to leave. Our consent is therefore implied. The off-equilibrium threat of departure, or even secession, matters. Indeed, the long line of refugees flowing out of failed states is tragic evidence of their failed social contract. Even primitive tribes are founded on an implicit social contract, a shared understanding about what is acceptable, *given* everyone else's future strategies, plans, beliefs, and objectives. And while a referendum to agree the social contract is desirable, it is not necessary. The power of the people is often exercised in democracies through their representatives; a process that creates an implicit but well understood social contract.

John Stuart Mill wrote about the importance of enforcement, as well. He noted that a 'right' is 'something which society ought to defend me in the possession of'[69] [the 'ought' implying that 'rights' are not given, but something dependent on their defence by society]. Without enforceability, Nozickian 'rights' are a pipedream, an assertion of zero consequence. A society based on Nozickean wishful thinking will fall prey to the first mafia gangster who organises power. Good governance to ensure rights is not a trivial task – and can't be brushed under the carpet, as Nozick tries to do.

b) The idea of the minimal state that does not supply public goods

Nozick does move from the state of nature to propose a modern society, a minimal state that provides only security A market-based, i.e. invisible hand logic is assumed to lead these rational people to the minimal state that is thought of as the dominant protection association. The voluntarily protection associations that arise initially apparently do not provide coverage to everyone, and so through a complex 'market-based' process (that has no bearing with to the evolution of real social behaviour and which fails to account for the complications that are bound to impact on actual transactions to provide security) the minimal state – a dominant *commercial* protection agency (that also provides justice) with monopoly in the use of coercive force – somehow comes into being.

Wishful thinking, all this. In my view, such a contrivance will rapidly deteriorate either into feudalism or anarchy – or worse. The absence in Nozick's analysis of the consideration of human nature, and absence of powerful checks and balances are fatal. Further, security is usually a monopoly or a least a cartel (given steep fixed costs in establishing a security 'business', and the coercive power involved); so the idea of competitive security providers within a single geographical area has never been practically applied, and is an implausible hypothesis of no consequence.

The minimal state that Nozick thus conjures differs radically from the social contract of Hobbes, Locke, or Rousseau. Hobbes justified limitless powers of the (implicitly) agreed sovereign. Locke gave sovereign power to

[66] William Ian Miller, *Eye for an Eye*, Cambridge University Press, 2006 discusses the chronic cycle of honour killings in

[67] Nozick, Robert, *Anarchy, State and Utopia*, New York: Basic Books, 1974, p. 132

[68] Nozick, Robert, *Anarchy, State and Utopia*, New York: Basic Books, 1974, p.132

[69] Mill, J.S. [1861], 'Utilitarianism', *On Liberty and Other Essays*, Oxford: Oxford University Press, World Classics Paperback 1991, p.189.

the democratic collective leadership. Rousseau) (problematically) gave the state the power to undertake significant restructuring and re- distribution. But Nozick's state is unique: the provision of public goods is ruled out, and the idea of equality of opportunity denied. In so restricting its functions, at least some potential benefits from cooperation are unlikely to be realised in Nozick's 'state'.

If Nozick's minimal could actually maximise our freedoms, his model could still be used in some form or shape. But in my view Nozick's imaginary minimalist state can't even protect property rights or freedom because human needs and motivations are urgent and can't wait for *demoktesis* or for private protection associations to be organised. (*Demoktesis* is an imaginary process in which each person possesses a share of ownership in others, leading apparently to an imaginary democracy). Why would anyone care to build 'private' protection associations when even the most primitive tribes always provide this function? Not even the meanest society exists without organisation for protecting the life of its members. Tribes thus represent the natural 'social contract'. When we unpack these tribal contracts, we find very limited barter or trade; largely coercive force authorised by society and controlled by a patriarch.

Nozick notes that democratic rule (a consequence of *demoktesis*) can lead to outcomes contrary to what he wants. Democracies tend towards middle class welfare (a tendency arising attributable to the median voter theorem[70]). Why would intelligent, rational people not anticipate such redistribution, and prevent the origin of democracy itself? After all, most philosophers have not, like Nozick, been great fans of democracy.

Nozick's model is not good enough, so in chapter 4 I outline a classical liberal model that does work. Sych model would extend the ultra-minimal state of Nozick to the point when the tendency towards middle class welfare in democracies can be set off by an urgent focus on justice and essential common goods, enabling an equilibrium to be achieved in which the middle class can learn to live without subsidies and redistribution in their favour.

Nozick agree in 1989 that his earlier model had failed to tap into benefits from 'humane considerations and joint cooperative activities'. There are two aspects involved here. One, we seek positive externalities from our interactions with others. We need to interact with others at multiple levels, and marry across other families. Second, we dislike negative externalities from the agony experienced by our fellow men, such as poverty-stricken child-scavengers or beggars who eat from public garbage. I am not indulging in analysis of our general moral sentiments here, which, too, take a beating when we see avoidable misery around us. We want a *decent society,* a humane society where high walls don't partition us from the rest of the world.

We also want enough roads and bridges which anyone can access. Markets often supply such products sub-optimally because of free rider problem. People in Nozick's society are likely to find it hard to collaborate optimally for public roads and bridges. High transaction costs are part of the reason why private associations may fail to supply relevant public goods[71]. Citizens, individually, need to invest time and energy to enter into contracts for each public good, with monitoring and enforcing costs for these contracts including processes to exclude non-signatories. This includes not just negotiating with everyone else, but establishing governance structures, payment mechanism, collecting money for each section of each road, and so on. Excessive duplication can arise as well, from a multitude of suppliers. Such a society is likely to lead to people living in splendid isolation, well below their potential production possibility frontier. It is likely that forcing potential beneficiaries of a long lived public good like a road to pay through price discriminating taxation (that has been voted by the peoples' representatives), can save *everyone* considerable time and money; hence such force may be preferred as a solution. Majority consent will ensure a broadly optimal decision.

And while charity will exist in the Nozickean state, the children of handicapped beggars will still roam the streets because no one is responsible for their education. There has never been a time when private charity was sufficient to feed and educate *all* the poor. The classical liberal state takes care of such matters through social insurance. True, government provision of public goods and social minimum (part of social insurance) will displace some voluntary effort and charity. But it is a serious mistake to imagine that generosity is a basic human trait. Indeed, hypocrites often claim to be helping poor children while they exploit them, including sexually. Fagins abound (Fagin at least did some good under the circumstances). Societies without effective government are unable to build a requisite level of trust, and people are likely to cooperate less than they otherwise would.

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[70] Nozick, Robert, *Anarchy, State and Utopia*, New York: Basic Books, 1974, pp.274-5.

[71] E.g. see Stevens, Joe B., *The Economics of Collective Choice*, Bounder, Colarado: Westview Press, 1993, p.170.

Although it is not a critical part of the argument against the ultra-minimal state of Nozick, it should be noted that Nozick's state has never existed. Market-based protection associations have not arisen anywhere on a sufficiently large scale on their own. Instead, societies usually begin with a tribal leader and move towards an increasingly centralised system (monarchies or similar). The liberal republican state, with its 'rights' was the first to fight back against this increasing oppression. Many tyrannical kings had to lose their heads in bloody revolutions. The modern state is now much stronger than tribes but also participatory. Most modern societies legislate for common infrastructure and reasonable equality of opportunity. Such states are effective in nurturing talent and generating wealth. The ultra-minimal state will get bogged down in excessive transaction costs.

There is no reason why a government created mainly for our defence can't also provide a few additional services under republican oversight. Classical liberalism makes Nozick's minimal state an enabling one. Not the super-bloated Rawlsian welfare state, it not a rump, either.

c) Self-ownership (and hence the ownership of our property)

According to Nozick, property rights arise from our self-ownership – of body, mind and abilities. He asserts that we have the right to do whatever we please with our body or mind (hence, also with our property). But it is not clear how property rights can come into being through self-ownership. The only way to that would be through a labour theory of property which (as I will show later) is not persuasive. Another related question is must be addressed: who will defend such property 'rights' – and why? A view of society based primarily on our separateness can't inform a theory of man that lives and interacts in society.

Nozick thinks of liberty as a derivative of property rights. In doing so he (seemingly) takes after Rousseau who suggested that property was 'the most sacred of the all the rights of citizens, and more important in certain respects than freedom itself.'[72] He also seems to have thought that he was extending Locke's theory, but Locke clearly saw freedom as the *prior* principle:

[W]e must consider what estate all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons as they think fit, within the bounds of the law of Nature, without asking leave or depending upon the will of any other man.[73]

According to Nozick, self-ownership gives us unlimited power to do as we please. Thus, a prostitute 'may choose to offer his or her sexual services to anyone who chooses to purchase them; it is her (or his) body, and it is up to her (or him) to decide who may use it, in what ways, and at what price.'[74] This idea of freedom doesn't make sense, because it is not bounded by accountability. Should, for instance, a prostitute be able to set up shop in the open (in on a beach or public park) or next to a school? Taking this idea further, Nozick suggests that we must be free to even sell ourselves into slavery – completely extinguishing our liberty[75] But slavery is totally incompatible with liberty. Property rights that lead to such perverse outcomes are fundamentally problematic. Doubtless, Nozick was being logical here, but the flaw is not in his logic but in his assumption.

Instead, the free society could try to reduce the supply of prostitutes by ensuring reasonable equality of opportunity (by eliminating poverty and providing high quality school education). Economic pressures (or ignorance) that might lead to such an occupational choice would then be reduced (noting, however, that the mere existence of such circumstances is not excuse for prostitution: not every poor uneducated person makes such a choice). With the supply of economic-pressure motivated prostitutes relieved, only those genuinely interested will join this occupation. And who are we to prevent such choice made through independent reason? Being well-educated, such prostitutes will be capable of defending themselves and preventing disease. Accountability will still apply. Such voluntary prostitute won't be free to spread disease and would need to insure her health and any liability she creates, like any other private individual. Subject to these qualifications, we could live with Nozick's interpretation of liberty.

Natural liberty (our innate urge) along with our animal powers to enforce trespasses against our life and liberty, underpin our (negotiated) rights. Property is a derivative of these negotiated rights. (A simple empirical test: no one has an absolute right to use his land. Never has anyone had an absolute right to build a 100 story tower

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[72] Carnoy, Martin, *The State and Political Theory*, Princeton: Princeton University Press, 1984, p. 22.

[73] John Locke (1690). *Two Treatises on Government.* 'Concerning the True Original Extent and End of Civil Government', Chapter 2, section 4. [http://www.gutenberg.org/ebooks/7370]

[74] [http://www.independent.co.uk/news/obituaries/professor-robert-nozick-729710.html]

[75] Nozick, Robert, *Anarchy, State and Utopia*, New York: Basic Books, 1974, p. 331.

covering his entire block of land, while neighbours merely look on. People claim the right to comment on, and influence, the plans of their neighbouring buildings on grounds that *their* 'view' is being blocked.) I must agree with David Hume's perspective on property. Similarly, Milton Friedman believes that 'property rights are matters of law and social conventions'.[76] Friedman was referring to the *precisely negotiated* meanings of property: 'Does my having title to land … permit me to deny someone else the right to fly over my land in his airplane?'[77] He concluded that 'the existence of a well specified and generally accepted definition of property is far more important than just what the definition is.'[78] As he elaborates, the 'definition and enforcement [of property rights] is one of the primary functions of the state.'[79] This is a justice-centric perspective.

Before I close this discussion, let me make a few remarks on one of Locke's incidental arguments (Lockean proviso or what Nozick calls compensation principle). The concept here is that those who come later to a 'scene' in which earlier settlers have acquired all property (e.g. land), should be compensated by these early settlers. I elaborate this in chapter 12, but it is sufficient to note her that this principle is not sustainable. No animal compensates future 'settlers' in its territory for what it takes from nature. Our animal powers are amoral, absolute, and unrelated to anyone else's claims. Ther are no requirements (outside of a *negotiated* social contract: something that Nozick rejects) that can control what we do with any property we may acquire from nature. And even if a social contract tries to implement such a principle, it will fail. For it is not feasible to trace the precise history of any human settlement occupied tens of thousands of years ago. Such a constitutional principle would lead to arbitrary outcomes and violate the rule of law – that general and enforceable rules must apply.

3.3 Where does this lead us?

While there is *some* merit in Rawlsian conceptions of equality of opportunity, his difference principle goes far overboard into territory that reduces liberty. Most Western societies today are social liberal, with a range of welfare schemes. T.H. Green, and to a lesser extent Rawls, are major proponents of social liberalism. Nozickian libertarianism, on the other hand, is utopian in that people are able to peacefully formulate extensive contracts to supply security and individually agreed infrastructure. But we want neither of these.

It is the traditional or 'classical' philosophers of liberty: John Locke, Adam Smith, J.S. Mill and others who make more sense, along with modern advocates of liberty like Milton Friedman and Friedrich Hayek. Freedom, in their view, must be restricted to acts of goodness. The classical liberal state precisely defines property rights and identifies accountabilities. Classical liberals also largely accept state-operated social insurance with a tightly defined, frugal social minimum (to be distinguished from redistribution or 'social justice'.)

No society follows all precepts of classical liberalism today. **Xxx** Figure RR depicts different political philosophies in terms of human independence and social cooperation.

[76] Milton Friedman, *Capitalism and Freedom*, Chicago: University of Chicago Press, 1982 [1962]. p. 162.

[77] Milton Friedman, *Capitalism and Freedom*, Chicago: University of Chicago Press, 1982 [1962]. p. 26.

[78] Milton Friedman, *Capitalism and Freedom*, Chicago: University of Chicago Press, 1982 [1962]. p. 27.

[79] Milton Friedman, *Capitalism and Freedom*, Chicago: University of Chicago Press, 1982 [1962]. p. 162.

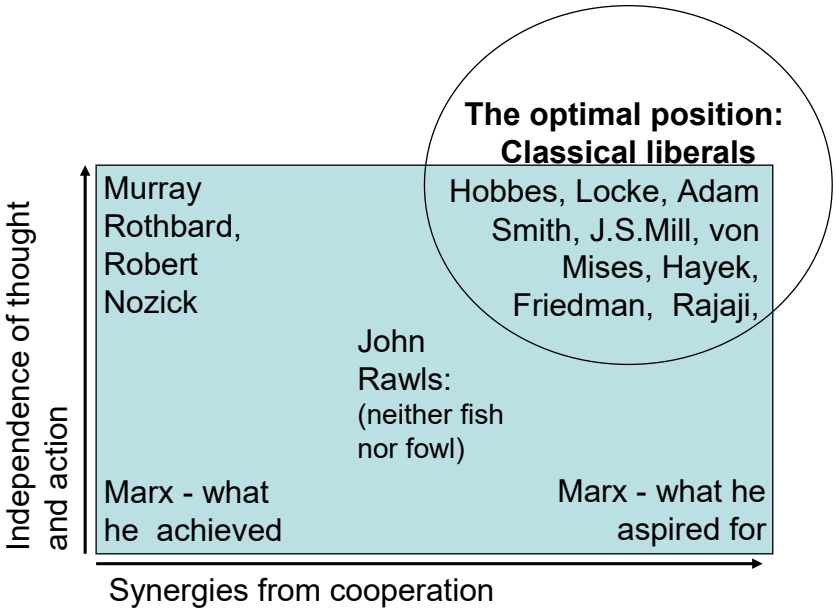

Figure RR: Classical liberalism maximises equal freedoms and facilitates cooperation

In the next chapter I will synthesise the ideas discussed so far, and propose a theory of freedom.

4. A theory of freedom

> Little else is requisite to carry a state to the highest degree of opulence from the lowest barbarism, but peace, easy taxes, and tolerable administration of justice; all the rest being brought about by the natural course of things – *Adam Smith*[1]

We have looked at alternative conceptions of freedom (positive or negative), and whether freedom originates in God's law, natural law, or man-made law. But we don't really care for theories that don't make sense to us, appeal to us, and deliver what we need. The touchstone of everything is whether it works for us; whether it is in our self-interest. Unlike mathematical concepts which can live in books, social and political concepts must be acceptable to the *everyday man*. Freedom must not only be demonstrated to be good in principle, it must deliver on our needs. Some big questions must therefore be addressed in this process: What are we *really* trying to achieve? What do we *really* want from our interactions with others?

We want, above all, the quiet opportunity to be ourselves, and to live in peace. We want the freedom to be able to do simple things that we like: such as pottering about in our garden without disturbance. We want to be free to read books we like, to celebrate family occasions, or even to merely 'stand and stare'. But to be able to do such mundane things, we need at least three conditions.

First, *security*. We don't want to be attacked while we are watering our plants. We don't want civil unrest or other random violence. Were such things to occur routinely, then all bets for peace (social contract) are off, for we will revert to our *limitless* animal power both to defend ourselves and to fight, tooth and nail, for our liberty and for peace: for the simple freedom to tend to our garden.

Second, *freedom* (*and choice*). Everything that impacts on us must be negotiated and agreed by us – to the extent reasonably practicable. We want with respect. We want to be persuaded by others, not coerced into doing things. The laws of our society must therefore be negotiated by us or our representatives in a parliament. We must have the right to choose: for instance, to reject an offer to sell us something; and the right to not sell what we produce to people we choose to sell to. We must be able to interact with others on agreed terms and conditions.

And third, *accountability*, or compliance with agreed commitments – and associated justice. When others agree (whether through an implicit or explicit contract) to do something for us, we need them to comply with the agreement. If someone commits to deliver cement on the day when the floor of my new house is to be laid, I want the cement to arrive in time. Alternatively, I must be able to sue for compensation for the loss incurred. If a society fails to enforce such contracts then our allegiance to that society is effectively over, for justice is one of the key fundamentals. Without justice, we will retract our innate powers and under extreme duress, we reserve the right to achieve justice in *any way*, regardless of the violence that might imply.

If a 'theory' of society can supply us these basic things then we can spend further time to examine it; if not then we don't care two hoots about the adulation a 'theorist' may have received from fluffy headed paternalistic intellectuals. They and their lot can stuff themselves.

Fortunately, this trifecta of security, freedom and accountability is at the heart of the philosophy of freedom: classical liberalism, a system of thought that lets us live any which way we like (and thus hold on to our religious beliefs and customs including how we dress or eat) so long as we don't harm others, and so long as we keep our promises. We all can live in a durable peace if these conditions are met. It is that simple, really.

Individual as the basic social unit

[1] Adam Smith (1755). In a manuscript he presented to a society of which he was a member. Discussed in the introduction to Smith's *The Wealth of Nations*, University of Chicago Press, 1976, p.xl.

The theory of freedom begins with the sovereignty of the individual. As Calvin Coolidge pointed out, 'Liberty is not collective, it is personal. All liberty is individual liberty.'[2] Each of us is unique and separate from others. We will individually die, as well. We are not born for others, nor others for us. While we are part of the chain of life on earth, we exist *in* ourselves. Though others can empathise with our pain, only we can actually feel it. Our independent lives and liberties are inseparable. This comprehensive, total sovereignty has implications.

In comparison, a society is merely a transient collection of individuals who chose at that moment to participate, or continue to participate, *in their diverse self-interests*, in a *seemingly related* group. Being the sum total of these participants, a society is never to be elevated over and above its constituents. Aristotle thought that 'Man is by nature a political animal. Whoever is outside the state is either greater than human or less than human.'[3] It is true that through our individual, voluntary social activities – in sports, theatre, or ballet, for instance – we are able to *momentarily* create a whole that is greater than the sum of its individual parts. But after this limited communitarian activity is done, we withdraw into our own life again. No matter what the circumstances, our participation in society does not make it 'higher' or more important than us. The individual is always supreme.

Such overwhelming importance of the individual has been rejected by Loren Lomasky who believes that the 'liberal rights to self-determination are a thin gruel that fails to provide the spiritual sustenance and sense of a meaning to ones life that are afforded by communal ideals and commitments.'[4] This concern is misplaced, however, for it erroneously links the assertion of the priority of the individual with social disengagement. But individualism does not imply asocial narcissism. The free person willingly accords a significant role to group involvement. He is not less concerned about communitarian values than anyone else. It is, instead, more likely that the liberal is a genuine patriot with pride in the advance of freedom in his nation. A society founded on liberty and voluntary interaction is what he seeks.

Advancing our self-interest is best served by good humour, camaraderie and trust (to the extent it is reciprocated). The liberal is inspired by the diverse contributions others make to the quality of his life. He recognises that social engagement not only yields psychological and economic benefits, it is essential for our children to become well-adjusted citizens. Social activities like religion (or communal debates against religion), culture, and sports are an integral part of the free society. The primacy of individual freedom (and matching accountability) is *not*, and was never intended as a demand for isolation. Indeed, this book is the product of my personal communitarian project to reform India's governance. Nothing would please me more than to hear late into my old age that this book made a useful contribution – howsoever small – in this enterprise. There is no disconnect between asserting our individual freedoms and aspiring for a great society – these are one and the same thing. It is only relevant that we retain the *choice* of participating (or not participating) in collective enterprise. That's all that matters.

In contrast, the ideas of socialism and fascism (being similar collectivist worldviews) subordinate the individual to 'collective goals', thus diminishing, even oppressing, the individual. Deception and violence follows naturally from these conceptions of society as the (allegedly) prior claims of the 'nation' are forced down the throat of citizens. The theory of freedom insists that no one but *us* set our goals for us. The idea of a 'social goal' is totally abhorrent to the free man. All we agree is that all we should be free to do what we choose to do in life subject only to our remaining accountable for any harm we may cause.

* * *

In this chapter I have consolidated my views on liberty into five foundational propositions. Where appropriate, I highlight the similarities with and differences from related conceptions in the literature. It is crucial that on a matter as important as this, we look for something that is readily understandable. In thus simplifying the theory, I am conscious that I would necessarily gloss over some valuable detail. Should you find any major inconsistency or flaw, please raise your concerns with me, and I will be happy to review my arguments in future editions.

I make an important assumption at this point since I seek a universal and scientific approach that is not restricted to 'my' country, 'my' religion or 'my' personal attributes. I see myself as a universal human knowledgeable about human nature, human history and human capacity. The general theory of society that I seek is therefore not

[2] Calvin Coolidge, in a speech in Washington, DC, 21 September, 1924.

[3] Aristotle, *Politics*, 1:2) CHECK.

[4] Loren E. Lomasky, 'Nozick's Libertarian Utopia', in David Schmidtz (ed.) (2002). *Robert Nozick*. Cambridge University Press, p.60.

diluted by an attachment to any particular religion or society. That, in my view, is the only objective method of arriving at the truth.

4.1 Proposition 1. Life is the yardstick of ultimate value

John G. Gill believes that 'life-affirmation … [is] at the base of any consistent system'[5]. Life affirmation must necessarily be the foundational principle of my theory of society. We must agree with Protagoras (c.490-420 BC) that 'Man is the measure of all things.'[6] Mankind's survival is of the greatest interest to us. *Human life is of the ultimate value.* It takes precedence over everything else: beauty, morality, truth, even freedom. Without existing there can be no possible value for me. The world exists because I exist (without me, it doesn't matter if it exists or not). Similarly, one must concur with Albert Schweitzer who said: 'Reverence for life affords me my fundamental principle of morality, namely that good consists in maintaining, assisting, and enhancing life, and that to destroy, to harm, or to hinder life is evil'. (True, one can quibble a bit – for is 'reverence' the word we seek? How can anyone 'revere' the life of, say, Hitler?)

This might mean that we must aim to protect the maximum number of human lives, but this is not a utilitarian principle. The value of two lives cannot be meaningfully added up, just like infinity can't be added to infinity to create two infinities. By no means is this a spiritual worldview. It does not imply, either, that all lives are of equal value under all circumstances (more on that presently). The other consequence is that if human life is of ultimate value then it must be treated as an end in itself. We agree to act, as Immanuel Kant said, 'in such a manner as to treat humanity, whether in thine own person or in that of any other, in every case and at all times as an end as well, never as a means only.'[7] That basically means respecting other human life.

Let me note that this proposition does not imply 'ownership' of our life or our body. We did not create our life, a process that started billions of years ago. We are, as part of these processes, the product of the transmission of life over which we had no say, no control. Our birth does not give us 'ownership' rights in ourselves. We have a lease on life, a temporary right to eat and live on earth, a right then passed on to our children. The value of our life is independent of its ownership: let's not mix up these two concepts (as Robert Nozick does, as well as Ayn Rand).

Ideologies that oppose life

Given widespread agreement to this proposition, it is hard to believe that there are entire schools of thought that directly or indirectly dishonour human life. These perspectives include socialism, communism, fascism, as well as many intolerant religions, the followers of which tend to assume the role of judge, jury and executioner, rolled in one.

Socialist regimes talk about class divisions with the rich being enemies of the working class, regardless of the individual merit of these people. Marx advocated the dictatorship of the proletariat (workers) as a transitional step 'to the abolition of all classes'. But the socialist case fails since the capitalist society is classless due to social mobility and equal opportunity. In any event, the idea of dictatorship (whether of the proletariat or anyone else) is a reprehensible, coercive, violent mechanism potentially destructive of innocent life, and our liberties.

It has been suggested that Marx did not intend the shape and form that communism took in the USSR or China. But once an evil concept, such as an organisation of society founded on envy, not justice, germinates, then brutal violence is inevitable. Hundreds of thousands of 'kulaks' were killed during Stalin's terrorist regime. Similarly, Mao's followers brutally attacked the rich, too. No trial, no evidentiary analysis, no justice. A vast number of ordinary people died in this process, as well. In the end, the poor didn't benefit, either. Only the leaders of the so-called 'working class' benefited, taking control over all important positions in the economy and society.

Similarly, Hegelian perspectives led to statist and power-crazy views which moulded both communism and fascism. Mao Zedong could thus claim that '[t]he seizure of power by armed force, the settlement of the issue by

[5] John G. Gill (1971). 'The Definition of Freedom', in *Ethics*, Vol.82(1). October 1971. p.13.

[6] By Protagoras (c.490– 420 BC), cited in Laszlo Versenyi, 'Protagoras' Man-Measure Fragment', *The American Journal of Philology*, Vol. 83, No. 2, (Apr., 1962), pp. 178-184.

[7] Cited in Anton-Hermann Chroust, 'About a Fourth Formula of the Categorical Imperative in Kant' in *The Philosophical Review*, Vol. 51, No. 6, (Nov., 1942), pp. 600.

war, is the central task and the highest form of revolution,'[8] and that 'all political power flows out of the barrel of a gun'.[9] Power became an end in itself. Fascism divides people into (religion-based or ethnic) groups, and advocates an overarching supremacy of one of these groups. Thus Hitler wanted the supremacy of the so-called Aryan 'race'. Fascism denies the concept of equal freedom, and often treats others as lower life forms (like insects) that must be exterminated. It quickly becomes genocidal. The ideas of tolerance and the value of life: none of these are found in these ideologies

And then there are (collectivist) religious fanatics such as extremist Muslims who regularly kill others, imagining that in doing so they defend their religion (see Box HH).

Box HH

Does Islam authorise the wanton destruction of life by some of its practitioners?

Islamic organisations across the world have gone hoarse in telling us that Islamic terrorists do ***not*** represent Islam. Tens of Muslim organisations and leaders have, on the internet, vigorously condemned such terrorist activity. But these views aren't reported in the news, and so few people hear about them.[10] Let me illustrate these views through Benazir Bhutto's writings in her book, *Reconciliation*.

Let us look specifically at the issue of terrorism. Muslim jurists developed a specific body of laws called *siyar* that interprets and analyses the just causes for war. Part of the law indicates that 'those who unilaterally and thus illegally declare a call to war, attack unarmed civilians and recklessly destroy property are in flagrant violation of the Islamic juristic conception of *bellum justum*. Islamic law has a name for such rogue militants, *muharibun*. A modern definition of *muharibun* would very closely parallel the contemporary meaning of 'terrorists'. The acts that these muharibun commit would be called hiraba ('terrorism').' [citing Asma Afsaruddin, "Competing Perspectives in Jihad: Jihad and Martyrdom in Early Islamic Sources"] Thus all terrorism is wrong. There is no 'good terrorism' and 'bad terrorism'. Osama bin Laden's creed that 'the terrorism we practice is off the commendable kind' is an invented rationalisation for murder and mayhem. In Islam, no terrorism - the reckless slaughter of innocents - is ever justified. (p. 27.)

Bin Laden's utter disregard for the value of human life, especially his doctrine of including innocents in the senseless carnage, is un-Islamic. Bin Laden is not representative of Islam, or any civilisation, for that matter. (p.29)

Muslim global terrorists, including Osama bin Laden, display a striking ignorance of Islam. They distort the message of Islam while at the same time using the name of religion to attract people to a path to terrorism. (p. 37)

We know, of course, that Muslim terrorists promptly killed Benazir Bhutto for her liberal views. It is evident that Islam is *not* the ideology of death that some of its followers have made it appear. The problem arises because some scriptural statements in Islam are readily amenable to multiple interpretation. These passages are used by some Muslims as the excuse to kill others. (Similar violent statements are found in *all* religions: hence mygeneral opposition to organised religions.) Despite there being no scope for any religion to review its scriptures, Islam could benefit from the review at least of the way in which its scriptures are sometimes interpreted.

What is 'life'?

We need to agree on what the word 'life' means when we talk about things like its ultimate value. It refers, of course, not only to human life but life more generally, but human life is what we focus on. But is a human embryo or foetus automatically of ultimate value? For instance, does stem cell research that uses embryonic cells violate this proposition?

[8] Mao Tse-tung's concluding speech at the Sixth Plenary Session of the Sixth Central Committee of the Party (1938), as reported by the Maoist Documentation Project. [http://www.marxists.org/reference/archive/mao/selected-works/volume-2/mswv2_12.htm]

[9] Madsen, Richard, Review of David E. Apter and Tony Saich's book *Revolutionary Discourse in Mao's Republic*, *Contemporary Sociology*, Vol. 25 No. 2, 1996, p.187.

[10] [http://www.sanjeev.sabhlokcity.com/terrorism.html].

Till the 11th week of its life the human foetus only grows into a 3-inch long bundle of cells with a 1½ inch head. Its brain is growing in the developmental order reminiscent of the triune brain (outlined in chapter 1). Its cerebral cortex – the part that gives us our unique humanity – is built last, being virtually non-existent (smooth) at this early point. It is not yet a 'sensing' being. And while over 200 billion neurons have been created, by the 20th week, 100 billion of them will then die, leaving 100 billion cells into our adulthood. Further, while the brain hardware has been generally laid by the 26th week, virtually no connections have been made because no information is stored in the brain that can allow meaningful consciousness to emerge. Prior to the 24th week, the foetus can't feel pain since basic nerves are still forming.[11] The brain then kicks into life in some primitive, sub-human form by the 26th week, with the first brainwaves detected[12].

Only with pain sensing apparatus and brainwaves now available does the foetus become a somewhat-sensing being, able to sense sound as well, at some semi-conscious, soporific, subconscious level. It is evident that society should be alarmed about abortions after the 24th week. Indeed, miscarriage is so common and widely prevalent natural phenomenon that a significant proportion of foetuses are aborted naturally before this stage, anyway. There is another key aspect to this issue. Worth pondering over is the fact that the brain of a newborn weighs 350-400 grams and will grow four times into adulthood. This will happen not through an increase in the number of brain cells but through dramatically increased cellular connections as the brain becomes that of a grown up human. Almost all connections will develop *after* birth, not before. At birth we are almost entirely a *tabula rasa* – a blank slate. It is crucial that our interpretations about 'life' are based on evidence, not on ideology, else we may violate the mother's freedoms. While the foetus is life, and is a potential human life, the mother must be allowed to remain the best judge of the fate of her foetus till the end of its 24th week. At the same time, medical practitioners must be allowed the freedom of conscience to not support abortions at any stage. No compulsion should be exercised on the medical fraternity on such a delicate and sensitive matter.

Proposition 1 also implies a certain level of concern for animal and plant life, noting that animal and plant life is our food (and in many cases, our medicine). The use of other life forms as sources of our life energy is based on basic biological reality – provided we don't eat an entire species into extinction (which can't happen with privatised ownership of such life forms).[13] But note that no justification exists for inflicting undue pain on any creature. Animals that are consumed should not be treated with unnecessary cruelty. The killing of pests and creatures that harm us inadvertently must also have due regard to this principle. But having said all this, it is totally inappropriate for anyone to suggest that animals or plants should have similar 'rights' to ours. It may, of course, be practical to specify animal 'rights' in the laws to avoid confusion about the precise implications of Proposition 1.

Other implications

Some of the many other implications of Proposition 1 are outlined below. Proposition 1 does not contradict price theory (or the valuation of objects or labour in the market). It should, instead, be seen as a broader – moral – test, that assesses whether a person should exist in the first place. Market values are extremely variable and depend on supply and demand. In some situations, a glass of drinking water is more valuable than an equivalent quantity of diamonds. When man migrates to distant galaxies in the future (as he must, ultimately), market values of things will change dramatically, but the ultimate value of life will remain the same.

Given the ultimate value of life, taking innocent lives is clearly wrong. But a lot of people (criminals, terrorists) routinely kill people without independent trial. But human life is not a means to someone's ends. No one can achieve their personal goals by taking innocent human life. Such actions must be punished. Another implication is this – that while the free society can reasonably demand that we *tolerate* each other and let others be, it can't ask us to go overboard and 'love' each other, although that would indeed be the natural inclination of the liberal. Gandhi remains an ideal in this regard.

This proposition also implies that suicide is not an option. Nozick's view that since we (allegedly) own our body, we are therefore free to take our own life – is not sustainable. Had we created our life we might have possibly

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[11] Henderson, Mark and Francis Elliott, 'Human foetus feels no pain before the age of 24 weeks, says new scientific study', *The Times,* June 25, 2010 [http://bit.ly/9Q3QoK], reporting on an expert study commissioned by Britain's Department of Health.

[12] Anand, K.J.S., and P.R. Hickey, 'Pain and its effects in the human neonate and fetus', *The New England Journal of Medicine*, Vol. 317, Number 21, 19 November 1987, pp. 1321-1329. [http://www.cirp.org/library/pain/anand/]

[13] Morell, Virginia, 'Island Ark: A Threatened Treasure', *National Geographic*, August 2008, p.82. This article discusses how drills (a rare monkey) are potentially being eaten to extinction in Boko Island, Equatorial Guinea.

held some such claim, but we cannot give claim the right to destroy a human life (ours) that we didn't create. Note also that if suicide were acceptable then arguments against suicide-bombing would weaken considerably (for how would it matter to *us* – if our death by our own hands is admissible – if we also unleash death on others while on our way out of this world?). On the other hand, however, euthanasia under controlled conditions *is* justifiable in at least a few rare cases (as I'll touch upon this matter shortly).

Note also that just because we value life greatly does not mean we support runaway processes for multiplying a particular life. Proposition I does not authorise cloning of human life. We are not just a body, but a consciousness: and that is created by an infinity of small and large circumstances that can only be created under the guidance of a natural family. It amounts to a serious destruction of the integrity of the human species. Cloning of organs is a different matter; not the cloning of entire humans.

Thus, there are no 'natural' rights – not even to life (rights can only exist if they are negotiated, accepted, and enforced). Even Nozick did finally admit that the 'right to life is not a right to whatever one needs to live'[14]. It is a right to do what one need to do in order to live, subject to being accountable. Our parents, who brought us into this world, must look after us and bring us up. But thereafter no one is obliged to look after us. We can't expect to be spoon-fed by society.

4.1.1 *Conditions for taking human life*

While human life is priceless, not *all* lives deserve the protection of the free society. A strong argument exists both for capital punishment and for decisively killing an opponent in defensive war. Justice must include the option of taking human life after due process. Duly appointed judges (or jury) can, after *fair trial*, and where *absolutely* necessary, authorise the destruction of a particular human life as part of the accounts of freedom. Such destruction could potentially save innocent lives in the future as well, by signalling that the society holds heinous murderers to account. A murderer cannot turn around, having killed an innocent, and ask the society to protect his or her life. A fair trial, yes, but not protection of his life.

Sensible principles of accountability would make an exception for those who have killed innocent persons out of serious deficiencies in brain chemistry, and not with a 'reasoned', malicious intent. But the science behind such claims is often weak and untenable. Exceptions to the general rules of justice must therefore be considered only in extremely obvious cases. Unfortunately, there is now an increasing trend to argue such exceptions even for otherwise normal criminals, on the frivolous ground that the society has failed to bring them up properly. According to this view, '[t]he criminal, as a rule, is a product of social conditions'.[15] But these are dangerous arguments, placing as they do, an accountability on the general society which is a fuzzy conception that can never be held to account. Only particular members of society who were responsible, and to what extent, can be prosecuted. Broad-brush accountabilities undermine the very possibility of freedom (which is contingent on specific accountabilities being identified).

We need to beware, in like vein, of projects that claim to reform, rehabilitate, re-educate, re-socialise, or re-integrate criminals with society. While a modicum of humane treatment, even of heinous prisoners, is necessary, the punishment must be felt in order to settle accounts. The criminal must get the opportunity to reflect upon his actions through the punishment and encouraged to reintegrate with society after self-realisation. '[S]ignificant change can result only from the individual's own insight and uses dialogue to encourage the process of self-discovery. Humanistic rehabilitation offers inmates a sound and trust-worthy opportunity to remake their lives.'[16] To escape the pain of punishment would never teach responsibility and regard for consequences. This must not be rehabilitation in the sense typically intended, but training in responsibility. It is important that on completing his sentence, the criminal should be treated having been 'cleansed', and given a fresh chance.

While the humane treatment outlined above is imperative, taxpayers are not obliged to reform heinous criminals. But today, even the life of murderers is held sacrosanct. Indeed, some countries have abolished capital punishment, ignoring entirely the brutal inhumanity of most murderers and nullifying the concept of accountability. Protecting heinous murderers is reprehensible, apart from destroying the very concept (and thus prospect) of justice (and hence freedom). Capital punishment for heinous murder is not only necessary, it creates

[14] Nozick, Robert, *Anarchy, State and Utopia*, New York: Basic Books, 1974, p.179n.

[15] De Leon, Daniel, 'Reforming Prisoners', *Daily People*, New York, 22 April 1904, being an organ of the Socialist Labor Party.

[16] Rotman, Edgardo, **'**Do Criminal Offenders Have a Constitutional Right to Rehabilitation?', *The Journal of Criminal Law and Criminology,* Vol. 77, No. 4 (Winter, 1986), p. 1026.

a deterrent effect and prevents innocents from being killed. Opponents of capital punishment, instead, want innocent taxpayers to shelter, clothe, and feed murderers – even as many citizens live in abject poverty. This makes a total mockery of justice. Justice must be clinical, like surgery. It cannot be squeamish. The accounts must be settled.

In war the situation is roughly similar. The decision of a soldier to kill the enemy (including civilians who unavoidably come in the way) must have a justifiable logic. An unjust war violates justice, hence freedom. The American war against Japan and Nazi Germany was entirely just. Indeed, all non-Germans across the world could have been enslaved had the Allies not destroyed Hitler. Indeed, had the Allies entered the battlefield *much earlier,* they could have nipped Hitler's life-threatening plans in the bud. Churchill thus warned, in 1930, about the risks from not challenging Hitler: 'If a dog makes a dash for my trousers, I shoot him down *before* he can bite.'[17] Squeamishness and risk aversion allowed the Nazi disease grow so large that the consequent cost to the Allies of destroying Hitler became astronomical. For a moment, the world hung in balance between evil and freedom.

The claim of national sovereignty weakens and almost disappears when the government of a nation begins a predator, destroying its own citizens. Recall that nations are not innately sovereign – only people are. We live in nation states for *our* convenience, not because the claims of nationhood exceed us. It is not possible (nor hence sensible) to exhort Adolf Hitler or Saddam Hussein to behave well. They must be captured, tried and beheaded; and not one further innocent life lost because of their crimes. Not doing so effectively makes us an accomplice to their mass-murders.

It is true that making a decision to intervene under such circumstances poses many challenges for democratic societies. Intervening too early makes it difficult to produce counterfactual evidence about the killings averted. Therefore, politicians who intervene early are likely to be criticised about their 'over-reaction'. Such considerations end up leading to delay in the necessary response: such is the nature of democracy. Unfortunately, this leaves mankind more vulnerable than it should be, to the worst aspects of humanity.

Similarly, *not* shooting down rioters during a communal riot, or *not* engaging violent Naxalites and terrorists in decisive battle or *not* destroying communists who claim that 'power flows from the barrel of a gun' – amounts to connivance with the destruction of innocent human life. Our *inaction* in such cases is tantamount to *action in favour of evil.* Let's not forget that and therefore learn to avoid unnecessary squeamishness in facing reality.

4.2 Proposition 2. We are born free, and must remain free

Of what use is life to us if we are born into slavery, or as second-class citizens? Thus, what use is life to us it if we are discriminated against on grounds of caste, skin colour, or creed? We need to be assured equal dignity and allowed to become whatever we strive for. Thus, for instance, we need the freedom to choose our means of livelihood or to undertake any lawful action. Next to life – if not on par with it – liberty is the thing we value the most. As Will Durant wrote: 'freedom [is] … the very essence of our inner selves'[18].

But how do I claim that are we born free? For instance, how is a newly born infant free in a meaningful way? John Milton did think we are born free, writing boldly that 'No man who knows aught', he said, 'can be so stupid to deny that all men naturally were born free.'[19] But calling others 'stupid' should the not agree with us may not be the best way to get their nod. We must respect them and offer robust reasons.

And, indeed, Milton was right. Even infants *are* free in two critical ways. At a basic level, they are free because nature doesn't create 'slave humans' unlike In the case of bees where the worker bees are created to work for other bees. Infants are born, instead, to be free persons with a powerful brain ready to be *independently*. Second, the infant's experience of freedom is total and complete, with no voluntary restraint. The infant is not embarrassed and doesn't hide its feelings, emotions, and needs. We will never again achieve the wholeness of being we had as infants. By the same token, infants are *not* free in a fundamental sense – to defend themselves, for which they depend on their parents. A loud urgent wail never fails to bring parental attendance to their defence. The lack of direct freedom is therefore not an insurmountable deficit. Instead, it can be argued that the

[17] Quoted in *The Last Lion*: Alone (1939-1940) by William Manchester.

[18] Will Durant, *The Story of Philosophy*, London: Ernest Benn Ltd., 1948 [1947], p.245.

[19] John Milton, British poet (1608-74), in his *The Tenure of Kings and Magistrates* (1649).

infant's security is part of its parents freedom – and hence protected. This gives us an argument which while not perfect, is surely good enough to persuade the detractors of Milton.

The sovereign and total freedom with which we are born is later diminished when the state and society take parts of it away. No *additional* freedom is created: its peak was at birth. Accordingly, the demand for a *more free society* is not a demand for *new* freedoms, but that our freedoms taken by the state be returned.

The second part of this Proposition asserts that *we must remain free*. This makes sense since if it did not, that would tantamount to asking for restrictions on our freedoms. But (except for the hypothetical and fictitious 'happy slave') we believe that imprisonment or other restriction blocks our existence and is a punishment, not a reward to be welcomed. Even animals don't appreciate being imprisoned – as evident from their 'joy' upon release. It is proof enough that in the entire 5,000 years of recorded human history no slave has written a paean to celebrate slavery, nor solitary confinement been commended by a prisoner.

But if freedom is so crucial to our wellbeing, why did Maslow (in defining the hierarchy of needs) not mention it at all? I believe that he was focused on our urgent – not *important* – needs. While freedom does not always appear, on the surface, to be urgent: at least compared with physiological needs, it is clear upon reflection that without it no other need matters. Therefore, in order of *importance*, life and liberty must rank first.

The poorest villager would rather amble around freely as a tramp, at liberty to enjoy the sunset in quiet dignity, than live in solitary confinement inside a large house with golden cutlery, lavish food and a silken bed – but without windows, books, companionship or any possibility of awareness of the world. Our physiological needs are less unimportant by an order of magnitude compared with our freedom. Getting up at the spur of a moment and driving off to the nearby hills must always be an option. As Pearl S. Buck so eloquently wrote, 'Men would rather be starving and free than fed in bonds'.[20] Maslow was wrong. Well before physiological and security needs, comes the need for freedom.

There is another vital argument – that liberty is necessary for developing a moral personality. Our actions can be tested on the yardstick of ethics only if they are made in freedom: only free choice between good and evil enables an ethical assessment of our actions to be made.

As Bastiat wrote: 'Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place.'[21]

4.2.1 *Equal freedom*

Stephen A. Douglas (Democrat) and Abraham Lincoln (Republican) were the two main (of the four) candidates at the 1860 American presidential election. During the campaign, Douglas said:

> He [Lincoln] says that he looks forward to a time when slavery shall be abolished everywhere. I look forward to a time when each state shall be allowed to do as it pleases. If it chooses to keep slavery forever, it is not my business but its own; if it chooses to abolish slavery, it is its own business – not mine. I care more for the great principle of self-government, the right of the people to rule, than I do for all the Negroes in Christendom.[22]

Douglas was pointing to an aspect of negative liberty that, taken in isolation, destroys liberty itself. The idea of freedom is not about self-rule alone, is about equal freedom. The powers of self-determination must be available to everyone, else self-determination makes no sense. Equality of freedom implies that *all* human relationships be voluntary, negotiated; on equal footing. No one has the right to enslave another.

Everyone who can be held to account should be free. Societies generally nominate a threshold of, say 18, when a person is considered accountable and hence fully free. But more broadly, *everyone* must have the legal right to equal freedom (including supervised freedom for those below 18 years), except those with severe intellectual disabilities or extreme (but perhaps curable with treatment) psychological disturbance. Those who, in evaluating their options for action, are incapable of minding their accountabilities, can't be permitted the full exercise of freedom. But we mustn't go overboard here. Only those with extremely significant intellectual or psychological

[20] Buck, Pearl S., *What America Means to Me,* 1943.

[21] Bastiat, Frédéric, *The Law*, internet edition at the Foundation for Economic Education, p.7

[22] *Political Debates Between Hon. Abraham Lincoln and Hon. Stephen A. Douglas* (1860), Columbus: Follett, Foster and Company, p.238. Digitised at Google Books.

deficits can be exempted from the dictates of freedom (and accountability). For instance, Thomas S. Szasz discovered that too many psychiatrists allow deterministic explanations for people's behaviour, thus exempting them from the discipline of free will, and effectively sheltering criminals. This approach has also led, perversely, to the incarceration of healthy, innocent people in hospitals against their will.[23] For the vast majority of people, therefore, no particular exemption to the precepts of equal freedom is justified.

Unfortunately, educated people seem to develop a peculiar tendency to downplay others' capacity for free will. Even J.S. Mill, the great champion of liberty, thought entire 'races' to be unfit for freedom:

> Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion. … we may leave out of consideration those backward states of society in which the race itself may be considered as in its nonage. …Despotism is a legitimate mode of government in dealing with barbarians, provided the end be their improvement, and the means justified by actually effecting that end. … Until then, there is nothing for them but implicit obedience to an Akbar or a Charlemagne, if they are so fortunate as to find one.[24]

According to Mill, vast parts of the globe were not ready for freedom. Using similar arguments, some people argue that the 'common public' *shouldn't* be free because common people can sometimes be dangerous. But as David Livingstone Smith found, we are *all* potentially hardwired to kill others – in war or in gangs.[25] Also, under duress or extreme stress, we *all* can do unpredictable, dangerous things. At the least, we can become temperamental, angry and 'difficult'. These are grounds used by some to argue against liberty.

Paternalistic views of this sort were later reflected, for instance, in the voice of Winston Churchill – who thought that even the proud people of an ancient civilisation like India were not yet ready for democracy! Similarly some people argue today that 'lower castes' or women are not fit for freedom. Thus, the Roman Catholic Church thinks that women are not capable of spiritual excellence expected of priests (A strange exception applies by which women can become saints, worshipped by male priests!). Many Islamic societies similarly keep women on a tight leash, treating them like pet dogs or chattel, not independent humans. Not just Islamic nations: For a long time, women had the legal status of chattel even in the USA ('Kentucky in 1890 was the last state to consider women as chattel property, who could not own the clothes they wore'[26]).

Such absurd paternalism does not go away easily. Some allegedly smart people tell common folk like us that we are being manipulated by advertising and political propaganda. Apparently therefore our choices are not made in free will! That's a nice excuse to exempt the Germans who committed ghastly crimes against the Jews in Hitler's Germany. But only where the threat of violence attaches to such advertising or propaganda can we accept such claims. And so, the Germans who supported Hitler in his brutality cannot be exonerated, regardless of the propaganda pressures (including peer pressure) they faced. To suggest that free will (and consequential responsibility) should be diluted because of some advertising would lower us to the status of sub-adults: unable to take responsibility. Such paternalism is anathema to the classical liberal.

Take a few current examples. Some people argue today that smokers (and even murderers!) are 'helpless': conditioned by their circumstances. Indeed, some smokers have sued and won enormous monetary 'compensation' for cancer wrought upon themselves. But these are specious claims. Adults can't be allowed such dilution of accountability, else who can possible be free? As responsible adults, we are expected to listen to all sides of a story and then make up our own mind. We can't blame others for our actions. Our option to learn from our mistakes is the first casualty of paternalism. When it is easy to blame others for our failures, why make the effort to reform?

Such people advocate a paternalistic government to control and direct us. In his *Republic,* Plato argued that an aristocracy should rule us. A penchant for benevolent dictatorship is deep rooted in religious traditions. For instance, in Hindu mythology, Lord Rama and Krishna, being apparently flawless, were considered fit to rule over the laity. This tendency to view kings as flawless beings was supported by most religious traditions, in which the king was seen as the direct representative of God. His word therefore became *the* law. Kings magically knew more than the laity, and were also of perfect character.

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[23] Chapter on Involuntary Commitment in Powell, Jim (2000), *The Triumph of Liberty*, New York: The Free Press.

[24] Mill, J. S., *On Liberty,* pp. 9-11 CHECK.

[25] David Livingstone Smith (2007). *The Most Dangerous Animal: Human Nature and the Origins of War*. St. Martin's Press.

[26] University of Louisville: [http://library.louisville.edu/ekstrom/special/suffrage/suffrage.html]

Plato sorted people into two types: one (possibly white, handsome, male?) fit to control the others, thus carrying the 'white man's burden' (although there was no known racism in Plato's time, the principle of two different types of people is racist). The reality is that there is no way to distinguish someone's character and capability through appearance. All of us, including the king and pauper, have practically the same genes. But can't we tell the good from the bad through academic examinations – such as examinations to select civil servants in India? But are there are no drunk, foolish, or corrupt civil servants? This method can't work, either, for at state is not merely competence but character.

There is clearly no justification to permit different 'types' of people different levels of freedom. When even Gandhi readily admitted to flaws, no ordinary mortal (us!) can claim perfection. No doubt there are millions of people of good character, but no one good enough to be elevate above us. Technical expertise doesn't make someone superior, either. Yes, we can listen to a doctor but must choose to follow (or not follow) his directions. No one's word can be taken for granted. Plato was therefore wrong: we *must* be all equally free. Instead of utopias populated by aristocrats who govern the laity let us build systems of governance to check each other and ensure justice. We will thus restrain our bad side, allowing expression only of the good.

These first two propositions insist on our equal claims to life and liberty that none should deprive us of without *very* good reason. William O. Douglas captured this insistence, thus: 'In fascist, communist, and monarchical states, government is the source of rights: government grants rights; government withdraws rights. In our scheme of things, the rights of man are unalienable. They come from the Creator, not from a president, a legislature, or a court.'[27] Life and liberty are innate, even though their protection can only be guaranteed through a man-made social contract. No government has any claim to diminish our rights without agreed reason. The social contract to which we must be equal contributors – must prevail.

4.2.2 *Not free to injure ourselves*

Some aspects of morality are culture-specific, but it does appear, at the broadest level, that all conceptions of morality hinge ultimately on these two propositions. In that sense, Albert Schweitzer's approach (sanctity of life) is useful as long as we don't go overboard. Together, life and liberty form the basis of all moral questions. Both the Golden Rule and Immanuel Kant's categorical imperative reflect these two basic principles (Golden Rule: 'Do unto others what you would have them do unto you'; Kant's categorical imperative: 'Act only on that maxim whereby thou canst at the same time will that it should become a universal law'[28]).

What happens if these two propositions come into conflict? Are we free, for example, to harm ourselves? More bluntly, can *our* liberty be permitted to destroy *our* life? I explore this difficult issue at some length, below.

a) Suicide

Man is the only creature known to take its own life. Although behaviour that resembles depression is displayed by some primates cast out from their tribes, no other creature consciously and deliberately self-destructs. Since no predominantly rational argument can be made in favour of suicide, its existence should be considered as the price we (as a species) pay for our complex brain that can generate mixed signals. Suicide can only be motivated when conflicting signals from the mid- and lower- brain – emotional distress, depression, or guilt – mingle with our higher brain capacity to plan and enact self-destruction. No healthy and wealthy person has yet been born who has gotten up from bed one fine day to 'rationally' declare: 'I own a healthy body and happy mind, thus I have the theoretical option of killing myself. And so, today, instead of going on my planned holiday with my beautiful wife and children whom I adore, let me go and kill myself'. This never happens. Someone who is healthy and happy *never* commits suicide.

The existence of suicide, indeed the monotonous statistical regularity of the world's suicide rate, poses a serious conundrum to philosophy. Suicide rates in USA and India are both being quite high and thus clearly unrelated to the level of wealth or freedom.[29] Overall, between ten to twenty million people attempt suicide globally each year, of which about a million 'succeed' in killing themselves. This means about 100 million people committed suicide in the 20th century. Indeed, 'More people die from suicide [in an average year] than in all of the several

[27] Douglas, William O., *An Almanac of Liberty*, London: Comet Books, 1954, p.12.

[28] Cited in Anton-Hermann Chroust, 'About a Fourth Formula of the Categorical Imperative in Kant' in *The Philosophical Review*, Vol. 51, No. 6, (Nov., 1942), pp. 600.

[29] [http://www.who.int/mental_health/prevention/suicide/country_reports/en/index.html]

armed conflicts around the world'[30] (noting that this claim doesn't quite match the rate of war and genocide fatalities reported by Rudolph Rummel).

Emotional factors that can lead to suicide are matters for sociologists and psychiatrists to investigate and address. I want to examine underlying philosophical issue. Does being free give us the option to commit suicide?

David Hume (1711-76) thought it does, arguing that 'no man ever threw away life, while it was worth keeping'. Also: 'I am not obliged to do a small good to society at the expence of a great harm to myself; why then should I prolong a miserable existence, because of some frivolous advantage which the public may perhaps receive from me?'[31] Hume assumed that people rationally determine whether their life is worth prolonging. But no suicide (excluding euthanasia) is based even remotely on rational thought. It is irrational – under almost all circumstances – to *not* strongly defend one's life. Hume perhaps had a spell of irrationality while thinking about suicide!

Nozick's strong version of self-ownership also affirms his right to suicide. Even J.S. Mill seems to suggest that this may be the case. Thus, he writes:

> 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 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. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil, in case he do otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to some one else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, **absolute**. Over himself, **over his own body** and mind, the individual is sovereign.[32] [bolding mine]

Clearly, if we were to possess absolute self-ownership, then we *must* have all rights to deal with our body and life as we please, including the 'natural' right to euthanasia.[33] But Mill fails to confirm this. For instance, he denies us the liberty to dispose ourselves into slavery: 'The principle of freedom cannot require that … [a person] should be free not to be free. It is not freedom, to be allowed to alienate … [a person's] freedom'.[34] And if we are not free to become a slave because that alienates our freedom, we can't be free to commit suicide – for that would alienate *all* our future freedoms. Mill also wanted the state to intervene and abolish (the purportedly) voluntary act of self-immolation that some Indian women undertook on the funeral pyre of their husband (*sati*):

> Suttee, or the voluntary burning of widows on the funeral piles of their husbands, after having been long discouraged by every means short of positive prohibition, was finally made a criminal offence in all who abetted it, by a legislative Act of Lord W. Bentinck's administration, and has now entirely ceased in the provinces subject to British administration. … Various other modes of self-immolation practised in India,—by drowning, burying alive, or starvation,—have been, with equal success, prohibited and suppressed.[35]

And so, Mill's view of self-ownership did not translate into a right to suicide (effectively nullifying the concept of self-ownership). Rawls and Nozick both supported 'rational' euthanasia. Rawls too advocated *personal* property, including a weak form of self-ownership (recall that he believed that our talents belonged to the entire society). Therefore he agreed with Nozick on this matter. But both then restricted this further. Reasonable restrictions could be imposed, they said, to prevent irrational euthanasia. Thus, the '[s]tates have a constitutionally legitimate interest in protecting individuals from irrational, ill-informed, pressured or unstable decisions to hasten their own

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[30] [http://www.who.int/entity/mental_health/media/en/382.pdf]

[31] Hume, David, *Essays on Suicide and the Immortality of the Soul*, 1783. [http://www.infidels.org/library/historical/david_hume/suicide.html]

[32] *On Liberty*, Chapter 1.

[33] Eg. See Peter Singer, 'Law Reform, or DIY Suicide', Free Inquiry, 25, no. 2 (Feb/Mar 2005), pp. 19-20. [http://www.utilitarian.net/singer/by/200502--.htm]

[34] Mill, J.S. [1861], 'On Liberty', *On Liberty and Other Essays*, Oxford: Oxford University Press, World Classics Paperback 1991, p.114.

[35] 'MEMORANDUM OF THE IMPROVEMENTS IN THE ADMINISTRATION OF INDIA DURING THE LAST THIRTY YEARS 1858' in *The Collected Works of John Stuart Mill, XXX - Writings on India - November 1868,* ed. John M. Robson, Martin Moir, and Zawahir Moir (Toronto: University of Toronto Press, London: Routledge and Kegan Paul, 1990). [http://oll.libertyfund.org/?option=com_staticxt&staticfile=show.php%3Ftitle=264&chapter=21825&layout=html&Itemid=27]

death.'[36] For grievous self-harm to be a valid moral option, the decision must at least be made rationally, and thus in full command of one's faculties. One should provide a coherent, detailed justification of the self-harm proposal. Nozick thus ruled out the 'right' to emotionally driven suicide, weakening if not entirely destroying his self-ownership claims.

John Locke was *explicitly* against suicide.

> [T]hough this be a State of Liberty, yet it is not a State of License, though Man in that State have an uncontroleable Liberty, to dispose of his Person or Possessions, yet *he has not Liberty to destroy himself*, or so much as any Creature in his Possession, but where some nobler use, than its bare Preservation calls for it.[37] [emphasis mine]

Kant's categorical imperative would automatically reject suicide. Suicide would be permissible only if it is good for everyone else in the world to do so! Suicide is thus necessarily immoral. It also violates our accountabilities (refer: Proposition 3), because it can harm others in many ways, not just psychologically. An unsuccessful attempted suicide can permanently disable a person, such as by damaging the brain, and thus impose a significant economic burden on the (consequently) disabled person's family. This could then lead to a demand from the family on taxpayers. On the other hand, if (say) a young person successfully commits suicide, he would have destroyed the time and money invested by his parents in bringing him up, not to speak of the severe emotional loss involved. We do not get to choose to be born, but we do become accountable for our actions if we were happy upon birth. Since I have yet to come across any infant who does not display genuine pleasure in his life, we all become accountable for our parents' investment in upbringing us up. The free society must therefore impose brakes on our alleged 'freedom' or 'right' to kill ourselves.

Our innate physical animal power to destroy ourselves can't ever be taken away (except through imprisonment – and even that does not guarantee this), the free society can prevent suicide by providing emergency counselling services as part of a publicly funded social insurance scheme. This service should assist those who are emotionally distraught and actively considering suicide. When the rational circuits of the brain of a suicidal person become overwhelmed with emotion, it may even be necessary to temporarily lock up this person, for the defence of life must necessarily take precedence over the claims of liberty.

b) *Mahasamadhi and Santhara*

A few other methods of self-harm raise particularly prickly questions. A *mahasamadhi* is (apparently) an event in which someone, as part of religious belief, wills himself to death. Whether this is at all feasible without causing direct violence on one's body is a question best reserved for another day (noting my scepticism about such events, and that I would need sturdy data that might not be readily forthcoming). The key issue is this – that people with the purported power of *mahasamadhi* are usually highly revered. Such self-destruction is charged with widely perceived moral and spiritual properties.

Santhara is a slightly different thing, in which about 240 Jainis kill themselves each year through voluntary fasting. These acts appear to violate Proposition 1, and yet, undertaken with wide public awareness, they are not comparable with garden variety suicide. Proposition 1 aims to maximise life. When people, in following a particular moral path, undertake such acts of self-destruction, their actions raise many questions of justice and accountability. I would think that the key is to prove that such actions are not in someone's vested personal interest. Should that have happened, or the truth distorted, then placing such a person under arrest and force-feeding him would be perfectly valid. There is a very fine line distinguishing these actions, and calls for the exercise of considerable judgement.

The conditions met by *santhra* include: (a) there is no direct violence involved (true, fasting hurts our own body's cells); (b) no one is harmed; (c) everyone knows about what is going on, and in the religious community involved there is recognition of the spiritual properties involved, and this is used as an opportunity to reaffirm the faith of the particular religion; (d) it is not intended to achieve a certain political goal; and (e) no one feels coerced to DO anything (i.e. no emotional blackmail is involved). Most importantly, no one is coerced into this, as was the case with *sati* – which is also problematic because of the severe violence involved. The key is that is it part of spiritual

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[36] 'Brief of Ronald Dworkin, Thomas Nagel, Robert Nozick, John Rawls, Thomas Scanlon, and Judith Jarvis Thomson as Amici Curiae in Support of Respondents', in *Issues in Law & Medicine*, Fall, 1999. [http://findarticles.com/p/articles/mi_m6875/is_2_15/ai_n25026585/print]

[37] Locke, in his second *Treatise*.

belief system and used purely for spiritual ends. In that sense, the choice to quietly wither away is not immoral, not violative of the accountabilities arising from such act.

c) *F*asting to death for a public cause

Another method of self-harm is fast unto death. When Gandhi undertook his (relatively frequent) fasts unto death, he did so with full public disclosure. The main thing to note is that he aimed to protect, not harm life: for instance, he often aimed to prevent communal or other mass violence. Gandhi firmly opposed the idea of suicide. Instead, he saw fasting as a religious act: 'all fasting, if it is a spiritual act, is an intense prayer or a preparation for it. It is a yearning of the soul to merge in the divine essence'[38].

A scholar of Gandhi's views notes that Gandhi imposed stringent conditions on those undertaking a fast unto death:

> First of all, one had to take into account the state of the public opinion in regard to the effectiveness of the fast. Secondly the issue on which a fast is contemplated must be just. Thirdly, the motive which prompts fasting must be the vindication of truth and justice as the one who fasts sees them, and not embarrassment or blackmail of the adversary. Fourthly, one must be sure, at least subjectively, of a divine inspiration to undertake the fast.
>
> Because of the difficulty in meeting these conditions, and because of the abuses most likely to occur, Gandhi most frequently discouraged others from using this symbol. He claimed for himself an expert knowledge of how and when to use this symbol. Gandhi's idea was that great moral integrity was required for the effective use of this symbol; otherwise it would be merely an exploitation of the public's high regard for a spiritual act.[39]

After much consideration it seems to me that the conditions that legitimise a fast unto death are extremely hard for an ordinary magistrate to assess, and are indeed not amenable to legislative prescription. This becomes particularly difficult when the goal is to achieve a certain political outcome. It would seem to me, therefore, that unless the purpose is exclusively to save other lives (as in preventing a communal riot), the idea of such a fast is untenable, and the government must step in and force-feed the person undertaking such form of protest. In particular, it can't be justified as a political tool to obtain normal political goals in a democracy. That converts such action into self-interested suicide.

d) Sacrificing one's life to save someone else

Yet another way to harm oneself is by 'sacrificing' one's life to save another's. This, again, needs to be treated differently from typical suicide, for even though one's life was lost, the loss was not motivated by the desire for self-harm. Indeed, saving another life is an exceptionally moral act, sending as it does a deeply life-validating message. In doing so, should one's life be lost, one would necessarily be treated as a true hero.

e) Euthanasia

Where there is no hope of medical relief from totally unbearable pain and suffering, and one has otherwise lived long enough and well, and met one's obligations, euthanasia can be a potentially ethical option. In choosing his death the sufferer of pain could still end up harming others, although such claims of harm are weakened because of the severity of pain – one's loved ones will likely feel better through one's peaceful death and relief from pain. One of the real problems, of course, is that except for extreme cases, we still hope that science will discover some way to ease pain.

On a practical level, the process of authorising euthanasia remains a major problem. How does one know for sure that the pain someone is experiencing is 'severe enough' to warrant euthanasia? Even if a particular proposal for euthanasia has merit, how can we prevent its use (or misuse) by mentally depressed people or by those without adequate rational capacity? Psychologists almost invariably differ in their diagnoses, as well. We must also ensure that opportunistic psychologists or doctors aren't bribed to kill, for that would not be euthanasia but murder. Given the many potential risks that attend the practice of euthanasia, Rawls and Nozick both agreed to stringent procedural regulation, thus:

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[38] Gandhi, in *Harijan*, 8 July 1933.

[39] Anthony Parel, Symbolism in Gandhian Politics, *Canadian Journal of Political Science*, Vol. 2, No. 4 (Dec., 1969), pp. 513-527

> [The state] may not deny [terminally-ill patients in agonizing pain who feel doomed to an existence they regard as intolerable] … the opportunity to demonstrate, through whatever reasonable procedures the state might institute – even procedures that err on the side of caution.[40]

It is apparent, therefore, that if cast-iron processes can be devised, euthanasia can be legitimised. To control risks, the euthanasia processes would have to be transparent and judicious. Expert evidence would need to be considered – perhaps by a randomly selected jury. The authorisation for euthanasia would follow diligent inquiry broadly on par with a murder trial (albeit far more expeditious and empathetic).

The state of Oregon in USA legalised euthanasia in 1997 through its *Death with Dignity Act*. Under this act the 'patient' who seeks lethal medicine must fulfil the following steps:

> 1) the patient must make two oral requests to the attending physician, separated by at least 15 days; 2) the patient must provide a written request to the attending physician, signed in the presence of two witnesses, at least one of whom is not related to the patient; 3) the attending physician and a consulting physician must confirm the patient's diagnosis and prognosis; 4) the attending physician and a consulting physician must determine whether the patient is capable of making and communicating health care decisions for him/herself; 5) if either physician believes the patient's judgment is impaired by a psychiatric or psychological disorder (such as depression), the patient must be referred for a psychological examination; 6) the attending physician must inform the patient of feasible alternatives to the Act including comfort care, hospice care, and pain control; 7) the attending physician must request, but may not require, the patient to notify their next-of-kin of the prescription request. A patient can rescind a request at any time and in any manner.[41]

Careful evaluations of this system in the coming years could help devise a system that can be globally adopted. Indeed, a study published in 2007 reported that there was 'no evidence of heightened risk for the elderly, women, the uninsured, people with low educational status, the poor, the physically disabled or chronically ill, minors, people with psychiatric illnesses including depression, or racial or ethnic minorities, compared with background populations'.[42] That is a positive sign, and shows that euthanasia can be appropriately managed (I wouldn't recommend it for a country like India at the moment, though, where governance is in shambles).

4.3 Proposition 3. Freedom comes with matching accountability

'Freedom is only part of the story and half the truth. ... That is why I recommend that the Statue of Liberty on the East Coast be supplanted by a Statue of Responsibility on the West Coast.' – *Victor E. Frankl.*[43]

'I think of a hero as someone who understands the degree of responsibility that comes with his freedom.' – *Bob Dylan.*[44]

No one is free to harm others. Should injustice or harm be inflicted upon us, then we retain our animal powers to avenge the harm. Retribution is the soul of our independence, our freedom. It may be well and good to preach forgiveness (and indeed, forgiveness has much to commend), but for the state to systematically 'forgive' grievous assault upon our body or soul will only encourage more of the same. Similarly, while non-violent protest can potentially work even against tyrants, it won't possible prevent the everyday variety of crime. Non-violence, when faced with violence, is not an option.

The need for retribution (or recompense) can't be wished away merely by donning a cloak of 'civilisation'. Tribal honour killings or 'rough justice' of the street exist because we demand accountability. If a society won't ensure

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[40] 'Brief of Ronald Dworkin, Thomas Nagel, Robert Nozick, John Rawls, Thomas Scanlon, and Judith Jarvis Thomson as Amici Curiae in Support of Respondents', in *Issues in Law & Medicine*, Fall, 1999. [http://findarticles.com/p/articles/mi_m6875/is_2_15/ai_n25026585/print]

[41] [http://www.oregon.gov/DHS/ph/pas/faqs.shtml#whocan]

[42] Battin, P. et al., 'Legal physician-assisted dying in Oregon and the Netherlands: evidence concerning the impact on patients in "vulnerable" groups' in *Journal of Medical Ethics* 2007;33:591–597.

[43] In his *Man's Search for Meaning.* (originally 1946). 1984. New York: Touchstone Books. p.134.

[44] Cited in *Moral Intelligence* by Doug Lennick and Fred Kiel. Wharton Business School, 2005. p. 93.

justice, we will get it – regardless of rules, laws, and consequences. Only an unrelenting and insistent claim on justice will deter those who seek to exploit us. A fear of retribution is a healthy thing, to deter violence and ensure cooperation. Justice is therefore absolutely crucial. As Hans J. Morgenthau notes, 'Liberty cannot be defined without justice.'[45] Freedom therefore always comes attached with the matching accountability. That is what Proposition 3 affirms. This is a fundamental concept; it is not rocket science.

What precisely is the remit of justice? Basically, it is essentially the theory and process of accountability – of closing the accounts of a transaction. Principles of justice determine our accountabilities. The society must be willing to enforce these principles – a willingness obtained through our formal or informal consent. Classical liberal philosophers strongly emphasise accountability. Thus, Adam Ferguson, a close friend of Adam Smith and himself a philosopher of repute, wrote: 'Liberty or Freedom is not, as the origin of the name may seem to imply, an exemption from all restraints, but rather the most effectual applications of every just restraint to all members of a free society whether they be magistrates or subjects.'[46] Such restraint arises naturally from the concept of accountability. This underpins Herbert Spencer's view that: 'Every man is free to do that which he wills, provided he infringes not the equal freedom of any other man.'[47] Adam Smith required accountability in the marketplace, thus:

> If I owe a man ten pounds, justice requires that I should precisely pay him ten pounds, either at the time agreed upon, or when he demands it. What I ought to perform, how much I ought to perform, when and where I ought to perform it, the whole nature and circumstances of the action prescribed, are all of them precisely fixt and determined. Though it may be awkward and pedantic, therefore, to affect too strict an adherence to the common rules of prudence or generosity, there is no pedantry in sticking fast by the rules of justice.[48]

Similarly, John Stuart Mill wrote about accountability in the criminal context: 'A person may cause evil to others not only by his actions but by his inaction, and in either case he is justly accountable to them for the injury.'[49] Hark back also to Hammurabi's law No. 200 (Hammurabi was the sixth king of the Amorite Dynasty of Old Babylon in 18th century BC): 'If a man knock out the teeth of his equal, his teeth shall be knocked out'[50]. This was the most precise form of accountability possible – as precise as a mathematical equation.

Everyone is therefore free to do whatever they wish to do – for good or for evil – but they must, thereafter, settle the accounts, taking the reward (or rap) for their actions. Thus, if I provide you with an agreed service, I am entitled to the agreed reward. Similarly, if I injure you, you are entitled to compensation. We can live with this very simple, common sense rule.

This is also highly sustainable. In a Computer Prisoner's Dilemma Tournament that he organised, Robert Axelrod found that the most successful strategy was the simplest of all: tit for tat – which is 'merely the strategy of starting with cooperation, and thereafter doing what the other player did in the previous move'[51]. This rule, which is the most basic mechanism of accountability, is the best way to achieve a harmonious society. Justice works. When everyone knows that harming others won't pay off, a peaceful and productive Nash equilibrium is achieved. Note also that accountability is a moral principle and leads naturally to the Golden Rule, being also compatible with Kant's categorical imperative.

Our actions are perceived differently by different observers. Therefore, the requirements of accountability require us to consider these differential impacts on others. Since our actions have a range of impacts including those that we did not intend, we are obliged to be aware of them, and to aim to minimise potential misunderstandings. The possibility of retribution makes us aware and careful, as well. This puts a natural brake on many negative aspects of human nature. Such thinking underpins strategic behaviour which leads to the social contract (Proposition 5).

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[45] Hans J. Morgenthau (1957). 'The Dilemmas of Freedom', in *The American Political Science Review*, 51(3), p.715.

[46] cited in The Fatal Conceit by Hayek, p.3)

[47] In his *The Principles of Ethics.* Part IV. Chapter 6. 'The Formula of Justice'.

[48] *The Theory of Moral Sentiments* by Adam Smith (1759). Part III, Chap. VI.

[49] Mill, J.S. [1861], 'On Liberty', *On Liberty and Other Essays*, Oxford: Oxford University Press, World Classics Paperback 1991, p.15.

[50] Translated by Leonard William King, 1910 [http://en.wikisource.org/wiki/Codex_Hammurabi_(King_translation)]

[51] Axelrod, Robert, *The Evolution of Cooperation,* Basic Books, 1984, p. viii.

John Rawls thought that principles of justice:

> can be viewed as those principles which mutually self-interested and rational persons, when similarly situated and required to make in advance a firm commitment, could acknowledge as restrictions governing the assignment of rights and duties in their common practices, and thereby accept as limiting their rights against one another.[52]

While he thereafter derived a plethora of illogical and unworkable rules. Far more logically, I would suggest that under such a veil of ignorance, self-interested people, namely those who understand human nature, will go for tit-for-tat as the rule of justice. Indeed, we don't have to make hypothetical experiments. Common law is accepted only because it is based on such basic rules that can be readily understood by everyone involved. Accountability includes the consideration of:

- the precise nature of an action (or inaction);
- whether the action was called for, and was appropriate to the occasion;
- the nature of the attendant responsibilities;
- whether the action was duly carried out;
- the consequences of the action; and
- to whom the consequences applied: namely, the attribution and precise debiting or crediting of the results (to specific individuals) of the action.

Justice

J**ustice** is both the *process* and *outcome* of settling our accounts. It demands a transparent and justifiable process, as well as a justifiable outcome. The principles of accountability underpin both the process and outcome of justice. A few key issues relating to the concept of justice are outlined below.

- The principles of accountability apply to individuals, not to aggregates such as the entire society. Thus, the concept of 'social justice' is totally bereft of meaning; only individuals can be accountable.
- Accountability is determined *ex-post* (i.e. after the event). We must act (or not), and only *then* can we become accountable. While most accountability is a matter for the justice system to resolve (i.e. after the event), it is possible that some regulatory actions that reduce our freedoms can be motivated where potential harm is demonstrably prevented at a reasonable cost (such as by requiring people to wear seat belts to reduce fatalities).
- An accountability can be recognised either formally or informally, either explicitly or implicitly, depending on whether it is part of the social contract or social norms.
- Compatibility of accountability with so-called 'moral law' is a relatively incidental consideration. Belief systems about morality can differ across societies and religions. While a good system will generally lead to outcomes that are deemed to be 'moral' by most social and religious systems, its main purpose is to build a *free* society. And the free society doesn't exhort or preach morality. Instead, by directly rewarding or punishing behaviour, as appropriate, it creates incentives for moral behaviour, hence leads to what would be called a moral society.

4.3.1 *The loop of accountability*

The market system, property rights and the system of justice are all based on ensuring accountability. The *loop of accountability* – a concept to be presently described – clarifies what this means.

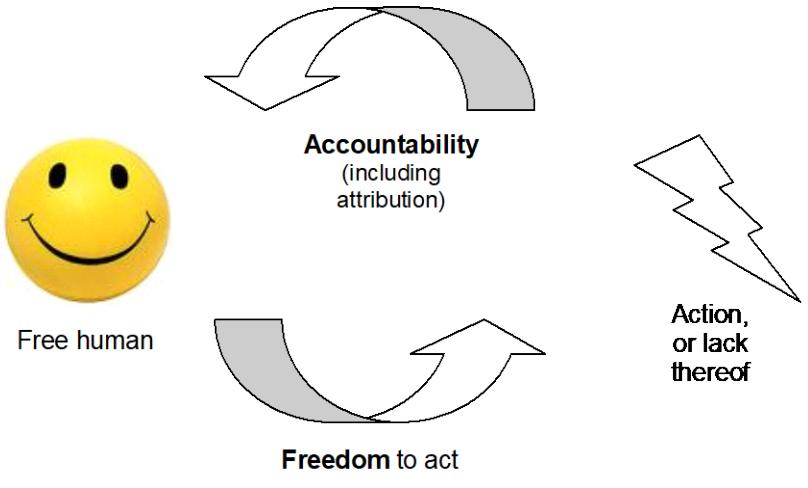
Note that accountability (at least implicitly) includes *attribution* (or imputation[53]) of the consequences. Attribution is the arrow that points to the person responsible for a consequence –for instance: who won a race, who owns a particular piece of land, or bread. Only the one who runs the fastest should be declared the winner of a race, not

[52] John Rawls (1957). 'Justice as Fairness', in *The Journal of Philosophy*, 54 (22). pp.653-662.

[53] E.g., McGill., V.J., 'Conflicting Theories of Freedom', in *Philosophy and Phenomenological Research*, in 20(4), 1960, p.449.

(for instance) someone well-connected with the judge. When deserts are inappropriately attributed and rewards determined through bias, our sense of justice is deeply offended.

I call this package – comprising free choice and its accompanying accountabilities (including attributions), the **loop of accountability (see** Figure TT). The Yin-Yang symbol in the frontispiece is an alternative schematic representation.



The loop of accountability

Let me elaborate on the concept of the loop of accountability through an example. Let's suppose that I walk into a grocery shop and ask for bread. This becomes my first action. The grocer hands me bread which I then receive (my second action). By asking for bread and taking possession, I am now (instantaneously) accountable – to pay for it. I then proceed to settle my accounts with the grocer (my third action). And with this, the loop of accountability has closed. There is no outstanding residue (of accounts). Life can move on. Note the transfer of attribution, as well. The moment I hand over the payment, the ownership of bread is now attributed to me. I thereafter become free to give it to the ducks in the pond, if I so wish. Earlier I had no such right.

To an account keeper, the transaction record would appear in the form of Table GG:

Table GG: The accounts of A's freedom

Free action (or inaction)	**Results**	**Attribution**	**'Residue' of accountability, if any**	**Any responsibility created?**
'A' asks for bread from the grocer	'A' may now be supplied bread by the grocer *if the grocer so chooses, freely, to do so.*	1) It is 'A' who is asking for bread. 2) It is the grocer who may (or may not) choose to supply bread.	*Zero*. No liabilities created. Only an *expectation* of future liabilities. The grocer will assess the ability of 'A' to pay before handing over bread.	*Yes. The grocer must provide a safe environment in his shop. The buyer must behave decently.*
'A' receives bread from the grocer.	'A' has now taken *possession* of the bread (but has not yet assumed ownership).	It is 'A' who is taking possession of the bread.	*Deficit*. The cost of the bread is now *due* the grocer, under the implicit contract to transfer property rights over bread.	Yes – Grocer must supply safe product. The buyer must behave decently and meet his part of the bargain.

Free action (or inaction)	Results	Attribution	'Residue' of accountability, if any	Any responsibility created?
'A' pays for bread	'A' is now the *owner* of *that* bread	It is 'A' who is the new owner of *that* bread	*Zero.* 'A' has closed the loop of accountability. No residue remains.	*Buyer is required to exit the shop decently.*

It is an expectation in the free society that everyone must always close the loop of accountability for each action (or inaction) that affects others. All accounts must balance. No residue should remain: accountability being as precise as a mathematical equation. Now, most actions (transactions) do occur seamlessly, without dispute. The loop of accountability is closed smoothly in most cases. And if no one ever broke the loop, we would not need the state. But it is human nature to default and cheat: not all people do so all the time, but some people do so with sufficient frequency to require the creation of a justice system.

If any portion of the chain of accounts breaks down, then freedom is compromised. For example, in the case above, if a government forces me to buy bread only from a particular shop, or a shopkeeper forces me to pay for bread I didn't receive, or if the bread I paid for is declared public property and confiscated by any passing government functionary, then my freedoms come undone. A careful examination of the loop of accountability can pinpoint the precise loss of freedom – if any.

4.3.2 *Accountability (attribution) as the basis of property rights*

Not merely freedom must we have, but attribution *or ownership of consequences* (and thus property rights) must be precisely recognised. I cannot be free if someone is allowed by the society to succeed in making a false claim over my produce, or if a Fairy steps in and pays for the harm I may have caused. The basic equations of freedom cannot be disrupted. Proper attribution is a vital part of this equation. The responsible individual must be named.

Property rights result from *attribution* – even children understand that when they exclaim: 'He started it!' That's attribution. Stories written for children sometimes describe characters who runs through streets, shouting '*Chor*, *chor*!' (thief, thief!). Such stories refer to the illegitimacy of a thief's claim to someone's property. Children readily comprehend all this. Attribution is not rocket science, it is largely intuitive.

Note that some property rights are nominated the moment we are born. Nozick is correct to state that 'things come into the world already attached to people having entitlements over them'. These include our brain (our greatest asset) as well as our share in ancestral property that we may ultimately receive. But most of have to create our property during our lifetime through exchange of services and goods we produce or trade in. All property is therefore an *appropriately* attributed asset, regardless of whether these are gifts (including bequests) or earned. The system of justice, among other things, keeps track of property ownership.

Attribution, however, is meaningless unless it is recognised by everyone involved and enforced. Note that there is no 'natural right' to such social recognition (of attribution) and hence no 'natural' right to property. The society must arrive at the principles of justice and an enforcement mechanism, for such rights to be meaningful. Inside a well-enforced social contract, the right to property becomes real.

Unfortunately, entire schools of philosophy such as in the socialist and divine rights traditions, deny individual property rights – thus denying attribution and justice: hence freedom. If a valid chain of accounts exists, then no matter how unequal the resultant wealth 'distribution', it is *just* and must be defended.

How then, does the argument sometimes made – that bequests sustain inequality and must be taxed – fare? People who ask for heavy taxation on bequests are essentially saying that we can be free in our lifetime but not free to pass on our property to those we chose to. But only freedom has a moral claim: all other claims are immoral. No one has any right to over-ride our choice about how we shall dispose our property. Interfering with bequests is unnatural and violative of our most basic freedom.

And why are we to bother about inequality, anyway? That is such a devious and immoral distraction from the purpose of the social contract. As Dan W. Brock noted: 'No one merits or deserves being born with superior intelligence or wealthy parents. This does not mean, however, that these inequalities are … unjust. They are simply the natural circumstances of human life, present to some degree among any group of persons living

together.'[54] Even the most superficial analysis will confirm that to be human is to be *different* on hundreds if not thousands of attributes, and being different is to be unequal. Also, in the free society, the initial distributions correlate very poorly with (and thus do not predict) future distributions. Being born with a silver spoon is no guarantee of future success, for bequests as we know them only relate to physical assets but the most important bequests of all are non-material: intellectual ability and character. Parents pass on these without a will. Even the slightest consideration of inequality so quickly leads to a moral quagmire that we must object to even the slightest reference to such an issue in determining the social contract. In the end, all anyone can ask for in the social contract is *equal freedom* to face life. A modicum of equal opportunity can help to enhance equal freedom; but that must be very modest. Let merit fight its way through life through hard work and competition.

4.3.3 *Accountability for one's responsibilities*

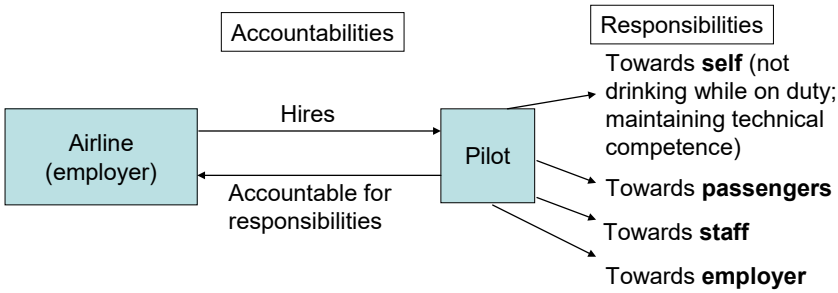
How do responsibilities arise, and what is the difference between accountability and responsibility? A responsibility is best thought of as a potential (including contingent) liability that can arise from a freely undertaken (or agreed) action. A responsibility is a liability and hence obligation we *must* discharge. Without clear responsibility there can be no conception of accountability. Note though that not all responsibilities necessarily lead to a *socially sanctioned* accountability (Thus, whether we discharge our responsibilities as a parent properly does not always lead to a social accountability).

Accountabilities, the equations of justice, are a subset of our responsibilities. While an accountability does exist in some form or shape for each responsibility, many go 'below the radar', not being significant enough to motivate social accounts, such as the daily interactions between a husband and wife, or between colleagues in a team project. These are informal and have consequences on relationships but are not socially mandated (through law). This book deals with legal or socially mandated accountabilities, since only these concern the theory of the state.

Three cases arise in the social space:

a) *Where accountabilities are directly derived from responsibilities*. Exchange of goods and services is a typical instance. The grocer is *responsible* for supplying us with a good egg in exchange for the money we pay for it. Once a good egg (not rotten) is supplied, no further responsibility remains, hence no accountability.

b) *Where accountabilities arise from a subset of responsibilities*. This is the case with complex transactions, such as employment contracts or marriage. When I am hired as a pilot, I assume responsibility for a wide range of things, including passenger safety. If I fail to discharge these responsibilities appropriately, I become accountable for the resulting harm, some of which could potentially be catastrophic. My accountability is, however, primarily to my employer, and only indirectly to passengers (even though I remain responsible for them as part of my contract).



While (as an adult) I am free to marry and beget children, I am not free to abandon my family. Thus, if I marry and beget a child, a wide range of responsibilities are created. The society would hold me to account were I to do so. I don't 'own' a child as I might, other property; and can't dispose off the child as I please. Some responsibilities (such as towards our family) are often limited only by our death, although their nature might change over time.[55] Note that social accountabilities are limited to big responsibilities, such as ensuring that we don't harm others or our children. We are not accountable for relatively minor adverse consequences of our interactions with our children, although this zone of accountability is being currently expanded. Thus, in New

[54] In his review of Rawls's *The Theory of Justice*, in *The University of Chicago Law Review*, Vol. 40, No. 3. (Spring, 1973), pp. 486-499.)

[55] Accountability must be individual; it cannot pass on to people who have not directly caused a consequence.

Zealand you can't now smack your child, although some sharp conversations are not restricted (Anti Smacking Law, 2009).

c) *The commons: where there are no direct accountabilities but many responsibilities*. Unfortunately, a society where people are accountable for nothing but responsible for everything quickly decays, due to the problem of the commons. In such a situation no one takes care of anything since accountability can't be pinned down. Appropriate allocation of property rights would ensure accountability. This is an important point: that accountability is related to some form of 'ownership'. Thus, for instance, I am not accountable for Hitler's crimes. He is.

Corporate social responsibility vs corporate responsibilities

We are not born for each other's sake. However, relationships of responsibility (and accountability) bind us all. We are responsible (and even accountable) for the goods and services we trade with each other, but such responsibilities are limited by contract. A pilot is responsible for passenger safety for a particular flight, not for their entire lifetime. I trade things with you, but upon completing it, I can go home and look after *my* family. I am not responsible for you or *your* family in any material sense. In the absence of detailed contracts, we are responsible at all times for not harming others but we owe others no positive obligation. The concept of 'social responsibility' or 'corporate social responsibility' (CSR) is therefore misplaced because a business (corporation) cannot have a *broad, non-contractual responsibility towards anyone*. Yes, we definitely have a *joint individual responsibility* along with everyone else to ensure that our social contract is upheld. We do that by participating in matters of governance, and by being good citizens, but that covers it all.

For instance, let's say that I chance upon a beggar on my way home from work. What is my responsibility towards the beggar? One thing is obvious: since I didn't bring him into the world nor steal anything from him nor hurt him, I have no *accountability* towards him. No direct responsibility accrues, either. I do feel sympathy, so I may give him something (without in any way committing to his lifelong care). But more importantly, I would work towards ensuring that the social contract eliminates the very possibility of beggary by ensuring social insurance and equal opportunity. That is how my indirect (joint) responsibilities toward all beggars in India would be resolved.

As far as the concept of CSR is concerned, this much is clear: a business is accountable to its shareholders and, second. It is also responsible for ensuring that its actions comply with the laws (such as consumer safety and environmental protection). But it is *not* responsible for spending shareholders' money directly on community welfare. Any such decision (to spend on the community) must be made individually by each shareholder from their personal income. Shareholders are fee to do what they want with company profits that accrue to them, but not use operation company funds for charitable purposes. The directors of a company must focuse entirely on making a profit.

Other related issues

Should we be accountable for things we didn't ask for but were given (and took advantage of)? Having received the unsolicited but invaluable gift of life – and care till we become independent – from our parents, are we accountable to them? No. But it behoves us, though, to compensate our parents, siblings, and even our society for services we received without our solicitation. Paying for such unsolicited things can perhaps be seen as a *duty* – not an obligation but a good thing. Duty is a form of responsibility, not accountability. Vivekananda's comment resonates with us: 'So long as the millions live in hunger and ignorance, I hold everyman a traitor, who having been educated at their expense, pays not the least heed to them.'[56] While the poor did not pay for our education, they did contribute to the society in many ways, and we have a moral obligation, or duty towards them.

What about our responsibility for the many things others 'choose' for us? For instance, many Indians allow their parents to choose their spouse. Who is responsible for the success of such marriages? – the parents, or the couples? It should be evident that the upward delegation by the prospective partners of their decision in no way absolves them of responsibility. Indeed, during the marriage ceremony, the couple has to affirm its decision publicly, if nothing but implicitly (unless coercive force is demonstrably present). Just because we *choose* to abide by society's customs does not therefore dilute our accountabilities. If we choose to follow the caste system, we are solely and personally responsible for this decision. We can't then blame our parents for our racist practice.

[56] Vivekananda, cited in *Modern India*. NCERT, 1986. p.219.

4.3.4 *The processes and principles of accountability*

It is easy to say that free people must be accountable for their actions; much harder to specify what is this mean. What does accountability look and feel like? How much is enough? Who decides? These questions are at the heart of the system of justice. Let's explore them briefly.

Only 'outer' freedom is in scope

Everything we do (or don't) comes with matching attribution and accountability. This applies to our internal thoughts and actions as well as those that interact with or affect others. Our interactions with others form only a small part of our actions: most relate only to us.

Let's not forget that thoughts are actions too, leaving a chemical trace somewhere in the brain (and elsewhere in the body). When we meditate, endorphins are released that relieve stress. If we plot revenge, adrenalin and is released. Exercising our body strengthens or stretches our muscles; lack of it atrophies them. Nature therefore holds us to account for every thought and action – without fail. There is no respite from accountability (which, at the basic level, is nothing but cause and consequence). Repetitive thoughts and actions have *meta* consequences – our character and health. Whether it is the *karma* theory of Hinduism, the Buddhist theory of the middle path, or Christian theory of sin, each notes that our choices determine our character. As Rajagopalachari said:

> Everyone knows from experience and without the help of any doctrine that every thought or act, good or bad, has at once an effect on oneself, apart from its effect on others or on the outside world. Every motion of the mind deals a stroke as with a hammer, on character and whether one wants it or not, alters its shape for better or worse. We are ceaselessly shaping ourselves as the goldsmith busy with his hammer shapes gold or silver all day long. Every act of ours and every thought creates a tendency and according to its nature adds or takes away from our free will, to a certain extent. If 'I think evil thoughts today, I will think them more readily and more persistently tomorrow. Likewise it is with good thoughts. If I control or calm myself today, control becomes more easy and even spontaneous next time, and this goes on progressively.[57]

The good thing is that we can (largely) choose our character, health, and reputation. Freedom is in that sense a positive philosophy, that brings out the best in us. As Ian Harper points out: 'Our choices have consequences, not just for our material but also for our moral well-being. … Good choices make us virtuous while bad choices make us vicious.'[58] Even in the most collectivist totalitarian society we will necessarily remain at least partially free to form our character and work towards our moral goals.

Our internal thoughts, however, are of no concern to buyers of our products and services. Our character or health is of interest to them but only to the extent they need to evaluate the products we sell (including whether we will maintain them and meet our warranties). Hence the theory of freedom must focus almost entirely on our outer (i.e. relational) freedom – and that too on matters where (social) accountabilities arise.

Identifying and specifying accountabilities

The determination of accountabilities cannot be left to the domain of religious or traditional moral laws. Religious and moral laws often differ, sometimes considerably. It is important that our accountabilities are *unique* and *precise*; else baffling uncertainty will overcome the society, creating chaos. Socially agreed (legislated) laws precisely specify our accountabilities, after resolving competing arguments. The system of man-made laws must be given 'priority over other standards'[59]. That is a very basic requirement.

Of course, laws are needed only because we harm others. 'True freedom ... is the freedom to be virtuous'.[60] And as John Danford wrote, 'the only kind of restraint compatible with genuine freedom is self-restraint.'[61] Therefore, if we acted only with self-restraint, no laws would be needed; self-regulation would be the norm.

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[57] Rajagopalachari, C. *Hinduism: Doctrine and Way of Life*, Bharatiya Vidya Bhavan,1959, p.80.

[58] Harper, Ian, 'Christian Morality and Market Capitalism: Friends or Foes?', 5th Annual CIS Acton Lecture on Religion & Freedom, Sydney: Centre for Independent Studies, 2003.

[59] Hart, H.L.A., *The Concept of Law*, Oxford: Oxford University Press, 1997 [1994], p.249.

[60] Ian Harper (2003). 'Christian Morality and Market Capitalism: Friends or Foes?' 5th Annual CIS Acton Lecture on Religion and Freedom. Centre for Independent Studies, Sydney.

[61] Danford, John W., *Roots of Freedom*, Washington, Delaware: ISI Books, 2000, p.xviii.

Indeed, there are many pressures in the free society that promote virtue. For instance, e can build good relationships only through a good reputation, which becomes a natural check on bad behaviour. The free society government is therefore a reluctant regulator, intervening only where there is both a failure of self-regulation and the government can make things better through appropriate guidance and control. But natural checks on accountability don't always work, and hence we need laws.

Given the enormous expense of discovering and enforcing them, the laws do not need to specify *all* accountabilities in comprehensive detail. It is enough to deal with the most significant acts (such as the requirement to serve food that is free of disease-causing bacteria) are generally sufficient to clarify the remaining accountabilities. People should also be free to agree detailed accountabilities through contracts or mutual negotiation, subject to meeting the broad standards specified in the laws.

Laws must make sense and be easy to understand. Accountability must, to the extent possible, match our intuitions. Richard Epstein suggested (in his 1995 book, *Simple Rules for a Complex World*), that only six laws are needed to operate a free society. Either way, the point is that only with such simplicity will people be prepared to *accept* the laws. Only such laws would be able to represent what Jean Jacques Rousseau called the general will – a **shared public opinion or understanding.** Without such convergence between laws and the willingness to accept them, pressures will soon build for non-compliance. Achieving such convergence is non-trivial. Kenneth Arrow showed that it is impossible to arrive at any consistent ordering of society's aggregate preferences. This means the general will cannot be directly arrived at, only approximated. Modern societies invariably circumvent this through some form of majority rule, by having democratically elected representatives vote on policies, thus bringing the decision to a close, no matter how temporarily. In any event, it is crucial that we don't elevate this idea – of the general will – above the individual. Majority opinion must not crush anyone's liberty to conduct legitimate acts.

Codified laws legislated through such a democratic process are 'guides to human conduct and standards of criticism of such conduct'[62]. They spell out our accountabilities. The free society doesn't care about the so-called religious or moral 'laws' we may choose to follow so long as everyone complies with democratically negotiated laws. Such laws do not diminish our freedom, but by clarifying the limits of freedom, allow it fuller expression. As Hayek noted, 'Within the known rules of the game the individual is free to pursue his personal ends and desires.'[63]

It is crucial for the laws to be enforceable. As H.L.A. Hart pointed out, a system of laws must allow 'for the identification, change, and enforcement of its standards'[64]. Agreement to standards is one thing. Ensuring that they are so designed to be acceptable and complied with, is quite another. Laws are only as good as their enforceability – and enforcement. Only enforceable laws can be enforced. Citizens will therefore have reasons to believe that the laws are uniformly enforced, not applied whimsically. That, plus a belief that the laws won't change abruptly or whimsically will provide them with an assurance of stability and enable them to plan their long-term projects.

Since laws are man-made, our accountabilities *can*, and do, evolve. While murder will certainly remain illegal for all times to come, the extent and manner of its punishment will evolve. Indeed, Despite the pressing need of stability in the laws, the laws must be periodically reviewed in order to continuously expand our freedoms. Improvements can also be motivated by technology, knowledge, and theoretical innovation.

The specification of harm

Accountabilities are a precise mathematical equation and must be based on the precise specification of the level of harm and associated attributions. The law must provide guidance that leads to the relevant accountability, based on the facts of each case.

While the level of harm and its attribution must be objectively assessed and specified, doing so is not a trivial matter. Acts of God and other unpredictable events can make precise attribution difficult. Actions are not always linked to outcomes through a precise causal pathway. Unanticipated events, unintended consequences and 'white noise' (luck) riddle the path. A person can become wealthy through sheer luck, but then quickly become poor by

[62] Hart, H.L.A., *The Concept of Law*, Oxford: Oxford University Press, 1997 [1994], p.249

[63] Hayek, F.A. *The Road to Serfdom.* Routledge, 2001 [1944], p.76. Google books.

[64] Hart, H.L.A., *The Concept of Law*, Oxford: Oxford University Press, 1997 [1994], p.249.

bad luck, as well. In general, though, we should be able, in most cases, to attribute outcomes correctly through a diligent empirical inquiry.

So what exactly is harm? It is a setback to our body, mind, time, property or reputation. It must be real *and measurable* (even mental harm such as post-traumatic stress disorder, must be objectively measurable in some way). Harm that can't be measured (e.g. measuring apparatus capable of detecting the harm might not yet exist) does not mean the is imaginary, but it does mean that it may not be practicable to consider such harm as part of a system of enforcement.

I've tried below to classify harm in a tabular form. Note that the following discussion is not a substitute for careful determination of harm in each case.

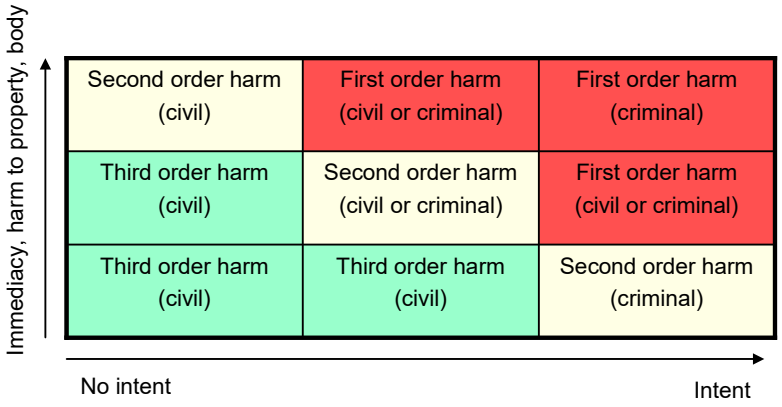

Figure DD: A classification of harm

A careful consideration of factors relevant to the determination of accountability can give us a reasonable basis for identifying harm (Table DD).

Table DD: The logic of harm

Type of harm	**Examples**
First order: *major harm to body including loss of freedom*	Murder, rape, terrorist bombing, kidnapping, slavery
Second order: *serious mental harm, minor bodily harm, major harm to property*	assault, theft, fraud, bullying/ mobbing, second hand smoke
Third order: ***un****intended harm to property or intended harm to reputation*	libel, torts, some externalities, some strategic behaviour

First order harm is significant physical harm that is intentional and quick acting. While intentional, it need not necessarily be directed at a *particular* individual. For example, a terrorist bomb causes first order harm even though it may not be intended for specific individuals. Common examples include murder, assault, robbery, and terrorist attacks. Terrorist destruction purely of buildings qualifies, as well. Major harm to property, such as an investment firm decamping with our lifelong savings, also qualifies. If someone destroys our employment prospects by falsely slandering us, that too qualifies as first order harm. The threat to cause first order harm is also first order harm – provided a real threat exists. So, it is first order harm to incite a mob to communal violence. Hitler may not have killed any Jew personally (with his own hands), but he was responsible for the death millions of Jews because of his incitement for such killings, and hence guilty of first order harm.

Second order harm is smaller in magnitude, and either unintentional or (if deliberate), it is slow-acting. Most commercial, economic or psychological harm falls in this category, including the stress from being belittled or bullied at the workplace, which causes bodily harm over the long haul, thus reducing longevity. Negative externalities are another example. The value of my property is adversely impacted if a garbage dump is built next to my house. My health outcomes could also be adversely affected from slow-acting pollutants. On the other

hand, if I choose to build my house next to an existing garbage dump, I can't then claim to have been harmed. Similarly, if I choose to smoke, I cannot then claim to have been harmed because I develop lung cancer.

Similarly, assuming that CO_2 pollutes (which I am simply not convinced about), Australia can't then say that its share of global carbon 'pollution' is only a small proportion of world pollution (being one of the highest per capita) and that therefore its level of pollution does not 'matter'. It then becomes incumbent on all nations, including Australia, to come together and hold themselves (jointly) to account. The cumulative harm caused by small acts can sometimes become excessively high. Hence, if CO_2 is proven to be a pollutant, even small damage may need to be addressed, perhaps through a generic Pigovian tax. Unfortunately, these taxes don't work across countries with foreign exchange rates that do not reflect market forces. In such a case, trading pollution within a fixed overall cap may be the better solution. As another (unrelated) example, note that suicide or self-harm often results in at least some second order harm to others.

Third order harm is a weaker version of second order harm. It can include temporary loss of sleep because someone has, say, attacked our beliefs in a book or through an object of art. For instance, if I am a Muslim, my sentiments may be deeply hurt by someone who writes critically about Islam. However, if that writing forms part of an analytical exposition, and is not, therefore, intended to harm me *in particular* (as a specific individual, then my claim for recompense becomes extremely weak, for the benefits of critical analysis to society far outweigh any perceived harm to sentiments (*cf.* J.S. Mill's arguments in his essay, *On Liberty*). Most alleged third order harm can't therefore be reasonably held to the test of accountability, and must be ignored.

Beyond these is an even fuzzier category, of fictitious harm – such as a claim for harm against someone who benefits us! This is not as ridiculous as it sounds. If OPEC raises oil prices, I will continue to drive to work *only* if the net benefit to me from doing so is greater than the net benefit from working at a place closer to home. In the latter case, I might either receive a lower salary, or have to pay a higher rent. Our voluntary choices to adjust so as to optimise our utility subject to our budget constraint, don't qualify as harm. Just because the previous net benefit has reduced (akin to a reduction in consumer surplus without impacting Pareto optimality), does not mean we have been harmed. When push comes to shove, we will start getting up early and walking to work. As a general rule, changes in the price level do not constitute harm. Price levels are therefore generally irrelevant to a discussion of harm (see Box GG). If someone can't afford to buy food, the social insurance scheme should take care of that. But no free society can try to 'protect' us against price movements.

Box GG

Why an increase in price doesn't qualify as a harm

Imagine that I am the owner of an oasis in a remote desert. Needing some money, I decide to sell the oasis water cheaply and encourage new residents. As a result, a healthy stream of migrants makes my oasis into a small town. But then I then become greedy and raise the water price tenfold. The question before us is this: In doing so have I harmed anyone? Have I exceeded the limits of my freedom?

A proper response to this question necessarily requires consideration of the detailed contract for the supply of water. If I had promised cheap water forever, then I have violated my contractual commitment and become liable to be sued (noting that raising the water price is not a criminal act, no matter how despicable it may be). But if I had not committed to such a thing, then (at least technically) I *am* entitled to set whatever price I choose.

There is a proviso, though. Even though I am free to raise water prices, it may not be appropriate for me to do so suddenly – for were I to do so, someone may die of thirst, not being able to purchase enough water (or, alternatively, die of hunger since his limited money is now spent on water). I can circumvent this issue by selling water cheaply for the first few litres to each consumer, thus ensuring their survival. But more generally, the principles of accountability would require me to give sufficient notice of the forthcoming price rise to allow competitors sufficient time to bring in new supplies of water though trucks or pipes, or to allow the residents to pack up their bags and leave (which would leave me with no one to sell to – and since I know this, I would be very foolish to raise the price of water indiscriminately: one must pluck feathers from the goose without killing it).

In sum, that someone possesses a monopoly over a scarce resource is *not* sufficient reason to claim to have been harmed, or – worse! – to argue for forcibly divesting that person of his property rights (note that in practice almost all monopolies are directly created or supported by the government).

Picasso, in his capacity as a monopolist producer of 'Picassos', used to charge an extremely high price for his paintings (which he churned out in great numbers). Should this mean that prices of paintings should be set by bureaucrats, as well? And what about the monopoly that someone enjoys by virtue of their beauty or brain power? Where is the theory of monopoly end, noting that the human mind is the ultimate resource, the ultimate 'property'? If we wish to abolish monopoly, we must abolish Edison and Einstein as well.

So-called 'market power' is not sufficient reason to interfere with people's freedom to set the price for their resources and outputs.

Considerations for determining accountability

The principles of accountability (what some would call the principles of justice) can now be discussed. These principles must be underpinned by propositions 1 and 2 – of life and liberty. The principles of accountability must allow people to maximise their freedoms within the guides to conduct or rules of the game established by the people themselves, noting that while '[t]he law is the expression of the general will' (Rousseau), it is crucial that this so-called 'general will' be prevented from overriding life and liberty. The social contract, being a meta-law, must therefore allow for judicial review to strike down laws that violate life and liberty without *exceptionally strong*, or (justifiable) temporary, reasons for such violation. (Exceptional cases might relate to defence or national security.) Else one fine day a Hitler will emerge, riding on the democratic machine, and kill off those he doesn't like. All laws must refer clearly to the primacy of the defence of our life and liberty in their statement of objectives or defer to these through an over-riding constitution. Thus, a law may well require (to protect life) food that is offered for sale to be free of disease-causing bacteria. Such a law would not need to prescribe how to achieve this goal of food safety, nor deprive anyone of their freedom to eat what they wish to eat. Thus, I would be free to *not* eat pork or beef, should eating these meats violate my religious or other beliefs, without interfering in the gastronomic choices of others.

In addition to aligning with the two basic principles – of life and liberty – legislators can seek, in determining the principles of accountability, guidance from a range of secondary sources, such as social norms, religious laws, moral philosophy, and science. There are, for instance, many widely accepted moral principles, such as the Golden Rule and the Categorical Imperative. In similar vein, the *Bhagavad Gita* talks about an ideal person as the 'one who does not hate any creature, who is friendly and compassionate, free from (the notion of) "I" and "my", even-minded in pain and pleasure, forgiving'[65]. But it is crucial that such secondary sources – moral or religious – are never allowed to become the *sole* determinants of accountability. Many assertions from these sources are not necessarily underpinned by a rigorous scientific analysis, such as analysis of human nature. Nor do these conclusions arise from a concern to maximise our freedoms. This does not mean that their conclusions are wrong. It is possible to use wrong methods to arrive at the right conclusion. Further, secondary sources may not address all (or even most) situations, but a legal framework must provide clarity in for almost all situations (that is why the laws of modern society can cover over 100,000 pages, while scriptures are disjointed, ambiguous, and much smaller). Most problematically, these secondary sources can give us dramatically different answers on a number of difficult issues (such as abortion). And while religious scriptures cannot be revised, understandings about accountability are constantly updated. Child marriage was quite acceptable across the world at one time, but no longer. Racist ideas and slavery were embedded in scriptures, but are no longer considered acceptable. Scriptures are fixed in stone, but laws must be flexible, being informed by improving scientific knowledge and moral analysis. Democratic laws-making processes must allow accountability to be amended, and made more precise, over time.

Three general matters

The level of accountability must be *proportionate* to the effects of an action. A murderer should be jailed for life or (legally) killed. A thief should be jailed for a duration related in some way to the magnitude of theft and to the way in which it was conducted. The broad principle of 'eye for an eye' (not in the literal sense! – for that would be particularly barbaric) can help determine the appropriate level of accountability.

[65] *Bhagvad Gita* 12:13, ttranslated by Ramanand Prasad of American Gita Society, 1988, [http://eawc.evansville.edu/anthology/gita.htm]

Second, the principles of accountability must *apply equally*. As Hayek pointed out (and as I will discuss in chapter 11), '[t]he great aim of the struggle for liberty has been equality before the law'.[66] The rule of law must prevail.

Third, the determination of accountability should be made by an institution closest to the action. The contractor who builds a small local road in our community should be held to account by the local government, even as accountability for a freeway is vested with the state government. This yields the well-known subsidiarity principle[67]. Similarly, judgements about complex accountabilities (such as a financial or computer-manufacturing contract) should be made by experts from that area, not by an elected councillor.

4.3.5 *Illustrations of accountability*

We can now examine how these principles apply through a few examples:

a) Stem cell research

Stem cells are obtained (among other methods) from excess embryos discarded during the *in vitro* fertilisation process. Does harvesting stem cells in this manner violate the accountabilities of scientists? To arrive at a considered view on this, note that stem cell research is life-enhancing, not life-denying. These embryos would have been discarded unsung, anyway: wasted entirely; but their cells can now benefit (or may benefit) real persons. Saving real lives at no *extra* loss of life is miraculous, so why would that be classified as harm? Instead, this is an affirmation of life, a validation of Proposition 1.

Further, if a scientist harvests a discarded embryo only with its mothers' prior permission, then clearly no one's liberty is violated. It would appear to me that should democratically elected representatives of a society legislate to prohibit stem cell research, courts will necessarily be obliged to throw out such legislation. Lawmakers have no authority to reduce anyone's freedoms without clear demonstration of harm.

b) Theft of small things

If I walk out from a shop without paying for bread I picked up from the shop, I would have committed a theft, unless I have done do so absentmindedly or in error (imagining, for instance, that my wife has already paid for it). A deliberate intent to steal would cause even this minor event to be treated as first-order harm, bordering on second order harm. The small magnitude of harm is not sufficient excuse. Accountability could well require a (short) jail term.

c) Perceived injury

Consider now the case where someone feels aggrieved because he thinks what I have written about his religion is inappropriate. Given, however, the absence of intent to include anyone, including this *specific* person, this is third order harm, if not purely imaginary. In response, the aggrieved person is entitled to prove through his writings that I have advocated a false position. He could (even) pillory my beliefs – potentially making me lose sleep! Debating the truth may change my opinion, and cause me to apologise if I find I've presented incorrect facts. An even better alternative would be for the aggrieved person to become more tolerant, for as the saying goes: 'Sticks and stones may break my bones but words will never hurt me'.

If, though, this person is deeply offended, he may well be entitled to sue me in a civil court and demand compensation. But for that he would have to prove *beyond reasonable doubt* that he or she has, directly because of the said offensive writing, been unable to (say) sleep for a night. A vague feeling of unrest because of the writing will not be sufficient. Voltaire is said to have stated: 'I disapprove of what you say, but I will defend to the death your right to say it'. Just because someone finds the criticism of their beliefs offensive, does not give that person a right to reduce my freedom of speech. J.S. Mill's arguments in *On Liberty* are particularly relevant here.

d) Smoking

It has by now proven conclusively that smoking is a major cause of lung cancer (and many other serious diseases). My review of research papers and government publications confirms that smoking kills, directly or indirectly, about a third of long-term smokers. The discussion below assumes that further research will continue

[66] Hayek in his 1960 *The Constitution of Liberty*.

[67] The principle of subsidiarity is that 'a central authority should have a subsidiary function, performing only those tasks which cannot be performed effectively at a more immediate or local level' (*Oxford English Dictionary*)

to re-confirm these findings (in science the 'truth' must be subject to ongoing study). The World Health Organisation is much against the use of tobacco that it argues:

> [T]obacco is a unique consumer product that could not be introduced into the market today under any known consumer regulations if it were not already established worldwide among a variety of substantially dependent populations. Products that prematurely end lives or lead to the death of the consumer when used as intended by the manufacturer have no place in a civilized society.[68]

Smoking cigarettes amounts to voluntarily imbibing poison and can be classified as slow-acting suicide. Despite this, people should be free to smoke as long as they take *full* responsibility for the harm they cause themselves and others. If they pay for their own treatment and not demand taxpayer support, we have less to object to this foul habit.

But even if smokers have provided for their own and their family's future, dying prematurely increases a range of risks to their family's well-being – risks that can't be reduced merely by throwing money at them. Smoking can thus lead to serious second-order harm. And cigarette butts containing toxins and fibres that harm wildlife, litter the environment.

What does this imply regarding the alleged 'right' of smokers to smoke in public places? Some people – advocates of unlimited liberty, presumably – object to 'the ... increasing scope of public places where smoking is being prohibited.'[69] But people can smoke only so long as they don't harm others.

But accountability can't be attributed precisely where a smoker causes only a small proportion of the harm. We don't know whose puff of second-hand smoke finally inflicted lung cancer which killed a particular restaurant worker. The cumulative (and random) nature of the effects of smoking makes it impossible to identify a *particular* smoker as a causal agent. The society is therefore left with no choice but to ban smoking in public places altogether, effectively treating *all* smokers as potential killers – of which there can be no doubt.

It would even be reasonable for society (given the evidence) to ban smoking altogether and to destroy all tobacco crops. Such bans, however, no matter how justifiable, are not operationally feasible and will create many unintended consequences. It is far better in this case to allow the sale of tobacco and controlled circumstances, and to educate the people.

e) Riding a motorcycle without helmet

In May 1978, Milton Friedman wrote in favour of the 'freedom' **of motorcycle riders to ride without a helmet**, thus:

> I had a debate ... with the great saint of the US consumer. Ralph Nader. I posed the question of state laws requiring people who ride motorcycles to wear helmets ... That law is the best litmus paper to distinguish true believers in individualism ... because the person riding the motor cycle is risking only his own life. He may be a fool to drive the motorcycle without a helmet, but part of freedom ... is the freedom to be a fool.[70]

In my view, with due respect to Friedman with whom I agree on almost everything, this statement disregards the idea of accountability, thus undermining freedom. A motor-cycle rider who refuses to wear a helmet is free to be a fool, but only at his own expense. He can't harm others through foolhardy excesses of freedom. If there is one person in the world – this motorcyclist alone – we could agree with Friedman. But the fact is that such a motorcyclist could well end up imposing real, irrevocable harm:

a) ***Psychological***. When a motorcyclist without helmet comes screeching into my car's path and splatters his brain on my car's windscreen, not merely committing hara-kiri in his folly but causing me significant grief and loss of sleep as I re-live this nightmarish experience, then his freedom to be a fool conflicts with my freedom to live without such trauma. The grief of his family and friends is even greater.

b) ***Financial.*** No fool has the right to waste my precious time [life=time] in explaining to the cops that I was an innocent. These fools also have no right to make me pay to get their brains hosed off my car. (I'm not counting the time I'll have to waste to get my insurance company to fix the damage to my car, because even if they use a helmet some such waste will be prompted). Diverting my time unnecessarily

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[68] World Health Organisation, *The Scientific Basis of Tobacco Product Regulation*, WHO Technical Report Series 945, 2007, p.14.

[69] Mitra, Barun 'Smoking Freedom: The smoke alarm's jammed', Delhi edition of *Hindustan Times*, 1 June 2006.

[70] In 'Which Way for Capitalism?'

> diminishes my life. Things are perhaps worse. It is certain that not all such dead fools would have *fully* insured themselves, thus potentially plunging their families into poverty. This might end up requiring me – an ordinary taxpayer – to support their families. And if these fools do not die but are disabled, they may become a lifelong burden on society.

In brief, people are welcome to be fools – but on their private planet, or at least private backyard. I must therefore disagree with Friedman on this matter. In particular, it has now been conclusively proven that using a helmet significantly reduces head injuries. The free society must therefore *compel* all motorcyclists to wear a helmet. This coercion balances their individual freedom with the freedom of others.

4.4 Proposition 4. To defend our life and liberty we first need a collective fortress

We are not rhinos that prefer a solitary existence except when mating. Instead, we are a social animal, with strong need of companionship and relationships. We live with our mates and children in a family unit. We work co-operatively with others on common projects, we meet others over a business lunch to foster commercial relationships; we come together just to laugh or cry.

But social existence is not easy. Strife is rife. Might is right. In the state of nature nothing is forbidden, whether 'good' or 'evil' (such concepts being meaningless in that state). Biologically, Nature doesn't care if a baby is born out of incest, nor whether we murder our neighbour in a fit of rage. The laws of nature are purely amoral. Energy *is*. It doesn't have a reason. Species evolve to the extent their members adapt, else they die. No tears shed. In the state of nature it is certain that someone will, sooner or later, assault us or try to grab our property. That will leave us with no choice but to retaliate, leading to incessant warfare both across, and within tribes. No one will then find time or energy to study Nature, to sit back and think. And as a result, we will remain ignorant, helpless and poor; and almost certainly die young. Human history, particularly without the state, is a saga of rape, pillage, war, killings, disease, and agony. We must agree with Thomas Hobbes who wrote:

> Whatsoever therefore is consequent to a time of Warre [war], where every man is Enemy to every man; the same is consequent to the time, wherein men live without other security, than what their own strength, and their own invention shall furnish them withall. In such 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 the 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, continuall feare [continual fear], and danger of violent death; And the life of man, solitary, poore [poor], nasty, brutish, and short.[71]

In the state of nature, our greatest gift – our potential for rational thought – will remain under-utilised. The free society, with its enormous potential for prosperity, comes into being only after mindless barbarism is first overcome. Freedom can only begin in earnest when assaults – by external groups and within our own group – are brought under control.

The first step, though, is to stop other tribes or groups from attacking us. It is inevitable that a free tribe which consequently experiences peace and prosperity will attract envious interest. Therefore, the free tribe must build a fortress from inside which it can mount a collective defence with the help of well-trained, well-armed fighters. In general, though, a small tribe or nation won't have the wherewithal to defend itself from strong invaders, and must therefore either build alliances (to the extent these are trustworthy) or merge with other similar territories. Weakness in matters as basic as defence is guaranteed to destroy the possibility of freedom.

While it is possible to subsume this idea of a fortress or territory into the broader concept of a social contract, I prefer to separate them (propositions 4 *and* 5). That way, I hope to emphasise the point that a social contract is meaningless without strong defence. Secure territory is a pre-requisite to our life and liberty. As we noted earlier, Nozick argued that private libertarian protection associations would naturally arise to ensure our defence, but I suggest that such expectation is implausible. There was perhaps never a libertarian protection association in human history. Instead, each tribe defended its territory. This was involved, almost instinctive, hence universal. The rational, self-consciousness social contract comes in later. Defence of territory through the tribe is almost ingrained into our DNA so we don't even think about it for most of the time.

[71] Chapter 13 of *Leviathan*

4.4.1 *Our primary obligation – towards group self-defence*

If we want to live in a free society then its defence becomes our primary shared responsibility. Conscription does not, therefore, violate the principles of freedom. Instead, if an able-bodied person refuses to participate in a defensive war when called upon to do so, then such person's imagined freedoms can be revoked. There are simply no innate 'rights' to free-ride on others' blood, no license to enjoy the benefits of freedom without paying its costs. Moreover, the priority of proposition 4 over proposition 5 means that if our nation is attacked by foreigners then our freedoms may need to be appropriately reduced so as to secure the national defence, first.

4.4.2 *Relations with other nations*

There are no hard and fast rules regarding our relationships with other societies and nations. However, the defence of national self-interest cannot motivate any (even temporary) reduction in our liberties, but does take precedence over many other interests, and requires the exercise of considerable prudence. In other words, it is in appropriate for a nation to sacrifice its interests in the interest of other peoples. As Morgenthau noted:

> Both individual and state must judge political action by universal moral principles, such as that of liberty. Yet while the individual has a moral right to sacrifice himself in defense of such a moral principle, the state has no right to let its moral disapprobation of the infringement of liberty get in the way of successful political action, itself inspired by the moral principle of national survival. There can be no political morality without prudence; that is, without consideration of the political consequences of seemingly moral action.[72]

It is possible to form alliances – including customs (or even monetary) unions – with similar, freedom-loving nations. But we can't let down our guard even then. Nor must we interfere without strong reasons that support the national interest, in the affairs of other nations. A nation can choose to promote freedom and democracy in other nations by supporting their votaries of freedom, but in doing so it should never expose its own citizens to undue risk. By the same token, though, if a force that can potentially threaten our liberties is growing strong in another nation (like Hitler's rise, perhaps), then pre-emptive action is perfectly warranted. Territorial boundaries must be respected, but our life and liberty are far more important than such technicalities. Decisions in such matters will need to strike an appropriate balance and pre-emptive destruction of foreign aggressors should always remain an option.

4.5 Proposition 5. Within the fortress operates the modern (strategic) social contract

This proposition can only be understood from the perspective of strategic behaviour (even proposition 4 is basically strategic) – being based on a dense network of reaction functions, best seen as a 'balance of powers' equilibrium. This involves maximising long term net benefits, not just immediate net benefits. In particular, this arrangement takes into account a very long-term assessment of possibilities, including in relation to our progeny. Theoretically we are taking account of *all* current and future reaction functions.

Robert Dahl uses the interaction of three criteria: personal choice, competence and economy, to arrive at the simple strategic model of the social contract.[73] I like to see it as more complex, involving a combination of these three and many other criteria. Everyone is entitled to their own criteria. The key is that most people arrive at a similar understanding of what their society's governance looks like. I'm not suggesting for a moment that there is a unique 'solution' to this problem that only I have arrived at. Instead, I use historical evolutionary pathways of societies to deduce certain suggested conclusions, as well as broad theoretical considerations, to suggest a possible optimal social contract, always to be recognised as merely one out of many possible alternatives.

There can theoretically be a minimal social contract – of the fortress – with only self-regulatory processes within the society. In this case the government performs only one role – of defence. Under such minimal conditions, voluntary associations and guilds (even castes) tend to evolve so as to be able to pass on useful information about their members to others, and to weed out undesirable elements. But such self-regulation work very well. There are always those who don't uphold their accountabilities, and even attack others; or steal. There are always those who – armed with guns, knives, poisonous arrows or spears – lurk in shadowy alleys, waiting to enslave or

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[72] Morgenthau, Hans J., and Kenneth W. Thompson, *Politics among Nations: The Struggle for Power and Peace*, New Delhi: Kalyani Publishers, 1985, p.12.

[73] Dahl, Robert A. *After the Revolution?* New Haven: Yale University Press, 1970 pp.8-56.

strangle us. Members of tribal groups that formed purely to defend themselves would have found it to be in their strategic self-interest to ensure some form of justice within the tribe. Other paraphernalia, such as common infrastructure – a common village road or water supply – would also have evolved as a collective solution. Out of originally self-regulatory, but unreliable systems (not anarchy, however) has arisen the well-regulated modern society.

The first to fill the gap was religion which spoke confidently (but usually without basis) about morality and justice. Hypotheses like *karma theory,* heaven and hell, and the Last Judgment Day supported the notion of accountability that was managed by an unseen but seemingly powerful, often suspicious and vengeful divinity. We were told that accounts would ultimately be settled in the court of this divinity – after our death. In Hinduism, every micro-deed is claimed to have a consequence:

> [E]very deed that we do leads to a double result. It not only produces what may be termed as its direct result (*phala*) - the pain or pleasure following from it according to the *karma* theory, but it also establishes in us a tendency to repeat the same deed in the future. This tendency is termed *samskara.* … There is nothing in the doctrine which either eliminates responsibility or invalidates self effort.[74]

Such models of justice are plausible on the surface but what they do is to pass on responsibility for justice onto a *Supernatural Account Keeper* (God), thus making justice impossible to achieve in our lifetime, and indeed, opaque, not subject to a public inquiry. We can't be sure that justice will be done. If our family member has been criminally assaulted, or our irreplaceable belongings stolen we can't be sure about the outcomes. But we do need justice in our lifetime! We can't wait for it till we are dead and gone. No man in his right senses will therefore rely on religion for justice.

In real life, justice can be delivered in many different ways by different providers. Contracts for mobile phones are structured a variety of ways; so also, social 'contracts' that provide security and justice (and frills like infrastructure) can differ in cost and coverage. The concept of 'design' in this case may not necessarily refer to deliberate design, and can refer to the natural evolution of institutions and norms. Such institutions arise, as David Hume pointed out, and Hayek emphasised, spontaneously: a spontaneity underpinned by strategic behaviour and rationality.

Which of the set of social contracts is 'optimal' from the perspective of freedom? Let's assume first, along with Rawls, that members of the pre-contractarian tribe are predominantly rational:

> Imagine … that the persons in this society are rational: they know their own interests more or less accurately; they are capable of tracing out the likely consequences of adopting one practice rather than another and of adhering to a decision once made; they can resist present temptations and attractions of immediate gain; and the knowledge, or the perception, of the difference between their condition and that of others is not, in itself, a source of great dissatisfaction.[75]

Being boundedly rational, we don't expect anyone to think through to a perfectly optimal social contract. Real-life social contracts have therefore evolved through iterative improvements and can never be perfected. We do know, for sure, that tribal chieftains (or kings) emerged *universally* from primitive hunter-gatherer groups once mankind settled into agriculture. The entire mankind evolved similar social organisation, where someone (the king) had the authority to dispense justice.

This strategic agreement to a hierarchical governance organisation found in *all* societies, regardless of their development level, can be seen as a Nash equilibrium; at least temporarily sustainable. Arguably fragile, this balances everyone's self-interest in a dynamic, repeated non-zero sum game with incomplete information and uncertain payoffs (Box EE), based on a web of reaction functions. It is a *repeated* game because in a closed society (the entire world is almost a closed society today, with globalisation) people interact repeatedly with each other, and in determining their strategies, take into account others' strategies. It is a *non-zero sum* game because the outcomes from cooperative synergies engendered by such a contract are preferable to leading an isolated, brutish life. It is evolutionary in the sense that solutions that best protects life and liberty will tend to dominate those that do not. '[T]he numbers kept alive by differing systems of rules decide which system will dominate'[76] (Hayek).

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[74] Hiriyanna, M., *Outlines of Indian Philosophy,* George Allen and Unwin Ltd., 1932 [1976]. p.129.

[75] John Rawls (1957). 'Justice as Fairness', in *The Journal of Philosophy*, 54(22). p.655.

[76] Hayek, F.A., *The Fatal Conceit: The Errors of Socialism*, Chicago: University of Chicago Press, 1988/1991, p.130.

A good example of the equilibrium is the contract implicit in property rights. As Hernando do Soto noted: 'Remember, it is not your own mind that gives you certain exclusive rights over a specific asset, but other minds thinking about your rights in the same way you do.'[77] (The same thing holds for paper money: there must be implicit agreement and mutual recognition, else no one will accept a mere piece of paper in lieu of a real asset. This also shows that social contracts can be a temporary convenience: just as paper currency, when debased becomes worthless, so also social contracts where minimum expectations are not fulfilled are quickly dishonoured.)

Box EE

The concept of Nash equilibrium

The idea of Nash equilibrium won John Nash the Swedish central bank's Prize in memory of Alfred Nobel (not technically a 'Nobel prize'). This idea is very simple, based on strategic anticipation and reaction. A chess player must anticipate his opponent's future moves in response to his own moves. Similarly, we anticipate others' reactions to our actions (or inactions) in all our interactions. This anticipatory knowledge (howsoever incomplete, imperfect and uncertain) of others' action-reaction possibilities helps us to choose our preferred (optimal) strategies.

The set of everyone's current and future strategies about an action (or inaction) with social impacts can be said to be in Nash equilibrium if no one has any incentive to alter his or her strategy. If it is worthwhile to change one's strategy, then Nash equilibrium has not been achieved. (Robert Gibbon's book, *Game Theory for Applied Economists,* Princeton: Princeton University Press, 1992, provides a good introduction to game theory.)

The idea of Nash equilibrium is often illustrated by the Prisoner's Dilemma. In this 'game', two persons suspected of collaborating in theft are arrested and put into separate prison cells. The police don't have all the evidence they need, and require confessions to convict in court.

> So the police offer to them separately the following deal: Each is asked to implicate her partner. If each implicates the other, then each goes to jail for a while. If one implicates the other but it not implicated, the first gets off (and gets a greater share of the loot), while the one implicated goes to jail for a longer period of time.[78]

Each prisoner now suspects that the other will testify against her in order to get out of prison. Both prisoners therefore betray (i.e. implicate) each other, ending up with the worst outcome (for them, not society!). Betrayal is the only optimal strategy for both prisoners, and thus constitutes the Nash equilibrium. Note the implication, that the social contract is not guaranteed to yield the best outcome for society, particularly in any moral sense, but it is selected by society, nevertheless.

There is a somewhat related concept – of *competitive general equilibrium* – that represents the point of balance between the competing forces of supply and demand across all markets. This concept is similar in some ways to the Nash equilibrium, being, as Hayek describes it, part of the 'extended order' of which no one knows the beginning or end. The price vector that equilibrates demands and supplies can be thought of as a Nash equilibrium of strategies (choices) *at the instant of trade*. This concept, however, fails to directly account for strategic behaviour, and is unsuitable for depicting the social contract, which is a 'meta' equilibrium that evolves and changes.

Aware (even if imperfectly) of the interests of *all* others, and anticipating their responses despite the uncertainties involved, people in the free society agree to the social contract that seemingly represents their preferred strategies. When everyone agrees (implicitly or explicitly) to a social contract, it is in Nash equilibrium. This Nash equilibrium inevitably includes an off-equilibrium threat (Damocles sword) of reversion to the state of nature in which everyone's payoffs could well reduce significantly, should minimum expectations not be fulfilled. Even cheaters and looters don't like being killed through uncontrolled retaliation, and would prefer an objective justice system.

No social contract can persist without a credible threat of enforcement. If detection of crime and enforcement of punishment are weak, then plunder becomes attractive and the contract will be laid waste. Deterrence, preferably

[77] de Soto, Herndando, *The Mystery of Capital*, Bantam Press, London, 2000, p. 160.

[78] This game has many versions. This version is from David M. Kreps, *A Course in Microeconomic Theory*, New Delhi: Prentice-Hall of India, 1992, p. 503-4.

on 'tit for tat' basis (proportionate and directly related to the quantum of offence) is necessary for a sustainable, cooperative social order.[79] (Punishment is not the only way to achieve deterrence: socially embarrassing options can be used, as well[80].) Where detection is particularly difficult or expensive, disproportionately high penalties could be justified so as to – on average – achieve proportionality of punishment with the crime. Alternatively certain actions could be entirely forbidden.

By now it should be clear that a formal (written) social contract is just one possible Nash equilibrium. More generally, the social contract is a *generally agreed* process or institutional structure that secures – jointly – the defence of our life and liberty within the fortress. Most historical social contracts were implicit contracts. Written constitutions are only a recent phenomenon, often not worth the paper they are written on (as can be said of the constitutions of many African and Middle-Eastern 'nations').

Social contracts can never be stable in the long run because of their underlying complexity and dynamics. Our ignorance about the true impact of the contractual conditions on our lives can only be resolved over the course of time, as people's strategies are revealed, based on contract incentives. A social contract might look fine on the surface, but the society might get overwhelmed by corrupt, violent forces because of distorted incentives that operate at the detailed level. Since no one can anticipate all consequences of a social contract, there will arise the need to readjust the contract. Such contracts must therefore have a sunset clause, automatically expiring every 30 years. New generations must have the opportunity to redesign their social contract, else things could become so bad that one day people may simply walk away.

The real issue before us is of contract design, fully aware that our design will always be imperfect, its consequences informing further change. To minimise the likelihood of designing an ineffective contract, we must firmly ground it in an understanding of human nature – such as our moral sense and altruistic tendencies but also the human tendency to be opportunistic, and the risk of rebellion should equal opportunity not be fostered. It will also need to be aware of the natural inclination of politicians to throw largesse at voters, and build institutional checks and balances to minimise this tendency. Only when the assumptions underpinning the contract are compatible with actual human behaviour, can the contract work tolerably well. This is where liberal democracy succeeds and other models fail. Pure (not constitutional) monarchies assume that kings are perfect, while religious theocracies ask that people be perfect (even as priests might engage in questionable behaviour). Liberal democratic republics, on the other hand, do not exhort, but build checks and balances to avoid the excesses of human nature (Figure WW).

The liberal democratic contract produces larger, healthier, and wealthier populations. Competition through market forces fosters innovation and gives them an economic advantage over others. Since success tends to crowd out failure, people across the world are increasingly indicating a preference for liberal democratic republics. This form of social contract has therefore been spreading faster than others, and may well replace these other forms.

[79] Robert Axelrod (1984). *The Evolution of Cooperation.*

[80] Gigerenzer, Gerd, *Gut Feelings*, London: Penguin, 2007, p.223.

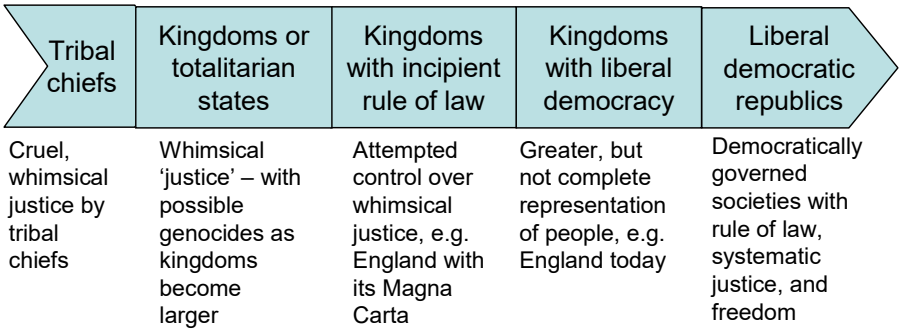

Figure WW. The evolving human social contract

The liberal democratic social contract enables the rules of accountability and methods of enforcement to be determined through consent. Democratic decision-making must be compatible with the principle of subsidiarity – with decisions taken by the level of government proximal to the geography or technology of the decision. Citizens are thus more likely to abide even by rules they may personally disagree with. Citizens also get some comfort from the fact that they retain the option of democratically altering the laws, should such a change be important to them. Such social contracts are more legitimate, hence durable.

As noted earlier, checks and balances are built into the institutions of government to minimise the possibility of misuse of power. Systems are designed to detect the violations of accountability (if any) and ensure that such gaps in accountability are addressed. Further, the free society social contract recognises specific freedoms, such as freedom to ply a legally acceptable trade (occupation), belief (religious and political), association (including non-violent protest), as well as the preservation of property rights. Finally, the contract includes a process for collecting agreed level of taxes. I will discuss some of these institutions later in this book.

Thinking about the social contract as Nash equilibrium is a relatively new advance (I discovered recent academic work in this area[81] after conceptualising of social contracts this manner). I suspect that it is going to be hard to build the different social contracts experienced, given the seeming collective irrationality that plagues most of them, despite almost certainly being individually rational. Till such models are created, we must think about this contract more broadly. In Box KK I have hinted at a crude expression (not model) of one such contract. The mathematics is just a more precise way of saying: 'Do unto others as you would have them do unto you'. (You can skip the mathematical expressions in without any loss of understanding.)

Box KK

One possible social contract

Consider n citizens who live inside a fortress at time T_0. Based on human nature, the off-equilibrium threat of reversion to the state of nature, and anticipations about others' reactions (perfect information and foresight is not necessary, just a modestly rational anticipation), each citizen picks a strategy that, taken together with other citizens' the strategies, leads to a Nash-type equilibrium. (Note that this radically differs from Rawls's experiment because this represents a real-life, strategic contest, the outcomes of which are based on choices of people.)

The equilibrium necessarily includes a perfect enforcer with (as a first step in conceptualisation) zero enforcement costs: the perfect enforcer basically eliminates the transaction costs of justice. Everyone's freedom can therefore be maximised subject to everyone being held to account. One of many possible equilibria is depicted below. We can later, to make this depiction more realistic, add the transaction costs of justice.

The social contract for a closed economy free society is the set of strategies that ensures the following:

$$\left[\max\left\{f_{1k}(x_{1k},o_{1k})_{k=1}^{m}\right\},\max\left\{f_{2k}(x_{2k},o_{2k})_{k=1}^{m}\right\},...,\max\left\{f_{nk}(x_{nk},o_{nk})_{k=1}^{m}\right\}\right]_t$$

[81] E.g. Skyrms, Brian, *Evolution of the Social Contract*. Cambridge University Press: 1996, and Binmore, K. G., *Game Theory and the Social Contract: Playing Fair. Vol. 2*. MIT Press, 1998.

subject to $f_{1k}(\bar{x}_{1k}) = \left(\bar{a}_{i1} + \bar{a}_{i2} + ... + \bar{a}_{ij}\right)\Big|_{i=1}^{N}\Big|_{j=1}^{N}\Big|_{k}$ and $o_{ik} \geq \overline{O_k}$, where

- $\overline{O_k}\Big|_{k=1}^{M}$ is the set of social minima for action *k*, with $\overline{O_k} \in (0, \infty)$, noting that the society is *not* obliged to provide an opportunity > 0 to everyone for each type of action. For instance, it is neither feasible (except through genetic manipulation) nor desirable, to provide everyone with a minimum level of talent in painting or singing (and who are we to 'provide' such things anyway?). And while most social minima are bounded above, some are unbounded, for instance, everyone is entitled to as much air as they need;
- $f_{ik}(x_{ik}, o_{ik})$ is the freedom function, where x_{ik} is a vector of the level and frequency of actions chosen by (individual) i for action *k*, and o_{ik} is the vector of opportunities available to i;
- $\bar{a}_{i1}(f_1(x_{1k}), r_1(x_{1k}))$ is the vector of *actual* (not imagined) accountabilities (positive and negative) of individual i towards individual 1 upon i's undertaking action x_{1k}. This accountability is a function both of the action x and the reaction (*r*) to action *x* of the individual towards whom the accountability is created. By reaction I mean not only reaction functions but real or perceived consequences. In this formulation, we are accountable to everyone in our society for *all* consequences attributable by others to us. Of course, most are null accountabilities (being in some cases responsibilities without social import). But theoretically, even the smallest accountability can be potentially realised.

This expression encompasses *all* negative externalities, no matter how small. We noted earlier that where individually small (but cumulatively large) accountabilities are generated by individuals who are not easily identified, towards others who similarly cannot also be identified, the state may need to aggregate these accountabilities and (potentially) discharge them centrally. This social contract permits the enforcer to aggregate such accountabilities so that everyone's freedom is well balanced.

***Extension*: Social contract in the open economy**

No society is an island in itself. Open economies maintain at least some relationship with others, primarily related to trade. Each of the *N* people on Earth can then be potentially accountable towards the remaining (*N*-1) people. Of course, enforcement mechanisms in such cases would be considerably weaker, leading potentially to unsustainable outcomes. In particular, enforcing accountability for negative externalities will become very hard. On the other hand, institutions (e.g. banks) have arisen primarily to mitigate at least some of the problems of accountability e.g. letters of credit.

***Extension*: Social contract with animal 'rights'**

The ecology of the Earth comprises many interdependent species. In general, ensuring the survival of all forms of life on earth is one of the best ways to ensure the survival of our own species. The health of animals or wildlife is often an indicator of our own health (e.g. canaries were used in mines to confirm the health of a mine). Scientists regularly find new health-related uses of products made from plants and animals. Necessity, good sense, self-interest and ethical analysis calls upon us to widen the social contract to include other life forms. We can use the equations outlined above by creating uni-directional (i.e. paternalistic) accountabilities towards animals in the social contract that require us to live in harmony with animals, restoring to them a modest approximation of their natural habitat. That such an extension would generally require collective action implies that this would be subject to the case for such restoration being made, and the community voting to agree.

Refinements of the compact

We can now add elements that better mimic reality. More importantly, we can introduce uncertainty and dynamic change. People's strategies would then change as uncertainty is incrementally resolved. The Nash equilibrium would update itself continuously, but also become potentially more unstable, unless the initial social contract provided for mechanisms to minimise the negative effects of such change. One can then add an overlay of opportunism to better mimic real life, as well as evolutionary fitness requirements, and others. Almost certainly, a comprehensive model of the social contract is going to be intractable. Because of the complexities involved, it is evident that people engage in satisficing in relation to the society in which they choose to live. Being risk averse,

they pick conservative strategies that are most likely to minimise adverse incidents, not aspiring for the more desirable but riskier options such as libertarian anarchy.

It is crucial to note that just as the chess player does not need to understand the underlying mathematics of their move, nor billiards players the underlying physics of their game, so also people have no need to understand the mathematical representation of their strategies. It is also clear that a wide variety of social contracts can be tested through strategic interaction before the more stable Nash equilibrium is discovered. It would appear to me that the components of a more stable Nash equilibrium would include liberty, justice, property rights, democracy, and the minimal social insurance programme: the typical classical liberal model of the state.

A mere mortal with limited time and capacity to dabble in everything, no matter how much I'd like to, let me leave this discussion at this point. My goal was to try to represent more precisely something that is otherwise readily understood through the 'instinctive' processes of our brain.

Does the contract outlined above (Box KK) make any real sense? Consider an example. Assume that *A* has a fast car and knows about the consequences of speeding. These two constitute his opportunity set. *A* wants to drive his car beyond the prescribed speed limit in a busy street (public road) to show off his 'manliness' to his girlfriend. He will also get a sense of exhilaration, regardless of what his girlfriend thinks. Note that the social contract in Box KK does not *physically* prevent *A* from speeding, particularly as this is his first time. It allows *A* to experience exhilaration and risk killing others for the cost of a speeding ticket, or cooling his heels in prison for manslaughter (whichever is applicable). The optimal freedom that *A* would choose, given this information, is to drive within the speed limit. Doing so would reduce potential harm and balance his freedoms and accountabilities with those of others in society.

A poor man *B* will be to able to ride his bicycle on the same street as *A*. Both will get equal access to public roads – but since the poor man doesn't own a car, his opportunity set won't include the option of seeking exhilaration through speeding. This social contract doesn't oblige taxpayers to give a fast car to *B*. It does not require equality of talents, equality of outcomes, or equality of *all* opportunity. It only requires equal treatment of all, and the social minima through social insurance – something that we should now explore in more detail.

4.5.1 *Reasonable equal opportunity and the social minimum*

'Probably nothing has done so much harm to the liberal cause as the wooden insistence of some liberals on certain rough rules of thumb, above all the principle of laissez faire.' – F.A. Hayek, in *The Road to Serfdom.*

Box KK noted the concept of social minimum, ($\overline{O}_k$), or reasonable equality of opportunity. Why this contractual condition? How can taking money from the 'rich' taxpayer to feed the poor and educate their children, or to build a road that the poor person (who did not pay taxes) can use, be justified? Isn't this redistribution, and if so, wouldn't this take us straight down the path of socialism?

Classical liberal views

F.A. Hayek (among other like-minded liberal philosophers) observed that '[t]here can be no doubt that some minimum of food, shelter and clothing, sufficient to preserve health and capacity for work, can be assured to everybody' (*The Road to Serfdom*). Further, in his 1973 Wincott Memorial Lecture[82] he wrote: 'We can of course in a free society provide a floor below which nobody need fall, by providing outside the market for all some insurance against misfortune.'

Von Mises similarly noted, while arguing against claims that social policy should aim for happiness, that 'All that social policy can do is to remove the outer causes of pain and suffering; it can further [advance] a system that feeds the hungry, clothes the naked, and houses the homeless.'[83] Milton Friedman proposed a negative income tax system to deliver equality of opportunity.[84]

[82] 'Economic Freedom and Representative Government', 31 October 1973, London: IEA, p. 17 [http://www.wincott.co.uk/main.htm]

[83] Von Mises, Ludwig, 'Liberalism in the Classical Tradition', translated by Ralph Raico, 3 ed. Irvington on Hudson, NY, 1985, S1-5, 713, from the copy published in the proceedings of the Convention on Liberal Values, January 1996, Friedrich-Naumann-Stiftung, New Delhi, p.107.

[84] Milton Friedman, *Capitalism and Freedom*, Chicago: University of Chicago Press, 1982 [1962]. p. 192.

Note that John Locke had argued that '[m]en, being once born, have a right to their Preservation, and consequently to Meat and Drink, and such other things, as Nature affords for their subsistence.'[85] This statement verges into the dangerous territory of positive liberty but it can be reasonably constrained if it is considered to be a social minimum; Locke insisted that '**everyone** must have meat, drink, clothing, and firing'[86]. Locke also argued that **property rights can be over-ruled under conditions of extreme want**: '[C]harity gives every man a **title to so much out of another's plenty as will keep him from extreme want**, where he has no means to subsist otherwise'.[87] This is, however, true only in the sense that the starving man has no choice but to get food by *any* means – fair or foul; being an amoral action not comparable with theft. At that stage we become a pure animal.

But where do such claims about the social minimum or 'title to our plenty' come from? Would not this distort our liberties? Some reasons are examined below.

1) The starving man obeys no laws

Should we be left 'free' to starve when – despite our best efforts – unavoidable reasons cause us to slip into poverty, then the social contract become a worthless piece of paper: it is not enough to only be protected from assault by ruffians. If the social contract permits starvation, then our amoral animal powers to defend our existence are invoked. What is typically called crime could then increase steeply, as the starving man cares for no law but the laws of nature. His stomach and starving children can lead to all actions. Nothing is secure any longer.

If for nothing else but to permit civilised discourse and general protection of property, a social minimum is called for.

2) Empathy for the poor

That a fellow citizen should die of starvation affects our happiness but the poor have no *right* to our charity[88]. And while we may privately choose to support the poor through charity, we resist the idea of compulsory charity through the tax system. In any event, it is inappropriate for a society to assume that *all* taxpayers will voluntarily pay taxes for the welfare of others.

But on the other hand, we also know that private charity has never succeeded in sheltering everyone who may be in desperate need. In other words, although empathy is not good grounds for a social minimum, we look for a rational system that will not be entirely incompatible with our empathies.

3) Prospects of self-reliance

One relatively better argument is that of Dennis Mithaug, according to whom equal opportunity does not mean that 'everyone deserves an equal starting point'. It means, instead, that there must be a '*reasonably favourable match* between their capacity and their social opportunities'[89] [italics in the original]. Mithaug demonstrates that Rawls's difference principle '*decreases* prospects for self-determination because it increases dependence on social and economic benefits that are provided *independently* of individual needs' [italics in the original].[90] The point here is that self-reliance is the key virtue and we must reject stage charity as a political principle. He shows how the provision of equality of opportunity through education strongly impacts our prospects for self-determination. Public education is therefore validated. This interpretation, however, veers steeply towards positive liberty. We must seek stronger arguments – that align social insurance with self-interest.

4) Positive externalities

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[85] Second Treatise, chap.5, sec.25

[86] Locke's paper on poor law, cited in Jeremy Waldron, 'Nozick and Locke: Filling the Space of Rights', [http://journals.cambridge.org/article_S026505250504104X], p.96.

[87] John Locke (1690) *Two Treatises of Government*, 1690. Para 42, Chapter V. [http://socserv2.mcmaster.ca/~econ/ugcm/3ll3/locke/government.pdf]

[88] Chistopher John Nock, 'Equal Freedom and Unequal Property: A Critique of Nozick's Libertarian Case' in Canadian Journal of Political Science, Vol. 25 (4), Dec. 1992, p. 681.

[89] Mithaug, Dennis E., *Equal Opportunity Theory*, Thousand Oaks: Sage Publications, 1996, p.201.

[90] Mithaug, Dennis E., *Equal Opportunity Theory*, Thousand Oaks: Sage Publications, 1996, p.28.

There does exist at least one self-interested, rational reason for to voluntarily contribute towards the basic education of *all* children – the prospect of gaining from such contribution, through the many positive externalities of good education. Genius lurks hidden, among poor children, like unpolished gems strewn about in mud. By educating them, we end up doing ourselves a favour. Through this, we not only find ourselves an uninterrupted supply of good soldiers and policemen to fight our battles and die for us, but also public servants, shopkeepers, and teachers to perform some of the more routine, even boring jobs that every society must necessarily generate. If we are fortunate, some of these children will grow up into Einsteins or Edisons, their brilliance providing even us and our children with jobs and new opportunities. In general, the more educated the people around us are, the brighter own prospects become, and those of our children. This self-interested argument can persuade those of us who are not swayed by anything but self-interest, narrowly defined.

5) Our inability to eliminate all sources of disutility

In a society we can't eliminate things that give us disutility. A disabled child's parents are not free to kill that child because the costs imposed on them exceed the benefits that parents derive from that child. If the society can thus prevent such free choice (including suicide as the 'solution' to chronic poverty) then it must help out those who come under a significant duress because of such unavoidable reasons. That is one more reason for having a social minimum. Either we should be left free to kill ourselves and our children whenever our expected utility becomes negative, or – if we are not so free, then the society *must* sustain us through such distress.

6) Stability of the social contract

This is perhaps the strongest reason of all, although it requires a deeper level of anticipation of others reactions, including some strategic foresight. Our allegiance towards our country weakens if a modicum of equal opportunity is not ensured. The only reason the poor will come forward as soldiers to protect their well-off brethren is when the well-off are think about the minimum needs of the poor. The poor soldier's life is not so cheap that he will give it away despite callous this regard for his fellow citizens by the well-off.

Despite strong differences with Rawls I agree with him that 'one must take into account the problem of stability. A just system must generate its own support. This means that it must be arranged so as to bring about in it members … an effective desire to act in accordance with its rules'[91]. This is an extremely subtle and strategic principle, and the society that fails to abide by its mandate will face great turbulence.

Revolution is always lurking below the surface. Even George Washington was compelled to let illegal squatters settle on his estate because he realised, as his lawyer rightly advised him, that if he physically ejected them, they 'would probably burn his barns and fences'. This is not as far-fetched as it sounds. In an incident in the USA in around 1800, illegal settlers killed an American sheriff under similar circumstances.[92] We treat the poor with contempt at great peril to ourselves, for they have nothing to lose and are innately equally powerful as anyone else. A modicum of equal opportunity is not only a balm to the aggrieved, and glue that holds together the free society, but a signal that everyone is valued equally and that we care about advance merit in every sense of the word. The enormous stresses and pressures of innovation and market competition can thereupon only strengthen the society, for its members can develop the mental resilience and confidence that they will not be abandoned to starve should they fail.

7) Insurance for uninsurable events

And now perhaps for the most important reason of all: self-interested and strategic insurance of at least some uninsurable risks. Consider Hayek's experiment:

The conclusions to which our considerations lead is thus that we should regard as the most desirable order of society one which we would choose if we knew that our initial position in it would be decided purely by chance… [A] better way of putting this would be to say that the best society would be that in which we would prefer to place our children if we knew that their position in it would be determined by lot.[93]

This may seem, at first sight, to be similar to Rawls's experiment. But it is *quite different,* for it asks that we choose the form of our society as conscious, living people *today*, and that we choose not for our sake alone but also for our children's sake *before* they are born. We are dealing, in this case, with foreseeable but often uninsurable

[91] Rawls, John, *A Theory of Justice* (1971), Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999, p.230.

[92] de Soto, Herndando, *The Mystery of Capital*, Bantam Press, London, 2000, p. 104-5.

[93] Hayek, F.A., *Law, Legislation, and Liberty*, Vol. 2, University of Chicago Press, 1976, p.132. Google books.

contingencies that can make us, or our children, destitute or otherwise in severe distress. This experiment leads us to the social minimum as part of social insurance. Some of the underlying reasons are outlined below.

- About half the children in pre-modern societies died before the age of five. Our children have a better chance of survival today, on average, but once we become poor for reasons not within our control, the survival chances of our children decline.
- We know that genes tend to regress to the mean. Even smart parents sometimes bear mentally handicapped children. Assume a probability p_1 of such an eventuality.
- The market is marked by uncertainty of outcomes. Luck plays a crucial role. Our children won't always be rewarded for their efforts. Rich people's children can end up on the footpath; poor people's children can succeed hugely. Assume that p_2 is the probability of failure of one's child despite the child's best efforts.
- In addition, we may need emergency health care in circumstances (as in severe road accident) in which our identify and financial status can't be verified. The nurse admitting us in an unconscious state into the ICU wouldn't know about our capacity to pay for the best medical treatment. In such a case we'd want the very best care regardless of our financial circumstance.

It is therefore in our (narrowly defined) self-interest to pay an insurance premium to the state in the form of taxes to cover us and our children for a range of uninsurable contingencies – contingencies in which our ability to insure or demonstrate insurance may not exist. It is rational to (jointly) create a poverty, disability, and emergency fund through tax premiums to insure us all against extreme uninsurable events. This fund will, for instance, ensure our children's survival and pay for their education should circumstance prevent us from looking after them. We all can benefit either in this or a future generation (our children) through such insurance.

It is worth noting that even the most elementary social contract – one that looks only after defence (Proposition 4) – is a form of social insurance. We pay the defence force for our *personal* protection in the event of need, not as charity for soldiers; even though we know we may *personally* benefit from such investment only perhaps once in 200 years. That is the reason why this is a form of insurance: with the state as the insurer of a last resort.

The characteristics of the social minimum

Now that we understand the relevance of social insurance, issues about its magnitude of coverage must be discussed. The guarantee of a social minimum – comprising poverty elimination (through a negative income tax type scheme), school education, emergency care, etc. – should be modelled as an actuarially fair insurance scheme across multiple generations. The design of this scheme should be sensitive to incentives. Thus, the insured package must be barebones, frugal, even as the school education provided to children is world class – else it will create moral hazard and adversely impact work incentives. It must also be simple to administer, and non-discretionary.

In *BFN* I have outlined an implementation plan for one such package that includes an Equal Opportunity Act to punish discrimination in public office (*not* private sector). What, more generally, is the appropriate quantum of services that form part of the social minimum? Should it include sumptuous university education, top class health care, and significant cash payouts? Or should it be frugal?

Apart from the practical difficulty of paying out outlandish amounts as part of social insurance, anything more than a sheer survival-level package would violate the purpose of social insurance. Also, the social minimum must not distort work incentives. A frugal top-up payout can be provided only after a claimant has proved that he has worked, or sought to work, to the extent feasible. Without such a check, this would become a reward for laziness. The key is that they must be a genuine, unavoidable contingency. The social minimum must deliberately be kept at an *extremely frugal* level.

The premium paid by taxpayers for social insurance must be ring-fenced from all political and bureaucratic discretion. The free society must use a single *point of consideration* for an individual's (or family's) needs. One who has fallen below the social minimum must be provided a top-up, but after that, the market must once again take over. *No special schemes* of poverty alleviation and the like are admissible. All special government concessions, such as for students, the elderly, or for special occupations, must also be prohibited. If someone receiving a social minimum can't pay his electricity bill because he has spent too much on entertainment, then he must live without electricity. No additional concessions for electricity supply apply. That is the key, else the society will degenerate into socialism, and enter a negative spiral.

Must the social minimum concept be retained forever? Hayek suggested otherwise, believing that 'developed capitalist market systems have no need for government maintenance of a social minimum'[94]. The social minimum would – in his view – wither away after the society is sufficiently developed. But that is only partially correct. Although the need for social insurance would decline significantly, eliminating the concept of the social minimum is unwarranted. Many circumstances outside our control will continue to threaten human prosperity, even survival. Deep, even chronic, poverty is largely involuntary. The free society must retain the social insurance scheme, albeit with asymptotically diminishing coverage over time.

Stability of the social contract

Most social contracts in human history have been highly unstable. What appears to be settled can often be a seething mass of contradictions below the surface. Extensive change in government, revolution, and secession is the norm; stability the exception. While nothing in the world is permanent, I believe that the specific type of social contract outlined above (particularly where equal opportunity is not expanded into the welfare state) is more likely to be stable over time than other social contracts. The devil is in the detail, however, and the detailed design of a system of governance and incentives arising therefrom are crucial determinants of its stability.

Should we be able to design the social contract appropriately through checks and balances, and minimise adverse economic and health risks, only the upside risks (the gains) will remain. Such well-designed societies will experience significant upward social and economic mobility, as people take entrepreneurial risks, being assured of a minimum should they fail. Everyone can aspire to prosper through merit, hard work – and some luck.

Those who happen to be poor today will obviously support such a contract because it assures their children good education and opens up the possibility of their success. The middle 'classes' will support it because they may well have occasion, should bad luck besiege them, to fall back on the social minimum: most members of the middle-class can easily fall off their perch.

The rich will support it, as well, for they know that a free society lets them reap unlimited rewards of their effort, without fear of being robbed. They also benefit also from the greater availability of geniuses churned up from lower economic ranks through educational opportunity. A supply of geniuses is particularly important to the rich who need to innovate to compete. And while they may not have a need for social insurance, they perhaps gain some comfort from knowing that should things go pear shaped, their progeny will at least not be thrown out on the streets.

Everyone is therefore committed to such a society because everyone is able to make their choices without paternalistic imposition from the state. Its citizens cooperate voluntarily, for the most part, to build their reputation as trustworthy, civic-minded people.

The system of freedom (with reasonable equal opportunity) therefore maximises our long-term expected payoffs, and ensures that it won't fall below a (frugal) social minimum. The expected payoffs for different types of social contract are schematically depicted in Figure HH.

[94] DiQuattro, paraphrasing Hayek, Arthur DiQuattro, 'Rawls versus Hayek', in *Political Theory*, Vol. 14, No. 2, (May, 1986), p. 309, referring to Friedrich August Hayek's 1978 *New Studies in Philosophy, Politics, Economics and the History of Ideas*.

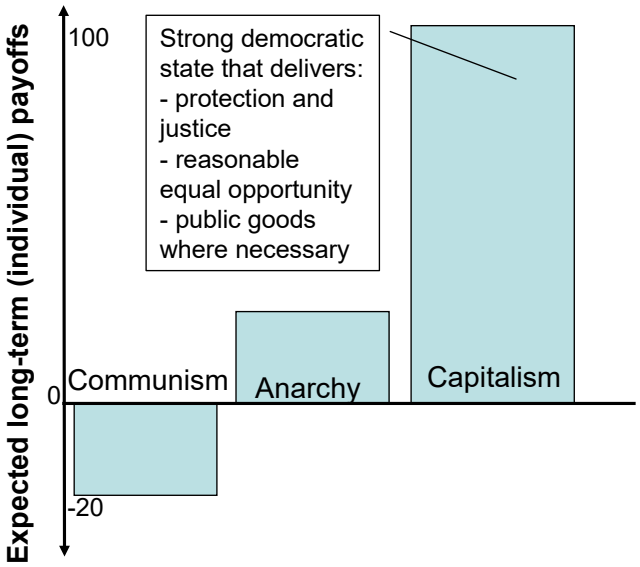

***Figure HH*: Expected (individual) payoffs for different social contracts**

Indeed, capitalism maximises people's total expected utility *over multiple generations*. Our progeny will invariably be much richer under capitalism than in any other system. The market economy allows us to maximise our utility subject to our budget constraint. Equal opportunity (EO) lets us harvest the benefits from the free society (benefits such as positive externalities, network effects) as we are assured of the social minimum. With total expected utility over generations bounded from below, there is considerable scope for experiencing the (unbounded) upside. Everyone can compete vigorously without fear of starvation through a really bad or unlucky decision. EO also helps reduce psychological negative externalities from pervasive poverty – such as from the presence of beggars in the streets or children forced to scavenge in rubbish bins to fill their stomach.

The multi-generational *expected* utility of each individual in this free society can be represented as:

$$EU_{optimal} = EU_{max} + EU_{positive\ externalities} - EU_{negative\ externalities}$$

subject to the budget constraint,

where $EU \in [U_{min}, \infty)$ and $U_{min} > 0$ is the minimum or subsistence-level utility.

Lifetime incomes in pre-civilised societies (that were forms of anarchy) were the lowest in human history. Longevity was also extremely low. Later, with monarchical feudalism, lifecycle income slightly increased, but a modestly comfortable quality of life was only available to feudal lords and kings. Communist societies in the 20th century often did relatively better on income, at least for a while, than anarchies, but their loss of human life due to internal strife (including massacres) was huge, so the net payoff was perhaps negative. Such totalitarian societies could temporarily raise incomes, but because of the negative externalities of violence and injustice, total utility is reduced. The highest level of human achievement so far has only been seen in relatively free, modern societies. We can't maximise utility when our produce is seized by feudal landlords or by the state.

Given these options, the rational person will tend to pick the free society with a social minimum. But we are not entirely rational nor knowledgeable. Instead, we are characterised by ignorance, foibles and fanaticisms. Societies therefore tended to move towards freedom, but only very slowly.

It is worth reminding ourselves that there is no perfect 'liberal' society. They can be many variations. Constitutions of nations differ greatly in their detail. Constitutions only form the first layer of the social contract which is supplemented by election manifestos of political parties, legislation, regulations, and social norms. No social contract is permanent, because it is never perfect. People's preferences can also change: they may become more liberal, or, alternatively, regress into fanaticism. Therefore, liberal party manifestos necessarily change over time. Is useful for the entire social contract be re-crafted from scratch every 30 years or so

A cost-benefit analysis of the social contract

It might not always be obvious to everyone that the net benefit of having a fortress – with its impersonal and impartial system of law and order – outweigh the net benefits of not having one. In this regard, Buchanan and Tullock's work, in *Calculus of Consent* (1962) is extremely relevant. In this book they examined the economic theory of constitutions (social contracts), and arrived at 'an efficiency explanation for the voluntary acceptance of coercion, why self-interested individuals might submit to binding decision rules even though some group decisions may not be in their best interest.'[95]

Consider the difficulties speak to face in deciding about a social contract. Many informational constraints face us. Costs and benefits are uncertain. We also know that over time, the government – with its monopoly over the use of force – will tend to charge more while reducing the benefits it delivers. Indeed, Hans-Hermann Hoppe argues in *The Myth of National Defense* (ed. Hoppe, Von Mises Institute, 2003) that government monopoly over our defence is not only expensive but ineffective. As illustration, he argues that the increasing defence budgets of America have proved ineffective in protecting US interests. The US defence and policy machinery asks for more funds but delivers increasingly less security. Hoppe suggests that the World Trade Twin tower attacks of 2001 could have been averted merely by letting pilots (or air crew) carry pistols costing $50. The $400 billion US defence budget proved futile. He argues, instead, for a libertarian anarchy where defence is privately insured. Most people, however, believe that the state will provide better defence than a privatised defence force. I am one of them. In my view, no defence system is perfect, so inefficiencies must be identified and rectified. Anarchy, on the other hand, is not only not guaranteed to do better, but will usually do far worse, particularly in relation to large defence forces (like China) that might be arraigned against one's country.

Rationally speaking, though, the creation of a new state might not suit everyone (e.g. hereditary monarchs). A social contract can potentially force Pareto non-optimal outcomes on some people as it moves towards a more egalitarian system. Not everyone would support the contract. If, under these circumstances, those who benefit to compensate those who lose (which can only happen if the net benefit is positive), then the contract could work. The Kaldor-Hicks rule discusses such compensation. But note that since general laws should apply, any on-going compensation can't be supported. A one-off lump-sum paid out by the winners to the losers as incentive to sign the contract is enough. In that sense, some sort of a one-off privy purse could be considered, but there is no ground for a regular payment from the exchequer.

On the other hand, while compensation could potentially form part of a transitional arrangement, it is not necessary to do so. The social contract is a contract for our freedom subject to accountability. Agreeing with it is a in our interest; it is not a precise economic calculus. Historical baggage is best treated as sunk cost and ignored. A new state does not owe anyone anything. All previous contractual obligations are scrapped. The king being overthrown does so because of fear for his life, and because he is assured of life and liberty in the forthcoming democratic republic. The rich man agrees to a social minimum because not doing so could potentially threaten his life, and property. Due to such considerations, the Kaldor-Hicks rule is basically irrelevant. We may, but don't need to compensate. The entire country begins afresh with each new social contract.

While a simple Nash equilibrium can be mathematically depicted, depicting a realistic contract requires time and expertise that I don't possess. Such a model would need to be, at a minimum, a dynamic, repeated game of

uncertain information, with appropriate reaction functions (accountabilities) and boundary cond itions. An individual's expected utility from the social contract would, among other things, be a function of the reactions of others to his actions, infinitely nested; but limited by bounded rationality and imperfect information (ignorance) about the shape and nature of the reaction functions. Bounded rationally will require us to place probabilities on our future preferences since we know that these are impacted by changes in the way data is presented and/or by many other subtle factors.

The first assumption in Kreps reads thus: 'Preferences are asymmetric. There is no pair x and y such that $x > y$ and $y > x$'[96]. This prevents the possibility of preferences that can change over time or in reaction to changing possibilities (exogenous) or to changing knowledge (endogenous). It could better read, for our purposes: 'Preferences are asymmetric with probability p which is determined both endogenously and exogenously'. Thus $p(x > y \text{ and } y > x) \geq 0$. Perfectly rationality would give $p = 0$. Similar amendments could be made to other

[95] Stevens, Joe B., *The Economics of Collective Choice*, Bounder, Colarado: Westview Press, 1993, p.134.

[96] Kreps. Cite.

assumptions. Either way, the goal is to represent an individual's expected utility as a probability distribution function *f*, such as the one outlined below.

EU = *f*(individual endowment, institutions, effort, reaction functions [accountabilities]) + white noise

In such a contract, each of us is effectively playing a dynamic, uncertain 'chess game' with changing rules and preferences. Our strategies are influenced by our anticipations (and reactions) to constantly changing reaction functions and to our changing preferences. In 1984, Robert Axelrod proved that a cooperative social contract, based on tit-for-tat accountability – will be stable.[97]

The existence of uncertainty leads to a range of problems. Not only do we not know our future payoffs, we don't know what others will do. The costs and benefits of participating in the social contract are therefore unknown. For instance, we could well be trounced in the free market not because our products are bad but because our competitors turn out to be better or just more lucky. All we can hope for is that justice will be at least broadly assured and that should we 'go under', we will be looked after. Being risk-averse more than foresighted, a democratically controlled justice system with social minimum would be a safe deal. Should luck be on our side, well and good. If not, at least we won't starve. That, perhaps, is the underlying rationale for such a social contract.

We also know that by agreeing to a state we could well end with a Frankenstein's monster, that continuously increases in size while decreases the benefits. Democratic approval of government decisions gives us at least some control over this risk. Alternatives like monarchy leave us with no real control should things go wrong. If the government is still not responsive, then we shall retain the power to disembowel Frankenstein's monster and restore anarchy as a step to a more useful social contract.

Even in democracies, however, the use of most political power must necessarily remain monopolistic. The 'nuclear button', for instance, must vest with just one person. How will we control this person? The only sensible way is for the powers of the state must to be diluted and checks and balances imposed (cf. Montesquieu). People charged with delivering different objectives tend to see the world differently. That allows the power exercised by a particular institution to be checked by another, which has a slightly different mandate. Diluting power by delegating decision making across multiple institutions is another important aspect. The system of justice can begin with a top-down approach, with the state directly administering justice. Over time, private arbitration can be enabled an increasing role. Indeed, a system of private arbitration works best where the option of taking recourse to a harsher (and more expensive) official justice system exists.

The social contract must therefore be flexible enough to be continuously improved. The solution to the principal-agent problem that lies at the heart of governance can only be incrementally perfected. Each generation must be given the opportunity to start from scratch and write a fresh constitution every thirty years. In the remaking of the constitution, we must learn (and borrow, where relevant) from all previous experience. In the *Arthashastra*, for instance, 'the state was held responsible for any failure to protect the public. If a thief was not apprehended and the stolen property not recovered, the victim was reimbursed from the king's own resources'[98]. That is surely a stern benchmark of a government's accountability, and perhaps its surest guarantee. Such innovations must be constantly embedded into our systems. But regardless of all these considerations, there will never be a substitute for active vigilance and participation by citizens.

In addition, one of the keys elements of the social contract must be the ability of citizens to secede peacefully and create a nation that better protects their freedom. I cite von Mises with whose views I agree in this regard:

> whenever the inhabitants of a particular territory, whether it be a single village, a whole district, or a series of adjacent districts, make it known, by a freely conducted plebiscite, that they no longer wish to remain united to the state to which they belong at the time, but wish either to form an independent state or to attach themselves to some other state, their wishes are to be respected and complied with. This is the only feasible and effective way of preventing revolutions and civil and international wars.' (http://mises.org/liberal/ch3sec2.asp)

To even remotely model a real social contract we'd need to extend this to *all* non-zero sum games, *all* prisoner dilemma games, and so on, *all* played at the same time – under conditions of bounded rationality. This is

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[97] Axelrod, Robert, *The Evolution of Cooperation,* Basic books, 1984, Appendix B.

[98] Rangarajan, L.N., *The Arthashastra* (translation), Delhi: Penguin India, 1992, p.74.

relatively fuzzy but at the same time 'clear' concept which we understand intuitively. In my (intuitive) judgement the optimal strategy with this far more realistic social contract will still be found to be of the tit-for-tat type.

Anyway, overall, it appears to me that an equal opportunity society is likely to make everyone better off without making anyone worse off. Positive externalities from the contract increase our utility while negative externalities are reduced if not eliminated. For instance, it has been empirically confirmed that public provision of school education and some health services generates large positive externalities, noting that public provision is not the same as delivery by the government). The Meiji reformation was able to position Japan for a huge economic take-off though public provision of high quality school education. Such a society won't fall prey to Naxalites or other terrorists, either, since its well-educated citizens are likely to be interested in becoming better off by making an honest living, instead of waging a costly war against the state. Free societies also gain social capital from networks and associations of educated people.

4.6 Related issues

4.6.1 *Utilitarianism, neo-classical economics, and liberty*

I pointed out in the first chapter that the entire discipline of economics is based, basically on four simple assumptions about human nature. These mathematically expressed assumptions generate the standard utility function which is then amenable to mathematical deduction. Using this model, economists test behaviour through utility maximisation equations subject to a relevant budget constraint. This method leads to many extremely useful conclusions.

So what is the relationship between maximising our freedoms – subject to accountability – and maximising utility subject to a budget constraint? I believe these two are closely related so long as all key externalities are taken into account. We use our freedom to maximise what (we believe) is *good* for us, and to minimise what we believe is *evil* or *vile* (using Hobbes's three-fold terminology). Only free people can choose among the full range of options available to maximise utility. In other words, utility maximisation can't work properly without freedom.

The utility maximising model must ensure that we internalise the costs of the damage we cause, for the theory of freedom (and justice) insists on accountability. The concept of freedom is a far higher principle. The utility maximising model can accommodate accountabilities through, for instance, markets for pollution or court imposed penalties for harm. The standard economic theory can therefore be used for the most part, but with caution in the few matters discussed below.

In the first instance we should note that utility maximisation works for individuals, not aggregates. Aggregation of utility across the society, the basic bread and butter of 'welfare economics', doesn't work very well. *But i*t is theoretically impossible to aggregate the preferences of all individuals, or to compare utilities. This approach is therefore fundamentally flawed.

According to Bentham, '*it is the greatest happiness of the greatest number that is the measure of right and wrong*'[99]. Thus, a 'utilitarian' aims to maximise the total utility of a society. *B*y assuming that everyone has the same utility function, a 'social welfare function' – which merges everyone's identity[100] – can be mathematically created. The utility maximising model can accommodate a host of political theories, including the Rawlsian collectivist maximin (i.e. difference) principle, by making appropriate assumptions. We must guard against its misuse; the mathematics must be rigorously controlled by philosophy.

This idea, of lumping all individuals together, can destroy individual freedom if we do not exercise great caution. Attempts to maximise 'social' utility seem to invariably lead to arguments for redistribution of wealth. However, a government must only facilitate the maximisation of our freedom subject to accountability. Everything else, including whether we are happy or not, is something we determine, independently. Benthamite paternalism is all pervasive but the typical start of the slippery slope towards statism.

For instance, Claude-Adrien Helvétius (1715-1771), the founder of utilitarianism (Bentham was its most prominent proponent) believed that the policy maker should educate people so they are better equipped to

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[99] Bentham, Jeremy, *A Fragment on Government*, 1776. London: T. Payne.
[http://socserv2.mcmaster.ca/~econ/ugcm/3ll3/bentham/government.html]

[100] This approach was first explored by Bergson (1938) and Samuelson (1947). Details in Mas-Colell, Andreu, Michael D. Whinston, and Jerry R. Green, *Microeconomic Theory*, New York: Oxford, 1995, p.825-838.

increase their happiness and reduce pain. The laws would then provide incentives to people to do the 'right' thing. This is an unnecessarily statist and paternalistic approach, and suggests that policy makers are 'smart' and people are stupid. We hear strong echoes of in modern behavioural economics, for instance that the default option for a (public) financial saving scheme should be conservative. Such conception can easily infringe on our liberty and this approach must be closely interrogated.

Utilitarian approaches can also end up denying freedom when they become 'inconsistent even with Pareto optimality – perhaps the mildest utility-based condition and the most widely used welfare criterion in economics.'[101] We must therefore consider trade-offs between strict utilitarianism and freedom. Freedom must receive unambiguous precedence.

The technique of social cost-benefit analysis (CBA) suffers from the defect of aggregation. When economists compare costs and benefits (say, of regulation) across an entire society, they are generally often indifferent about the individuals on whom these costs are imposed, so long as net benefits are positive. In some cases those who cause harm do pay up, but in others regulations become a channel for re-distribution and destroy the liberal social contract (for coercive redistribution by the state is theft).

Some utilitarians have sought to conduct a cost-benefit analysis of freedom itself. Such analysis 'can lead one to argue against slavery on the grounds that the advantages to the slaveholders do not counterbalance the disadvantages to the slave and to society at large'[102]. Even the thought of such a possibility is totally abhorrent. Freedom is beyond CBA – a higher, non-negotiable value. Utilitarian CBA must necessarily be subordinated to the overarching demands of life and liberty. Having said this, CBA does act as a check on drastically bad policy by forcing the disclosure of the policy maker's assumptions, and by (at least notionally) treating everyone equally in the calculations.

4.6.2 *The happy slave?*

What happens if as part of my claims of self-determination, I choose to become someone's slave? Can a free person choose unfreedom? Is that a valid outcome under the theoretical framework of freedom? This example is not entirely hypothetical. Prisoners into their old age, released after a long internment, sometimes refuse to leave since they know no one outside, nor have anyone to take care of them. If forced to leave they might commit crimes upon release, in order to get back to re-unite with their prison 'family'. In extreme circumstances, they might even commit suicide.[103]

While this is not precisely slavery, is worth reviewing some of the theoretical arguments about the happy slave. The decision to voluntarily become a slave can be readily tested within the theory just outlined.

- ***Proposition 1***: Would such a choice diminish the slave's life? Indeed, it may, if violence is permitted (as it once was). But in a free society, such a possible compact, between a slave in his master, must rule out physical violence. But if such a modification is applied, then does such a contract become different from a wage contract?
- ***Proposition 2*** says that we must remain free, subject only to accountability. The 'contract' for slavery basically closes all further bargains between the slave and society. In that sense it violates this requirement of freedom and must be rejected. Thus, too, we are not free to close of our freedom permanently.
- ***Proposition 3*** asks whether the 'contract' for slavery has specific accountabilities and attribution. Does it provide for appropriate compensation for products the slave produces? If not, it violates justice, and hence freedom. If, on the other hand, the 'slave' is allowed the value-add of his labour, then it is just another wage contract

The Kantian categorical imperative also throws light. The happy slave must, to be consistent with Kant's principal, desire everyone's slavery – including (at a minimum) the slave owner's. This forms a circular argument. The Proposition that someone can be a 'happy' slave must therefore be rejected.

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[101] Sen, Amartya, and Bernard Williams, 'Introduction', in Sen and Williams, eds., *Utilitarianism and Beyond*, Cambridge: Cambridge University Press, 1982, p.7).

[102] Rawls.

[103] For instance, the character Brooks Hatlen in the 1994 movie *Shawshank Redemption*.

- ***Proposition 5*** asks whether the accountabilities specified in the 'slave contract' are consistent with the social contract. The free society must necessarily prohibit slavery. Hence, too, the idea of a 'happy slave is still-born.

We cannot, therefore, voluntarily choose to become a slave.

With these propositions in hand we can now divide the functions of the state into three categories (see *BFN* for details). Defence, policing, and justice are first order or core functions. Once well discharged, a government could then spend some effort on provision of infrastructure and reasonable equality of opportunity. Without discharging first-order functions well, the government should not entertain other functions (except critical defence infrastructure, which effectively becomes a first order function). Finally, there are a few potentially legitimate third order functions that a government can potentially undertake with taxpayer consent – such as proactively ensuring the preservation of national monuments[104] or the environment (noting that parts of this function will be addressed under the system of justice).

By the way, you could, at this point, review to the definition of freedom outlined in the preface and chapter 2. The definition should be more obvious by now.

4.7 The institutions (pillars) of freedom

On the basis of the basic assumptions about human nature and the five propositions of this chapter, we can now consider the institutions that can support the free society. Capitalism, or as Adam Smith preferred to call it, the system of natural liberty, is best seen as the combined set of these institutions. It is therefore both the philosophical system that defends human life and liberty, and the practical system of freedom-based democratic governance to ensure justice, eliminate poverty and enable prosperity.

It is important not to think of current Western societies as ideal examples of capitalism. First of all, there is no single 'Western' model – or indeed, any 'standard' model of freedom. Second, most Western welfare countries are welfare states in which the concept of equality of opportunity has gone haywire, mixing with socialist undercurrents and misplaced guilt. The poor in the West are not just elevated above poverty, but pampered. As a result, they often don't grow up mentally and refuse to take responsibility for themselves. Instead, taxpayer funds are constantly churned, being extracted from the middle class only to be returned mostly to them after deducting a huge administrative expense. A total joke of a 'system'.

In addition, highbrow paternalism of the 'educated', and interference with people's freedoms is now becoming the hallmark of Western societies. Coherent thought has been entirely lost in a futile attempt to please all factions and interests. Mercantilist businessmen and trade unions (both fishing for profitable protection) tend to dominate the scene. The defenders of Rawls and Keynes (even Marx) abound, hijacking public funds for misguided projects, refusing to let the market be free to evolve its own solutions. Economic analysis (which has now become malleable enough to justify almost any political preference – and hence has almost lost meaning – is commonly used to increase government incursions into our freedoms.

Despite all this, it remain a fact that the institutions of freedom first came together (in hazy outline) about 250 years ago in the West, and that the West remains, for the most part, relatively more free than most Third World countries like India. (This may, and should, change in the future.)

* * *

What is an institution? I agree with Douglas North that institutions can be visualised as being 'analogous to the rules of the game in a competitive team sport.'[105] At the heart of an institution is a *set of rules* – implicit or explicit – that seeks to influence our behaviour. Institutions can be formal and thus well-documented, or informal. Their main function is to 'reduce uncertainty by providing a structure to everyday life'.[106] In particular, they help to clarify the rules of accountability through a process that is formally complied with, or through informal processes including commonly accepted norms. The structures (and processes) of family, markets and governments, including relevant norms and laws, constitute the *institutions* of a society. Thus, anything that says or implies that:

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[104] Ancient monuments are best preserved by selling them to the highest bidder and regulating their maintenance and use.

[105] North, Douglass C., *Institutions, Institutional Change and Economic Performance,* Cambridge: Cambridge University Press, 1990, p.4.

[106] North, Douglass C., *Institutions, Institutional Change and Economic Performance,* Cambridge: Cambridge University Press, 1990, p.3.

'Thou shalt do things this way', and includes a mechanism to enforce it, is likely to be an institution. Social norms such as tolerance and the 'rules' of critical thinking can thus be considered to be institutions.

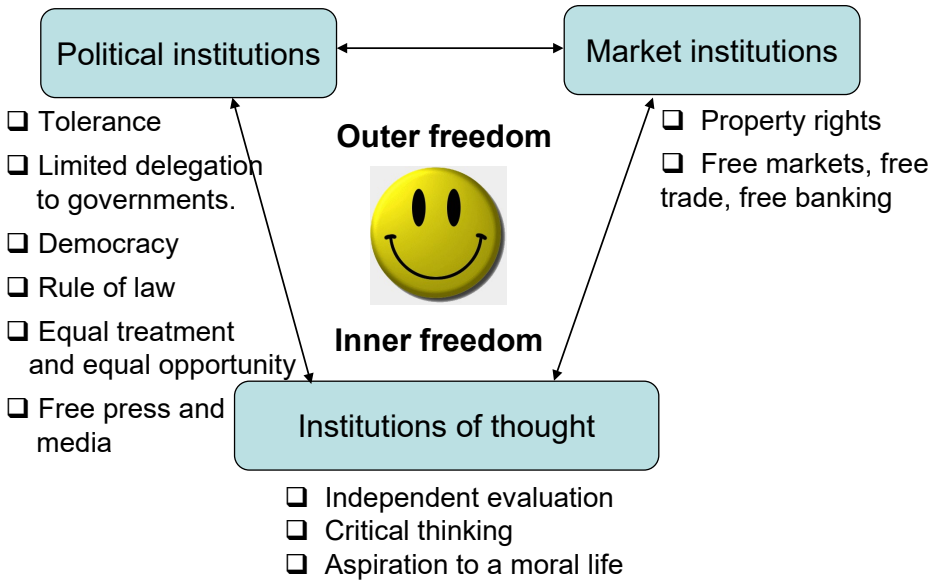
Most institutions are not formal. Where they are, they document such understandings. This broad definition encompasses the culture, tradition, norms, implicit contracts, and virtually any man-made process or mechanism that influences behaviour. Most of these do not evolve deliberately or even consciously, being underpinned by sub-conscious strategic calculation. But some have. These – the conscious interventions (such as the formal system of the rule of law) – interest us the most, for they reflect a significant level of self-awareness.

Trust, and shared understandings and expectations grease the wheels of human institutions. Without them, institutions cannot function. The strength of an institution is determined by the level and strength of shared expectations which tell us how others are likely to respond to our actions. And this is efficient, for then certain things can be taken for granted. Thus, it can be taken for granted that I won't go naked to a press conference, given the tradition that has developed in modern society of wearing a suit or other formal dress for such occasions. (Had I belonged to a primitive tribe which didn't wear clothes, the other social norms would apply.) This trust or expectation of a predictable form of behaviour is premised on the society's enforcement of accountability (should such need arise). Institutions therefore include the investigative processes where appropriate. Tennis umpires conduct investigations and award points or penalties. Similarly, our reputation forms part of markets, keeping accounts of our previous actions and reliability.

Note that institutions, being equilibrium strategies that motivate a particular repeated behaviour, are usually local, being path dependent. They therefore vary across societies, having been built incrementally through changes to underlying conditions and expectations. That also means they are not permanent. Consider the concept of punctuality. While it is considered rude to be late even by a minute for a business meetings in Germany, India is relatively comfortable for business meetings to start several minutes late. That is now changing. Changing incentives change even well established institutions.

Key institutions like property rights and the justice system, can make or break the prospects of societies. In recent decades we have learnt much about the institutions of the free society.[107] I intend to discuss only a few key institutions in this book, those that I believe have fundamental impacts on the way a society performs. In doing so, I'll try to provide a brief sketch of their history, where possible.

The institutions that I will discuss in the rest of this book can be grouped into two primary categories – political and market institutions. In addition, I will discuss the intangible institutions which establish rules about thinking. Figure xx depicts the main institutions that I consider.



Institutions of capitalism (or system of natural liberty)

[107] North, Douglass C. and Robert Paul Thomas, *The Rise of the Western World: A New Economic History,* New York: Cambridge University Press, 1973 and Greif, Avner. *Institutions and the Path to the Modern Economy: Lessons from Medieval Trade,* New York: Cambridge University Press, 2006.

Is any of these institutions more important than others? It appears to me that advances in the (a) *freedom to think* and (b) *knowing how to think* must come first. A capacity to reason independently must exist before people can explore their political, economic, and religious institutions. Theorists like Francis Bacon and, later John Locke (who, essentially, was a scientific thinker) were therefore crucial in the emergence of the concepts of political and economic freedom.

Assuming that critical thinking has been discovered and internalised, which of these is more important (economic or political)? One view is that economic institutions (e.g. the markets) came first, leading to modern political institutions. Hayek suggested that 'a liberal democratic system and respect for civil liberties can only develop in the context of a capitalist economic order'[108]. An alternative view is that political institutions came first, for only after democracy took firm roots in England in 1688 that economic freedoms fully got unleashed, enabling the Industrial Revolution to occur from around 1750. In my view, the process is necessarily iterative. One can't succeed without the other. Innovation in one area of human thought field must necessarily spill over into others.

While I do undertake a historical overview, it is not my intention to enter into debates about who discovered the key ideas of freedom first. But unlike most Western authors, I do incorporate key oriental contributions to liberty. The history of freedom must reflect the *combined* history of its development. India must also note that freedom is not a 'foreign' idea. It belongs to India *equally* as it does to the rest of humanity. In the end, freedom is a universal value, and we don't really care who discovered its logic or when. We just want to understand it, and use it.

Let me now move on, to explore the fascinating story of freedom.

[108] Heywood, Andrew, *Political Ideologies: An Introduction*, Hampshire: Palgrave MacMillan, 2003, p.27.

PART 2: THE ‘PERSONAL’ PILLARS OF FREEDOM

5. Independent thinking

'Human history begins with man's act of disobedience which is at the very same time the beginning of his freedom and development of his reason.' – *Erich Fromm*[1]

Knowing how to think is the most important attribute of man. In this and the following chapter I look at the institutions of thought. But first let's check whether there can be a thing called an 'institution of thought'. That there is indeed such a thing is evident from studies of cognition and the philosophical study of epistemology (the study of the nature of knowledge). Thinking has evolved its own rules and assumptions, both as a tool of survival in the initial stages of human development, and as a tool for the discovery of truth.

A wild chimpanzee possesses some form of 'knowledge' about members of its group, and gains, as it grows, knowledge about what is safe to eat. But it doesn't know itself. It is not yet self-conscious – a questioning animal. Its approach is unconscious and instinctive, not informed by careful reflection. Our ancestors remained in a similar state of ignorance for a long time. Only after thousands of years of mental development – starting with language skills – were the rules of thought discovered. And so, modern man can now consider the truth and create Google, or go to the moon.

Why did our ancestors – gifted with the same powerful brain as ours – fail to think similarly? And, more pertinently, why do people in the Third World, with the same brain capacity as everyone else, fail to deliver the kind of prosperous society found in the West today, including basic governance and infrastructure? The answer Must surely be found in the way we think. Humans have progressed because of man-discovered knowledge, not from instinct. And it takes a lot of time and effort to build man-made knowledge, one brick of thought at a time.

Language, including grammar and the allocation of meaning to words, is the primary set of rules that binds human thought. Being artificial constructs, however, each language are different and constrained in their capacity to depict the world. Thus, emotions evoked in Hindi are often different to those evoked by other languages. Language determines the precision, scope, and range of human thought, and perhaps establishes limits to our thinking. Without access to the Indian numbering system, for instance, the West was badly constrained in its intellectual growth, being forced to use the ineffective Roman numerals. Indeed, had the Indian number system not been discovered, most achievements of the modern world would not have been possible. Language, including numbers, matters a lot.

From the building block of language, many other disciplines, with their own rules, have emerged, with mathematics ranking at the top. The physical sciences follow, given their capacity to unlock the deepest secrets of nature (which tells us that nature is a *purely* rational process, driven by a consistent set of laws).

How did we achieve such stupendous breakthroughs? After all, these rules or institutions are not the work of any single human being or a single human society. To understand this better, we need to know how we transmit knowledge from one generation to the next, thus enabling each successive generation to operate from a higher base.

The main methods of learning and transmitting knowledge are outlined below

1. Conditioning: Ivan P. Pavlov discovered the phenomenon known as conditioning during his 1922 experiments with a dog.[2] Rewarding desirable behaviour and punishing undesirable ones is thus one obvious way by which we learn, thus transmitting knowledge across generations.

[1] Fromm, Erich (1950). *Psychoanalysis and Religion*. New York: Vail-Ballou Press, p.84.

[2] Wolman, Benjamin, *Contemporary Theories and Systems in Psychology*, Delhi: Freeman Book Company, 1979, p.47.

2. Mimicking: Simply watching golf on TV can improve one's golf swing (albeit marginally). Our instinctive ability to mimic others is one of the most important ways of learning. It forms the basis of our socialisation. As a result, we develop a network of axons and hence memories in our brain that embed traditional the 'knowledge' we have so we imbibed. This becomes second nature: imprinting upon us the seal of the culture we were born into.

What we will likely prefer to eat, wear, and believe in, can almost entirely be predicted from information about the culture into which we were born. A Hindu's child will almost certainly become a Hindu; a Jew's child a Jew; a hunter-gather's child a hunter-gatherer. Twins separated at birth and brought up in different cultures will think about life differently, despite having a similar temperament and intellect. The Hindu child will be taught history selectively at home, and will probably learn to dislike, if not hate, Muslims. The Muslim child will likewise learn to dislike Hindus. And both will dislike the Christians. As we teach our children so they become. The seeds of hatred are sown early in life through incidental conversations in the family. And, of course, formal education matters. If we send a child to a *madrassa* in Afghanistan it will likely grow into a fanatic member of the Taliban. But send the child to a school that teaches science, and we may get an Einstein.

But note that these two processes of learning primarily transmit *existing* knowledge. As a result, one tribal child becomes an intellectual replica of another. As Hayek showed, processes of this sort tend to preserve things of value, while weeding out many harmful cultural traits. The problem with these processes, however, is that they tend to switch off natural curiosity among children. As a result, many tribal societies barely advanced beyond the use of fire for tens of thousands of years.

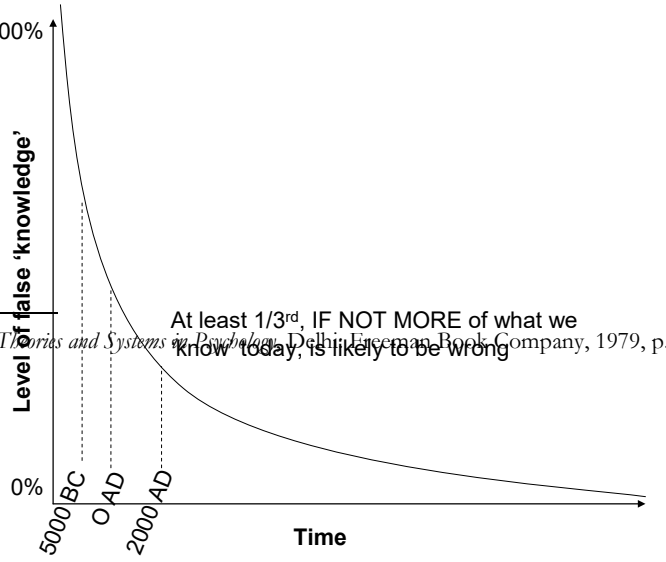
3. Trial and error: New knowledge is actually created by other learning processes. The simplest of these is trial and error, also called learning by doing (E.L. Thorndike 'discovered' this learning method during his experiments with a cat in 1898). That is how we learn to ride a bicycle. We try, then fail, then try again until we succeed. Successful actions are stamped into our brain and unsuccessful over-written.[3] This method reproduces what is already known and discovers new things. Trial and error was necessary in the development of cultural heritage and language. This included creating a new term to represent a new thought – and trying out whether it made sense.

4. Sub-conscious learning: Our most radical ideas seem to arise from our sub-conscious mind, through lateral processes at work below the conscious layers of our mind. Innovative thinking is also particularly benefited by strong competition among similarly interested people. This also explains why professional associations exist – so that lateral thoughts are sparked through discussions of others' ideas.

But what I'm interested in is exploring things not often considered part of the learning and creative process – the need to think *independently* and therefore without preconceived notions; and *systematically*, i.e. critically – a willingness to examine *all* assumptions. To me these underpin all creative energy. In this chapter we will explore the first of these, i.e. independent thinking. In the next, we'll explore critical thinking.

5.1 The value of oppositional thinking

While there is often considerable merit in following tradition – which usually filters out the bad, and sustains the good – it is, at times, useful to break away. In particular, while something may have been relevant in the past under certain circumstances, it may no longer be relevant to modern circumstances. Despite that, our socialisation would direct us towards the by-now-dysfunctional tradition. Further, having evolved in primitive times, the theories underpinning tradition are often false. Challenging them can lead to considerable improvement.



[3] Wolman, Benjamin, *Contemporary Theories and Systems in Psychology*, Delhi: Freeman Book Company, 1979, p.35.

There are basically two main pathways to the truth: to directly find it, or to eliminate falsehood. There is always only one truth, but an infinity of falsehoods. The probability that we will find the truth in a particular case is infinitesimally small. And so, directly finding the truth is clearly the best strategy, if we can find a way to do so. But on the other hand, eliminating false leads is also very important, so we can reduce the range or zone in which the truth can be found.

Actively working to eliminate incorrect understandings can, however, make us unpopular. False understandings can often be eliminated simply by asking: 'Why?' Inquisitive, respectful opposition is therefore crucial to the modern institution of thought. Heraclitus rightly noted: 'That which opposes produces a benefit'.[4] Questioning the *status quo*, if only (upon reflection) to confirm it – can also give the current understandings a firmer foundation. We can make our questions more effective by asking: 'Why not this (or that)'? Proposing alternatives gets everyone engaged, and can lead to greater insight. Indeed, the more challenging and unrelated the proposed alternatives are, the greater the likelihood of getting closer to the truth – and hence, of innovation and discovery. Of course, opposing for the sake of opposition is not always a good idea. Without strong logic to underpin opposition, it can lead us to the untruth, and to delusion.

Today is a great time for innovation. Thousands of interesting ideas press upon us from all sides, many that contradict each other. The internet is the world's great experiment in free thought. We can readily find views that support almost anything, making it really important that we use our mind carefully. The free press is, of course, a crucial part of this mix. The question I'll try to address in the rest of this chapter is this: How did this modern practice – of challenging established ideas – emerge? It appears to me that it was ancient India, followed a little later (through transmission from India), by ancient Greece, where oppositional thinking first became influential.

5.1.1 *Oppositional thinking in India – Charvaka, Buddha*

About 2,600 years ago, a man named Charvaka is said to have founded what is called the Charvaka (or lokayata) school. The entire literature produced by this school has since disappeared, possibly destroyed by those who found these ideas too challenging. All we have left are a few unflattering references in ancient Hindu and Buddhist literature to Charvaka's alleged views. These references surely exaggerate the 'case' against him, but (importantly for our purpose) they do confirm the presence of robust philosophical debate in ancient India. India's philosophical muscle (if that's the right word) during this period was at least on par with – if not greater – than the philosophical muscle of the later (ancient) Greece thought. In Hiriyanna's opinion, '[t]he chief importance of the [Charvaka] system for us lies in the evidence it affords of the many-sidedness of philosophic activity in India in ancient times and of the prevalence of a great deal of *liberty of thought as well as of freedom of expression*'[5][emphasis mine].

But there is much more to Charvaka than mere liberty of thought. His way of thinking was dramatically oppositional. True, ancient Hindu and Buddhist texts suggest that he *disbelieved* in the analytical method or reason, believing (apparently) instead that we are limited to perceiving reality with our senses (perhaps similar to John Locke's empiricist view that '[a]ll ideas come from sensation or reflection'[6]. Locke thought we are born with a *tabula rasa* and experience is moulded by what comes in through the senses). And this depiction is certainly incorrect, or even to arrive that such a view (if true), one would need to use reason. I therefore attribute both reason and perception to Charvaka who also rejected supernatural or transcendental phenomenon, arguing that

[4] Translation used in Roger von Oech (2001). *Expect the Unexpected (Or You Won't Find It).* Free Press. p.12

[5] Hiriyanna, M., *Outlines of Indian Philosophy,* Bombay: George Allen and Unwin (India) Ltd., 1932 [1976], p.188.

[6] John Locke, 1690, *An Essay Concerning Human Understanding.*

no such evidence exists. Obviously, he saw through the tricks of petty magicians. He therefore denied the possibility of a soul or *atman*, and hence of life after death.

These deductions were in contrast to the dominant discourse in which, apart from sense perception (*pratyksha*), inference – or reason (*anumana*) – and verbal testimony (*sabda*) were considered to be valid methods to discover knowledge.[7] Basically, Charvaka rejected sabda. All heresy was out. Apart from Charvaka, many others questioned this status quo – among them Ajit Kesakambala, Makkhali Gosala, Pakudha Kacchayana and Purana Kassapa, as mentioned in *Digha Niyaka*[8], a Buddhist text. Agnostics (*Ajnanavada*) were another rebellious branch of philosophical thought. Undoubtedly, India was a bubbling cauldron of philosophical thought around 2600 years ago, the distinct global leader in free thinking. In its ancient schools of philosophy are found insights of the sort the world would next hear about only in 19th century.

Western writers have tended to misreport or gloss over the *direct* influence of Indian philosophy on modern Western thought. For instance, W.T. Stace[9] basically wrote off Indian philosophy, suggesting that it didn't arise from 'pure thought' and was 'poetic rather than scientific'. Mel Thompson noted that Heraclitus's views were 'radical … in the 6th century BCE, and … interestingly parallel to the metaphysics being developed by the Buddha in Northern India at about the same time.'[10] But at this point Thompson did not pause to ask why the astonishing advances in India, which clearly preceded Greek thought, had no direct bearing on Greek thought despite the existence of extensive trade and communication between India and the West.

Basnagoda Rahula, in a doctoral dissertation at the Texas Technical University has extensively linked up a range of evidence to firmly establish that it was *Indian scepticism* that travelled to Greece through Persia, and led to the questioning which, thereafter – through the Sofists – led to the emergence of Socrates.[11] Socrates can thus be seen as a progeny of Indian thought. Indians must appreciate the thought of one of India's best students.

While most of these innovative Indian philosophers could not attract a mass following, they do appear to have set the scene for the world's most revolutionary, atheistic 'religions' – Jainism (founded by Mahavira, 599-527 BC) and Buddhism (founded by Gautama Buddha, 563-483 BC). These two remain the world's major atheistic 'religions' even today.[12] Buddhism, in particular, expanded far and wide to become a major intellectual (and spiritual) force. Both Buddhists and Jains dispute many conclusions and recommendations of the Vedas. The Buddha said that we should not to accept something merely because he said so. He wanted people to think for themselves and internalise the truth. The guru, the Vedas, must all be questioned. We must experience and understand the truth directly. This was a paean to individualism, a gong for self-respect. Before arriving at forming this extremely modern view, the Buddha had studied under many gurus, none of whom had arrived at their beliefs by themselves. They were merely parroting what they had been told. The following brilliant sermon he gave to the people of Kalama. The original text says:

> "Now, Kalamas, don't go by reports, by legends, by traditions, by scripture, by logical conjecture, by inference, by analogies, by agreement through pondering views, by probability, or by the thought, 'This contemplative is our teacher.' When you know for yourselves that, 'These qualities are skillful; these qualities are blameless; these qualities are praised by the wise; these qualities, when adopted & carried out, lead to welfare & to happiness' — then you should enter & remain in them." [13]

An interpreted version is this:

> Do not believe something just because it has been passed along and retold for many generations. Do not believe something merely because it has become a traditional practice. Do not believe something simply because it is well-known everywhere. Do not believe something just because it is cited in a text. Do not believe something solely on the grounds of logical reasoning. Do not believe something merely

[7] Hiriyanna, M., *Outlines of Indian Philosophy,* Bombay: George Allen and Unwin (India) Ltd., 1932 [1976], p.177, 189.

[8] Mishra, Pankaj, *An End to Suffering*. London: Picador, 2004 [2005 paperback], p.107.

[9] In his book, *A Critical History of Greek Philosophy* by MacMillan,1965, p.15.

[10] Thompson, Mel, *Teach Yourself Philosophy*, 2003, London: Hodder & Stoughton Ltd., p.24.

[11] Rahula, Basnagoda, *The Untold Story about Greek Rational Thought: Buddhist and Other Indian Rationalist Influences on Sophist Rhetoric*, PhD dissertation, December 2000, Texas Technical University.

[12] See Jayatilleke, K.N., *The Message of the Buddha*, London: George Allen & Unwin Ltd., 1975, p.104-116 who shows that the Buddhist approach to God is not as simple as classifying it as an atheistic or theistic religion. I will not attempt to many complexities of Buddhist philosophy here.

[13] https://fakebuddhaquotes.com/do-not-believe-in-anything-simply-because-you-have-heard-it/

> because it accords with your philosophy. Do not believe something because it appeals to 'common sense'. Do not believe something just because you like the idea. Do not believe something because the speaker seems trustworthy. Do not believe something thinking, 'This is what our teacher says'.[14]

I am startled, as I'm sure you are, at the modernity of this message. In the Buddha, therefore, there is a strong flavour of independent thinking, as well as the elements of critical thinking. Thus, Buddhism asserts that 'one may attain salvation and a high degree of enlightenment by one's own efforts, without necessarily depending on the teachings of the Buddha himself.'[15] True, the Buddha did not take this to its logical conclusion. He did teach *specific* things, such as the 'eight fold path', and was not content to just provide the general method of thinking. The greater teacher is the one who teaches us *how* to think – and then stops at that point. In that sense Socrates was greater. Personally speaking, I do tend to 'teach' the detailed policies of freedom, not merely recommend general principles. I do, however, ask that my views be considered only as one of many possible inputs. What I say should be critically analysed. I must be over-ruled where you find me to be wrong, or where better explanations exist.

India, however, largely rejected 'the Buddhist substitution of reason in place of Vedic authority'[16], just as the Greeks rejected Socrates – and went downhill. Even the Buddhism that survives today hardly displays independence and vigour, mired as it is in mindless mysticism. The only good thing is that by intellectually contesting these ideas Hinduism became a more tolerant religion, accepting of dissent – a characteristic rarely found in other religions. Moreover, Hinduism actively *accepted* (and thus) alternate views.

Thus, if a Hindu child questions the existence of God or the soul, he is told (with some rolling of the eye) that his (currently) atheistic views are merely one of the many forms of Hinduism. He is told that most people will 'outgrow' such adolescent views. And so, Hinduism is the only religion which never ostracised or killed anyone for 'heresy'. It is the broadest church of religious belief in the world, and assimilates most other religions easily. Some branches of Hinduism have readily co-opted Buddha and Christ as *avatars* of Vishnu. Hindus also will readily offer prayers at the shrines of other religions, convinced that they are reaching the same God. Gandhi's favourite bhajan was *'Ishwar Allah Tere Naam', which translates: 'You are Ishwar (the Hindu name for God) and you are Allah (the Muslim name for God)'. Most other religions simply have no similar broad, humane perspective. In this sense, Buddhism did not die in India; its influence got assimilated into Hinduism. (A key aspect of Jainism: vegetarianism, and the Buddhist opposition to animal sacrifice, heavily influenced Hinduism.) But unfortunately Hinduism did not learn to value reason.* Basnagoda notes:

> *the modern Hindu belief that Buddhism is an integral part of Hinduism and the Buddha is a reincarnation of the Hindu god Visnu. This is the picture portrayed within Hindu society. Hindu scholars never speak or write about the Buddha's rejection of Brahma and creation and the Buddha's opposition to the Hindu caste system and the oppression of women. Subsequently, Hindus hardly think that the Buddha presented a rationalist system of thought to counter the social practices invented by early Hinduism.*[17]

Most of India's philosophical vigour seems to have died out after the consolidation of the caste system 2 000 years ago. Vedic innovation also petered off. In modern Hinduism, independent thinking is *not* valued nor, therefore, encouraged (Box RR).

Box RR

Hinduism – its approach to independent, critical thinking

It would appear at first glance that Hinduism, like other religions, acted as a bulwark against reason. A few perspectives from the Hindu scriptures seem to indicate the reluctance in Hinduism to allow people to think for themselves.

a) Humans do not create knowledge

[14] Kālāma Sutta, Anguttara Nikaya, Vol 1, 188-193 – [http://oaks.nvg.org/kalama.html]

[15] Jayatilleke, K.N., *The Message of the Buddha*, London: George Allen & Unwin Ltd., 1975, p.15.

[16] Sarma, D.S., *Hinduism through the Ages*, 1961, Bombay: Bharatiya Vidya Bhavan, p.14.

[17] Rahula, Basnagoda, *The Untold Story about Greek Rational Thought: Buddhist and Other Indian Rationalist Influences on Sophist Rhetoric.* PhD dissertation, Texas Tech University, p.24 [softcopy downloaded]

Hindu scriptures claim to arise from a divine source. Knowledge is seen 'as an exclusively divine activity'[18], passed on via divine intermediaries to the human authors of the scriptures. Thereafter, all aspects of a Hindu's life are regulated by the *sastras*, leaving little scope for creating new knowledge.

However, there does seem to be some scope for critical inquiry. For instance, the *Mundaka Upanishad* contains a major onslaught against sacrificial ceremonials, thus changing a practice that was widely prescribed during the early Vedic period.[19] Hinduism does appear to have benefitted by not having formalized its 'divine' findings into a single book. This gave it leeway to critique earlier customs, an option not usually available to other religions.

Hindu conceptions about God evolved over time. The early Vedas were theistic and suggested that gods (or *devas*) are 'a luminous something presented as external to us'.[20] (Even at that time, though, the apparent multiplicity of gods, or aspects of God, was underpinned by a monotheistic view.)

This perspective was revised by the Upanishads with what is called the Vedantic view (being at the '*ant*' or end of the Vedas). This perspective seems to have developed coterminously with somewhat similar Buddhist ideas (I'm not aware which came first). According to the Vedanta, God is everywhere: the energy and consciousness that pervades the universe, the "'thread" that runs through all things and holds them together.'[21] The Brahman is thought of in the Upanishads as the 'hidden Self in everyone'.[22] This idea, which is almost pantheistic, sees God not just as transcendental (something beyond us) but as an immanent principle (namely, found *within* us). This evolution into an extremely subtle idea appears to indicate that at least some new 'knowledge' *could* be developed within Hinduism.

b) Reasoning can lead us seriously astray

Reason has not particularly popular in Hinduism. In the *Ramayana*, for instance, Rama advises Bharata to steer clear of those 'brahmans who are materialists' (referring to the *lokayatas*), on the ground that 'although pre-eminent *sastras* on righteous conduct are ready to hand, those ignorant fellows derive their ideas from reasoning alone and so propound utter nonsense.'[23] The *Mahabharata* (*Anusasana Parva*, Section CLXII) similarly decries reason: 'That knowledge, O king, which is derived from reason (or inferences), can scarcely be said to be knowledge. Such knowledge should be rejected. It should be noted that it is not defined or comprehended by the word. It should, therefore, be rejected!'[24] These approaches seem to directly oppose reason and critical thinking.

Interpreters of the *Mahabharata* argue, however, that the 'Gita is really about Freedom but based on true knowledge of your own interests and a rational means to see what the interests of others are and how you can work productively with them rather than live in fear of them'[25]. To what extent this interpretation is true is not obvious.

c) Excessive veneration of teachers

The scientific method gives a prominent place to the teacher, whose role is to teach us how to think, and to pass on information known to his generation. But the goal is to exceed our teacher and to find new things by using our own mind. This was not the approach in Hindu scriptures, which tended to be backward looking. Therefore the teacher was given an excessively pre-eminent stature. For instance, in the *Kathopanishad* (2:9) Yama tells Nachiketa:

[18] Pollock, Sheldon, 'The Theory of Practice and the Practice of Theory in Indian Intellectual History', in *Journal of the American Oriental Society*, Vol. 105, No. 3, (Jul. - Sep., 1985), p.515. Also verified with Ganeri, Jonardon, *Philosophy in Classical India: The Proper Work of Reason*, London: Routledge p.7.

[19] Hiriyanna, M., *Outlines of Indian Philosophy,* Bombay: George Allen and Unwin (India) Ltd., 1932 [1976], p.48.

[20] Hiriyanna, M., *Outlines of Indian Philosophy,* Bombay: George Allen and Unwin (India) Ltd., 1932 [1976], p.82.

[21] Hiriyanna, M., *Outlines of Indian Philosophy,* Bombay: George Allen and Unwin (India) Ltd., 1932 [1976], p.82.

[22] *Kathopanishad* (3:12) Eknath Easwaran Translation, [http://myweb.cableone.net/subru/Vedanta.html#anchor71261]

[23] Pollock, Sheldon, 'The Theory of Practice and the Practice of Theory in Indian Intellectual History', in *Journal of the American Oriental Society*, Vol. 105, No. 3, (Jul. - Sep., 1985), p.510.

[24]Translated by Sri Kisari Mohan Ganguli, [http://www.hinduism.co.za/direct_perception.htm]

[25] Vivek Iyer in an email to me dated 4 September 2010.

This awakening you have known comes not

Through logic and scholarship, but from

Close association with a realized teacher.[26]

This over-emphasis on the perceived wisdom of the teacher has led to deep-seated subservience towards elders in India. Children often don't ask questions in the classroom to clarify issues in their mind. This is fortunately changing, with the onset of modern science. Also, teachers like Swami Suddhananda and Dayananda have promoted the idea that children should question the teacher.

Satyameva jayate

But the story in Hinduism is more complex than what appears on the surface. The Upanishads do appear to, in some parts, commend the truth. As evidence, the phrase, *satyameva jayate* is often cited, a phrase which is India's national motto and finds place in the national emblem. The phrase originated in a mantra in the *Mundaka Upanisad* (3.1.6) of the *Atharva Veda*, a part of which reads: *satyam eva jayate nanrtam*. But there appears to be little scholarly agreement on its meaning. The phrase has been variously translated as: 'Truth alone conquers, not falsehood', 'The true prevails, not the untrue', 'Truth alone conquers, not untruth',[27] or (the more widely used) 'Truth Alone Triumphs'. M.A. Mehendale questions such interpretations, noting:

> In the above interpretation *satyam* and *anrtam* are taken to be the subjects, but this does not seem to be correct. Both *satyam* and *anrtam* have to be regarded as the objects, and a *rsi* is to be understood as the subject. Taken this way, the sentence would mean "A sage obtains only the Real (i.e., the *Brahman*), not the unreal. ...This interpretation will be found to be in harmony with the spirit of the Upanisads in general and that of the Mundaka in particular.[28]

It is therefore very likely that the common meaning attributed to this phrase is incorrect. I am happy, of course, for this possible error to continue. Only good can arise from Hindus believing that their religion raises the truth to the highest pedestal.

Some later developments in Hinduism *explicitly* opened the door to critical thinking. Thus, the *Carakasamhita*, a scientific text written in the third century BC assert that '[o]f all types of evidence, the most dependable is that [which is] directly observed.' It goes on to proclaim that '[t]he wise understand that their best teacher is the very world around them.'[29] As evidence of the growth of critical thinking in India, one can cite the discovery by Hindu mathematicians in around 500 AD of the decimal number system, including the use of zero – the system that has transformed all fields of human knowledge.

In addition, I now cite four representatives of Hinduism to further explore critical thinking in Hindu thought. These are Swami Dayanand Saraswati, Swami Vivekananda, Gandhi, and Swami Suddhananda.

Dayanand Saraswati

The work of Swami Dayanand Saraswati is perhaps best evaluated through the impact he has had on the educational landscape of India, through the Dayanand Anglo Vedic (DAV) institutions. The 'DAV system of education was a synthesis of ancient Vedic lore and culture and western scientific outlook. It was to be a bridge between the wisdom of India and of the west'[30]. Writing about Dayanand's work, K.C. Mandendru wrote:

> When reason had sunk deep and given place to prejudices and superstitions, when ignorance and orthodoxy studded human existence and chained the nation to inaction, Maharishi assigned unto himself the most important task to snap asunder these fetters and inaugurate an era of liberty of thought and freedom of action. An arch crusader, he refused to submit to the authoritarian &t orthodox dictates of the then social and moral monopolists in the arena of religion and conscience.

[26] Eknath Easwaran Translation, [http://myweb.cableone.net/subru/Vedanta.html#anchor71261]

[27] All citations from Mehendale, M. A., 'Satyam Eva Jayate Nāntram', *Journal of the American Oriental Society*, Vol. 81, No. 4, (Sep. - Dec., 1961), p. 405.

[28] *Mehendale, M. A.,* Satyam Eva Jayate Nānrtam*', Journal of the American Oriental Society, 1961, 81 (4): 405-408.*

[29] Pollock, Sheldon, 'The Theory of Practice and the Practice of Theory in Indian Intellectual History', in *Journal of the American Oriental Society*, Vol. 105, No. 3, , (Jul. - Sep., 1985), p.510.

[30] K.C. MAHENDRU, "MAHARISHI DAYANAND —The Great Path-Maker", Diamond Jubilee souvenir of the DAV College Jullundur, 1978.

> A dauntless champion of the individual in the quest for eternal truth, Maharishi Dayanand laid emphatic stress on man's self renovation and for this he taught him to adopt a rational outlook, based upon truth both in thought and action, and purity of conduct and behaviour.[31]

This would indicate that there was a significant focus on rationalism in Vedic Hinduism that later reformers attempted to revive.

Vivekananda

Swami Vivekananda was a firm advocate of reason: 'It is wrong to believe blindly', he said. 'You must exercise your own reason and judgment'.[32] Indeed, he wanted the methods of reason to be applied to religion as well: 'Are the same methods of investigation, which we apply to sciences and knowledge outside, to be applied to the science of Religion? In my opinion this must be so, and I am also of opinion that the sooner it is done the better. If a religion is destroyed by such investigations, it was then all the time useless, unworthy superstition; and the sooner it goes the better. I am thoroughly convinced that its destruction would be the best thing that could happen.'[33]

Gandhi

Gandhi, the advocate of individual liberty, promoted freedom of thought as well: 'I am not interested in freeing India merely from the English yoke. *I am bent upon freeing India from any yoke whatsoever* … Hence for me the movement of swaraj is a movement of self purification'[34] [emphasis mine]. According to him, 'Hinduism leaves the individual absolutely free to do what he or she likes for the sake of self-realisation for which and which alone he or she is born'.[35] One may, or course, argue that this conception applies only to 'self-realisation'. Gandhi seems to have combined what he saw as the Hindu focus on self-realisation with some elements of Western liberalism (from Henry David Thoreau).

But Gandhi did not connect the dots between science and technology: 'mass production', he said, 'is a technical term for production by the fewest possible number through the aid of highly complicated machinery. I have said to myself that that is wrong. My machinery must be of the most elementary type which I can put in the homes of the millions.'[36] That displays both a level of paternalism and resistance to the exploitation of the best instruments that science has to offer. Gandhi opposed modern medicine or allopathy, calling it a 'false science'.[37] And he wrote: 'the boast about the wonderful discoveries and the marvellous inventions of science, good as they undoubtedly are in themselves, is, after all, an empty boast. They offer nothing substantial to the struggling humanity.[38] This shows both ignorance and cynicism about technology.

Suddhandanda

Another advocate of the Vedanta, Swami Suddhananda, believes that people must find the truth about the teaching of Advaita themselves: 'Ultimately, your own experience is the best teacher'[39]. He praises science: 'These wonders of science have not been discovered by a man sitting in the darkness of a cave. It is the achievement of men who have put to use their thought power.'[40]

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[31] K.C. MAHENDRU, "MAHARISHI DAYANAND —The Great Path-Maker", Diamond Jubilee souvenir of the DAV College Jullundur, 1978.

[32] *Complete Works of Swami Vivekananda*, Volume 1, Raja-Yoga, Introductory (http://www.ramakrishnavivekananda.info/vivekananda/volume_1/raja-yoga/raja-yoga_contents.htm)

[33] *Complete Works of Swami Vivekananda*, Volume 1, Reason and Religion, (http://www.ramakrishnavivekananda.info/vivekananda/volume_1/lectures_and_discourses/reason_and_religion.htm)

[34] In *The Essential Gandhi*. Edited by Louis Fisher. Vintage Books. New York. 1962. *p.* 191

[35] In *The Essential Gandhi*. Edited by Louis Fisher. Vintage Books. New York. 1962. p.212.

[36] Collected works of Gandhi, p.20, Vol. 54. http://www.gandhiserve.org/cwmg/VOL054.PDF

[37] Collected works of Gandhi, p.157 Vol. 95

[38] Collected works of Gandhi, p.209, Vol. 53. http://www.gandhiserve.org/cwmg/VOL003.PDF

[39] Suddhananda, Swami, *Self Knowledge: A Path to the Pathless*, 3rd edition. Chennai: Suddhananda Foundation for Self Knowledge, 2006, p.32.

[40] Suddhananda, Swami, *Self Knowledge: A Path to the Pathless*, 3rd edition. Chennai: Suddhananda Foundation for Self Knowledge, 2006, p.66.

On evaluating the wide array of evidence presented above, and on balance of probabilities, I am inclined now to argue that (a) there is no strong opposition in practice to the use of reason in Hinduism, and indeed, (b) there might be some underlying positive support of human thinking in the Vedic or the Vedantic tradition, given the reformers of Hinduism insist that such is the flavour of the original system of Hindu thought.

5.1.2 *Oppositional (dialectical) thinking – Socrates*

Basnagoda Rahula has provided plausible proof of the direct influence of ancient Indian philosophy on Protagoras, the founder of sophistry. '[A] careful examination of the practices in Indian debating during the sixth century B.C.E. and comparison of those practices with Protagoras' attitude towards argumentation justify the possibility of this hypothesis.'[41] Out of the tradition of sophistry finally emerged Socrates (469-399 BC), the first major advocate of independent thought. Van Loon summarises the Socratic worldview, thus:

> [A]s no one can possibly reach the right conclusions without a thorough examination of the pros and cons of every problem, people must be given a chance to discuss all questions with complete freedom and without interference on the part of the authorities.[42]

His life was not free from interference by authorities, though. Authorities (even in democratic societies) dislike being questioned, and Greece was nowhere close to India in its level of tolerance for dissent. Had he been an Indian, Socrates may have become an honoured saint like Buddha, but the Greeks couldn't cope with an independent mind. Democratic Athens therefore charged him with corrupting the youth and for not believing in the Greek gods. It sentenced him to death. (This event set back democracy across the world for hundreds of years, as philosophers started associating democracy with mob rule.)

We don't have much detail on what Socrates said but remember him largely for his manner of approaching the truth. He was perhaps the world's first major 'questioner', asking us to question virtually everything, more so our assumptions. He asked us to validate our beliefs through a dialectical approach that was focused on eliminating fallacies. The set truth is finite, but the set of untruths is infinite. Despite the difficulty involved, we can get closer to the truth by eliminating wildly implausible untruths.

> His method would be to start with whatever seemed the most satisfactory "hypothesis," or postulate, about a given subject and then consider the consequences that follow from it. So far as these consequences proved to be true and consistent, the "hypothesis" might be regarded as provisionally confirmed.[43]

The dialectical method aims to discover lesser untruths through contestable debate, and to therefore achieve the higher truths. By eliminating errors a better understanding of the issue is achieved. This method remains at the heart of modern thinking. Socrates's advocacy of independent thought and critical examination of issues was powerful enough to change world history when this idea was rediscovered 1200 years later.

5.1.3 *Systematic doubt – Peter Abelard*

The initial advances in human thought in India and Greece 2 500 years ago were soon forgotten, lost in the sands of time. Authorities across the world clamped down on debate. Thus, in the West it was Christianity – which became the religion of the Roman empire from the time of Constantine I (306–337) – that crushed the Greek concept of independent thought. The West fell into intolerant, dogmatic slumber; blind faith blocked the sunlight of truth. Greek philosophy (derided as pagan thought) was banished. Many Greek books were burnt. Schools of Greek philosophy were closed.[44] On the other side of the world, critical thinking ground to a halt, as well. Hinduism slipped into a stupor particularly after *Manusmriti* – ossified the caste system which had by then become hereditary. India's ancient vitality was lost.

Fortunately, many hundreds of years later, independent thinking arose once again, this time in a different place. Early Islam helped a lot in this re-discovery by encouraging education and the acquisition of technical and other

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[41] Rahula, Basnagoda, *The Untold Story about Greek Rational Thought: Buddhist and Other Indian Rationalist Influences on Sophist Rhetoric*, PhD dissertation, December 2000, Texas Technical University, p.227

[42] Hendrik W, van Loon (1926). *Liberation of Mankind*. London: George G. Harrap & Co. Ltd. [1954 reprint], p.38.

[43] Encyclopaedia Britannica: [http://www.eb.com:180/cgi-bin/g?DocF=macro/5005/86/0.html]

[44] Evaggelos G. Vallianatos: *The Passion of the Greeks: Christianity and the Rape of the Hellenes*. Harwich Port, Mass.: Clock and Rose, 2006. This book has been reviewed at: http://mq.dukejournals.org/cgi/reprint/19/1/97.pdf

knowledge. In doing so, Islam created an outstanding synthesis of Western and Oriental traditions (Box JJ). This spurt in thought was, however, short-lived. Islam's initial openness was overpowered by the same tribal culture that Mohammed had battled against. Islamic societies become subservient to their backward-looking priests, and hence became intellectually sterile. The human brain once again switched off (although the seed had by now spread to places like England, which would take up the baton in this long relay race).

It took the Reformation (a battle between two branches of Christianity) to revive mankind's thinking capability. In particular, Peter Abelard (1079-1142), a Parisian teacher wrote a fascinating book, *Sic en Non* (Yes and No), in the preface of which he proposed the following method for finding the truth: 'By doubting we come to questioning, and by questioning we perceive the truth.'[45] But Abelard was quashed. A church council immediately censured him. Since Greek thought was by now widely available across Europe, it is not obvious whether Abelard was an original thinker or was rehashing ancient Greek thought. Nevertheless, his work prospered and influenced many of his students. Humanity had resumed its difficult journey towards independent thought.

Box JJ

Islam's role in transmitting Greek thought

Since I make many references in this book to the commendable role played by Islam in preserving and reviving aspects of ancient Greek thought, it will be useful to summarise the key arguments in one place, here.

Many Roman emperors were strongly influenced by Christianity, starting around 313 AD, when Constantine issued his Edict of Milan to permit freedom of practice to all religions. He also stopped the earlier (some have argued, sporadic) persecutions of the isolationist Christians (the Romans felt Christians did not mingle with the rest of society). But Christians didn't like this idea, of religious freedom, at all. They wanted a monopoly over Rome's religious belief. By around 390 AD, they persuaded Christian emperor Theodosius I to not only prohibit the worship of 'pagan' gods but to destroy or shut down 'pagan' temples. Christianity in power took the concept of persecution to an entirely new level. Demolishing other religions' places of worship has ever since been a favourite pastime of the two major 'religions of the book' (Christianity and Islam). Theodosius I did not stop at that. He shut down the Olympic games Apparently the games were associated with paganism, and the naked competitors considered immoral. It is a marvel that modern Christians participate in the modern Olympic games, an immoral pagan activity.

The few remaining Greek philosophers in the Roman empire were expelled. Fortunately, they were embraced by (pre-Islamic) Persia which practiced monotheistic Zoroastrianism but was a haven of tolerance amidst an increasingly intolerant Europe. Persia had formed its conception of life and justice from Emperor Cyrus (approximately 500 BC) who was a paragon of tolerance. Thus, the Sassanid king Noshirwan the Just (531-579) 'welcomed the pagan neo-Platonic philosophers expelled from the Byzantine Empire by Justinian.'[46]

The Roman Emperor Justinian (482/483–565), whose framework of laws forms the basis of most modern legal systems, shut down the remaining philosophical schools in Athens in 529. The loss of proponents of Greek thought literally brought progress in southern Europe and the middle East to an end. Liberty could not grow in this environment. Fortunately, much of this knowledge was preserved in some form or shape, and ultimately recovered.

a) The more important group of preservation of Greek knowledge was through Persia into Islamic nations. Persia fell to Islam in 644 AD, a few decades after the death of Mohammed in 632. The fate of Greek pagans living in Persia lay in Muslim hands. Fortunately for them, Islam had a two-pronged approach towards other faiths. The Caliph Omar who became the second ruler of Islam after Mohammmed (Islam had by then split into two, with those who accepted Omar being the Sunnis, and those who disputed his rule, the Shias) decided that 'while in Arabia itself there must be one religion, in the rest of the world submission, as shown by the material token of tribute, was to be sufficient.'[47] Therefore the Arabic forces which conquered Persia permitted the Zoroastrians and the Greeks to purchase 'tolerance' by paying the tax known as the *jaziya*. The people of

[45] Cited in *A History of World Societies* by John P. McKay, Bennett D Hill and John Buckler (1988), Volume 1. London: Houghton Mifflin Co., p.413.

[46] Brickman, William W., 'The Meeting of East and West in Educational History', in *Comparative Education Review*, Vol. 5, No. 2, Oct., 1961, p. 85.

[47] Kellett, E.E., *A Short History of Religions,* Australia: Penguin, 1962, p.357.

the book (those who accepted the Old Testament), called *dhimmis* by the Arabs, and were particularly offered such protection. The Greek pagans, being persecuted by Christians elsewhere but allowed to live in peace as long as they paid the *jaziya*, chose to continue in the new, Islamic, Persia. (While a few Zoroastrians did flee to India during that period, a good number of them stayed back. Indeed, many Zoroastrians still live in Iran, demonstrating a significant level of tolerance in Islam, although that has now been sharply receding. These pagans translated Greek literature first into Eastern Aramaic languages, now translated to these into Arabic, a language that had arisen at the time the Koran was transferred to writing.

They were allowed, and even encouraged in this enterprise of translation by many Islamic rulers of Persia (and later of Cordoba). Thus, in around 832 AD, the Abbasid ruler Caliph al-Ma'mun[48] established the 'House of Wisdom' in Baghdad and charged it with the task of translating ancient Greek texts into Arabic.[49] Islamic scholars actively studied and developed Greek science. Al-Khwarizmi invented algebra in 847 AD (a discipline that gets its name after his book *Hisab al-Jabr*). Brilliant Arab mathematicians assimilated the number system including the use of 'zero', decimal notation, and trigonometry, that had been invented in India a little before 500 AD, possibly by Aryabhata (although it appears the zero was used before his time). This information was later to be transmitted to the West, enabling Kepler and Newton to make their significant mathematical and astronomical advances. Medicine also advanced beyond the investigations of Hippocrates through the genius of the Persian Abu Bakr Razi (865-925).

Many Islamic scholars 'migrated to … Islamic Spain, which became a bridge for the transfer of ancient Greek thought from the former Hellenic world to medieval Europe.'[50] In around 1002 AD, Abu Amir, the Caliph of Cordoba created a library containing 400 000 volumes – a stupendous figure for those times. Avicenna (980-1037), also known by the name of ibn Sina, authored a major medical encyclopaedia. Thus, Islamic scholars unequivocally led the mediaeval era in science and knowledge.

But Islam soon began to retreat into a tribal shell of blind faith. Religious fanaticism developed strong roots. The Persian philosopher, Muhammad al-Ghazali (1058-1111) sharply criticised Greek philosophy for suggesting that reason can help us find the truth. 'Muslim Aristotelianism [therefore] "stopped short" at logic and physics'[51], and did not benefit from Greek metaphysics. Overall, Greek studies fell out of favour as Islam clamped down on reason. Virtually no major contributions to mankind have since been made by Islamic scholars, a terrible waste of human talent.

Despite this, the western Islamic kingdom of Spanish Cordoba continued, for some time, to be relatively free and tolerant. 'From the mid-tenth to the mid-thirteenth centuries, Muslim, Christian, and Jewish scholars were used to working together in Spain, to their great mutual benefit.'[52] It was here, in Cordoba, that Averroes (or Ibn-Rushd) (1126-1198) wrote extensive commentaries on the Arabic translations of Aristotle's work. His commentaries were translated, in turn, into Hebrew and Latin. It was this latter translation that reached St. Thomas Aquinas (1225-1274) and helped kick-start modern Christian (scholastic) theology, which was to ultimately contribute to new political thought.

Aquinas was influenced by another source, as well: Moses Maimonides (1135-1204), a Jew philosopher and Averroes's contemporary. Maimonides, also born in Islamic Cordoba, had to flee to other, relatively more tolerant *Islamic* kingdoms in Spain after he was persecuted by a fanatical Islamic sect in Cordoba. At this point he read the Arabic translations of Aristotle and decided to reconcile the Jewish scripture with Greek thought. His work reached St. Thomas Aquinas who then decided to attempt a reconciliation of Christianity with paganism. It was thus that the '[a]ncient Greek and Arabic texts … entered Europe in the early twelfth century,

[48] 'Ptolemy's work was 'transmitted to the Arabo-Islamic scholars at an early date; under khalif al-Ma'mun it was translated into Arabic by a committee of scholars.' – cited in Ralph W. Brauer, 'Boundaries and Frontiers in Medieval Muslim Geography', in *Transactions of the American Philosophical Society*, New Series, Vol. 85, No. 6, (1995),p.3n.

[49] Note that Christianity was a Middle Eastern religion, and many early Christians preferred to live in tolerant Persia and than in the increasingly intolerant Rome.

[50] *Chronicle of the World,* London: Longman Group and Chronical Communications, 1991, p.310.

[51] H. A. R., Gibb, *Studies on the Civilization of Islam*. Boston: Beacon Press, 1962. p.204. cited in Euben, Roxanne L. 'Comparative Political Theory: An Islamic Fundamentalist Critique of Rationalism,' *The Journal of Politics*, Vol. 59, No. 1, (Feb., 1997), p.52n.

[52] J.M.Roberts (1985).*The Triumph of the West*. London: Phoenix Press, 2001, p.93.

primarily through Toledo in Muslim Spain.'[53] Islam thus became the major gateway for the re-discovery of ancient Greek classics.

St. Aquinas's brilliant wiring helped rehabilitate Greek thought in Christianity, and reversed the stigma earlier associated with pagan thought. Christians could once again read Greek literature without being dismembered or burnt. Most importantly, Aquinas revived Greek arguments for the people's right to act against tyranny.

It was this revival that set the scene for the Renaissance, which was essentially a great revival of Greek art, literature and medicine. While Islam was shutting its mind to fresh thought, Aquinas had opened up the European mind. The Renaissance thinkers were now also able to make use of the Indian number system and Chinese technologies, like gunpowder. Therefore a great new spirit of inquiry and reason burst through, supported by the highly competitive Medici family of Florence. Over the years, also, European philosophers ranted against Christian intolerance, which led to modern conceptions of individual sovereignty and tolerance – which was a quintessentially Eastern idea. From 1439, after the invention of modern printing – a breakthrough almost on par with the internet in its revolutionary impact – the ideas of the Renaissance began to be disseminated rapidly across the European continent.

b) The other major pathway to the re-discovery of pagan thought was through a different kind of Islamic influence. Many Greek texts that survived the brutality of Christian Rome had been ferreted away by pagans (often pretending to be Christians, perhaps sometimes genuinely converted?) to the Byzantine, the eastern Roman empire. These texts, stored away, were perhaps never opened for centuries. We do know that the Greek Orthodox Church did not encourage a discussion of Greek thought. And so when Islamic forces ransacked the Byzantine in the 1450s and founded the Ottoman empire, a reverse exodus of Greek texts began – into Italy, where liberty was flourishing. Thus, 'there was no survival of "Hellenism" from antiquity to the Middle Ages in Italy. Greek culture was reintroduced into southern Italy by the Byzantines.'[54]

In any event, this much is clear – that it was Greek and ***not*** Christian thought that propelled us to liberty. Despite the tendency of many Christians to believe that Christianity had anything to do with the origin of liberty, let the facts be known.

5.1.4 *Opposing authority – Reformation*

Socrates (following on from the sophists) taught us to question our assumptions and to eliminate falsehoods. But there is another way to get to the truth, too: to question the claims of authority or experts. This was the key Buddhist method. However, it was not this (Buddha's method) but the Reformation which helped build our modern institutions of thought. In this regard, it was not its direct influence of Christianity that led to this outcome, but the battles between different parts of Christianity. The reforms were an unintended consequence of these vicious battles.

Questioning authority figures is of course, fraught with risk. In the late 11th century Peter Waldo from Lyons was among the first to question authority. He believed that people should be able to read Christ's message themselves and form their own opinions. Despite opposition from the Church, he went ahead and translated the *New Testament* from Latin into local languages. Other people with similar insubordinate ideas soon sprung up, disturbing the authority of the Church. A group called the Cathari stopped building churches entirely and decided to worship only within their homes.[55] This meant the end of the livelihood of priests.

And so God's machine fought back. Peter Walden was fortunate not to be physically harmed but his followers (and many others like him) were not so fortunate. Under the Pope's oversight, Christian forces set about massacring those who questioned the Church. Voltaire wrote thus bout such massacre:

> [T]there were men who wanted no law but the gospels, and who preached ideas almost the same as those held today by the Protestants. They were called Vaudois because they were numerous in the valleys of Piedmont; Albigensians, from the town of Albi; Goodmen, from the consistent goodness of

[53] McKay, John P., Bennett D Hill and John Buckler, *A History of World Societies,* Volume 1. London: Houghton Mifflin Co., 1988, p.413.

[54] Setton, Kenneth M., 'The Byzantine Background to the Italian Renaissance', *Proceedings of the American Philosophical Society*, Vol. 100, No. 1, (Feb. 24, 1956), p.3.

[55] *Time* magazine, Apr. 28, 1961. [http://www.time.com/time/magazine/article/0,9171,897752-2,00.html]

> their lives; and finally Manicheans, the name then given to heretics in general. It was astonishing that, towards the end of the twelfth century, the Languedoc seemed full of them.
>
> In the year 1198 Pope Innocent III delegated two simple monks to judge the heretics. 'We command', he says 'to the Princes, to the Counts, and to all Lords of your lands, to aid them against the heretics, by the authority that they have been given to punish the evil-doers, so that when Brother Rainier has excommunicated them, the Lords should seize their property, banish them from their lands, and punish severely those who dare to resist…
>
> On one side of him were to be seen the Duke of Burgundy, the Count of Nevers, Simon Count of Montfort [the father of Simon de Montfort whom we will come across later for his important work on democracy], the Bishops of Sens, of Auytun, of Nevers, of Clermont, of Lisieux, and of Bayeux, all at the head of their troops, and the miserable Count of Toulouse like a hostage in their midst: on the other side a mob animated by fanaticism of their faith. The city of Béziers tried to hold out against the crusaders; all the inhabitants who sought refuge in a church had their throats cut and the city was reduced to ashes.[56]

And so (this is from a separate account)

> '[i]n July 1209, an army of crusaders marched down from northern France into Languedoc and besieged the city of Béziers. When the city fathers refused to hand over 222 Cathari heretics, the crusaders broke in and massacred every man, woman and child – priests included – of Béziers' 20,000 inhabitants. Before the massacre one of the crusaders is said to have asked his leader, Abbe Arnaud Amalric, head of the Cistercian monastic order, how to distinguish between the heretics and the faithful. "Kill them all," was the abbot's alleged reply. "God will recognize his own!" From then on, the crusade became a war without mercy, in which almost any southern Frenchman was assumed to be a heretic. Historians estimate the total number of casualties at 1,000,000.'[57]

Most of Walden's followers were killed during the 12th to the 14th centuries. It was only after Martin Luther's (later) Protestant movement gained strength that the few remaining Waldensians could safely convert to Protestantism.

Despite ever-present danger, Martin Luther (1483-1546) spoke out his views without fear. Thus, in 1517 he challenged the Pope's authority to sell indulgences, supposedly a kind of ticket to Heaven, being forgiveness of sins sold apparently on God's behalf (More precisely, there is apparently an area in the heavens known as the Purgatory that the Pope controls). For some unknown reason, God, the Creator could, in those days, be bribed with a few petty gold coins.

The cynic will ask: But isn't this the *job* of religion – to sell us 'tickets' to Heaven? People pay huge amounts of hard-earned money even today to help build temples and feed priests, in return for a 'ticket' to Heaven. Beliefs create demand, and hence have commercial value. Religions have never hesitated to extract their 'share' of this demand. And aren't priests mercenaries anyway – indifferent entirely to the source of the wealth (booty!) they receive? Indeed, to the contrary, priests have a highly malleable conscience that actually favours the corrupt and criminal over the honest. In the Tirupati temple, for instance, corrupt politicians and businessmen who can afford special prayers get an immediate *darshan*, while the poor, honest man waits in a serpentine queue. We can only hope that there is some underlying morality among religions.

Luther's actions dangerously undermined the Pope's authority. Luther asked people to pay attention to what Christ had said, namely, that salvation is the reward for good deeds. He wrote: 'Christians are to be exhorted that they be diligent in following Christ … [a]nd thus be confident of entering into heaven'.

He also suggested that the Pope was a blasphemous fraud: 'The assurance of salvation by letters of pardon is vain, even though the … pope himself, were to stake his soul upon it'; 'the papal pardons are not able to remove the very least of venial sins, so far as its guilt is concerned' ; 'To say that the cross, emblazoned with the papal arms, which is set up [by the preachers of indulgences], is of equal worth with the Cross of Christ, is blasphemy'[58].

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[56] Voltaire, 'De la Croisade Contre les Languedociens', 1756, translation at: [http://www.languedoc-france.info/articles/t_voltairecathars.htm]

[57] *Time* magazine, 28 April, 1961. [http://www.time.com/time/magazine/article/0,9171,897752-2,00.html]

[58] Luther, Martin, 95 Theses, http://www.gutenberg.org/etext/274, October 31, 1517

He also said that the Pope was personally rich enough to build the Basilica of St. Peter's with his own money: 'Why does not the pope, whose wealth is to-day greater than the riches of the richest, build just this one church of St. Peter with his own money, rather than with the money of poor believers?'. And in 1521, at the Diet of Worms, Luther spoke thus: 'I do no accept the authority of Popes and councils ... I am bound by the Scriptures.'

What gumption! The sacrilege and infamy of it all!

Such unmitigated defiance would have got Luther killed instantly in another era. But he was fortunate, for the times had changed. Many were tiring of the Pope's political domination, and were willing to support an alternative Church. The tsunami that then arose caused a major breakdown in the Church and led to 'cleansing' through war and massacres for nearly two hundred years, before Europe cooled down and settled upon tolerance as the solution, at a level that had long been found in India for thousands of years.

What is relevant for us is not the merit or otherwise of Luther's arguments, but that he – a mere, ordinary priest – had the courage of conviction to successfully question the dictates of authority. The Buddha had asked us, long ago, to question our gurus (and that the guru is therefore obliged to respond clearly to our questions). But the Buddhist approach (that of Indian tolerance) was totally alien to medieval Christianity. Luther's act of challenging the Pope's authority motivated the Reformation (1517-1650s).

I am not suggesting that Martin Luther was in any way perfect. His personal character left much to be desired. All I'm suggesting is that he played a major role in opening up people's minds, and in making them ask why something should be accepted merely because an authority figure say so. His character was highly questionable, as a person. In 1543, for instance, he wrote a book, *On the Jews and Their Lies* in which he called for synagogues to be set on fire and for German states to be rid of Jews. Some historians suggest that this book played a prominent role in whipping up hatred towards Jews in Germany and across Europe more widely for hundreds of years, which explains why Adolf Hitler found such ready acceptance of his genocidal ideas. Whether Hitler was a Christian or not (he did practice Christianity publicly) is irrelevant. That he could not have whipped up such deep hatred against Jews without an culture of such hatred should be self-evident. William Shirer, in explaining Luther's lasting influence in Germany, wrote thus:

> [I]t may be said, in passing, that this towering but erratic genius, this savage anti-Semite and hater of Rome, who combined in his tempestuous character so many of the best and worst qualities of the German – the coarseness, the boisterousness, the fanaticism, the intolerance, the violence, but also the honesty, the simplicity, the self-scrutiny … left a mark on the life of Germans, for both good and bad, more indelible, more fateful, than was wrought by any other single individual before or since.[59]

The fact that the Protestants behaved in an authoritarian manner, just as the Catholics, is also evident from a cursory examination of history. As Rose Wilder Lane wrote: 'The Reformation was at first an effort to reform The Church, and then the leaders of the protesting groups, the Protestants, denied the Authority of the Pope and declared that they were the Authority.'[60] There was little to distinguish the two sides. Just that through their endless internecine battles, they realised they the only way for peace was for both sides to tolerate each other.

Regardless of the fact that the Reformation ended up as another form of authority, it did spark a burst of liberty. Europeans finally began to think for themselves. The ready availability of printed copies of the *New Testament* in local languages cemented this dramatic advance in human freedom – for the Christians, for the first time, could now begin to understand Christ's (reported) words themselves. The earlier, inordinately high status of priests, also came down to earth.

There was another crucial consequence of Luther's actions. Public opinion moved in favour of separating the jurisdictions of the church and the state, as a solution to the interminable battles unleashed by the Reformation. This was not easy, for initially the princes and kings began to pick their own religion and impose their choice upon their subjects. In doing so, they increasingly claimed a divine right to rule, becoming a separate source of power and laying the foundation of the modern state. Kingdoms saw themselves as sovereign entities. This concept – that the non-religious world had a separate existence – also led many people to think about the 'supremacy of the individual conscience'[61], a concept that underpins the modern idea of individual sovereignty.

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[59] Shirer, William L., *The Rise and Fall of the Third Reich*, New York, Simon & Schuster Paperbacks, 1990 [original edition 1959], p.91.

[60] Lane, DOF, p.137.

[61] Shirer, William L., *The Rise and Fall of the Third Reich*, New York, Simon & Schuster Paperbacks, 1990 [original edition 1959], p.91.

That concepts which strengthened individual liberty emerged in Germany and England, which were primarily Protestant, has led some commentators to attribute modern understandings about liberty to the Protestant movement.[62] But a closer examination shows that even Catholic societies changed because of the Reformation.

In particular, the Scholastics were pivotal in the advancement of the concept of separation of powers, and individual liberty. To counter the strength of Protestant kings, a Counter-Reformation emerged in the Catholic church, roughly between 1560 and 1650. The Jesuits (members of the Society of Jesus, a sub-group of the Catholics) opposed the idea that kings have any divine rights. Francisco Suarez (1548-1617) declared that *man is by nature free* and that political organisation is a conscious creation of members of the society who agree voluntarily to limit some of their personal liberties.[63] (Of course, very similar thoughts had already been expressed in India thousands of years ago, but such things have to be rediscovered by each society). Indeed, the entire Renaissance had been in a sense a Catholic advance in liberty, with its newly-found support for Greek thought.

This struggle between the Protestants, Catholics and princes 'led ultimately to the growth of individual liberty and democracy. The reformers preached the equality of man …[demanding] the freedom of … man to follow his own conscience'.[64] The idea that people were sovereign individuals and the source of princes' authority grew stronger between 1564 and 1618.[65] Then Hobbes, followed by Locke, came on the scene. Their views largely reflected these increasingly widely held views about tolerance. J.S. Mill went as far as to praise those who oppose us: 'If there are any persons who contest a received opinion …let us thank them for it, open our minds to listen to them, and rejoice that there is some one to do for us what we otherwise ought'[66]. It is a result of these changes to our thinking that we no longer parrot mindlessly what others say. Regardless of the number of people who hold a particular view, we must discard ideas that don't make sense to us. That freedom – to think for ourselves – must is ours.

I want to make note here of the work of Rene Descartes (1596-1650, who, in his *Discourse on Method* said that each of us must discover the truth ourselves. His 'first rule was to accept nothing as true which I did not clearly recognise to be so.' He wrote: 'cogito ergo sum', or 'I think, therefore I am'. This recognised the crucial value of human reason, and helped further to reduce blind faith. Galileo Galilei (1564-1642), Descartes's contemporary, could then boldly affirm: 'I do not feel obliged to believe that the same God who has endowed us with senses, reason, and intellect has intended to forgo their use.'[67] Through such self-belief has mankind finally inched towards freedom.

5.2 Not taking oneself too seriously

Questioning our assumptions does not come easily. Our socialisation comes in the way. If we ask a Hindu to become a Muslim (including changing his beliefs) for a day (and *vice versa*), we'll face stout resistance. Our beliefs define us and examining them is very challenging. But the truth can't be seen through tinted glasses. We must be capable of seeing through different glasses, and one day remove them permanently. We can't afford mindless belief if we are to become truly human. We must *know* the truth.

Humour is important in questioning our socialised perspectives. Mark Twain wrote: 'A discriminating irreverence is the creator and protector of human liberty.'[68] Laughing at ourselves brings us down to earth, and prevents hubris.

Jonathan Swift (1667-1745) made a significant contribution to the advance of liberty through *Gulliver's Travels*, a book in which he put fighting words into the mouth of (the fictional) King of Brobdingnag:

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[62] Danford, John W., *Roots of Freedom*, Washington: ISI Books, 2000, p.36.

[63] Ibid. p.193.

[64] D.R Bhandari (1963). *History of European Political Thought*. Bangalore: The Bangalore Printing & Publishing Co. Ltd. p.179-80.

[65] D.R. Bhandari (1963). *History of European Political Philosophy*. The Bangalore Printing & Publishing Co. Ltd. p.180.

[66] Mill, J.S. [1861], 'On Liberty', *On Liberty and Other Essays*, Oxford: Oxford University Press, World Classics Paperback 1991, p.51.

[67] Letter to Madame Christina of Lorraine, Grand Duchess of Tuscany, 1615 (cited in The Yale Book of Quotations, Yale University Press, 2006, p.297).

[68] Cited by Lacayo, Richard, 'The Seriously Funny Man', in *Time* magazine, 14 July 2008, p.37.

> He said, 'he knew no reason why those, who entertain opinions prejudicial to the public, should be obliged to change, or should not be obliged to conceal them. And as it was tyranny in any government to require the first, so it was weakness not to enforce the second: for a man may be allowed to keep poisons in his closet, but not to vend them about for cordials.'[69]

Readers could relate this to their own life, and think about its implications for their own reality. Such writing was incendiary. Voltaire (1694-1778)'s *Candide* was another masterpiece in this genre. Later, cartoons and lampoons came in. Political cartoons and, more recently, the television (e.g., *Yes, Minister*) have helped to blow apart the façade of wisdom that authority figures tend to adopt in public. (An aside: Martin Luther was one of the first political cartoonists – a skill he used to good effect in the sixteenth century[70]). Today, of course, we get our daily cartoon fix from newspapers in societies that permit a modicum of freedom.

[69] Jonathan Swift, *Gulliver's Travels*. Part II - A Voyage to Brobdingnag - Chapter VI [http://classiclit.about.com/library/bl-etexts/jswift/bl-jswift-gull-2-6.htm]

[70] [http://xroads.virginia.edu/~MA96/PUCK/part1.html]

6. Critical thinking

'There is no slavery but ignorance. Liberty is the child of intelligence.' – *Robert G. Ingersoll*[1]

Today we control nature, at least to an small extent. Thus, journey to the Antarctica that would have killed people a hundred years ago is now merely a routine job for some. In general, we can't even begin to describe what science has done for us in terms of bringing some order into our world. This book itself exists because of a number of scientific discoveries (e.g. I have mostly dictated it into the computer, given my severe RSI problem).

Is absolutely crucial to note that the scientific method did not arise from religious belief – not even the Vedic belief (which did have elements of the scientific approach), or the Buddha's.[2] Its roots are found, instead, in the Renaissance which, in turn, took its flavour of critical thought from pagan science and philosophy. It is important to note that thinking independently is *not* enough. Without knowing how to think critically, independent thought won't lead us anywhere. Nature is complex and fine tuned. It doesn't yield secrets readily.

Thinking critically means knowing *when* and *how* to frame a question, *how* to determine alternative explanations and testing relevant evidence, and finally, *how* to evaluate and generalise the results. This is not a trivial exercise, and generally calls for a high level of methodological training.

Thinking critically begins by asking the right questions. It then requires us to keep an open mind *until* the carefully evaluated answer is arrived at. We must be aware that the information to answer complex questions may never become available, or at least during our lifetime. In the face of this difficulty, critical thinking means being persistent – and patient. *All* reasonable questions must be pursued until a coherent, reasonable answer is found. Giving up critical inquiry is not an option. For instance, merely because we can't yet harvest fusion energy, doesn't mean we should be deterred from continuing to think and research further. After all, fusion is a routine feature on the sun. Controlled fusion will certainly be realized – if we diligently persist. Thinking and sentient beings that we are, we must aim for complete mastery over the universe; nothing less is expected of us.

6.1 The liberating torch of logic and science

There are six ways of acquiring knowledge: sense experience, reason, authority, intuition, revelation, and faith.[3] (Some parts of Hindu literature use three of these – see chapter 5. Other ways of looking at knowledge exist in the Hindu literature, e.g, (1) Visible perception, (2) Inferred, (3) Heard, (4) Similitude or resemblance, (5) Denoting cause (*arthapati*), and (6) Negative.[4]) Of these six, only sense experience and reason can be objectively validated – by others. Since I am interested only in universal (objective) Truth, such independent validation is the touchstone by which universal truth is assessed. Everything else is mere imagination, hallucination, superstition, or a dream, thus totally pointless.

The disciplines of mathematics, logic, and science assist in our quest for such (objective) truth. They document new knowledge, which then becomes the baseline for further advance. With each increment of knowledge, we can look further into the horizon, like the fabled dwarfs who stood on the shoulders of giants. It was by using

[1] Ingersoll, Robert G., *The Liberty of Man, Woman and Child*, 1877, [http://www.sacred-texts.com/aor/ing/vol01/i0108.htm]

[2] In this context, G. S. P. Misra's paper entitled, 'Logical and Scientific Method in Early Buddhist Texts' in *Journal of the Royal Asiatic Society of Great Britain and Ireland*, No. 1/2 (Apr.,1968), pp. 54-64, is perhaps one of the more sympathetic accounts of Buddhist dialectical approaches. It fails to demonstrate, however, that Buddhism knew or was open to inductive reasoning.

[3] Hospers, John, *An Introduction to Philosophical Analysis*, Bombay: Allied Publishers, 1977 [1967: Prentice Hall] reprint, pp.122-142.

[4] Vichar Sagar.

such previous mathematical knowledge that astronomer Johannes Kepler (1571–1630) formulated the laws of planetary motion that simplified previous attempts by Ptolemy and matched observations. His laws others to go even further. In that sense, progress is a relay race. The edifice of human knowledge is built one truth at a time, with each new discovery making the combined journey of mankind a little easier.

Increasing knowledge has helped us to discard countless myths and fallacies. This has not been easy. Political and religious leaders hate the truth. Christianity persecuted innumerable medieval scientists and thinkers because it disliked their findings. Only now, after the ceaseless reconfirmation are religions reluctantly beginning to accept scientific truths like evolution. We should perhaps be grateful that politicians and priests in most countries no longer forbid parents from taking their children to the local science museum.

Figure HH outlines the methods by which we can arrive at the truth. These include the deductive, dialectical, and scientific (inductive) methods.

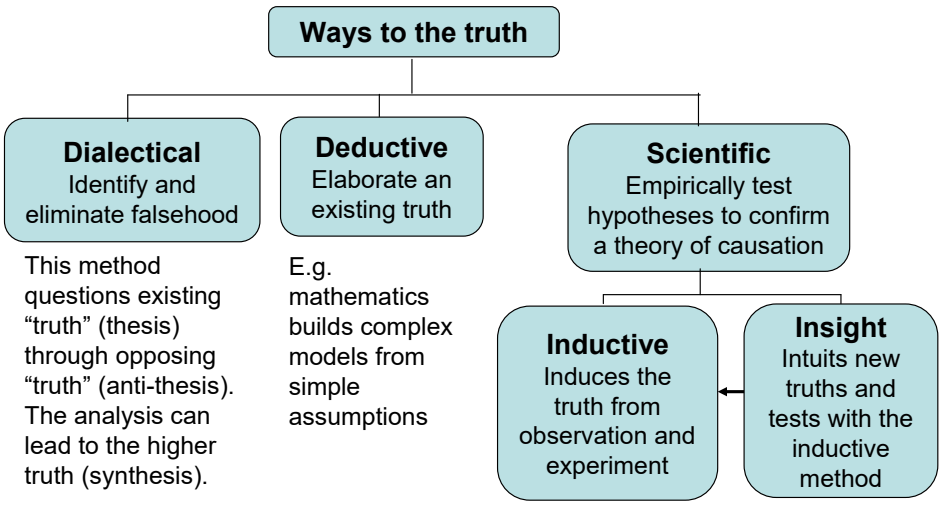

Figure HHH. Three main ways to find a truth

6.1.1 *The dialectical method*

Socrates's dialectical approach, which we briefly explored in chapter 5, continues to be important. Consider the 1776 US Declaration of Independence which stated: '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.' The founders of America *literally* meant this – that *men* (and more specifically, *prosperous white* men) 'are created equal'. They tacitly, if not explicitly, excluded poor white men, black men, and women.

Not much had changed even eighty years later. For instance, Abraham Lincoln thought that it was not practicable to achieve equality between the black and white 'races':

I will say then that I am not, nor ever have been in favour of bringing about in anyway the social and political equality of the white and black races - that I am not nor ever have been in favour of making voters or jurors of negroes, nor of qualifying them to hold office, nor to intermarry with white people; and I will say in addition to this that there is a physical difference between the white and black races which I believe will forever forbid the two races living together on terms of social and political equality. And inasmuch as they cannot so live, while they do remain together there must be the position of superior and inferior, and I as much as any other man am in favour of having the superior position assigned to the white race. I say upon this occasion I do not perceive that because the white man is to have the superior position the negro should be denied everything.[5]

And yet, it was he who successfully liberated America's slaves (more about that in chapter 13). That led to an even greater demand for equality. The true meaning of the 1776 declaration was now steadily being expanded through dialectical exploration of the meaning of the word 'equality'. Fifty years later, the US Supreme Court

[5] Cited in Mendelberg, Tali, *The Race Card: Campaign Strategy, Implicit Messages, and the Norm of Equality*, Princeton: Princeton University Press, 2001, p.38. Digitised at Google Books.

justice, Harry A. Blackmun then went to the other extreme, suggesting that 'In order to get beyond racism, we must first take account of race. There is no other way. And in order to treat some persons equally, we must treat them differently'[6] (this is basically the argument that underpins affirmative action: the idea of creating inequality in order to ensure equality). The concept of equal freedom rejects affirmative action but includes reasonable equality of opportunity. In this manner, the meaning of a particular statement can evolve and disclose deeper truths over time.

6.1.2 *Deductive method*

Deductive reasoning is basically older than the dialectic method. Any civilisation that had learnt to add and subtract had formed a rudimentary understanding of the deductive method.

In this method, an existing truth is taken as the starting point and new truths are derived from it. Thus, consider the statement: 'since gravity pulls all apples to the earth, therefore *this* apple will fall to the earth.' The fact that the premise is true (gravity pulls *all* apples to earth) guarantees the truth of the conclusion (that *this* apple will fall down, as well). While this is trivially true, complex deductions can often be made from simple premises. Entire disciplines of mathematics and micro-economics are built on the basis of simple axioms. And basic, simple laws of physics can help us deduce a spacecraft's path to the moon and back.

Of course, this needs the original premises to be actually true, else we will only go even further from the truth. The principle, 'garbage in, garbage out' applies. Unfortunately, humans would rather rationalise their blunders, arguing either that the evidence is wrong or make other excuses to over-ride the truth. Superstitions are typical examples.

If we make the false assumption that lines found on the palm of our hand represent oracular predictions, instead of being merely the folds in the skin that they are, we will then spend hours, even years, in studying palmistry instead of improving our knowledge and preparing to succeed in life. The worst part is that if our 'predictions' are proven conclusively wrong, we will rationalise, claiming that the lines on the palm can mean different things based on the position of the planets, and arguing therefore that had we taken account of the position of celestial bodies, our future would have been predicted accurately! It is the rare person – the seeker after the truth – who will conclude after repeated failure that palmistry is sheer nonsense. More problematically, it requires extensive knowledge of statistics to appreciate the evidentiary requirements for a truth. And that is not enough. Thereafter, very diligent and honest inquiry is needed to determine whether the required proof has been adduced. It is because of widespread ignorance of these methods that baseless ideas like palmistry proliferate. Indeed, more than half of what most people think that they 'know' is false.

6.1.3 *Scientific method*

> '[A]ll people, right from the cradle, engage in a *kind* of scientific thinking. We are all intuitive physicists, biologists, engineers, psychologists, and mathematicians.' – Steven Pinker[7]

The scientific method is based primarily on inductive reasoning. In this, the initial truth is not assumed to be true but is induced from empirical observation. Thus, from the observation that '*this* apple fell to the earth', a generalisation is proposed that '*all* apples fall to the earth.' This is then tested in a few cases, and the assumption confirmed. After it is accepted as a truth, normal deductive processes apply upon the assumption, and the laws of gravitation can be assumed to universally hold.

The inductive method, as we noted earlier, is not new. Ancient Greek and Indian texts display significant knowledge about the medicinal properties of plants. This knowledge was based in part on induction, even experimentation (which is part of the more advanced inductive, or scientific method). Some form of inductive reasoning is a routine part of our daily life. A cook uses inductive reasoning to determine which ingredient caused a dish to taste in a particular way (e.g. salt or sugar).

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[6] Cited in Sleeper, Jim, *Liberal Racism: How Fixating on Race Subverts the American Dream*, Maryland: Rowman & Littlefield, 2002, p.9. Digitised at Google Books.

[7] Pinker, Steven, *How the Mind Works*, London: Penguin Books, 1999, p.301.

This approach has its limitations as well, being based on the assumption that our observations are representative of the truth. Such faith can go wrong. If I have only seen only white swans in my life, I may (wrongly) conclude that *all* swans are white. Indeed, people who first came to Australia from England couldn't believe that black swans actually exist. Inductive reasoning works best when it is based on a large number of observations, across vast periods of time. Even then what is 'true' today might not remain true tomorrow. As David Hume wrote, just because the sun rises each morning, it would be a mistake to conclude that it will do so tomorrow. This was a strikingly accurate insight, for five billion years from now our sun will blow up into smithereens and stop rising in the 'morning'. So-called 'laws' of nature can change. Travel at speeds close to that of light slows down time to a crawl. Similarly, light can be slowed down dramatically, not just the minor slowing down that occurs during refraction.[8] Research suggests that light could even have travelled faster than its current speed during the first few instants of the Big Bang. This does not imply that our previous 'knowledge' was false, but that it was only partially true. But at least it was closer to truth than to falsehood. That remains the key way attraction of the inductive method, according to Feynman. It is unlikely that we can find the *entire* truth about anything, so we must remain content with incrementally pushing out the boundaries of knowledge, recognising its tentative nature.

Ultimately, though, we want to understand causality, not just correlation. Inductive reasoning tells something about correlation but not necessarily anything about causality: the 'why' of reality. That the sun comes out every day in the morning from the East doesn't tell us what causes both these facts. That is where the scientific method with its theory of causation, and empirical verification, comes in.

When empirical observations are generalised into a causal theory, then further deductions can be made. These models of causation are known as theories, a good example being the theory of evolution. Its main prediction is that the diversity of life on earth has arisen from natural, explainable processes. There are reasons why animals and plants are the way they are. (Note, though, that we don't know all the reasons yet, and so can't precisely predict the future; but it is possible, if we knew the precise circumstances, we would be pretty close to predicting which mutation, if it were to exist, would succeed).

An explanatory model of causality based on the theory of evolution has been tested for 150 years with millions of fossils, thousands of experiments, and other observations. None of this has disproved the theory, although we have discovered many more complex details about how evolution works at the cellular level. At the minimum this means that means that religious cosmologies are false, and must be abandoned regardless of the 'authority' attached to them.

Let's consider the theory of evolution in some detail. The concept – of evolution – had emerged as a candidate by around 1794, long before the 1859 publication by Darwin of his theory[9]. Indeed, the Upanishads in Indian thought, and Islamic scholars had pointed out this possibility thousands or hundreds of years prior to that date. Charles Darwin's grandfather had written at length about this possibility, and Charles had clearly been allowed to think as widely as possible, including the possibility that the earth was much older than the biblical account of it would have us believe. Regardless, he was a devout Christian during his early years. Only after collecting thousands of samples between 1831 and 1836 – and spending many years closely reviewing the data – did he finally propose a plausible mechanism for evolution: through natural selection. This theory basically explains why only those new characteristics (mutations) that survive continue, while those not well adapted to the environment, fade away. This theory was able to explain almost all the facts he had assembled (although gaps remained), and was therefore more likely to represent the truth, than a theory that God instantly created everything. The scientific method can be likened to detective work, a process of piecing together of a plausible story of event based on assembled facts. It is therefore almost certain that evolution by natural selection is a true representation of reality.

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[8] E.g. see [http://www.sciencedaily.com/releases/1999/10/991005114024.htm], [http://www.hno.harvard.edu/gazette/1999/02.18/light.html], and [http://www.eurekalert.org/pub_releases/2005-08/epfd-ltt081905.php]

[9] Geologist James Hutton wrote a chapter on natural selection in 1794

(see: [http://news.bbc.co.uk/2/hi/uk_news/wales/south_east/3191506.stm]). Darwin had already formulated his theory in 1834, but published it much later, in 1859. In the meanwhile, in 1844, Robert Chambers anonymously published *Vestiges of the Natural History of Creation* which supported evolution.

The scientific method therefore comprises the systematic induction of causes (not just correlations). It is predominantly inductive and leaves the door open for revision of the 'truth' should new evidence be presented.

The scientific method marks the highest level of human thought. Because it is focused on rigorous examination of the truth, so it doesn't come naturally to us. While elements of the method had indeed suggested themselves to ancient thinkers, a more comprehensive understanding occurred only much later. Aristotle stated very properly: "The actual facts are not yet sufficiently made out. Should further research ever discover them, we must yield to their guidance rather than to that of theory; for theories must be abandoned, unless their teachings tally with the indisputable results of observation"[10]. But it was Francis Bacon (1561-1626), who finally described the modern scientific method.

In his book, *Novum Organum* ('New Instrument' – of thinking) he asked us to base our quest for the truth on careful observation. Once the data are in, he said that we should look for patterns and sort the data into coherent categories. This then becomes information which can provide us with clues about causes. Once we have a causal pathway, we begin to find useful knowledge. It is only an empirical process that can 'light the candle'. Our explanation is known as a theory, being an *attempt* to reach the truth. By retaining the option of changing our theory should a better explanation emerge, we affirm our ongoing commitment to the truth.

A theory, being causal analysis, should lead to predictions (hypotheses) that can be tested. By calling our predictions hypotheses, and by not asserting that these are *the* truth, we confirm our readiness to be persuaded by the facts. The hallmark of the scientific method is the suspension of belief.

The hypothesis must be tested through an experiment, or (at least) a statistical test where such experiment is not feasible (as is often the case with the social sciences). Ideally, only one explanatory variable must be allowed to change through a tightly controlled experiment. The experiment must be 'duly ordered and digested, not bungling nor erratic' (Bacon). Its results would confirm or reject our hypothesis, thus either confirming our theory or requiring a new one. Such approach yields ever-increasing clarity: a higher truth, as false theories are sent packing. Even if no theory fits known facts, we benefit from knowing which theories aren't true.

Before the scientific method was devised, discovery and invention were often a matter of serendipity. Since then, however, such innovation has become (at least somewhat) institutionalised. I say 'at least somewhat' since it is foolish to expect knowledge to progress without at least some preliminary bias. For instance, for virtually everything there is (theoretically) an infinity of possible hypotheses. But the scientist does not test all of them. He hones onto just one or two, which are most plausible based on his prior knowledge or assumptions of the world. Let's say that the scientific method is not a mechanical, robotic method of brute intellectual force over matter. It is a very economical, biased, and selective method. That doesn't in any way reduce its power. It is at its heart, a method that brings some rigour to our random thoughts and prejudices.

Through such systematic research and development, new discoveries and inventions now emerge with predictable regularity. When the US government decided to send man to the moon, all it needed to do was to pour money into the project, and before long, man had reached the moon (note, there might have been cheaper ways to do this, but I'm not discussing that issue at the moment). Scientists go to work in the morning, clueless about what they will do or find, and almost through a mechanical process drill, end up with new discoveries or inventions. On returning home they often switch off their rational mind and revert to mythical and irrational belief. We can retain our emotional makeup even as we achieve extraordinary things by husbanding our limited faculties into a groove.

What kind of mental processes help us induce a theory? It would appear that many creative processes in our brain, the precise nature of which is not obvious, are involved. As Bertrand Russell noted:

> Bacon's inductive method is faulty through insufficient emphasis on hypothesis. He hoped that near orderly arrangement of data would make the right hypothesis obvious, but this is seldom the case. As a rule, the framing of hypotheses is the most difficult part of scientific work… The part played by deduction in science is greater than Bacon supposed.[11]

Arriving at scientific insight involves the active use of intelligence, lateral thinking, careful review of data, imagination, and all kinds of subconscious processing in the brain – even possibly through dreams. Indeed, the

[10] Cited in Barrow, John D. and Frank J. Tipler, *The Anthropological Principle*, Oxford: Oxford University Press, 1996 [1986], p.39. Unfortunately this citation refers back to another secondary source, and not to the original source.

[11] Russell, Bertrand, *A History of Western Philosophy*, Simon and Schuster, 1972, pp. 544-5.

edge that we retain over robots – which will otherwise soon become more 'clever' than us – will come from this creative energy of our subconscious mind. Deep inside, our mind is like a kaleidoscope: bringing together, scattering; then re-joining our experience and observations into combinations hitherto not visualised. It is through these latent processes that we create not only fiction and art but also scientific insight. This capacity almost certainly underpins human spirituality, as well.

Karl Popper (1902-1994) emphasised the importance of a relatively less prominent aspect of scientific enquiry – deductive reasoning. And Thomas Kuhn (1922-1996) suggested that hypotheses arise from theory, not the other way around. The 'route from theory to measurement,' he said, 'can almost never be travelled backward'[12]. There is surely, in some subtle sense, a Hegelian dialectic at work in the scientific method in which opposing ideas (thesis, antithesis) blend into a synthesis.

I believe that a critical thinker must therefore apply a wide range of thinking methods. We must also be willing to subject ourselves to two key disciplines of the scientific method: (a) independent verifiability and replicability, and (b) systematic evaluation. In this manner, the scientific method, regardless of how exactly it works, will continue to expand our horizons.

A word of caution is in order here. While scientific thinking is a boon, it is important that we treat the ideas of scientists with *scientific caution*. That is because most scientists do not follow the scientific approach in their daily routine. Most of them do not think scientifically beyond their field of specialisation. And so, too often it happens that the credibility of science is put to question by 'scientists' who pass judgement on areas not part of their expertise or understanding. That doesn't mean they are necessarily wrong. One can follow the wrong path and still arrive at the right answer. Even the common man is not necessarily less capable of thinking clearly than a trained scientist. It is the quality of thinking that matters, not the formal role, title, or training of a person.

After Francis Bacon had suggested the basic outline of the scientific method it became relatively easy for scientists – people who follow this method of thinking – to discover the properties of matter. But inquiry into the properties of matter is relatively easy, since multiple observations can usually be made on a lump of matter, and direct experiment is often feasible. On the other hand, discovering the properties of human behaviour and of society is far more difficult. While observation is available in such cases, experimentation is usually not. The interaction of a billion humans therefore remains largely unpredictable except at the aggregate level – and even on that level, there are many competing theories, no single proven scientific theory.

The study of human behaviour is based on insights from one's personal tendencies and experience, observation, and deductions from the historical record. In this regard, we must credit Thomas Hobbes and John Locke with some of the earliest scientific analysis of human nature. Hobbes's analysis led him to deduce the need for a strong sovereign. Locke, with his many remarkable insights, deduced the concept of democracy, instead. Their mainly subjective and historical approaches to the study of human nature have since been bolstered by experimental psychology and experimental economics, through discoveries like the use of heuristics (Kahneman and Tversky), which show us how the human mind actually works. As well, many empirical studies of society have since then been developed that use statistical deduction from large data sets. These include the empirical examination of differing levels of freedom on economic growth. But we have to be careful here, for econometric models – which can never be as sturdy as experimentation – can easily go awry, because the underlying theory is mis-specified or because of practical difficulties in tracing causality. Therefore, the average 'social scientist' who often arrives at seriously deficient conclusions. At such a point, only a broader moral perspective can help.

6.2 Critical thinking

Critical thinking, which is both a stance (of an independent, questioning mind that does not rush to judgement) and a framework for thought (appropriate choice of thinking method) has led to an enormous advance in our knowledge. But critical thinking is a highly sophisticated, acquired skill which does not come naturally to us. The conceptions and methodologies of critical thinking are themselves undergoing continuous improvement. Edward de Bono, for instance, believes that traditional critical thinking has significant limitations. These limitations, he suggests, can be overcome by a more extensive exploration of non-linearities and irregular patterns.[13] An example includes the concept of tipping point or phase change (in physics), whereby a linear system suddenly

[12] Kuhn, Thomas, *The Essential Tension*. Chicago: University of Chicago Press, 1977, p. 197.

[13] This is the general theme of de Bono's1990 book, *I am Right You are Wrong*, London: Viking (Penguin Group).

undergoes a discontinuity at a particular (sometimes unpredictable) point. This has implications for all disciplines, including biology, geology and economics. Lateral thinking, recursive thinking and cybernetic thinking, among other new ways of thinking, aim to extend our ability to explore the truth. The main thing, regardless, is to be inquisitive and keep an open mind.

Impact of critical thinking on religion

The most dramatic consequences of critical thinking so far have been on religions, which have been forced on the back foot by the questioning mind. As Herbert Spencer wrote: 'Religion has been compelled by science to give up one after another of its dogmas, of those assumed cognitions which it could not substantiate'.

Religions necessarily have a cosmology, a theory of the universe. Unfortunately, no religious cosmology has ever been validated by science. True, Hindu cosmology (and there are many version of it) refers to time scales broadly in the range determined by science, but the precise numbers don't match, nor is this cosmology based on any robust or verifiable methodology. One Hindu *purana* apparently suggests that we are currently in the *Kali-yuga* (*yuga* being an epoch). The previous one, *Dvapara-yuga* ended 5 000 years ago. Before it was the *Treta-yuga* which ended in 860 000 BC. That was preceded by *Satya-yuga* which ended in 2 156 000 BC after lasting for 1.728 million years – a period during which righteousness was presumably the norm. Note that the *Satya-yuga*, according to this view, existed four million years ago, but we *know* that there was no human being on Earth then: only primitive primates existed. This cosmology is false.

Other cosmology are much worse. The *Old Testament* states that the stars, the sun and the moon were created by God on the fourth day,[14] after water and dry earth had been created on the second and third days, respectively. This implies that the stars (and thus our sun) are younger than the earth, which is absurd.

Concepts like heaven and hell (found in some form in most religions) are also totally implausible, since below the surface of the earth are molten compounds, and above it, empty space. When we didn't know the truth, idle speculation was rife. Then are the claims that God himself apparently visited the earth personally (or sent his messenger). He supposedly then dictated our scriptures. The fact that his cosmologies are false indicates that God himself was ignorant about the world – at least in the past. To me, the absurdity of such things confirms that all our scriptures are man-made. I can't see the hand of God in any of them. These reflect the creative imagination of ordinary men: works of fiction, not to be taken seriously.

That the earth was found not to be at the centre of the universe, impacted religions adversely. Later, Darwin's theory of evolution gave religions an even bigger jolt. By clarifying that we are an *animal species* that has evolved from lower (but by no means to be underestimated[15]) life forms, Darwin put on notice all those who believe that we are unrelated to, or even *beyond* the animal kingdom. It is foolish to imagine that we are a special creation for the benefit of which an entire universe of a magnitude astronomically larger than us had to be created.

Darwin, faced with blindingly obvious evidence, changed his own views about the world. He had been a devout Christian once, indeed was preparing to become a priest through studies at Christ's College, Cambridge. Of this period he later wrote: 'I read with great care Pearson on the Creeds and a few other books on divinity; and as I did not then in the least doubt the strict and literal truth of every word in the Bible, I soon persuaded myself that our Creed must be fully accepted'. The discoveries he made during the world-wide voyage on HMS *Beagle*, and his diligent subsequent research, threw him into inner turmoil. Christian cosmology was no longer viable. He decided to side with the truth. To remain true to his own self, he became an agnostic, renouncing Christianity (not publicly though: religions create such deep fear that people find it hard to speak about the truth). It wsa in a published posthumously book that he wrote: 'The mystery of the beginning of all things is insoluble to us; and I for one must be content to remain an Agnostic.'[16]

The 'theory' of intelligent design (supported by some Christians today) continues to resist evolution by natural selection. But Herbert Spencer wrote 150 years ago, '[t]hose who cavalierly reject the Theory of Evolution, as not adequately supported by facts, seem quite to forget that their own theory is supported by no facts at all.'[17]

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[14] And God made two great lights; the greater light to rule the day, and the lesser light to rule the night: he made the stars also.

[15] See 'Minds of their own' in *National Geographic* magazine, March 2008.

[16]This and the previous quotation are from Charles Darwin's *Autobiography* that he wrote as private memoirs. It was published after his death in 1882.

[17] Herbert Spencer, in an anonymously published article, 'The Development Hypothesis' in the March 20, 1852 issue of *The Leader*

Religions are therefore on the back foot, hard pressed to prove their absurd beliefs. The truth can not lower its standards, even for the scriptures. Just because something is written in a book doesn't make it true.

There is actually no intrinsic contradiction between science and religion. These are two different domains that never mingle; they must be treated separately. Nothing prevents God from existing exactly in the manner our religions suggest that He does (namely. by contradicting all known laws of nature). Nothing prevents us from believing in heaven, hell or in an afterlife (so long as we don't link these to actions taken in the real physical world, like fanatic Muslims who kill innocents in order to go to heaven). There is no evidence that religions are intrinsically 'wrong' (fiction is never 'wrong'). There is no need to thrown overboard religious traditions and values (of course one can be picky) so long as we end up treating each other with respect and dignity. As Hayek has explained wonderfully, many traditions exist for reasons deep and not easily comprehensible reasons; they could well be prophylactic, as they could be optimal based on the circumstances.

Impact of critical thinking on racism

Scientific discoveries have strongly impacted political relations. When the authors of the 1776 American Declaration of Independence claimed that 'all men are created equal' they meant that only propertied white men – not women nor blacks – are created equal. Darwin actually thought that different races are at different 'stages' of evolution, with the white race at the top (this contradicted the biblical account that all mankind arose from Adam and Eve). For a hundred years after his work was published, 'Social Darwinism' justified racism. But subsequent research arising from Darwin's theory has demonstrated that the human species has significant genetic homogeneity. While many people had fought against racism on ethical grounds, evolutionary studies have made the need for genuine equality much more urgent. This is yet another reason why the intent of the American Declaration has broadened to cover literally everyone (even, in the minds of some, to those not yet born). Millions of people have been released from political oppression as a result of the work that Darwin commenced.

Impact of communication technology on society

Technology is the best advertisement for the benefits of critical thinking. Among these, communication technology is perhaps the most salient. Thousands of years ago books had to be individually transcribed by hand. This sharply constrained the spread of knowledge and led to the creation of a priestly class. Books were available only in seminaries and in a few libraries of scholars. Modern printing, invented in around 1450 at the beginning of the Renaissance, revolutionised knowledge. The number of philosophical and scientific books soon exceeded religious books (in the early days of printing, the Bible was the most published). Greek philosophical literature was now extensively re-published, leading to the revival of critical thought. While print runs for most non-religious books were quite small – about 500 copies or less – this was enough to catalyse human inquiry.

Story-telling could now became a major tool of philosophy. Novels like *Candide* could be written to take the message of freedom to the people. Writing fiction was safer, as well, given the risks of being hung or impaled for the slightest independence of thought. Today, released from religious bigotry, new ideas are spreading faster than ever before. Millions of books are now published each year. The media and the internet add great amounts of information and analyses to this mix. Unfortunately, disinformation is also increasing. Hateful writings can now find a ready audience on the internet. The battle of ideas between the good and evil is expanding into the internet. Dictators, terrorists, and ordinary citizens: all use the internet to spread their message (some, of course, block access). World 2.0 is upon us.

It is important the proponents of liberty debate actively with others on all channels of communication, so as to reaffirm the path of freedom, tolerance and truth. The need to wage war against false ideas, ignorance, and prejudice will never end. Given our social conditioning, we take a long time to accept new ideas. Entire generations may need to pass before the idea of freedom is more widely accepted.[18] We can help this process by keeping an open mind and motivating our children to ask questions – encouraging them to look for evidence before forming a view. Else things can go backward. The victory of good ideas is not assured.

Impacts of the Industrial Revolution on freedom

Industrial technology, that was founded on freedom, has further hastened the spread of freedom by changing the structure of society. In particular, the Industrial Revolution created a large middle class that wasn't dependent on

[18] As Max Planck said (in a quote popularised by Thomas Kuhn) 'a new scientific truth does not triumph by convincing its opponents and making them see the light, but rather because its opponents eventually die, and a new generation grows up that is familiar with it.'

land or beholden to nobles and kings for its survival. Economic independence is crucial in order for mental independence to be achieved. Unrestrained by cumbersome relations with land, this mobile and economically self-sufficient class rapidly gained politically influence. Increased demand for democracy, for instance, was driven almost entirely by the middle class. Without this class – the *bourgeois* – freedom would not have received the fillip it did.

Which of these two came first – technology or advance in political thought? I suggest that both these were underpinned by a common underlying advance – in critical thought, which spurred *both* industrial growth and new political paradigms. (This is broadly also the way Timothy Ferris sees it in his excellent book, *The Science of Liberty*.) Not all these paradigms were good, for the model of socialism grew enormously in strength at this point in time. Fortunately, socialism has been given battle and practically crushed. Reason and liberty are now triumphant. A decisive victory awaits, although a long journey lies ahead.

* * *

Our children should be given the freedom to decide, when they grow up into free-thinking adults, their own religion (or its absence) and approach to life and society. We ought not to burden them with our beliefs, except perhaps to show them the range of alternatives that exist, and their pros and cons. They will naturally learn more than us, as greater knowledge is available to them. This will enable them to prudently decide matters concerning them. If India can adopt the principles of critical thinking we would be well advanced in our journey towards greatness as a country.

7. Aspiration for a moral life

'Your character is your destiny.'[1] *Heraclitus* (500BC)

'Capitalism is based on self-interest and self-esteem; it holds integrity and trustworthiness as cardinal virtues and makes them pay off in the marketplace, thus demanding that men survive by means of virtue, not vices. It is this superlatively moral system that the welfare statists propose to improve upon by means of preventative law, snooping bureaucrats, and the chronic goad of fear.' *Alan Greenspan*[2]

It should be clear by now that freedom is not a hedonist, 'libertarian' concept. It is, instead, tightly inter-woven with accountability. It is, at its root, a moral concept, requiring a commitment to the highest human values, without forcing anyone down that path but leaving everyone free to choose and order their priorities. The philosophy of freedom thus affirms, above all, our human dignity and discrete existence. It is an expectation that naturally behave ethically in the free society. We voluntarily uphold our accountabilities, and generally don't extract the temporary advantage that might accrue from cheating. (Of course, the fact that we don't always do so remains the key problem facing society.)

In addition to being an ethical society, the free society is a land of opportunity, with freedom to become the best we can. Merit matters in the free society, not our caste or parental economic status. The free society speaks thus to its young: 'Tell me what *you* know and what *you* have done. I don't want to know who your father was or what he did. *You* are the man (or woman) I am interested in! Only your thoughts and actions will determine your fate.' Such sentiments form the moral framework of the free society. In this chapter I explore the institutions that underpin the ethical goals of the free society.

7.1 The basis of morality

As pointed out above, most of us, most of the time, naturally do the right thing. We do so not merely out of an innate moral sense (which must surely forms part of the equation) but because the free society – through its precise and prompt enforcement of accountabilities (not paternalism) – nudges us towards the right action.

When we ask the grocer for bread, and he hands it over to us, we do not (generally) walk off without paying. Why so? Are we afraid he'll assault us (if we don't pay)? True, particularly if we are fragile and he is strong. But why do we pay even when a small child tends the shop in her father's absence; even if this is a one-off even in a small roadside town where we have stopped over on the way to a distant destination, and even if no one is watching. Thus, even in situations where we could generally cheat without fear of being found out, we do not lower our moral standards.

Similarly, we are usually quick to apologise and make amends when we make a mistake. An apology is a form of accountability: verbal compensation. We therefore compensate voluntarily when we are at fault. While it is possible to make a quick buck through fly-by-night operations and escape to a remote island to 'enjoy' one's unearned wealth, the vast majority of us don't even dream of such malfeasance. Most businesses prefer to remain accountable to their customers and supply genuine and functioning products. Our corporations, shops and traders operate honestly with monotonous regularity without us having to summon the police each time we buy something. That is because, as Ian Harper noted: 'The market economy ... rewards traditional virtues. Material

[1] Translation used in Roger von Oech (2001). *Expect the Unexpected (Or You Won't Find It).* Free Press. p.13.

[2] Greenspan, Alan, 'The Assault on Integrity' in Rand, Ayn, *Capitalism - the Unknown Ideal.* Signet (Penguin Group), 1967, p.121.

success in a capitalist setting requires diligence, industriousness, trust, prudence, courage, co-operation and self-reliance. Without these, no capitalist enterprise can succeed.[3]

7.1.1 *Strategic incentives*

We do seem to possess an internal moral compass, a conscience (discussed in chapter 1) which helps us distinguish good from the bad. Although not very strong, this moral sense does help reduce some moral confusion. But it would appear that at its root is enlightened (strategic) self-interest. *Pure* self-interest is an extension of our competitive nature, with altruism being part of our cooperative nature. On combining these two, we get *enlightened* self-interest.

That pure self-interest leads to good social outcomes was the great discovery of the classical liberal, Adam Smith. He found that in doing the best we can for ourselves, we end up doing the best we can for others. Thus, Bill Gates will try to do his very best to serve us only when he is able to profit from his service. He knows he can *only* make a profit if we agree to buy his products. He doesn't control us. We control him. By succeeding in becoming our servant (for purposes of the software we need), he achieves his profit goals. In the process he employs thousands of people, and his software improves our productivity. Social benefits all around. His profits are usually a miniscule fraction of his total contributions to society. His profits (wealth) will in any case ultimately return back to society, as investment, charitable activity, tax, or bequest. Therefore, the whole increase in value from what he creates will irrigate mankind. Our contributions build the world, one brick at a time.

Instead of this, had Bill Gates given away his software, he would have failed to attract outstanding talent to improve his products. As a result, his creative genius would have not achieved its potential, thus leading to the worst outcome for everybody.

It would have been even worse had society compelled him to give away his products, for then he would have lost all his incentive to serve our needs. A similar but far more subtle pressure is exercised through the concept of corporate social responsibility (CSR) which expects business to undertake charitable activity. But a business should not undertake any activity outside its field of expertise. Doing so can only waste precious talent which should always focus on things the business does well (the argument of comparative advantage). It is not advisable for businesses to undertake charity in the first place. Such activity would presumably also violate its memorandum of association and require shareholder consent which may not have been taken appropriately. If the business rules are not violated and shareholders consent, then we can have nothing to say. It is social or legal compulsion in this regard that must be opposed vigorously.

Let me add that we don't want our self-interest to transform into haughtiness or arrogance. A robust sense of humility based on our limitations is a valuable asset, hence strategic, and so desirable in itself.

The second aspect – of altruism, reflects our natural empathy for others. We sense others' pain. Most people are therefore willing to contribute for others' welfare, over and above tax contributions paid for a social minimum. (The social minimum is a pure risk-based insurance program, hence not altruism.) In extreme cases someone may save another person from drowning, without regard for their own safety.

Altruism is part of *enlightened* self-interest because it generally involves indirect, strategic 'selfishness'. Much altruism is strategic, hence consistent with narrow self-interest. We may, for instance, benefit through 'salvation' or just feeling good. Or we might undertake charity to reduce our angst at the existence of poverty. Thus, even though it might appear to a casual observer that I have paid an excessive price for the dubious privilege of trying to reform India and rid it of poverty, I do so because doing the right thing gives me mental satisfaction. So is it altruism or just self-interest? Box QQ discusses altruism in more detail.

Box QQ

Altruism, enlightened self-interest, and sacrifice

Ayn Rand wrote that "'Sacrifice" is the surrender of a greater value for the sake of a lesser one or of a nonvalue', and that **may refer to a situation where** 'something [is] given up or lost'[4]. When we say that 'the soldiers of the Allied forces sacrificed their lives for our future', we do so because of we belief think that the soldiers got nothing

[3] Ian Harper (2003). 'Christian Morality and Market Capitalism: Friends or Foes?' 5th Annual CIS Acton Lecture on Religion & Freedom. Centre for Independent Studies, Sydney.

[4] [http://www.merriam-webster.com/dictionary/sacrifice]

in return (but death, being the end of everything), in lieu of a thing of infinite value (life). But is such a view justified?

First, the soldiers (unless they were conscripted) were fighting for something they cared for – the free society – and were acting as responsible citizens. The value they received (when alive) from the belief that they were fighting for a country they *loved* – was compensation for the likelihood of death in battle. Note also that the soldiers received a competitive salary (and, presumably, upon their death, a pension for their family). Other value received from their job included good health from exercise, deep friendship with fellow soldiers. We would be hard pressed to suggest that a voluntary act of fighting a war is sacrifice. What we choose to do for ourselves or for our beloved ones (or country) is not sacrifice. Calling it 'sacrifice' would demean our sentiments. As Ayn Rand wrote:

> Any action that a man undertakes for the benefit of those he loves is not a sacrifice… Concern for the welfare of those one loves is a rational part of one's selfish interests. If a man who is passionately in love with his wife spends a fortune to cure her of a dangerous illness, it would be absurd to claim that he does it as a "sacrifice" for her sake, not his own, and that it makes no difference to him, personally and selfishly, whether she lives or dies.

What now if I forego an expensive dinner I had planned, and donate the savings so made to charity? That I am being altruistic can't be doubted. But I'd suggest that this does not amount to sacrifice because I get a warm glow in return; a feeling surely of equal or greater value to what I give. In any event, the moment we truly care, sacrifice does not exist.

> If one's friend is in trouble, one should act to help him by whatever non-sacrificial means are appropriate. For instance, if one's friend is starving, it is not a sacrifice, but an act of integrity to give him money for food rather than buy some insignificant gadget for oneself, because his welfare is important in the scale of one's personal values. If the gadget means more than the friend's suffering, one had no business pretending to be his friend.[5]

We can only sacrifice when we do something we don't want to do. But if we do such a thing, then we either violate our self-interest or are (likely) being compelled, bot of which can't happen in the free society. As Ayn Rand further noted:

> The virtue involved in helping those one loves is not "selflessness" or "sacrifice," but integrity. Integrity is loyalty to one's convictions and values; it is the policy of acting in accordance with one's values, of expressing, upholding and translating them into practical reality. If a man professes to love a woman, yet his actions are indifferent, inimical or damaging to her, it is his lack of integrity that makes him immoral. The same principle applies to relationships among friends.

A 'sacrifice' is an action we have voluntarily chosen, an action based on one's values, then it is an act of integrity. Clearly, the term 'sacrifice' is very misleading. I prefer 'enlightened self-interest' to clarify that *everything* we do *voluntarily* must necessarily be in our interest, else we wouldn't do it. So if parents tell their children: 'We sacrificed for you', and therefore demand obedience or care in return, we should (while obeying them and caring for them out of the moral sense of duty) ask them: 'Who *forced* you to do it?' Parents must either *want* to have their children (in which case what they do for them *can't* be a sacrifice), or not have them in the first place. They can't eat the cake and have it too!

Now we can look at the dictionary meaning of this word. Sacrifice is defined as the '[d]estruction, surrender, or foregoing of anything valued for the sake of anything else, esp. a *higher* consideration'[6] [emphasis mine]. This is a confusing definition where 'higher consideration' presumably represents some abstract moral valuation. Let's say I give up something of value (say, my time or my money) that is worth X to me, and receive something I value Y in return, where Y ranges from 0 to ∞, with varying probabilities.

In general, when we receive something of equal or greater value than what we give, that cant' be called a sacrifice. In a market transaction, when we 'give up' Rs. 100 for a movie ticket, we get *at least* Rs. 100 worth of value in return (we usually get back *more* than Rs. 100 in value, the difference between what we value and what we pay being consumer surplus). Receiving $Y \geq X$ by 'giving up' X clearly involves no sacrifice: it is a bargain. Therefore, trade-off of the following sort are *not* sacrifice: 'We must sacrifice watching TV today to study and work for good

[5] Rand, Ayn, 1964, 'The Ethics of Emergencies', *The Virtue of Selfishness*, New York: New American Library, pp.45-46. – cited in Hospers, John, *An Introduction to Philosophical Analysis*, Bombay: Allied Publishers, 1977 [1967: Prentice Hall] reprint, p. 602.

[6] *Chambers 20th Century Dictionary*, 1983 edition.

results in the exam tomorrow'. Delayed gratification is *not* sacrifice, but a rational way to smooth lifecycle consumption, a *pure* display of self-interest.

Reputation

There are many economic advantages of honesty. Not only do we benefit financially of to from a good reputation, its effects (positive or negative) endure, and attach to our progeny (the progeny of murderers are usually scarred for life; the progeny of a great man respected by default). It is therefore in our self-interest to build and maintain a good reputation. As David Klein noted, 'A habit of deceit is a mark of bad character, and bad character has a way of revealing itself no matter how cunning the individual. Deceit is both bad karma and bad business. I'm inclined to agree with Montesquieu, Adam Smith, and Friedrich Hayek that commerce elevates manners and probity.'[7]

Our reputation is a precious asset to protect which we go to great lengths, for in a 'repeated game' with uncertainty, our bad actions *could* come back to haunt us, harming us far more than the temporary 'benefit' we may receive from a bad action. Bad reputation spreads – through gossip, the grapevine, and now the internet. Even those with a weak moral sense will tend to behave well in the repeated game called life. True, living in cities, and greater mobility in modern life can make reputational effects weaker, compared to when we lived in close-knit villages. Despite that, city dwellers don't need an external monitor to keep them honest. Likewise, most traders don't need minding. Instead, many big businesses spend millions of dollars to prevent (or repair) the slightest perceived harm to their reputation. Goods which are even slightly unsafe are voluntarily recalled.

Thus, strategic imperative for ethical behaviour at least supplements if not entirely explains our moral sense. As a result of (strategic) enlightened self-interest and the weak moral impulse most of us will voluntarily account for our actions. Freedom and justice can thus be sustained without an external monitor, with the problem restricted only to the control of a relatively few genuinely evil people.

7.1.2 *The role of punishment*

It the conditions for voluntary accountability are generally met, it will be sub-optimal to cheat. So why do fraudsters and charlatans continue to exist? No doubt some people are psychopaths or mentally unsound. It appears that there will always be some such people. But most criminals are of sound mind. So why do they indulge in crime? It seems they lack sufficient rational understanding of their own self-interest, unable to recognize the consequences of their actions to their own future. Finally, there also are a few smart but opportunistic people who indulge in crime after ensuring (or so they think!) that they can't get caught.

Regarless of causes, human nature can't be brushed under the carpet. Humans do behave baldly, sometimes in unimaginably evil, dastardly ways. We will be foolish to take anyone or anything at face value. It would be a foolish society indeed that depended solely on our enlightened self-interest and feeble moral sense to ensure accountability. Even the market, as Ian Harper noted, 'can and will violate human dignity, unless this is well-defined and enshrined in law or custom'[8].

The free society therefore keeps a big stick, a credible threat of punishment for wrong-doing. This is crucially necessary to keep potential delinquents at bay. Knowing that a policeman *will* (almost certainly) catch us if we steal must form at least (a not insignificant) part of the equations of accountability. While self-regulation is the correct place to start a discussion on appropriate behaviour, free societies may need laws to specify individual accountabilities, and specify the consequences of not complying.

One of the markers of a free society is the level of ethical behaviour. Predominantly capitalist countries are more honest societies (Transparency International annual surveys) than socialist countries (India and pseudo-communist China). Good behaviour is found where contracts and laws are enforced, not where people are exhorted to be good.

[7] Klein, Daniel B., 'Trust for Hire: Voluntary Remedies for Quality and Safety', *Reputation: Studies in the Voluntary Elicitation of Good Conduct*, University of Michigan Press, 1997, pp.97–133.

[8] Ibid – Ian Harper.

7.1.3 *The promotion of crime by government*

Punishment and enforcement of laws, however, is not a trivial matter. As a government becomes weak or corrupt the level of intelligence to gyp the system declines, and crime escalates. Often, in such cases, the government's own employees become criminals. Indeed, it is not only corrupt elements in government who drive up crime. Bureaucrats and politicians *with good intentions* (but no sense) can prove even more dangerous, leading to severe distortions in the economic structures in society. Nehru comes to mind. Despite good intentions, his flawed policies led to corruption and crime. Robbing Peter to pay Paul (socialism) may appear simple, but it is morally wrong, and ultimately harms the interests of the poor the most.

Consider India's public distribution system (PDS) which set two prices for almost identical products, say, sugar. As a result, huge incentives for arbitrage between the two products are put in motion. Criminal gangs, in collusion with politicians, bureaucrats and police, divert PDS goods into the 'main' market, pocketing the difference. False ration cards that allow corrupt people to grab a greater than 'fair' share of cheap PDS goods, is another outcome. As Subdivisional Magistrate in Hojai, Assam in 1985, I found that politicians, business and bureaucrats were making a pile of corrupt money through PDS. I got one of my senior officers arrested but (of course) that did nothing to address bad policy.

More generally, policies based on bureaucrat's or politician's altruistic beliefs are likely to prove dangerous. Rejecting, therefore, good intentions as a basis of policy, Ayn Rand showed that only by understanding human self-interest can we achieve the highest standards of morality. As Alan Greenspan wrote in Ayn Rand's book, *Capitalism: The Unknown Ideal*:

The hallmark of collectivists is their deep-rooted distrust of freedom and of the free-market processes; but it is their advocacy of so-called 'consumer protection' that exposes the nature of their basic premises with particular clarity. By preferring force and fear to incentive and reward as a means of human motivation, they confess their view of man as a mindless brute functioning on the range of the moment, whose actual self-interest lies in 'flying-by-night' and making 'quick kills.' They confess their ignorance of the role of intelligence in the production process, of the wide intellectual context and long-range vision required to maintain a modern industry. They confess their inability to grasp the crucial importance of the moral values which are the motive power of capitalism….It is this superlatively moral system that the welfare statists propose to improve upon by means of preventive law, snooping bureaucrats, and the chronic goad of fear.[9]

Another aspect of regulation is preventative regulation, which is fraught. Policies to prevent the alleged consumption of 'luxury goods' in Nehruvian India by prohibiting free import of gold created new forms of violent crime through increased smuggling. Drug wars in Mexico and South America are a direct consequence of such preventative regulation. The harm caused these drugs cause must be minimised, but prohibition is clearly not a viable solution. The harm caused by drugs (deaths through rash driving after drug use, for which systematic road checks can be organised) is not alleviated by a never-winnable drug war in which thousands of people are killed on both sides, including hundreds of innocents. Such examples of bad preventative regulation can be multiplied manifold.

Good governance is about effective and efficient regulation: or *optimal* regulation – neither too much nor too little. The complete elimination of bad behaviour (or even of crime) is not a reasonable aspiration. Governments must find the right balance. The marginal benefit from a preventative activity must be at least equal to the marginal benefit from other preventative problems, and each of these much be exceed marginal cost. The cost of preventing a death from drugs must not exceed the cost of preventing a death from traffic accidents. Unfortunately, across the world paternalistic over-regulation is the norm with governments. We must agree with Alan Greenspan (despite his reneging on these ides in his later life):

Government regulations do not eliminate potentially dishonest individuals, but merely make their activities harder to detect or easier to hush up. Furthermore, the possibility of individual dishonesty applies to government employees fully as much as to any other group of men. There is nothing to guarantee the superior judgment, knowledge, and integrity of an inspector or a bureaucrat – and the deadly consequences of entrusting him with arbitrary power are obvious.[10]

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[9] In an essay on 'The Assault on Integrity' in her *Capitalism - the Unknown Ideal*. Signet (Penguin Group). 1967. p.121.

[10] Greenspan, Alan, 'The Assault on Integrity' in Rand, Ayn, *Capitalism - the Unknown Ideal*. Signet (Penguin Group), 1967, p.121.

underpin the ethical goals of the free society.

7.2 Religion has little to do with morality

Religions are self-declared purveyors of morality. Apart from reiterating the Golden Rule (a fundamental strategic, liberal principle), religions have tended to dabble in quite a few social matters, prompting significant social conflict. Religions have actively promoted (and often continue to promote) caste, slavery, polygamy, and all kinds of questionable things. It is important, therefore, that free society law-makers take into account advice from religions but always decide on the merit of the case, not on dogma.

One reason why religions often promote immorality is because they have no process of review. When scriptures get out of step with modern expectations, their followers have no choice but to selectively pick from amongst the teachings of the religion, and rationalise out inconsistent portions. They even suggest that words in the scriptures mean different things than what they say. These are weak options, in the absence of the ability to amend the scripture. The illustrative moral failures discussed below challenge the idea that religions and morality go together.

a) Whimsical food restrictions

Let me begin with a relatively minor matter, of whimsal religions encroachments on liberty. – such as what one can or cannot eat. While some things (alcohol) can harm us in excess, and others can cause disease (uncooked meats), religions don't prohibit foods on health grounds. Instead, they compel random and whimsical restrictions on their followers (some of which, as with Hinduism, change over time. Vedic Hindus ate beef[11] but modern Hindus don't). Some support alcohol others prohibit it.[12] Jainism advocates vegetarianism, others allow meat, while discriminating amongst meats. Religions thus threaten our freedom to eat food that nature has on offer. This random variation across religions might be tolerated as a personal preference, but often this can lead their followers to violent actions against others. That's when morality breaks down.

b) Polygamy

Polygamy can often makes an already subordinate situation for women, worse. Given Steven Landsburg's economic analysis showed him otherwise: 'In a world where each man sought four women, the competition for women would the intense. Even those men who came out victorious would pay dearly for their victories. Women would be doubly fortunate: They would have more suitors, and their suitors, each trying to stand out from the crowd, would be more attentive and deferential.... Married man, sensitive to their wives continuing opportunities, would do more housework.[13] But the reality is otherwise.

This form of marriage is particularly not compatible with equal freedom where informed consent of (adult) participants has not been obtained, which is the case in most such marriages. Thus women do come out worse off. It may be noted that most religions (such as Hinduism, Buddhism, Judaism and Islam – but with the exception of Christianity; noting that Judaism outlawed polygamy in the tenth century[14]) have actively supported, even encouraged polygamy, at least for the rich.

c) Social stratification

India's *varna* ('level') system, later called the caste system by the Portuguese, arose in early Hinduism. At that time it had few, or no, racist implications, representing a distinction of skill and temperament. As Raghunandan Sharma[15] shows, *varna* was introduced in Vedic society as an individual-specific, merit-based honorific. A *varna* was not hereditary (e.g. see *Gita* 4:13, which is, however, often mistranslated into English).

However, the *varna* system deteriorated and India became a discriminatory, racist society. The *Mahabharata* tells us about sage Dronacharya who declined the request of low caste tribesman Ekalavya to learn archery, on gronds

[11] D.N. Jha, *Myth of the Holy Cow*. Also Vivekananda.

[12] While Islam only admonishes against the consumption of wine in the *Koran* (5:90), the formal prohibition is mentioned in a lower order interpretive text – a *hadith*.

[13] Landsburg, Steven E., The Armchair Economist, London: Pocket Books, 1993 (2009), p.169.

[14] Pinker, Steven, *How the Mind Works*, London: Penguin Books, 1999, p.476.

[15] Sharma, Raghunanda (2002). *Samajik Samarasta Evam Varna Vyavastha*, Speech delivered to political workers and leaders of Scheduled Caste Morcha at Jabalpur in 2002. [http://www.sanjeev.sabhlokcity.com/book2/raghunandan.pdf]

of caste. Eklavya built Drona's clay statue and practiced industriously, becoming through his talent a better archer than Drona's best student, Arjuna. Arjuna, in jealously, appealed to Drona for help. Drona, in one of the most despicable acts of human history, asked Eklavya for his *dakshina* (reward for teaching – through the clay statue!). Eklavya's right thumb was to be his *dakshina*. The gentleman (unlike Drona and Arjuna) that Eklavya was, obliged, bringing his career to an end, losing India its greatest archer. This lowly act of betrayal of talent rankles the 'low castes' of India even today.

The *varna* and *jati* (caste, sub-caste) system became entrenched. Things went more downhill after *Manusmriti*[16] in around 200 AD. Were a king to comply with Manu's laws, he would have to cut off the tongue of any 'untouchable' who sought to learn the scriptures. Clearly, Hinduism long lost any claim it might have held, once, to being a religion of equal respect for all.

d) Slavery

Slavery was common when major religions originated, which then supported, or at least condoned, slavery. Thus, in Judaism (and to the extent that the Old Testament is accepted by religions of the book, by Christianity and Islam), slavery is directly supported:

[Y]ou may purchase male and female slaves from among the nations around you. You may also purchase the children of temporary residents who live among you, including those who have been born in your land. You may treat them as your property, passing them on to your children as a permanent inheritance.' (Leviticus 25, 44-46, *Old Testament*[17]).

Specifically, the Ephesians 6 (*New Testament*[18]*)* asks slaves to perform slavery sincerely: '5 Slaves, obey your earthly masters with deep respect and fear. Serve them sincerely as you would serve Christ.' There is no suggestion that slavery violates the will of God (or maybe God didn't mind it, then).

The *Koran* similarly supports slavery. It denies all rights to married slave women, whose basic humanity and marriage rights are officially crushed: '4:24. You are ... forbidden to take in marriage ... married women, except those whom you own as slaves.'[19] Through verse 23:5 God allows Muslim men to promiscuously engage with slave girls. Believers are asked to 'restrain carnal desires (except with their wives and slave girls, for these are lawful to them)'.[20] Men slaves, many of them who were deployed as soldiers, don't fare much better. One of them, Qutb-ud-din Aybak, did break free and founded the 'slave dynasty' in India in 1206 AD, reknowned for building the Qutub Minar.

Some people claim that it was through the teachings of religion that slaves first received fairer treatment. But, as Bertrand Russell noted, 'churches … opposed the abolition of slavery as long as they dared.'[21] It is inevitable that if religious fanatics gain control of society again, slavery will make a big comeback. Religion is, in my view, an clear and ongoing threat to morality and liberty.

e) Child abuse

It is also an appropriate point to note the extensive abuse of children reported from within the Catholic Church (it might have occurred elsewhere too, but perhaps not widely known yet). The problem is not merely the crime, which the Church is hopefully not responsible for. The problem is that instead of calling in the police, the Church has often sheltered the abusers. The moral standing of the Church is at rock bottom. Of course, one

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[16] *Manusmriti* [http://www.hindubooks.org/scriptures/manusmriti/manusmriti.html]. Chapter 8, 267. A Kshatriya, having defamed a Brahmana, shall be fined one hundred (panas); a Vaisya one hundred and fifty or two hundred; a Sudra shall suffer corporal punishment.

268. A Brahmana shall be fined fifty (panas) for defaming a Kshatriya; in (the case of) a Vaisya the fine shall be twenty-five (panas); in (the case of) a Sudra twelve.

269. For offences of twice-born men against those of equal caste (varna, the fine shall be) also twelve (panas); for speeches which ought not to be uttered, that (and every fine shall be) double.

270. A once-born man (a Sudra), who insults a twice-born man with gross invective, shall have his tongue cut out; for he is of low origin

[17] New Living Translation. [http://www.biblegateway.com/passage/?book_id=3&chapter=25&version=51]

[18] New Living Translation. [http://www.biblegateway.com/passage/?book_id=56&chapter=6&version=51]

[19] Dawood, N.J. (translator), *The Koran*, London: Penguin Books, 2003, p.63.

[20] Dawood, N.J. (translator), *The Koran*, London: Penguin Books, 2003, p.241.

[21] in his Has Religion Made Useful Contributions to Civilization? (1930, p.25),

should not isolate one particular religion on such matters. Child marriage, where young girls were married off to sixty year old dodderers, was a part of Hindu society (and surely others, as well) for thousands of years. Hindu scriptures don't prohibit such things. So this practice has not died out completely even today.

7.3 Self-realisation

Our freedom to choose responsibly, to discover the truth for ourselves, and to be self-aware, constitutes the concept of self-realisation – which has a positive liberty flavour. Choosing (behaving) responsibly includes choosing with care each element of our lives, such as what we wear, eat, or believe in. Our voluntary decision to follow tradition is a choice, as well. But taking responsibility does not come naturally to societies where the ideas of liberty have not been internalised.

True, some people lack the intellectual and psychological apparatus necessary for acting responsibly. They would rather follow the traditions established thousands of years ago by opinionated 'saints' or thinkers who often had little or no grounding in logic or the scientific method. Ancient myths rule us. Indeed, fraudsters, whose petty magic is treated as a miracle, continue to flourish. No doubt, there can be some merit in some traditions, but we must use critical thinking to filter out good traditions from bad. The free society expects us to use our mind to find out the truth for ourselves, and to choose our beliefs. Self-reliance (not self-sufficiency!), so sensibly advocated by Ralph Waldo Emerson, comes to mind. Therefore, the intellectual apparatus for freedom needs critical thinking to be widely understood.

The second element of self-realisation is self-awareness. Ancient Indian philosophers spent considerable effort in finding who they were. Some found a spirit within them – and indeed, in everything around them. The theory of Advaita is truly intriguing. But whether we are an independent spirit, or whether we are One (at some level), or indeed a spirit at all, each of us is *unique*, never to be repeated again. Finding out about oneself is therefore more important than finding out more about the moon. This journey of self-discovery is clearly at least as challenging as any other, for it includes self-reflection (which is difficult, and involves looking at ourselves and from the vantage point of an external observer). It can also tell us about the way others think. Of course, self-awareness goes well beyond self reflection.

Upon looking inside our mind, we find a complex mixture of selfishness and altruism. Our true nature is not readily obvious. We also find a tribal impulse to conform to the crowd – a collectivist desire at odds with individualism (but perhaps consistent with self-interest). This collectivist impulse underpins culture: a broad uniformity of outlook. We tend to ape the religion, language and clothes of our society. And – if we examine how knowledge and memories objectivity – we will surely find deep ignorance, writ large. Individually, we know virtually nothing. By becoming better aware of ourselves, we move from arrogance to humility.

Self-realisation is unlikely to come as an epiphany but as an incremental shift towards humanity and empathy. A self-realised person is kind, compassionate, with deep understanding, but firm in decision-making – decisions that must often be undertaken despite ignorance.

By choosing our own beliefs based on careful understanding, we nudge mankind towards the truth. We live our life without obligation to authority figures of the past, having used their insights, if any, but having made them our own. Our ancestors were wrong most of the time; with care we might turn out to be right half the time. We will still make mistakes but by learning from failure we will make headway. Our key task is to take responsibility. As Victor Frankl said:

It did not really matter what we expected from life, but rather what life expected from us. We needed to stop asking about the meaning of life, and instead to think of ourselves as those who were being questioned by life – daily and hourly. Our answer must consist, not in talk and meditation, but in right action and in right conduct. Life ultimately means taking the responsibility to find the right answer to its problems and to fulfill the tasks which it constantly sets for each individual.[22]

Taking responsibility and using our time sensibly, with focus on finding answers is also perhaps a key to happiness. Matthew A. Killingsworth and Daniel T. Gilbert found that a wandering mind is an unhappy mind.[23] This is consistent with the finding of the sages in the past that we must pay attention to the here and now.

[22] Victor Frankl in his 1946, *Man's Search for Meaning* [http://en.wikipedia.org/wiki/Man's_Search_for_Meaning]

[23] http://www.nytimes.com/2010/11/16/science/16tier.html?_r=1&src=me&ref=general

7.4 Happiness

And so, we come to the concept of happiness. Let me note that freedom has no ultimate goal, being a deontological, not consequentialist value. But sometimes, we must wonder whether freedom is 'worth it'. Can it help us achieve happiness? To that we must note that *to be, to be free,* and *to be happy* are different things. We must be free regardless of everything else. The fact that freedom might lead to economic growth and happiness is incidental. Indeed, it is quite possible that being free, and being 'forced' to search for the truth ourselves could leave us dissatisfied – unhappy that we don't know much.

But nothing should stop us in our self-initiated 'struggle' for the truth, to savour a quiet moment or to laugh, dance and enjoy music. We can choose enjoyment. Happiness is, in any event, about who we *are* and what we *do*, not what we *have*. Adam Smith wrote some extraordinary thoughts on happiness, in the *Theory of Moral Sentiments*. One can do no better than to quote him at length:

> Happiness consists in tranquillity and enjoyment. Without tranquillity there can be no enjoyment; and where there is perfect tranquillity there is scarce any thing which is not capable of amusing.
>
> The poor man's son, whom heaven in its anger has visited with ambition, when he begins to look around him, admires the condition of the rich. He finds the cottage of his father too small for his accommodation, and fancies he should be lodged more at his ease in a palace. He is displeased with being obliged to walk a-foot, or to endure the fatigue of riding on horseback. He sees his superiors carried about in machines, and imagines that in one of these he could travel with less inconveniency. He feels himself naturally indolent, and willing to serve himself with his own hands as little as possible; and judges, that a numerous retinue of servants would save him from a great deal of trouble. He thinks if he had attained all these, he would sit still contentedly, and be quiet, enjoying himself in the thought of the happiness and tranquillity of his situation. He is enchanted with the distant idea of this felicity. It appears in his fancy like the life of some superior rank of beings, and, in order to arrive at it, he devotes himself for ever to the pursuit of wealth and greatness. To obtain the conveniencies which these afford, he submits in the first year, nay in the first month of his application, to more fatigue of body and more uneasiness of mind than he could have suffered through the whole of his life from the want of them. He studies to distinguish himself in some laborious profession. With the most unrelenting industry he labours night and day to acquire talents superior to all his competitors. He endeavours next to bring those talents into public view, and with equal assiduity solicits every opportunity of employment. For this purpose he makes his court to all mankind; he serves those whom he hates, and is obsequious to those whom he despises. Through the whole of his life he pursues the idea of a certain artificial and elegant repose which he may never arrive at, for which he sacrifices a real tranquillity that is at all times in his power, and which, if in the extremity of old age he should at last attain to it, he will find to be in no respect preferable to that humble security and contentment which he had abandoned for it. It is then, in the last dregs of life, his body wasted with toil and diseases, his mind galled and ruffled by the memory of a thousand injuries and disappointments which he imagines he has met with from the injustice of his enemies, or from the perfidy and ingratitude of his friends, that he begins at last to find that wealth and greatness are mere trinkets of frivolous utility, no more adapted for procuring ease of body or tranquillity of mind than the tweezer-cases of the lover of toys.

I agree, too, with Cassandra Wilkinson who wrote: 'Freedom alone is not what makes us happy, it's what we do with it. Freedom is not the end of our quest but the beginning, the precondition of the pursuit of happiness.'[24] Working out our central purpose and doing things we genuinely enjoy can be a way to maximize freedom and happiness. Caring for others is a well-documented 'secret' of happiness, as well as savouring each moment no matter how stressful (or painful). Small innocent children suffering leukaemia still smile. Nothing that we are likely to face in our lives, in comparison with what these children undergo, should have the power to make us unhappy.

[24] Wilkinson, Cassandra, 'Freedom and the global pursuit of happiness,' in *The Weekend Australian*, August 16-17, 2008.

PART 3: THE POLITICAL AND MARKET PILLARS OF FREEDOM

8. The pillar of tolerance

'We have just enough religion to make us hate, but not enough to make us love one another.' *Jonathan Swift.*[1]

'Lovers of wisdom must open their minds to very many things.' *Heraclitus*[2]

In Chapter 4 I asked: 'What do we *really* want?' In response, I suggested that we are perhaps looking for security, for freedom to *be*, and justice. We have a hope that once these basics are obtained, we can pursue our happiness the way we wish. Assuming now that we have created a society that delivers these basic things, we can now consider how we might interact with others.

8.1 The theory of tolerance

Now, others can become quite a pain in the neck! Most believe in things different to what we believe in. So should we engage with them, and to what extent? This we must insist, that we interact with them *only* on terms that we choose, else we'd prefer to be left alone.

But if we want to be left alone, we must learn to leave others alone. The free man does not 'regard himself as entitled to impose … [his views] on others.'[3] This is the essential theory of tolerance, which leaves us free to act on our beliefs only as long as we don't impose them on others. Freedom is essentially about living and letting others live. The free society is an 'order in which, even on issues which to one are fundamental, others are allowed to pursue different ends' (Hayek).[4] Non-imposition, even forbearance are crucial.

Note clearly, though, that we are not required or even expected to *respect* others. We can disagree, even disrespect others' viewpoint. Tolerance is not about moral relativism. It is about vigorous freedom of expression so long as we don't slander and stick to the truth. It is about not harming, but being honest. All it is about is the idea that regardless of whether you esteem me or my ideas, you cannot *physically* impose your will upon me. Tolerance is laced with self-restraint both physical and verbal. We must stick to the facts and to remain accountable. Thereafter, gloves are off. Let the truth win.

Obviously, given this vigorous defence of liberty, yet insistence on civilized discussion, not violence, the free society is not the easiest place to live in. The free society generates a great amount of friction as people believe virtually anything they wish. All that prevents it form blowing apart is politeness and mutual tolerance. Living in a traditional, closed society, that does not tolerate any deviation from standard 'rules', is perhaps easier on the mind. But in the end such closed society is harmful to human development.

The free society does not persecute anyone for his opinion (unless violence is being advocated). Voltaire described the nature of tolerance, thus: 'What is tolerance? …it is the consequence of humanity. We are all

[1] Jonathan Swift (1667–1745), repr. in *Jonathan Swift: A Critical Edition of the Major Works*, eds. Angus Ross and David Woolley (1984). 'Various Thoughts Moral and Diverting,' Miscellanies in Prose and Verse (1711). Cited at [http://bartelby.org/66/13/56813.html]

[2] Translation used in Roger von Oech (2001). *Expect the Unexpected (Or You Won't Find It).* Free Press. p.12

[3] Friedrich A. Hayek, 1960. 'Why I am not a Conservative', in *The Constitution of Liberty*, Chicago: Chicago University Press. Copy available at [http://www.fahayek.org/]

[4] Friedrich A. Hayek, 1960. 'Why I am not a Conservative', in *The Constitution of Liberty*, Chicago: Chicago University Press. Copy available at [http://www.fahayek.org/]

formed of frailty and error; let us pardon reciprocally each other's folly – that is the first law of nature. It is clear that the individual who persecutes a man, his brother, because he is not of the same opinion, is a monster.'[5]

Unfortunately, nature did not built us mentally for tolerance, but for intolerance. We get a gut-wrenching feeling if someone expresses views different to ours. We may even feel like intervening and physically stopping someone from saying something we feel deeply against. This natural tendency for intolerance can only be restrained by building institutions of tolerance.

On the whole, societies today are more tolerant than they were in the past. This is largely the result of an arduous and bloody history of intolerance, which led mankind to understand that tolerance is the only sensible 'equilibrium'. Of course, some civilizations realized this earlier than others. Ancient Indian, and Persians in the time of King Cyrus (mid-500 BC) were already quite tolerant.

> [T]he figure of Cyrus has survived throughout history as more than a great man who founded an empire. He became the epitome of the great qualities expected of a ruler in antiquity, and he assumed heroic features as a conqueror who was tolerant and magnanimous as well as brave and daring. His personality as seen by the Greeks influenced them and Alexander the Great, and, as the tradition was transmitted by the Romans, may be considered to if influence our thinking even now.[6]

Emperor Julian of Rome, emperor Kublai Khan of Mongolia and China[7], and Caliphs of Cordoba were other notable early examples. Machiavelli was possibly the first thinker to promote tolerance, suggesting that '[d]uring the period of the good Emperors he will see that golden age when everyone could hold and defend whatever opinion he pleased.'[8] Emperor Akbar, who followed him a few decades later in India, promoted inter-faith dialogue (although his reputation for tolerance has been questioned by some recent findings). Barring such few exceptions, human history has been a continuous history of intolerance.

William Galston points out that there are two types of liberalism: Reformation liberalism and Enlightenment liberalism. Toleration is at the heart of the former (classical liberalism). The alternate, founded in France and Germany, is steeped in positive liberty arguments and permits the state to impose on our choices. Proponents of a uniform civil code in India come from this statist conception – for them the idea of differences in the way people may choose to marry are impermissible. We need to always revert to our basic definition of liberty – which rules out any role for the state in telling us what we beliefs we should hold.

8.2 The limits of tolerance

Tolerance, like every other good thing in life, has its own limits. However, it is limited only by criminal and violent acts, else we will end up with moral relativism. Accountability and justice must inform our position on this matter.[9] We are not obliged to 'tolerate' human sacrifice that may be 'required' by some remote Tantric ritual, or *sati*, or those who incite communal violence. Similarly we can't tolerate Islamic followers who bay for Salman Rushdie's head in response to alleged disrespect for Islam that Rushdie might have shown. No religion is entitled to 'respect'. Respect must be earned through action, not assertion. Expressing a view is not a provocation.

A range of issues test the boundary of tolerance. A few examples below consider this matter.

- In chapter 4, *sati* was ruled out. More generally, human sacrifice and incitement to violence cannot be tolerated, since these violate the principle of life.
- Unless *conclusive* scientific evidence is adduced about harm caused by modest levels of social drinking, the free society must tolerate the use of alcohol. Should harmful effects be conclusively proven, the demands of freedom must be given at least equal value to the self-harm involved.

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[5] From his *The Philosophical Dictionary*.

[6] *Encyclopaedia Britannica*, 2001 CD-ROM edition.

[7] Brickman, William W., 'The Meeting of East and West in Educational History', in *Comparative Education Review*, Vol. 5, No. 2, Oct., 1961, p. 83.

[8] David Webster and Louis Green (1969). *Documents in Renaissance and Reformation History*. Cassell Australia Ltd. P.126, being an extract from Niccolo Machiavelli's *The Prince* [1516].

[9] e.g. *Two Concepts of Liberalism* by William A. Galston Source: Ethics, Vol. 105, No. 3, (Apr., 1995), pp. 516-534

- Use of offensive language or depiction of scenes in a TV programme that may be offensive to some, must be tolerated and cannot be banned unless the programme directly causes injury. The time of day when the programme is aired can, however, legitimately be regulated.
- So long as prurient books are voluntarily produced by adults, their consumption by other adults cannot be prohibited. However, such material can (and should) be restricted to bookshops that only allow adults to enter.
- We may detest (tattoos and such things), but that is not sufficient grounds to forbid adults from having them – unless having such a tattoo harms *others*. Since tattoos don't (generally) kill, they don't constitute self harm, either.
- Nudity in public is in bad taste and objectionable, but doesn't kill or injure – or reduce anyone's liberties. Social norms are sufficient to deal with such objectionable behaviour but there can be little cause to criminalise such behaviour. In this regard it won't be out of place to mention that our skin is the 'dress' nature has given us, and covering up our skin is an artefact of civilization. People in tribal areas, who dress sparsely, commit no crime. Having said that, if someone deliberately exposes private body parts in public, that could constitute an offence, depending on the intent.
- *Personal law*: Should we 'tolerate' someone (an adult) who chooses to marry more than one partner (also an adult)? If the partners have *willingly* married there is little to say. The other aspect to confirm is whether all accountabilities have been met, such as taking care of the future of the children born of the arrangement? If these things have been done, we can't do anything about such marriage, even though living such marriage could possibly be a Herculean challenge.

Historically, when the relative share of marriage-worth males in society declined after a major war, it became customary for unmarried women and young widows, who might otherwise have become destitute or forced into unwanted choices, to marry (or be 'given' in marriage) to such males. This was the only possible way for societies to regenerate themselves. For thousands of years, children were born of polygamous arrangements. Rama, a Hindu god king, was one such child. I have suggested in *BFN* that this matter is best resolved through debate and thorough agreement to minimum standards.

- *Compulsory education of children*: Should a free society 'tolerate' those parents who don't send their children to school? Can a free society compel parents? In response, we can note that most parents are naturally inclined keen to educate their children, so this perceived 'problem' applies to a small minority who may have their own reasons. We could, if we so desire, explain to such parents that while absence of education wont' kill their children (the human species has been illiterate for most of its existence and still survived), their child's freedom, or rather, capacity to exercise freedom, will be adversely impacted because its choices will become restricted due to illiteracy. This, however, cannot justify coercion of the parents. A children's freedom must is necessarily be subsumed under its parents' freedoms (after all, we are not suggesting, are we, that taxpayers will take *full* responsibility for these children?). Moreover, such children can, should they wish, choose to educate themselves when they grow up. There is no end to lifelong learning.

  In any event, this is an artificial 'problem'. For sixty years Indian socialists have denied education to children. Parents did not send children to school not because they didn't want to, but because the educational system was basically non-existent. We must create the economic opportunities and supply of schools that will motivate parents to educate their children. Indeed, parents have been sending their children to private schools in most places where the government system is defunct. But what, for the sake of argument, some parents still don't join the educational bandwagon? We could then – through civil society: *not* by using taxpayer funds – explain to them the merits of such education. If that doesn't work, we will have to tolerate their choice. We can't impose our well-meaning, paternalistic views on others. Such restraint will instil the value of tolerance and freedom – an important educational experience in itself.

* * *

The free society can display sublime genius on the one hand, and smut on the other. This is consistent with the range of 'normal' human behaviour (smut is the visual depiction of sex without which no person has ever been conveived). We are therefore well advised to develop a thick skin and tolerate many things that we may personally dislike but which don't harm anyone.

8.3 Tolerance among religions

Tolerance for others' beliefs is the basis of the concept of religious. Unfortunately, as mentioned earlier intolerance has been the norm in history. Organised religions have been at the forefront of intolerance, their alleged of love of humanity repudiated by brutal violence against those with different views. Rarely has their purported message, of love for humanity, come through. Collectivist, tribal in their origin (at times being geographically localised), organised religions act as if life were a zero-sum game in which the loss of one 'soul' from one religion is another religion's gain. There is ferocious competition to 'harvest' our souls (such language was apparently used by a recent Pope).

True, as Vivekananda noted, the founders of religions did not necessarily stoke intolerance, but their followers. 'The disciples of all prophets have always inextricably mixed up the ideas of the Master with the *person*, and at last killed the ideas for the *person'*. But that can't matter much to the innocent child dismembered and burnt during religious violence. How does it matter whether the founder killed him or the followers? Bertrand Russell summed it up thus:

> Churches may owe their origin to teachers with strong individual convictions, but these teachers have seldom had much influence upon the churches that they founded… The most important thing about Christianity, from a social and historical point of view, is not Christ but the church... Christ taught that you should give your goods to the poor, that you should not fight, that you should not go to church, and that you should not punish adultery. Neither Catholics nor Protestants have shown any strong desire to follow His teaching in any of these respects. Some of the Franciscans, it is true, attempted to teach the doctrine of apostolic poverty, but the Pope condemned them, and their doctrine was declared heretical.... There is nothing accidental about this difference between a church and its founder. As soon as absolute truth is supposed to be contained in the sayings of a certain man, there is a body of experts to interpret his sayings, and these experts infallibly acquire power, since they hold the key to truth. Like any other privileged caste, they use their power for their own advantage.[10]

Religions are best thought of as political parties or businesses, not organisations that promote morality. Their leaders are morally conflicted for they must earn a livelihood out of morality. Choreography and histrionics therefore matter more than the truth.

Our modern conceptions of tolerance have taken a long time to develop. As noted elsewhere, nascent forms of tolerance did arise in ancient Persia and India. Thus, '[t]he Hindus had one peculiar idea – they never made any doctrines or dogmas in religion; and the latter has had the greatest growth' (Vivekananda). In its policy on religious freedom, the Freedom Team of India accepts that India should be proud of its history of tolerance. But unfortunately, it appears that Hindu tolerance frays easily when stressed, exposing itself to the charge of being skin-deep, at least today. On the other hand, religions that we classify as intolerant today (like Islam), had episodes of significant tolerance in the past.

It is Christianity, however, that makes the loudest claims about its 'contributions' to tolerance. Max Weber suggested, in *The Protestant Ethic and the Spirit of Capitalism* that Protestant attitudes played an important significant role in the development of tolerance and freedom.[11] Similarly, J.M.Roberts writes: 'At the deepest level, it is in its Christian nature that the explanation of the success of medieval society in shaping the future must lie.'[12] Robert A. Sirico goes much further, claiming that '[i]t is Christianity that lies at the root of the body of ideas we know today as classical liberalism'[13], and that '[i]t was monotheism in the Judeo-Christian tradition that gave us liberty' – even as he questions whether the key founder of classical liberalism and seminal philosopher of tolerance, John Locke (1632-1704), was a genuine Christian.[14]

Such a position is incorrect. The reality is that the modern conception of tolerance started out a *reaction* to internecine massacres within Christendom, not as a consequence of its proactive advocacy of religious harmony. The theoretical foundation of tolerance was laid by Locke. He cited a few never-practiced elements of the

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[10] In, *Has Religion Made Useful Contributions to Civilization?* (1930). p.25

[11] English translation in 1930 by Talcott Parsons.

[12] J.M.Roberts (1985).*The Triumph of the West*. London: Phoenix Press, 2001, p.71.

[13] Robert A. Sirico, *Must Religion Be a Threat to Liberty?* Sydney: Centre for Independent Studies, 2008, p.12.

[14] Robert A. Sirico, *Must Religion Be a Threat to Liberty?* Sydney: Centre for Independent Studies, 2008, p.12.

Gospel of Jesus Christ to advocate "[t]he toleration of those that differ from others in matters of religion"[15]. Voltaire (1694-1778) later shamed Christendom with his commentary on the Béziers massacre. Only after these criticisms did Christendom finally begin to move away from its 1,500-year history of brutality.

Therefore, to me it appears that it was liberal philosophy that led to constitutional requirements for tolerance, and that is why Christianity now advocates tolerance, not the other way around. It is only now that the Church has started talking in the language of tolerance. For instance, its 1965 *Declaration of Religious Freedom*, Pope Paul VI wrote that 'the human person has a right to religious freedom. This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits.' One hopes that other religions will ultimately internalise this idea – which was first promoted by the philosophers of liberty.

I now explore the *actual* (as opposed to idealistic, or alleged) role played by religions. The good news, in advance, is that religions can, should they so wish, become a source of tolerance. With good leaders, religions can do good, and advance human liberty, even morality.

8.3.1 *Tolerance (and intolerance) in Christianity*

Prior to the advent of Christianity, civilisations were generally not fussed about people holding differing views about God or creation. True, Judaism and Hinduism had their own versions of God, but neither had any intention of imposing its views on others. A wide range of religious opinions were tolerated in the Middle East, Greece, India and China. The Romans basically enforced a separation of state and religion to keep their diverse populations in good humour. Themistius (317-387 AD), a prominent Constantinopolitan senator and adviser to Roman emperors, apparently said:

> There is a domain for which no ruler can hope to exercise any authority. That is the domain of the virtues and especially that of the religious beliefs of individuals. Compulsion within that field calls hypocrisy and conversions that are based on fraud. Hence it is much better for ruler to tolerate all beliefs, since it is only by toleration that civic strife can be averted. Moreover, tolerance is a divine law. God himself has most clearly demonstrated his desire for a number of different religions. And God alone can judge the methods by which humanity aspires to come to an understanding of the Divine Mystery. God delights in the variety of homage which is rendered Him. He likes the Christians to use certain rites, the Greeks others, the Egyptians again others.[16]

Van Loon states that Roman citizens 'could believe or disbelieve anything they pleased… And if perchance they thought that their gods had been insulted, they must not rush to the magistrate for relief. 'For', as Emperor Tiberius remarked, 'if the gods think that they have just claims for grievance, they can surely take care of themselves".[17]

But Christianity was different. It had a proselytizing mission. That led to political power, so it soon split into many sects. Great infighting started. Erhman notes: 'What could be more diverse than this variegated phenomenon, Christianity in the modern world? In fact, there may be an answer: Christianity in the ancient world. As historians have come to realize, during the first three Christian centuries, the practices and beliefs found among people who called themselves Christian were so varied that the differences between Roman Catholics, Primitive Baptists, and Seventh-Day Adventists pale by comparison.'[18] Thus,

> In the second and third centuries there were, of course, Christians who believed in one God. But there were others who insisted that there were two. Some said there were thirty. Others claimed there were 365.
>
> In the second and third centuries there were Christians who believed that God had created the world. But others believed that this world had been created by a subordinate, ignorant divinity. (Why else would the world be filled with such misery and hardship?) Yet other Christians thought it was worse

[15] Locke, John, *A Letter Concerning Toleration,* 1689, [http://ebooks.adelaide.edu.au/l/locke/john/l81t/]

[16] Hendrik W, van Loon (1926). *Liberation of Mankind.* London: George G. Harrap & Co. Ltd. [1954 reprint], p.69. This this is probably a paraphrase – can't find evidence anywhere.

[17] Hendrik W, van Loon (1926). *Liberation of Mankind.* London: George G. Harrap & Co. Ltd. [1954 reprint], p. 47-48.

[18] Erhman, Bart D,. *Lost Christianities: The Battles for Scripture and the Faiths We Never Knew,* Oxford University Press, 2003 [http://jmm.aaa.net.au/articles/13480.htm]

> than that, that this world was a cosmic mistake created by a malevolent divinity as a place of imprisonment, to trap humans and subject them to pain and suffering.
>
> In the second and third centuries there were Christians who believed that the Jewish Scripture (the Christian 'Old Testament') was inspired by the one true God. Others believed it was inspired by the God of the Jews, who was not the one true God. Others believed it was inspired by an evil deity. Others believed it was not inspired.
>
> In the second and third centuries there were Christians who believed that Jesus was both divine and human, God and man. There were other Christians who argued that he was completely divine and not human at all. (For them, divinity and humanity were incommensurate entities: God can no more be a man than a man can be a rock.) There were others who insisted that Jesus was a full flesh-and-blood human, adopted by God to be his son but not himself divine. There were yet other Christians who claimed that Jesus Christ was two things: a full flesh-and-blood human, Jesus, and a fully divine being, Christ, who had temporarily inhabited Jesus' body during his ministry and left prior to his death, inspiring his teachings and miracles but avoiding the suffering in its aftermath.
>
> In the second and third centuries there were Christians who believed that Jesus' death brought about the salvation of the world. There were other Christians who thought that Jesus' death had nothing to do with the salvation of the world. There were yet other Christians who said that Jesus never died.
>
> How could some of these views even be considered Christian? Or to put that question differently, how could people who considered themselves Christian hold such views? Why did they not consult their Scriptures to see that there were not 365 gods, or that the true God had created the world, or that Jesus had died? Why didn't they just read the New Testament?
>
> It is because there was no New Testament. To be sure, the books that were eventually collected into the New Testament had been written by the second century. But they had not yet been gathered into a widely recognized and authoritative canon of Scripture. And there were other books written as well, with equally impressive pedigrees – other Gospels, Acts, Epistles, and Apocalypses claiming to be written by the earthly apostles of Jesus.[19]

While these branches of Christianity fought one another, some Roman emperors, who were otherwise reasonably tolerant, found the uncompromising attitude of Christianity obnoxious. And so, particularly between 250 and 311 AD, a few Roman emperors decided to persecute Christians. Romans sensed the political nature of this religion, and feared its exclusiveness ('early Christians, like the Jews, kept to themselves' [all quotations in this paragraph are from a single source[20]]. Thus, too, 'time and again' the pagans 'accused Christians of atheism' because 'Christians either denied the existence of pagan gods or called them evil spirits.' While 'pagans did not demand that Christians *believe* in pagan gods', they did expect a modicum of courtesy. In a sense, the 'Roman religion was inseparable from the state. An attack on one was an attack on other.' Emperor Decius, Valerian, and Diocletian therefore persecuted those Christians who refused to support pagan rites. On the whole, however, '[a]lthough a few emperors …vigorously persecuted Christians, most pagans left them alone'. Many debates rage even today in the academic literature about the nature and extent of these persecutions.

Of one thing there is no denying, however – that once Christians got political power through Emperor Constantine's (272–337) conversion, they immediately overtook the pagans in the 'art' of persecution. They destroyed the pagan religions *entirely*. Far from being an organisation of love and goodwill, Christianity became a power-besotted mafia. 'Emperor Constantine, who lifted Christianity into power, murdered his wife Fausta and his eldest son Crispus'[21], but that behaviour did not deter Christians from elevating him to *sainthood*! Christians thus began their worship of a murderer! So much for the alleged morality Christianity claims to teach.

Emperor Julian (332-363) was the last great pagan emperor. A liberal, he tolerated Christianity and did not countenance their persecution of anyone. For this approach, Christians call him Julian the Apostate! Christians who claim to intrinsically promote tolerance do so surely in jest. Instead, it is clear that Christians would prefer an end to *all* other religions and have their views superimposed. Hegemony can't be compatible with tolerance. Roman emperors like Valentinian, Valens, and Theodosius forced Christianity down the throat of the pagans. They banned sacrifices to old Roman gods and deprived pagan priests their livelihood. Punishments for disobedience included exile; even death. The Dutch Catholic priest and theologian, Erasmus, published *The Praise*

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[19] *Ibid.*

[20] *A History of World Societies* by John P. McKay, Bennett D Hill and John Buckler (1988), Volume 1. London: Houghton Mifflin Co., p.214.

[21] Ingersoll, Robert G., *Voltaire: A Lecture*, New York: CP Farrell, 1895. [http://www.archive.org/details/voltairelecture00ingeiala]

of Folly in 1509, in which he acknowledges this: 'Since the Church of Christ was founded on blood, strengthened by blood, and increased in blood, they continue to manage affairs by the sword as if Christ has perished and can no longer protect his own people'[22]. (The study of Erasmus's work is vital for obtaining a good understanding of modern tolerance; given limitations of space I will move on).

Eric Jones and Ian Harper think that 'Christians believe that life's meaning and purpose … is to be found in the biblical injunction to love God and love one's neighbour as oneself'[23]. But for nearly two thousand years, the followers of Christ flagrantly violated this. Indeed, on comparing Christianity with Islam, Vivekananda concluded that Islam was the more tolerant:

> [S]ince the day when the sword of Constantine made a place for it in his kingdom, what support has Christianity ever lent to the spread of civilisation...? What reward did the Christian religion offer to that European Pandit who sought to prove for the first time that the Earth is a revolving planet? What scientist has ever been hailed with approval and enthusiasm by the Christian Church? ... In the New Testament there is no covert or overt praise of any arts and sciences. But there is scarcely any science or branch of art that is not sanctioned and held up for encouragement, directly or indirectly, in the Koran, or in the many passages of the Hadis, the traditional sayings of Mohammed. The greatest thinkers of Europe – Voltaire, Darwin, Buchner, Flammarion, Victor Hugo, and a host of others like them – are in the present times denounced by Christianity and are victims of the vituperative tongues of its orthodox community. On the other hand, Islam regards such people to be believers in the existence of God, but only wanting in faith in the Prophet. ...[W]herever Islam has gone, there it has preserved the aboriginal inhabitants – there those races still exist, their language and their nationality abide even to the present day.
>
> Where can Christianity shows such an achievement? Where are, today, the Arabs of Spain, and the aboriginal races of America? What treatment are the Christians according to the European Jews? ... **Whatever heights of progress Europe has attained, every one of them has been gained by its revolt against Christianity**... . If Christianity had its old paramount sway in Europe today, it would have lighted the fire of the Inquisition against such modern scientists as Pasteur and Koch, and burnt Darwin and others of his school and the stake.[24] [Emphasis mine]

J.M. Roberts admits Christian persecution of Muslims in medieval Europe: 'Popular and official persecution of Muslims, Jews, and Moriscos (converted Moors) began well before the Reconquest was complete.'[25] In contrast, Islam – for the most part – let Christians live in peace if they paid the tax on non-Muslims (the *jaziya*). Roberts finds that, 'even after the Islamic severity awoken by the crusades, Christians in the east were still practising their own religion and living in communities under their own religious leaders; at the same moment ruthless intolerance was successfully being imposed in Spain'.

More brutal than this violence towards non-Christians was violence towards its internal dissenters. Recall that I had cited the Christian massacres in Béziers in a previous chapter. But note also the infamous massacre which began on Saint Bartholomew's Day (24 August 1572), when French Catholics butchered the Protestants (Huguenots) on a truly mammoth scale. Admiral Coligny, a Huguenot leader, was murdered in Paris. Then other leaders were killed. Thereafter, Catholic mobs brutally attacked the Huguenots across France. The massacres continued into October, with 70,000 people killed. 'Everywhere the cry was heard, "Kill every man of them! Kill the Huguenots!" The streets were reeking with the blood of men, women, and children. Not an individual suspected of a leaning towards the Reformed religion was suffered to escape'.[26]

The Edict of Nantes, issued by King Henry IV in 1598, gave temporary respite to the French Protestants. Henry had converted to Catholicism in order to win the hearts of the French people, and was able to bring them around to a situation of relative tolerance. But fanatic Catholics would have none of this. A Jesuit named Ravaillac stabbed Henry in 1610 and killed him.

Seventy five years later, things deteriorated sharply. Louis XIV revoked the Edict of Nantes in 1685. The Protestants fled from France. A huge exodus (*le Refuge*) started to the newly discovered territories of Canada and

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[22] Powell, Jim (2000), *The Triumph of Liberty*, New York: The Free Press, p.74.

[23] Eric L. Jones and Ian R. Harper in 'To have and have not', being an edited extract from *Christian Theology and Market Economics*, ed. by Ian R. Harper, and Samuel Gregg, as published in *The Australian*, April 26-27, 2008.

[24] Selected works, p. 532, volume 5.

[25] J.M.Roberts (1985).*The Triumph of the West*. London: Phoenix Press, 2001, p.97.

[26] In 'The Massacre of St. Bartholomew' by C. H. Spurgeon in *Sword and Trowel*, April 1866.

America. It was this migration that led to the constitutional guarantee in American of the right to bear arms. American Protestants were convinced that had kings in France allowed them to them bear arms, the Catholics couldn't have massacred them to brutally.

This 'right', however, has no basis in the theory of freedom. After citizens decide to hand over responsibility for their defence to the state, they should only carry small arms for relatively minor self-defence. Today, however, Americans are able to buy powerful attack weapons. Series of accidental killings (and mass killings by the mentally deranged) are rife in 'free' America. This is a bad policy. Once the state has been charged with our defence, we should hand over at leaset our bigger guns to the state. True, the question always remains: is the state trustworthy?

Tolerance finally emerged in the West after Christians had killed thousands of their *own* people. Only after convulsing for centuries with self-inflicted wounds – Inquisitions, massacres, and internecine warfare – did the message of Christ re-emerge. If Christ had been born during these centuries, he would have surely rejected Christianity. In the end, it was the message of the philosophers of liberty that exorcised evil from Christianity. Bertrand Russell summarised thus:

> Before the rise of Christianity this persecuting attitude was unknown to the ancient world except among the Jews. If you read, for example, Herodotus, you find a bland and tolerant account of the habits of the foreign nations he visited. Sometimes, it is true, a peculiarly barbarous custom may shock him, but in general he is hospitable to foreign gods and foreign customs. He is not anxious to prove that people who call Zeus by some other name will suffer eternal punishment and ought to be put to death in order that their punishment may begin as soon as possible. This attitude has been reserved for Christians. It is true that the modern Christian is less robust, but that is not thanks to Christianity; it is **thanks to the generations of freethinkers, who from the Renaissance to the present day have made Christians ashamed of many of their traditional beliefs**. It is amusing to hear the modern Christian telling you how mild and rationalistic Christianity really is and ignoring the fact that all its mildness and rationalism is due to the teaching of men who in their own day were persecuted by all orthodox Christians.[27] [emphasis mine]

Protestants also argued for the right to rebel against tyrants (a pagan thesis that had been revived by St. Aquinas). 'The massacre of St. Bartholomew convinced the bulk of Calvinists of the lawfulness of rebellion against tyrants.'[28] Numerous philosophers joined in. Comedy and indirect satire were preferred modes in dangerous times. Foremost was John Locke, who argued that Christ's teachings favoured tolerance and that, therefore, the state must ensure tolerance. 'The toleration of those that differ from others in matters of religion is so agreeable to the Gospel of Jesus Christ, and to the genuine reason of mankind, that it seems monstrous for men to be so blind as not to perceive the necessity and advantage of it in so clear a light.'[29] The West miraculously found that Christ's views were in favour of tolerance, after all. Had this been discovered in 313 AD, pagan religions might still have been in existence today.

Voltaire (1694-1778)'s commentary on Christendom's internecine massacres (such as in Béziers) was very influential [in passing, may I take the opportunity of commending Robert Ingersoll's brilliant lecture of 1895 on *Voltaire*[30]?]. Without philosophers like Locke, David Hume and Voltaire, it is certain that vast populations in Europe would have continued to be ignorance, poor, and persecuted.

Humanity can't afford to take things easy. Organised religion remains an ever-present threat to liberty and peace. Indeed, the dangers of Christianity became evident in the 20th century through its support of Nazi fascism. Hitler mobilised the strong Christian hatred of Jews to perpetrate his demonic brutalities. Yehuda Bauer rightly notes that '[w]ithout Christian, or traditional anti-Judaism, modern, nationalistic and racial antisemitism would have been impossible.'[31]

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[27] Bertrand Russell's essay of 1930. 'Has Religion Made Useful Contributions to Civilisation?' See: [http://www.positiveatheism.org/hist/russell2.htm]

[28] Lord Acton, 'The History of Freedom in Christianity', an Address Delivered to the Members of the Bridgnorth Institute, May 28, 1877 [http://www.acton.org/research/acton/history-of-freedom-in-christianity.php].

[29] Locke, John, *A Letter Concerning Toleration,* 1689, [http://ebooks.adelaide.edu.au/l/locke/john/l81t/]

[30] [http://www.archive.org/details/voltairelecture00ingeiala]

[31] Bauer, Yehuda, 'Genocide: Was It the Nazis' Original Plan?, in Annals *of the American Academy of Political and Social Science*, Vol. 450, (Jul., 1980), p. 36.

I am not, of course, a scholar of history, but note that debates continue to rage in the literature about the impact of Hitler's personal religious beliefs (or lack thereof) on Nazism. One thing is clear that he was not an atheist. Further, he showed all signs of a devout, practising Christian. He believed at least in the following: 'God, Christ, the immortality of the soul, and divine providence.'[32] He invoked the 'Almighty God' frequently in his speeches and writings. In *Mein Kampf* he wrote: 'I believe to-day that my conduct is in accordance with the will of the Almighty Creator. In standing guard against the Jew I am defending the handiwork of the Lord.'[33] His actions imply a fanatical belief in his God. He believed he was doing God's work (exterminating Jews *was* God's work – according to Martin Luther). It will be unconscionable for me to link Hitler's terrors to Christ's own message (since Christ himself was a Jew, as well), but Christianity the religion is undoubtedly implicated.

Humans don't trust God to do his own work, and for various gods (if any) to sort out their disputes. Instead, we believe in rushing to help them by killing those we think are 'His enemies'. If God is can't destroy people he doesn't want on his own (without our help), that God must be incompetent and impotent, and we owe him no allegiance.

Despite a brutal history, most predominantly Christian countries have by now become strongholds of tolerance and freedom. Reforms, it would appear, arise only as reaction to excess. Hitler's murderous regime has also led to some 'good' by reducing the rabid anti-Semitism practiced by Christians. How long this will tolerance hold is yet to be seen.

8.3.2 *Tolerance (and intolerance) in Islam*

Strange at it may seem, Islam was more compatible with freedom and tolerance than Christianity in the past. Unlike the Catholics who sought to destroy other religions as well as other branches of Christianity itself, Islam did not interfere with religions in non-Arabic lands, provided their practitioners paid the *jaziya*. Christian groups fighting each other thus often welcomed Islamic rule, where they could purchase peace. In addition, Muslims were (in the past) protective of Christians and Jews, being considered to be 'people of the book', hence 'deserving protection'[34]. (The same protection was not offered to Hindus who were considered idol-worshippers – on account of a superficial understanding of Hindu philosophy. While Muslims simply took over and re-used churches as mosques, Hindu temples were knocked down or *rebuilt* as mosques.)

In general, though, where Islam ruled, other religious denominations survived (often well) despite sporadic killings by fanatic Muslims. Thus, for instance, Emperor Mehmet II (1432-1481) of the Islamic Ottoman empire 'made no effort to expel Christians in the manner that Spain had expelled Muslims. Instead, he created space for the Church.'[35] Even in 1914 (after 600 years of Islamic rule), '22 per cent of Constantinople was Orthodox Christian, 25 per cent Armenian and four per cent Jewish'[36]. On the other hand, not only were Greek pagan religions wiped out by Christianity, no trace of Islam was left in Spanish Cordoba upon conquest by Christians. Indeed, '[n]ever was the annihilation of a people more complete than that of the Morisco-Spaniards'[37].

True, many people converted to Islam to avoid the *jaziya*. Nevertheless, Islam used less physical force in converting millions of people in Asia, than the kind of force used by the early and medieval Church. In addition, as we have seen, Islam helped preserve ancient Greek knowledge. But very suddenly, it regressed into tribalism.

Key to this regression was Muhammad al-Ghazali (1058-1111), a scholar who held a very narrow view about Mohammed's message. Mainstream Islam now began to consider Greek literature as being incompatible, indeed heretical, and cut off its links with Greek thought. Ibn Rushd tried to challenge al-Ghazali but could only temporarily stemmed the decline. Thus:

> Ibn Rushd attacked al-Ghazali's book, *The Incoherence of the Philosophers*, an attempt to synthesise mainstream (Ash'arite) theological views and Sufism. Entitling his own work *The Incoherence of the Incoherence*, ibn Rushd wrote that al-Ghazali misunderstood philosophical discourse and misused its

[32] Carrier, Richard C., "'Hitler's Table Talk": Troubling Finds', *German Studies Review*, Vol. 26, No. 3, Oct., 2003, p. 573.

[33] James Murphy translation of *Mein Kampf* by Adolf Hitler, at [http://gutenberg.net.au/ebooks02/0200601.txt]

[34] Akhavi, Shahrough, 'Islam and the West in World History', in *Third World Quarterly*, Vol. 24, No. 3, (Jun., 2003), pp. 548.

[35] M.J.Akbar. *The Shade of Swords*. Roli collection. 2003, p. 110.

[36] M.J.Akbar. *The Shade of Swords*. Roli collection. 2003, p. 110.

[37] Irving, Washington, *The Alhambra*, Chapter 7: The Hall of Ambassadors, eBooks, University of Adelaide, 2004. [http://ebooks.adelaide.edu.au/i/irving/washington/i72a/part7.html]

> concepts in an unsuccessful effort to demolish their arguments. Ibn Rushd broadened his criticisms by saying that theologians and mystics lacked knowledge of scientific methodology and discursive logic and so must stop trying to control philosophical research.[38]

Mongol clans had converted to Islam particularly in the 13th and 14th centuries, and were successful politically. When they become rulers of the Islamic world, intellectual inquiry severely declined. Benazir Bhutto writes: 'The fall of the Abbassid Empire to the Mongols [in Baghdad in 1258] brought in a period of tyranny from which the Muslim world has yet to escape. This political tyranny was accompanied by religious tyranny. The gates of *ijtihad* (interpretation of the Quran) were closed, and emphasis was put on memorising the Quran and studying what interpretations already existed.'[39]

Later, the Mughals – who combined Persian, Arabic, and Mongol cultures – took control over vast areas in Asia and accumulated untold wealth. Thier comfortable lifestyle further reduc3d incentives for intellectual inquiry. Stagnation, even decadence, was the result. While a few Islamic intellectuals remained, most Muslims reverted to tribalism. Islam was hijacked by fundamentalist Mullahs. Emperor Akbar later proposed an eclectic religion but was branded a a heretic (after his death). Aurangzeb, a successor, destroyed whatever remaining goodwill Islam had accumulated in India.

Today, Islamic leadership often relies on (or provides succour to) terrorist activity to express itself. And Islamic 'thought' is at its nadir. Islam must crush the terrorism sprouting from within its bowels, or it will alienate everyone and get wiped out. There is no place for mindless killings that Islam seems to associate itself with. As Benazir Bhutto (who succumbed to such killing) pointed out, Islam must sheathe its sword and learn to tolerate, if not respect other viewpoints. I am not entirely pessimistic, though. If Christianity could bring itself to support freedom and tolerance, then there is no reason why Islam can't.

The return of Islam to tolerance has, in some ways, begun. Madmen like Osama bin Laden have managed to alienate most Muslims. Enlightened Muslims tell us that the *Koran* forbids the killing of innocents. They have unequivocally condemned mindless terrorism in the name of Islam. But there is considerable scope to do more. The world can't distinguish between the two. Islam must not only teach its children the path of peace, it must excommunicate those who tarnish the name of Islam. An internet bulletin board could be published, listing those 'Muslims' who have been excommunicated. Gandhi had noted in 1926: 'The sword is too much in evidence among Mussalmans. It must be sheathed if Islam is to be what it means – peace.'[40] That remains true, today.

8.3.3 *Tolerance (and intolerance) in Hinduism*

Some people think that Hinduism is particularly tolerant. For instance, Max Weber wrote in 1958 that '[i]t is an undoubted fact that in India, religions and philosophical thinkers were able to enjoy perfect, nearly absolute freedom for a long period. The freedom of thought in ancient India was so considerable as to find no parallel in the west before the most recent age.'[41]

In comparison to the sheer brutality displayed, on occasion, by some other religions, the India-orginated religions – Hinduism, Buddhism, Jainism and Sikhism – have almost never resorted to violence or even economic coercion to convert others. While some internecine battles in Hinduism did, at times, degenerate into violence, these were very rare and relatively small, being an exception not the rule (I therefore disagree with a 1925 encyclopaedia entry that suggests that 'though Hinduism is eminently eclectic and tolerant, disputes between rival sectarians, ending in bloodshed are not uncommon'.[42] Indeed such bloodshed has been extremely uncommon. Most such disputes have been at the intellectual level, with no use of physical force It is clear that a wide range of competing worldviews co-existed in India. Refugees from other religions have also, almost always, found shelter. For example, the Zoroastrians who migrated to India from Persia upon its conquest by Muslims have continued to thrive in their new homeland with the Tata family being a prime example.

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[38] Akhavi, Shahrough, 'Islam and the West in World History', in *Third World Quarterly*, Vol. 24, No. 3, (Jun., 2003), p. 550.

[39] Bhutto, Benazir, *Reconciliation*, London: Simon & Schuster, 2008, pp. 45-6.

[40] Cited in Louis Fischer *The Essential Gandhi.* Edited by Louis Fisher. Vintage Books. New York. 1962. p. 211; originally in *Young India*, December 30, 1926.

[41] Weber, Max, *The Religion of India: The Sociology of Hinduism and Buddhism*, New York: The Free Press, 1958. [CHECK FROM ORIGINAL BOOK]

[42] W. Crooke, in his entry on Hinduism in the *Encyclopedia of Religion and Ethics* ed. James Hastings, 1925, T&T Clark. Vol. 6 p. 709.

Similarly (and there is a lively controversy regarding this event which is obviously earlier in history and has relatalively fewer evidentiary sources), many Syrian Christians of Kerala trace their roots to Christ's apostle, St. Thomas, who is said to have taught in south India. They were apparently not persecuted by Indians, but it was the Portuguese, upon their arrival 1400 years later, who declared these early Christians to be heretics and apparently destroyed their documents.

Regardless of the doubts that surround the story of the 'doubting' St. Thomas, it can be reasonably said that the Hindu tradition is tolerant towards others' beliefs. The typical Hindu thinks that the truth is one, although sages call it by different names.

But Hinduism is not all good news. While Hinduism was largely tolerant of other beliefs, it showed extreme intolerance towards those it calls the 'untouchables'. Although it appears that the caste system was not hereditary during the Vedic period, things changed for the worse down the line. While untouchables were not killed (exceptions notwithstanding), they were treated with greater contempt that slaves might suffer. Hinduism has not yet wiped out the caste system, but, instead, strengthened it by including references to it in the Indian constitution.

But there is another aspect of Hinduism that I explore in some detail now, an aspect that indicates increasing amounts of intolerance in Hinduism, a trend that has gathered pace in the past few decades.

Hindu political claims on India

There is simply no doubt about it that most Muslim rulers of India did not endear themselves to the Hindus. Some destroyed temples, others forcibly converted Hindus to Islam, albeit not as rampantly perhaps as sometimes attributed to them. But the Mughal rule ended long ago. The more recent problems of intrusion of religion into political affairs seem to have commenced in the early 20th century when some Hindu political leaders became over-assertive, even aggressive, after it became evident that the Muslims would become a minority in independent, democratic India. They seem to have taken this as an opportunity to exact revenge for previous Muslim rule.

One would have imagined that this delicate political situation, where India was going to be governed by its own people as one nation after a gap of hundreds of years, would have been an occasion for Hindu tolerance to smoothen the debate and embrace those who had been forced to convert to Islam (by the *jaziya*). But that did not happen.

It is true that the situation was extremely confounding. British rulers, as a strategy to bolster their negotiating position, decided to promote the Muslim League that was founded in 1906 by Aga Khan as a counterweight against the Indian National Congress founded in 1885. The Muslim League did not need much promotion, for many Muslims had already arrived at the view, based on the actions of some Congress leaders, that the Congress was a Hindu, not nationalistic body. Many Congressmen demanded a ban on cow slaughter – an imposition of religious belief on the affairs of the state. Bal Gangadhar Tilak, in innocence surely (but that is not a good excuse), made relations worse by glorifying Shivaji's actions. In a poem by Tilak, Shivaji speaks thus:

> I protect the cow as my mother
>
> She is the foundation of life, the giver of strength
>
> …Yet these people, they take mother cow away
>
> they lead her to the butcher, they have her slaughtered.[43]

Thus 'a vague Hindu aura pervaded much of the nationalist agitation because of the use of Hindu symbols, idioms, and myths.'[44] The implicit demand that new India be restructured around Hindu beliefs alienated many Muslims, even those who had joined the Congress (like Jinnah). Many such Muslims joined the Muslim League as well[45] - perhaps as a precaution.

The Congress, to make amends (prompted by Gandhi) went overboard through the 1916 Lucknow Pact, and promised a *disproportionate* share of electoral seats to Muslims. That was unwarranted, and implied that the rule of

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[43] Bal Gangadhar Tilak's 'Shivaji's Utterances', cited in Jasper, Daniel, 'Commemorating the "Golden Age" Of Shivaji In Maharashtra, India and the Development of Maharashtrian Public Politics', *Journal of Political and Military Sociology*, Winter 2003 .

[44] Chandra, Bipin, *India's Struggle for Independence*, New Delhi: Penguin, 1989, p.410.

[45] Hardy, P., *The Muslims of British India*, 1972, p. 187.

law would be bent to accommodate Muslims. Many Hindu Congressmen (rightly) saw this as appeasement. In his discontent Madan Mohan Malaviya created the Hindu Mahasabha (sometime between 1909 and in 1917). The honeymoon between Hindus and Muslims was over. By 1920-22, 'Abu'l Kalam Azad and the *Jamiyyat* were already advocating the division of India'[46], asking for self-governing institutions for Muslims.

In the 1920s, furious communal rioting broke out across India. Religion and politics got deeply intertwined, and remain so, today. In 1925 K.B. Hedgewar founded a more rabid Hindu organisation, the Rashtriya Swayamsevak Sangh (RSS). Gandhi did not help matters by calling for *Ram Rajya*, claiming he meant Divine Raj. In a speech he gave at Bhopal on 10 September, 1929 he said:

> I warn my Mussalman friends against misunderstanding me in my use of the word 'Ramarajya'. By 'Ramarajya' I do not mean Hindu Raj. I mean by 'Ramarajya' Divine Raj, the Kigdom of God. For me Rama and Rahim are one and the same deity. I acknowledge no other god but the one god of Truth and righteousness. Whether the Rama of my imagination ever lived or not on this earth, the ancient ideal of Ramarajya is undoubtedly one of true democracy in which the meanest citizen could be sure of swift justice without an elaborate and costly procedure.[47]

Regardless of what he meant, this was a very wrong signal to send to India, linking religion with politics and droving a wedge between Hindus and Muslims.

> In the most spiritual area on earth, it was inevitable that the freedom struggle should take on the guise of a religious crusade, and Gandhi had made it one… Inevitably, unintentionally, Gandhi's Congress Party movement began to take on a Hindu tone and colour that aroused Moslem suspicions.[48]

In 1930 Sir Muhammad Iqbal, presiding over the Muslim League's annual session, proposed the amalgamation of India's four Muslim majority states. This suggestion, divisive as it was, was *not* the equivalent of asking for two separate nations. But in January 1933, Rahmat Ali, a then law student in Cambridge University, first put forth the two-nation idea, calling the proposed nation Pakistan (**P**unjab, North-West Frontier Province (**A**fghan Province), **K**ashmir, **S**ind and Baluchi**stan**). But – and this is important – almost no Muslim bought into this. At least till 1937, most Indian Muslims were convinced about living in *one* united nation.

> [W]hen Muslim politicians came to fight the first elections to be held under the 1935 Act, the fought them with the same assumptions as did the other parties to those elections, namely that India would remain constitutionally united, albeit under a federation, and that Muslims would continue to live as fellow-citizens of non-Muslims all over the sub-continent. Indeed, in many spheres of policy Muslim politicians went into the elections determined to prove how much Muslims shared with their fellow-countrymen.

And now Muhammad Ali Jinnah entered the scene again – this time to play a decisive role. A short digression on Jinnah is perhaps in order. Jinnah, born to a recently Gujarati family that had only recently converted from Hinduism to Islam, trained in law in England (the youngest Indian to be called to the bar) and came to hold firm classical liberal views. He worked closely with liberal stalwarts like Gokhale upon his return to India, and joined the Congress in 1906. When the Muslim League was founded, he opposed its formation[49] and also opposed the concept of separate electorates. But things changed. By 1916 he had become a conservative Muslim voice in favour of the Lucknow Pact, though he remained in the Congress. As a constitutionalist, he objected vigorously to Gandhi's civil disobedience plans. In the process, he felt patronized, even humiliated by Gandhi, a Johnny-come-lately, who had returned to India only in 1915. He left the Congress in 1920.[50] Over the years he become increasingly frustrated and irrelevant in India, as Gandhi became the main leader. And so he ended up in England, in 1931, a recluse[51]. However, by 1935 the Aga Khan, Rahmat Ali and Muhammad Iqbal had persuaded him of the two nation theory and persuaded him to return. Despite that, he genuinely tried to cooperate with the Congress and the smaller Muslim parties for a while.

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[46] Hardy, P., *The Muslims of British India*, 1972, p. 195.

[47] Complete Works of Gandhi, VOL. 47: 1 SEPTEMBER, 1929 - 20 NOVEMBER, 1929, p.41

[48] Lapierre, Dominique, and Larry Collins, *Freedom at Midnight*, 1997 (2003 reprint), New Delhi, Vikas Publishing House, p.32.

[49] Chandra, Bipin, *India's Struggle for Independence*, New Delhi: Penguin, 1989, p.432.

[50] Noorani, A.G., Assessing Jinnah, *Frontline*, Aug 13 - 26, 2005.

[51] Hardy, P., *The Muslims of British India*, 1972, p. 223.

In the 1937 provincial elections that were held across India under the *Government of India Act 1935*, the Muslim League secured just 109 of the 482 reserved seats for Muslims, the rest going to the Congress. The League had become irrelevant. Jinnah sought a face-saving agreement with Congress to provide representation to the League in a coalition government. Nehru's Congress declined – arguably the greatest mistake he made in his life (his second major mistake was the adoption of socialism in independent India – noting that Nehru clearly did not represent Hindus in any way, being a paragon of secularism). The 'Congress proceeded to read the Muslim politicians of the United Provinces, the province where historically Muslims had considered themselves the natural aristocracy, a lesson in the power of elected majorities'[52]

Nehru demanded that the Muslim League disband before he could accommodate Jinnah. This seemed to Jinnah to be a weaker version of the by now well established concept of Hindutva according to which everyone in India was supposed to abide by a Hindu heritage. (India has a distinct fundamental character but it is definitely *not* Hindutva. Instead, it is a liberal, questioning, tolerant and self-reflective, peaceful character.)

Jinnah was furious. Muslims across India took this to be a sign of the Hindu arrogance they could expect in independent India. Jinnah exploded: 'We are not going to be camp followers or a subject race of a Hindu Raj'[53]. The 'Muslim[s]… felt betrayed and humiliated, and in opposition took every opportunity to make public the wrongs, real or fictitious, suffered by the Muslims under Congress rule.'[54] Strategic foresight could have prevented this disastrous outcome.

And yet, Jinnah *still* did not publicly call for two nations.

Instead, the knife was driven through India first by Hindu Mahasabha which proclaimed the two-nation theory during its 1937 annual session in Calcutta, when V.D. Savarkar (an atheistic Hindu) declared: 'Let us bravely face unpleasant facts as they are. India cannot be assumed today to be a unitarian and homogeneous nation, but on the contrary there are two nations in the main; the Hindus and the Moslems, in India.[55] This was the first public articulation of the two nation theory by a major political organisation.

Golwalkar of RSS also expressed strong support for such an idea through his 1939 book *We* in which he said:

> The foreign races in Hindusthan must either adopt the Hindu culture and language, must learn to respect and hold in reverence Hindu religion, must entertain no ideas but those of glorification of the Hindu race and culture ... or may stay in the country, wholly subordinated to the Hindu nation, claiming nothing, deserving no privileges, far less any preferential treatment-not even citizen's right.[56] [Note that *We* has now been officially proscribed by the RSS[57].]

Jinnah was now wedged. He could no longer control the events. Neither Congress nor the Hindu Mahasabha were willing to negotiate a cooperative position. The Muslim League, with great regret, passed the 'Pakistan' resolution in Lahore on 23 March 1940.

This is not an analysis of India's partition, but an analysis of Hindu tolerance. Unfortunately, based on the way Hindus mixed religion with politics before partition and afterwards (such as the 1992 demotion of the Babri Masjid and subsequent killings of Muslims across India), the supporters of Jinnah could well argue that he had made the right decision in 1940.

Jinnah never got to rule Pakistan for long, dying soon after Pakistan's creation. A liberal at one time, he had set in motion events that made Pakistan into an Islamic state, without moorings in the constitutionalism he so admired. The fuel given to fanatic Islam in Pakistan and Bangladesh led to the suppression of Hindus who chose to remain behind. Virtually none now remain. The sub-continent has thus suffered (and continues to sufer)

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[52] Hardy, P., *The Muslims of British India*, 1972, p. 225.

[53] *Indian Annual Register*, 1937, Vol. I, Calcutta Session, 27, 28 December 1937, reported in Pandey, Deepak, 'Congress-Muslim League Relations 1937-39: "The Parting of the Ways", *Modern Asian Studies*, Vol. 12, No. 4 (1978), p. 634n.

[54] Pandey, Deepak, 'Congress-Muslim League Relations 1937-39: "The Parting of the Ways"', *Modern Asian Studies*, Vol. 12, No. 4 (1978), p. 635.

[55] Nichols, *Verdict on India*, 1944, p.185.

[56] Golwalkar, M.S. *We, or Our Nationhood Defined*, Nagpur: Bharat Publications, p. 35, cited in Islam, Shamsul, 'RSS and the Raj', in Puniyani, Ram, *Religion, Power and Violence: Expression of Politics in Contemporary Times,* SAGE, 2005, Google Books. Note that there is a slightly different version of this quotation in Chandra, Bipin, *India's Struggle for Independence*, New Delhi: Penguin, 1989, p.437.7

[57] Mukul, Akshaya, 'RSS officially disowns Golwalkar's book', *Times of India*, 9 Mar 2006 [http://timesofindia.indiatimes.com/India/RSS_officially_disowns_Golwalkars_book/articleshow/msid-1443606,curpg-2.cms]

unimaginable pain over the past sixty years, with the Kashmir issue, for instance, which arose from the ill-thought out partition, not yet resolved.

Upon looking at these facts of the case from a distance, one can't avoid attributing blame to both Hindus and Muslims for this outcome in which no one won, and everyone lost. What happened next affected millions, including my family. Half a million people were killed during India's partition. And tens, perhaps hundreds of thousands have lost their lives during subsequent tensions in Kashmir, during wars between India and Pakistan, in during communal violence across India and other parts of the sub-continent.

In recent decades, rabid Hindu groups (e.g. the Sangha Parivar which includes RSS, Vishwa Hindu Parishad and Bajrang Dal) have indulged in or promoted violence against Muslims. Fanatic 'Hindu' politicians (including members of Congress (I)) have provoked riots or allowed Muslims to be killed through deliberate incompetence. The Indian police, comprising largely Hindu employees has, on occasion, participated in major atrocities against Muslims. Official investigations of communal riots tell us about the severe communalisation of India's governance.[58] And from my reading of what is going on, the educated Hindus are on average even more intolerant than uneducated ones. With all this, to suggest that Hinduism (as a whole) is a tolerant religion would be a travesty of the truth. It could equally be argued, given available data, that it is vindictive, and that it attacks the weak and helpless.

While Muslim citizens in independent India have broadly been law-abiding. However, this increasing Hindu intolerance combined with Islam's inability to modernize has made India into a seething cauldron of tensions from which violent erupts at unpredictable intervals.

Let's pause for a moment in memory of those killed, maimed, and uprooted in the sub-continent, and pray (if there is God) that religions will begin to play a constructive role in the future.

Proselytisation

A different, but almost equally important, test of tolerance is a society's or religion's approach towards proselytisation. This is a matter of freedom of expression and freedom of belief. The free society should not interfere when its citizens to preach with the intent of 'converting' others' beliefs. Accordingly, for instance, Hindus are permitted in liberal Christianity-dominated Western societies today to not only build temples for themselves but to proselytize, and to convert Western citizens to Hinduism. The *Hare Rama Hare Krishna* and many other Hindu movements have converted numerous Western citizens to Hinduism. But when the onus of tolerance is reversed, Hindus don't appear to be so happy (Box ZZZ).

Box ZZZ

The Hindu view of proselytisation

In an article in the *Times* in 1896, Vivekananda was quoted as saying: 'India was once a great missionary power. Hundreds of years before England was converted to Christianity, Buddha sent out missionaries to convert the world of Asia to his doctrine.'[59] Elsewhere, he noted: 'Buddhists never killed, but converted three quarters of the world at one time by pure gentleness.'[60] Many Indians take pride that Buddhism – a religion that has influenced vast populations across the world for thousands of years, was started by an Indian, in India.

Indians are also happy that Hinduism spread to places like Thailand, Cambodia, and Indonesia. Similarly, within India, Hinduism steadily assimilated (converted) local tribal groups over thousands of years. No doubt, Hinduism, in this process itself changed, becoming more eclectic. A typical example is found in Thailand where the Hindus created the new Ayodhya (*Ayutthaya*) near modern day Bangkok. 'The god-kings of Ayutthaya and their people incorporated many beliefs and practices of Hinduism, Mahayanan Buddhism, ancient Thai spiritism, Mon occultism, and Chinese mysticism and ancestor worship into their religion.'[61]

[58] Some illustrative case studies at: [http://www.liberalpartyofindia.sabhlokcity.com/communal/riots.html]

[59] *The Complete Works of Swami Vivekananda*, Calcutta: Advaita Ashram, 1989 [1990], vol 5, p.191.

[60] *The Complete Works of Swami Vivekananda*, Calcutta: Advaita Ashram, 1989 [1990], vol. 7, p. 43.

[61] The History of Ayutthaya: Social & Political Developments. [http://www.jack-wallace.com/g8social_t3_03.htm]

Hindus are undoubtedly proud to have converted others, but they don't like being similarly converted. In an interview on May 11, 1935 Gandhi said a surprising thing to a missionary nurse (surprising given his broadly liberal views) that he strongly objected to proselytism. Indeed, he said: 'If I had power and could legislate, I should certainly stop all proselytising.'[62] [This fear of getting converted is not merely found among Hindus; even Christians prefer to convert others than to be converted. For example, the 'pope has spoken out repeatedly against the efforts of evangelical Protestants to convert Catholics.'[63] No doubt, what's good for the goose is not good enough for the gander]

In an article in *Des Moines News* (28 November 1893) Vivekananda is reported to have said: 'I have often been asked in this country [USA] if I am going to try to convert the people here. I take this for an insult. I do not believe in this idea of conversion. Today we have a sinful man; tomorrow according to your idea he is converted and by and by attains unto holiness. Whence comes this change?'[64] Consistent with this, he declined to convert anyone, writing in a letter in May 1894 that 'I was never a missionary, nor ever would be one'.[65]

But Vivekananda agreed to the dictates of liberty. He didn't like proselytisation. He also harboured concerns about *specific* Christian missionaries – concerns he raised in some of his letters. But he tolerated it and did not oppose those who tried to convert Hindus. In an article in *The Detroit Free Press* in 1894, he is quoted as having said: 'I belong to the Hindu religion... We never indulged in missionary work. The fundamental principles of our religion forbid that. Nor do we say anything against any missionaries whom you send from this country [USA] anywhere.'[66] A question was put to him by *The Hindu* (Madras) in February 1897: 'Question: Does the spirit of Hinduism permit the proselytism of strangers into it?' He replied, unambiguously: 'Proselytism is tolerated by Hinduism.'[67]

His therefore held a liberal position. We may dislike something but we must live with it as long as we are not harmed. Indeed, only through competition and challenge by others can the innate strength of any idea be tested. The more persuasive religion will win the debate. I believe that certain elements of the Hindu philosophy are persuasive, and such elements will survive. Those who oppose proselytisation deny others the right to judge the truth for themselves. Some say that the poor can't make reasoned choices in this matter. Then why allow them to vote, a decision that more directly affects people's lives?

We should agree with Vivekananda and disagree with not Gandhi on this matter. Everyone must always remain be free to choose his or her own beliefs. Conversion is the 'contract' which confirms a change in our supplier of spiritual services. Just as we must be free to change our coffee shop, we must be free to switch religion (or to not have one at all). Not only should we be free to convert others, but free to change our religion as many times as we wish. Since most theistic religions believe in one God, they are presumably supplying the same God but in different packaging. So what's the big deal, anyway? For a government to prevent proselytisation would amount to preventing competition in the religious market, and prevention of advertising by the various suppliers. If an honest sales pitch is made and the offer voluntarily accepted, a government can have nothing to say about religious conversion. That God himself wanted robust competition is a valid deduction, as Justinus Febronius (1701-1790) pointed out:

> God is all powerful. God is able to lay down certain laws of science which hold good for all people at all times and under all conditions. If follows that it would have been easy for Him, had he desired to do so, to guide the minds of men in such a fashion that they all of them would have had the same opinions upon the subject of religion. We know that He did not do

[62] *The Collected Works of Mahatma Gandhi,* Vol. 61, pages 46-47.

[63] Kevin Sullivan, in a *Washington Post Foreign Service* report on Sunday, July 28, 2002 [http://www.preventgenocide.org/prevent/news-monitor/2002july.htm]

[64] *The Complete Works of Swami Vivekananda*, Calcutta: Advaita Ashram, 1989 [1990], vol. 3 p.483.

[65] *The Complete Works of Swami Vivekananda*, Calcutta: Advaita Ashram, 1989 [1990], vol. 7 p.467.

[66] *The Complete Works of Swami Vivekananda*, Calcutta: Advaita Ashram, 1989 [1990], vol. 7, p.287.

[67] *The Complete Works of Swami Vivekananda*, Calcutta: Advaita Ashram, 1989 [1990], vol. 5, p.208-09.

anything of the sort. Therefore, we act against the express will of God if we try to coerce others by force to believe that which we ourselves hold to be true.[68]

No liberty to make unethical 'spiritual' claims

While the right (or privilege) to preach and convert others must be staunchly defended, it must be tempered by accountability (morality). Religious claims and conversions must be tested for good faith. Deliberate fraud and misrepresentation of the goods sold (e.g. fake claims of miracles, cheap magic tricks) are unconscionable, more so in spiritual matters where honesty must be given the highest value. Religious organisations, like any other business, are not free to perpetrate fraud on the gullible.

All missionary work must specifically exclude magic tricks, opportunistic exploitation, or direct bribery. Misleading or deceptive religious preaching must be prohibited, including the spread of hatred towards other religions or their god/s. A religion which genuinely believes in ethics and morality will have no objection to such regulation. Only fraudulent religions will oppose this suggestion. Indeed, it is in the interst of 'good' religions to have such state regulation for no religion can ensure that all its priests (or missionaries) will behave ethically.

Co-regulation may be a better option in this matter. Major religious groups could agree to a code of conduct which the state can enforce on their behalf. This may include a requirement that all religious claims and conversions arising therefrom be vetted for quality assurance by an independently certified process. For instance, all conversions could be registered by an All Faith Integrity Assurance Body. This would only apply to conversions, not to 'original' beliefs. Mass conversions or conversions of those below 18 would be rejected outright. In addition, a privately established telepathic and spiritual fraud prevention agency (funded by various religions) could also be established. There is currently a big racket being perpetrated by 'religious' people.[69] That needs to be severely controlled.

In sum, if Hinduism wants to assert its claims to tolerance, it will have to give every other religion the freedom to preach and convert Hindus, albeit under a regime of ethically based constraints. If Hinduism can stand the test of open debate and competition, its survival is surely desirable. Else, if it is a mere fraud, why bother to preserve it?

Does Hinduism cause corruption?

I have argued (e.g. in *BFN*) that India's corrupt governance can be attributable to the *system* of governance which fosters corruption. Some people have claimed, however, that Hinduism fosters corruption. This is clearly false since Hindus who work in the West have a lower rate of criminality than others.

But if this thesis turns out to be true, it would mean that India will remain corrupt as long as Hindus exist in India. So let me examine its key arguments further. N. Vittal and S.S. Gill have both suggested that Hinduism doesn't treat corruption as a moral failing. N. Vittal writes:

> Any number of examples are given in the *puranas* where a sinner having led a life of sin can get redemption by taking the name of Lord Narayana in his last moments as in the case of Ajamila. In social terms this has come to be accepted. People who lived a life of sin like the prodigal sons return to the straight and narrow path at some stage usually late in life. The sholka *Vridha nari pativrata vridha veshya tapaswani* probably represents the cynical acceptance of how people change in life from vice to virtue.
>
> At another level, the very basis of Hinduism which believes in rebirth shows that every soul is given innumerable opportunities to improve itself on its onward path. There may be set backs for sins committed but then virtue is also earned. This endless cycle of birth and death leads to the ultimate goal of Moksha. The emphasis of our saints on getting out of the birth and death cycle also is an attempt to persuade people to come to the right path as early as possible. *Punarapi jananam punarapi maranam punarapi jananai jathare sayanam iha samsare bahu dustare kripaya pare pahi murare* said Adi Shankara in Bhaja Govindam reflecting the toils of repeated births and death.[70]

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[68] Hendrik W, van Loon (1926). *Liberation of Mankind*. London: George G. Harrap & Co. Ltd. [1954 reprint], p. 295. Van Loon hasn't provided citations, so it is possible that Febronius is not being quoted verbatim.

[69] http://sabhlokcity.com/2010/08/telepathic-and-spiritual-fraud-prevention-agency/

[70] Paper presented by N. Vittal at Institute of Secretariat Training and Management, New Delhi, on 8 January2002, [http://cvc.nic.in/vscvc/cvcspeeches/sp9jan02.pdf]

S.S. Gill states that 'the numerous deviant actions of …[Hindu] gods are an integral part of Hindu folklore. And it is reasonable to infer that their influence on public morality could not be very wholesome. Such incidents, and there are any number of them, were bound to lower the importance of means used in achieving one's ends. And coupled with a relatively relaxed concept of sin, their overall impact on social ethics was to enlarge the areas of permissiveness.'[71]

No doubt, Hinduism allows sins to be washed away merely by taking a dip in the Holy Ganges or by bribing the god/s at the local temple. Such cheap forgiveness sits uneasily with the theory of *karma*, but is widely accepted for the cathartic relief that this provides. (Note that all religions have some mechanism or other to allow an affordable catharsis from guilt). Recall that in chapter 1, I had noted that the *Srimad Bhagavatam* talks about *saama* – the process of pacifying; *daana* – the process of giving money in charity; *bheda* – the principle of divide and rule; and *danda* – the principle of punishment.[72] Vivekananda commented favourably on these four principles which were also emphasised in Kautilya's *Arthashastra,* albeit in a slightly different form: *sama*, *dama*, *bheda*, *danda. Dama* represents a two-sided transaction, a trade. Through it we motivate others to do something for us. *Daana*, on the other hand, is one-sided, without an expectation of a return. Vivekandanda' model translates thus: persuade, provide economic incentive, divide and rule, and punish. The problem, of course, is this that a focus on economic incentives can, without ethical self-restraint, justify even bribery!

Indeed, Vivekananda asked: 'Is not doing work, though mixed with good and evil, better than doing nothing and passing an idle and inactive life, and being like stones?'[73] Even evil action, this could be taken to mean, in an extreme case, is presumably preferable to taking no action! To confound matters, he added: 'Show your heroism; apply, according to circumstances, the fourfold political maxims of conciliation, **bribery**, sowing dissensions, and open war, to win over your adversary and enjoy the world – then you will be Dharmika (righteous)…. Of course, do not do any wrong, do no injure or tyrannise over anyone, but try to do good to others as much as you can.'[74] (This statement implies that one of India's major Hindu gurus preached bribery? I hope this is a mistranslation, given its inconsistency with Vivekananda's overall message.)

Nevertheless, such things do suggest a level of confusion, and some Indians perhaps find ready justification for their own corruption. Enlightened Hindus do insist that Hinduism is an ethical religion. The way out is for Hindu leaders to excommunicate corrupt Hindus and hand them over to the police. Only then can this issue be finally resolved. The other method to resolve it is, of course, for political system reforms to be introduced, as outlined in *BFN*. If corruption drops rapidly (as it should) then Hinduism would be exonerated.

Religious Freedom Under Siege in India

Religious freedom in India declined precipitously with the arrival of Islam which was at that time moving away from its tolerant phase. In particular, Hindus not being considered people of the book, the religion of Islam was particularly ruthless on Hindus. Fanatics like Aurangzeb who overshadowed (relatively benign) kings like Akbar left a bitter taste. Further, during India's independence movement, unthinking actions by Hindu leaders prevented the rift from getting resolved. India's partition on religious grounds was a grievous blow to liberalism, formalising, implicitly, the role for religion in affairs of the state.

India has not yet recovered form the stranglehold of religions on its polity. Lawmakers have enacted Hindu laws in the parliament, and provided state-based subsidies for Muslims. The state curbs freedom of expression even with the slightest opposition by a particular religion. Freedom, including religious freedom is under siege(seee my article in *Freedom First,* July 2010). Religious fundamentalism is stronger today than it was ever before. Believers in Hindutva reject religious freedom and want ancient wounds to be re-opened. Even after living in India for a thousand years, most Muslims do not feel welcome (which is not to say that they have always helped their cause).

Separating the domains of religion and the state requires leadership of a calibre that India has not yet produced. Only liberals can provide such leadership, but India's liberals have long ago deserted the battlefield.

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[71] Gill, S.S., *The Pathology of Corruption*, New Delhi: HarperCollins, 1998, p.8-9.

[72] [http://srimadbhagavatam.com/7/5/19/en]

[73] Complete woks, p. 451, vol 5

[74] *The Complete Works of Swami Vivekananda*, Calcutta: Advaita Ashram, 1989 [1990], vol 5, p. 448.

8.4 Conclusion

Religious reformers arise in order to take religions back to the basics. Swami Vivekananda explained it thus:

> I disagree with the idea that freedom is obedience to the laws of nature. ... According to the history of human progress, it is disobedience to nature that has constituted that progress. ... I never saw a cow steal. An oyster never told a lie. Yet they are not greater than man. This life is a tremendous assertion of freedom; and this obedience to law, carried far enough, would make us simply matter [inert] – either in society, or in politics, or in religion. Too many laws are a sure sign of death. Wherever in any society there are too many laws, it is a sure sign that that society will soon die. If you study the characteristics of India, you will find that no nation possesses so many laws as the Hindus, and national death is the result. But the Hindus had one peculiar idea – they never made any doctrines or dogmas in religion; and the latter has had the greatest growth.[75]

This may not, strictly speaking, represent the Hindu scriptures. Nevertheless, such an interpretation can open the door to a free, modern India. The Church has also belated realized the value of liberty. Thus, in his 1965 *Declaration of Religious Freedom*, Pope Paul VI wrote:

> … the human person has a right to religious freedom. This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits. … This right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed and thus it is to become a civil right.

Religions must stop their violence and revert to the ethical foundations their originators allegedly taught. They are entitled to advertise themselves and their products, and to preach, but under no right accrues to them to behave unethically, violently, or to break the rule of law.

As for myself, I prefer to distance myself from *all* organised religion which I find to secretive, undemocratic, and opaque; and disrespectful. That I may be required to hate other religions by joining a particular one, is a matter of great concern as well. I am an empathetic agnostic. I *empathise* with both theistic and atheistic positions. I understand why people may choose to hold a personal belief about God. But I haven't found evidence of a soul, spirit, or creator. I can't successfully prove that God exists (or not).

I find it useful (a utilitarian position), however, to *hope* for a benevolent personal God, and have sporadically (and unashamedly) prayed (being a monologue to thin air) when it suits me – without worrying about 'whose' God I might be talking to, or even I'm simply imagining things. God presumably has sharp enough ears to hear my mental waves, and is presumably not parochial. Prayer could well prove futile, but it surely can't harm. The need for faith in something beyond and bigger than us was best expressed by Tagore: 'Born in this great world, full of the mystery of the infinite, we cannot accept our existence as a momentary outburst of chance, drifting on the current of matter towards an eternal nowhere.'[76]

Overall, the morality preached by religious founders is largely sound and so I am happy to pick the best out of organised religion, while rejecting evil. Of this I remain clear, that neither I *nor any other human being* is God's representative, nor can be. The laws of nature do not defer to our wishful thinking. (If anyone does make any absurd claim about nonmaterial phenomenon, please go get yourself a million dollars by proving it to the James Randi Educational Foundation.) It appears that religion has passed its 'use by' date. On the other hand, man's spiritual quest will not fade away.

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[75] *The Complete Works of Swami Vivekananda*, Calcutta: Advaita Ashram, 1989 [1990], vol 5 p. 287.

[76] Tagore, Rabindranath, 'My School, lecture delivered in America, *Personality,* London: MacMillan, 1933.

9. The pillar of limited powers

'Real Swaraj will come not by the acquisition of authority by a few but by the acquisition of the capacity by all to resist authority when abused. In other words, Swaraj is to be attained by educating the masses to a sense of their capacity to regulate and control authority.' – *Gandhi*[1]

Through Propositions 4 and 5 (in chapter 4) – which deal with the fortress and the social contract – we agree to give the government a monopoly over the use of force. We hand over the defence of our body and property to the government. We also empower it to arbitrate or judge our actions, should occasion arise for these be questioned.

The advance from primitive tribes to the modern social order with its explicit social contract went through a number of stages. First, we needed to find a strong sovereign – the *Leviathan* – to defend us from never-ending (tribal) warfare. In its early incarnations, this took various forms of monarchy. But the strong sovereign is a tyrant. To reduce tyranny two alternative routes were taken by mankind: democracy through revolution, and to socialism thorugh revolution. In the former there would be no sovereign. In the later one person would be dictator. Socialism failed because it brought back the same tyranny it had sought to overcome.

The key, liberal philosophers after Hobbes have argued, is not just a strong sovereign (to which they agree) but accountability of the government. Liberal democracy arose after the linkages between religion and the state had been broken, after 'divine right' of kings had been disbanded, and inherited privilege reduced. Finally the empowerment of the parliament could occur, although the extension of the franchise to all groups would take time. However, even democracies can degenerate into majority-rule mobocracies. Constitutional safeguards were necessary: 'If the majority could be trusted with its power, ... safeguards would be unnecessary. Since it cannot be so trusted, its freedom must be curtailed for the very sake of freedom'[2] (Hans J. Morgenthau). Rival interests and institutions could check and balance each other. And the watchful and vigilant citizenry would oversight the functioning of the government. This was the package of reforms which would lead to both a strong but *limited* government.

Clearly, the socialists did not understand this package of a strong but limited government, and so it failed – by creating more tyranny than even the kings had created in the past. So, in this chapter I explore how the *Leviathan* is (and was) tamed. The next chapter examines modern democracy.

9.1 The proper status and role of government

Political philosophers contemplated at length about the origin of government. Hobbes started the ball rolling by talking about the social contact and the strong state.

9.1.1 *The social contract and strong state*

Propositions 4 and 5 explained why our security is paramount, along with justice. Anarchists and libertarians claim that private defence associations can arise through market mechanisms and manage our security more efficiently than the state can. However, protecting us from criminal elements requires a level of coordination that is greater than what can be obtained through self-regulation. Proposition 5 explains why a social contract is implicit in the modern state.

[1] *Young India*, 29-1-1925, p. 41

[2] Hans J. Morgenthau (1957). 'The Dilemmas of Freedom', in *The American Political Science Review*, 51(3), p.721.

Indeed, India was one of the earliest civilisations to recognise the need for a strong king. In the *Mahabharata,* Bhishma says: 'A kingdom in which anarchy prevails becomes weak and is soon afflicted by robbers'. Highlighting further the need for a social compact, he adds:

> It hath been heard by us that men, in days of old, in consequence of anarchy, met with destruction, devouring one another like stronger fishes devouring the weaker ones in the water. It hath been heard by us that a few amongst them then, assembling together, made certain compacts, saying, 'He who becomes harsh in speech, or violent in temper, he who seduces or abducts other people's wives or robs the wealth that belongs to others, should be cast off by us.' For inspiring confidence among all classes of the people, they made such a compact and lived for some time.

Bhishma also says, that a 'person who is desirous of prosperity should worship the king as he should worship Indra himself.' Citizens were thus exhorted to treat kings on par with divinity.[3] In the 4th century BC, Kautilya arrived at views that were in many ways similar to what Machiavelli and Hobbes arrived at, much later. Further, the *Digha Nikaya* (or the *Long Discourses*), which forms part of the Pali canon of Theravada Buddhism, stated thus in the third century BC:

> Now those beings … gathered themselves together, and bewailed these things, saying: From our evil deeds, sirs becoming manifest, inasmuch as stealing, censure, lying, punishment have become known, what if we were to select a certain being, who should be wrathful when indignation is right, who should censure that which rightly be censured and should banish him who deserves to be banished? But we will give him in return a proportion of the rice. … Chosen by the whole people … is what is meant by Maha Sammata (the Great Elect) …[4]

A.L. Basham suggests that this statement is 'one of the world's earliest versions of the widespread contractual theory of the state, which in Europe is specially connected with the names of Locke and Rousseau'.[5] Even in the West, at least some people had started thinking on these lines before Machiavelli, Hobbes and Locke. The Marsilius of Padua (c.1275-c.1342) wrote thus (as cited by Lord Acton):

> Laws derive their authority from the nation, and are invalid without its assent. As the whole is greater than any part, it is wrong that any part should legislate for the whole; and as men are equal, it is wrong that one should be bound by laws made by another. But in obeying laws to which all men have agreed, all men, in reality, govern themselves. The monarch, who is instituted by the legislature to execute its will, ought to be armed with a force sufficient to coerce individuals, but not sufficient to control the majority of the people. He is responsible to the nation, and subject to the law; and the nation that appoints him, and assigns him his duties, has to see that he obeys the Constitution, and has to dismiss him if he breaks it. The rights of citizens are independent of the faith they profess; and no man may be punished for his religion.[6]

In other worlds, Thomas Hobbes (1588–1679) didn't 'discover' the social contract, for this concept repeatedly presents itself throughout history. But Hobbes was definitely the first to bring it all together by linking it to human nature, thus creating a scientific argument. In his 1651 book, *Leviathan,* he argued that only a *strong* state can overcome a society's natural tendency for anarchy. Without a strong state, he wrote, our lives will be 'solitary, poore, nasty, brutish, and short'.[7]

Empirically, we could ask: Are citizens of a weak state (anarchy) actually poor? This does seem to be the case, from a cursory examination of human history. The stronger states have generally tended to be richer than weaker ones. Second, is life in a weak state brutish? That is true, as well. For example, endless internecine warfare took place between northeastern Indian tribes in the past. Citizens of weak states do tend to lead a brutish life. What about their life expectancy? Hobbes lived to the ripe old age of 91, but the average English child in his time could only expect to live between 20 and 30 years upon birth. High infant mortality and disease drove down longevity in pre-modern societies before 1688. Anarchy won't kill as many people as disease will, but the strong

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[3] These three quotations are from *The Mahabharata*, Book 12: Santi Parva, sec. LXVII, translation by Kisari Mohan Ganguli, published between 1883 and 1896, Online version: [http://www.bharatadesam.org/Mahabharata/m12/m12a066.htm]

[4] *Digha Niyaka*, III, 93. *Translation in Sacred Books of the Buddhists*, IV, p.88ff, cited in Thapar, Romila, *The Past and Prejudice*, Patel Memorial Lectures, New Delhi: Publications Division, 1973, p.41

[5] Basham, A.L., *The Wonder that was India,* Fontana, 1971, p.88-9.

[6] Cited in John Emerich Edward Dalberg, Lord Acton, *The History of Freedom and Other Essays,* ed. John Neville Figgis and Reginald Vere Laurence (London: Macmillan, 1907). [http://oll.libertyfund.org/title/75]. Chapter 2.

[7] Chapter 13 of *Leviathan.*

state supports scientific advance and that makes all the difference. Today, the gap in longevity between strong democracies and weaker ones (like India) remains considerable, although the story is more complex than simply comparing the 'strength' of a state.

Hobbes suggested that we should transfer our sovereign powers to a strong state (king or to representative assembly):

> The only way to erect such a Common Power, as may be able to defend them from the invasion of Forraigners, and the injuries of one another, and thereby to secure them in such sort, as that by their owne industrie, and by the fruites of the Earth, they may nourish themselves and live contentedly; is, to conferre all their power and strength upon one Man, or upon one Assembly of men, that may reduce all their Wills, by plurality of voices, unto one Will: which is as much as to say, to appoint one Man, or Assembly of men, to beare their Person; and every one to owne, and acknowledge himselfe to be Author of whatsoever he that so beareth their Person, shall Act, or cause to be Acted, in those things which concerne the Common Peace and Safetie; and therein to submit their Wills, every one to his Will, and their Judgements, to his Judgment. This is more than Consent, or Concord; it is a reall Unitie of them all, in one and the same Person, made by Covenant of every man with every man, in such manner, as if every man should say to every man, *I Authorise and give up my Right of Governing my selfe, to this Man, or to this Assembly of men, on this condition, that thou give up thy Right to him, and Authorise all his Actions in like manner*. This done, the Multitude so united in one Person, is called a COMMON-WEALTH, in latine CIVITAS. This is the Generation of that great LEVIATHAN, or rather (to speake more reverently) of that *Mortall God*, to which wee owe under the *Immortall God*, our peace and defence.[8]

Once we hand over our powers to the state, Hobbes added that we can't thereafter subject the state (now sovereign) to the laws it makes for us. The sovereign is *the* law, and rises above the law. We must, accordingly, follow Justinian's policy: 'What pleases the prince has the force of law'[9]. Accordingly, citizens must live with abuse of power by the sovereign as the price for peace. He effectively ruled out justifications for overthrowing the sovereign.

Hobbes considered three forms of the Leviathan ('Commonwealth'): democracy, aristocracy, and monarchy: 'The difference between these three kinds of Commonwealth consisteth not in the difference of power, but in the difference of convenience or aptitude to produce the peace and security of the people' (Chapter XIX, *Leviathan*). He argued that a monarchy was preferable because in order to become rich the king had to make his citizens rich: 'no king can be rich, nor glorious, nor secure, whose subjects are either poor, or contemptible, or too weak through want'. On the other hand, in 'a democracy, the public prosperity confers not so much to the private fortune of one that is corrupt, or ambitious, as doth many times a perfidious advice, a treacherous action, or a civil war'. It was excellent analysis, given the state of knowledge that prevailed. Hobbes preferred monarchy and supported the royalists – supporters of King Charles I during the English Civil War. That is why he is associated more with conservatives (Tories) than liberals (Whigs). However, his analysis did not rule out a democracy should its shortcomings be addressed, which is what Locke and Montesquieu later did.

But Hobbes was not merely a conservative. He argued that the authority of the powerful state must *override* that of the Church in matters of law and security. He wanted a strong separation of the state and Church, on the lines of the counter-reformation scholastics.

An alternative view to Hobbes's offers a different way to overcome anarchy. Instead of a strong ruler, it is suggested that coalitions of tribes or nations could jointly protect our freedoms Switzerland is perhaps the sole exception). Such coalitions, however, suffer from the problems of cartels, and have rarely been successful, for coalitions are overpowered from within by any ambitious leader with a large support base.

Many other anarchic alternatives are on offer, not requiring a state at all. Gandhi said, upon India's independence, that power should revert to self-managed villages. But a power vacuum is not feasible, and will rapidly attract marauders. Thus, armed tribes raided Kashmir in 1947 the moment its king fled Srinagar and could not control his territory. Kashmir immediately list its status as a state, going up for grabs by the stronger force. Similarly, armed gangs emerged from across Iraq in 2004 after Saddam Hussain's rout, forcing the US to

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[8] Hobbes's *Leviathan,* 1651, with an Essay by the Late W.G. Pogson Smith, Oxford: Clarendon Press, 1909. [http://oll.libertyfund.org/EBooks/Hobbes_0161.pdf]

[9] Cited in *A History of World Societies* by John P. McKay, Bennett D Hill and John Buckler (1988), Volume 1. London: Houghton Mifflin Co., p.512.

provide some form of government in order to avoid chaos. Anarchy is therefore not viable. A strong sovereign is clearly a minimum requirement for civilisation.

9.1.2 *The first order functions of the state*

If its basic functions of defence, policing and justice are not well-performed, a nation will rapidly disintegrate. Its other roles won't matter. St. Augustine of Hippo (354-430) emphasised this fundamental role, thus: 'The state is a necessary evil, responsible only for providing the peace and order Christians need in order to pursue their pilgrimage to the City of God. The particular form of government – whether monarchy, aristocracy, or democracy – is basically irrelevant. Any civil government that fails to provide justice is no more than a band of gangsters.'[10] This point, so obvious, is lost sight by socialists, welfare statists, and advocates of positive liberty.

9.1.3 *Limiting other roles*

George Washington reportedly said: 'Government is not reason, it is not eloquence, it is force; like fire, a troublesome servant and a fearful master. Never for a moment should it be left to irresponsible action'. This is an extremely pertinent sentiment.

A government is not created by us in order to get ourselves a roadbuilding or manufacturing organisation. But it is possible that economies of scale can suggest a role for government in functions beyond its basic ones. Creating a separate public organisation to provide public works or social insurance could be wasteful. One reason why people might opt for such additional functions being tacked onto a coercive state is the difficulty of collecting funds for common works. The government power to impose taxes can provide a cost-effective solution to a difficult theoretical problem. In general, where economic benefits of such additional government functions clearly outweigh their costs – bearing in mind the risks of mismanagement and the potential loss of freedom involved, then a government could potentially undertake such additional functions.

About this let us be clear, however, that these functions are not fundamental to the existence of the state. We can think of these as second or third order functions, to be assigned to government only to the extent its basic functions have been well performed, and these additional roles don't encroach upon our liberties. Suggestive ways to test such a role are provided in Box 10 of *Online Notes*[11]. The huge risk with all this, of course, is that once governments assume certain functions, it becomes extremely difficult to prevent misuse of this additional power.

Politicians and bureaucrats tussle for additional roles that expand their personal empire. But as J.S. Mill said, 'the great majority of things are worse done by the intervention of government, than the individuals most interested in the matter would do them, or cause them to be done, if left to themselves.'[12] Having carved out additional roles, the government tends to hide unpalatable truths about its performance, resorting to official secrecy laws and other means of obfuscation (This happens not only in India but also in the West, and I speak here from extensive personal experience.). Citizens are therefore hard pressed to know what how *their* money is being used. Citizens, the principal, are forced to beseech their agents (politicians) for information on how promised services are being delivered. The agents, having already behaved recklessly with our taxes, then become bullies. Fortunately there is the concept of democracy with checks and balances, else all would be soon lost. Mill explained thus:

> A government cannot have too much of the kind of activity which does not impede, ***but aids and stimulates***, individual exertion and development. The mischief begins when, instead of calling forth the activity and powers of individuals and bodies, it substitutes its own activity for theirs; when, instead of informing, advising, and upon occasion denouncing, it makes them work in fetters or bids them stand aside and ***does their work instead of them***. The worth of a State, in the long run, is the worth of the individuals composing it; and a State which postpones the interests of their mental expansion and elevation, to a little more of administrative skill or that semblance of it which practice gives, in the details of business; a State, which dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes, will find that with small men no great thing can really be

[10] Cited in *A History of World Societies* by John P. McKay, Bennett D Hill and John Buckler (1988), Volume 1. London: Houghton Mifflin Co., p.235.

[11] [http://sanjeev.sabhlokcity.com/book1/BFN-Notes.doc]

[12] J.S Mill, section 5 of chapter Book V, Chapter XI, 'Of the Grounds and Limits of the Laisser-faire or Non-Interference Principle', *Principles of Political Economy*.

> accomplished; and that the perfection of machinery to which it has sacrificed everything, will in the end avail it nothing, for want of the vital power which, in order that the machine might work more smoothly, it has preferred to banish' [in his essay, *On Liberty,* bold italics mine] .[13]

Bureaucrats have a strong penchant for throwing *our* money at *their* whims. The free society should never let bureaucrats and politicians undertake any activity that can reasonably remain within the ambit of individuals. It must prevent do-gooders (and, of course, criminals) from destroying our wealth and our liberties. Such a need to strongly limit the strong state was not evident to early thinkers like Hobbes, and so there were errors in their analysis.

Even today, people 'believe' their governments and would like to see ever greater government involvement. If prices rise, they ask the government to lower the prices. If their children remain half-literate after attending government schools, the government is asked to do more of the same. If there are too many people in the streets, governments are asked to sterilise those people (not *us* – only those 'excess' ones in the streets!). If too few children are produced, governments are asked to subsidise mothers (as most Western do). It doesn't matter that governments are incompetent. All we want is they should do *something*. Of course with other people's money.

Given the slightest look-in, governments are always ready to 'help' us – of course at our greater expense. Rare is a problem the 'Government God' (GG) can't solve. And so, legislation upon legislation, rules upon rules are introduced, tying our liberties into knots.

It must be our tribal hardwiring that makes us trust (even adore, it would appear) our 'rulers'. We don't realise that governments are constituted of people like us – with those very foibles to address the consequences of which we have signed up to the social contract. We ignore David Hume's caution at our peril:

> Political writers have established it as maxim, that in contriving any system of government … every man ought to be supposed a knave and to have no other end, in all his actions, than private interest.[14]

I speak from a lifetime of experience and I say that political beasts found in government organisations are sub-ordinary humans who spend their life in politicking, backbiting, and boot-licking. It is surely a trick played upon us by nature that we look to such people for solutions to our problems. We should become responsible adults, firmly asserting of our sovereignty as principal, the government our agent. We must demand accountability from our governments like shareholders demand accountability from a company's management. I am not saying that we must lose faith in our governments but that we can't let down our guard. The governments is not a Fairy Godmother with a magic wand. We must strive for an *optimal* level of government, an optimal level of regulation, which is neither too little nor too much. This means being extremely cautious about letting a government undertake functions beyond the core functions.

Upon examining whether government is an appropriate agency to resolve our 'problems', where this is not conclusively shown to be the case, we must revert to ourselves unnecessary functions it might have arrogated to itself. Our laws must be reviewed regularly for relevance and effectiveness. We must also continuously improve the frameworks of government on the basis of research such as the public choice theory (Hayek's model of democracy is also well worth investigation[15]). Checks and balances must be strengthened and optimised. Subsidiarity is an important principle in this regard. Governments must delegate the management of local affairs to local governments because such local information is best assessed and dealt with locally. And internally, governments must reward merit at all levels. Hereditary roles of any sort are unacceptable.

Let us now look at some of the historical struggles to check government excess.

9.2 Reforming bad rulers

Many religious and political thinkers in the past thought long and hard about ways to reform bad rulers. Some of their strategies (whether conscious or implicit) are reviewed below.

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[13] He had a 35 year public service experience in the East India Company (from the age of seventeen till he retired when the Company's administrative functions in India were taken over by the British government following the Mutiny of 1857.

[14] Hume, David, 'On the Independency of Parliament', in *Essays and Treatises on Several Subjects*, London: A. Millar, 1758, p.30. (cited in *Policy*, Centre for Independent Studies, Autumn 2008, Vol.24:1, p.51.)

[15] Hayek, Friedrich A. 'Economic Freedom and Representative Government', IEA, 1973.

9.2.1 *Flattery and petitions*

Rulers invariably yearn for praise and want to be thought of well by posterity. We can therefore try to influence them through flattery. We can give them baubles like the Nobel peace prize to try to reform them. Unfortunately, we know that such methods do not work. Yasser Arafat did not become a man of peace after 'winning' a Nobel peace prize. People like Robert Mugabe aren't going to change by bestowing them with a trinket.

We could, if we were ambitious, try submitting mass petitions to tyrants. That too, we know, won't help. Supplication and petitioning a tyrant could raise awareness about an issue, but wont' change the incentives and motivations of a tyrant.

9.2.2 *Pontificating*

The other way is to preach 'goodness' to the king. While the East focused more on religious preaching, the West focused on political 'preaching' (Vivekananda noted, '[t]he voice of Asia has been the voice of religion. The voice of Europe is the voice of politics'[16].)

But there were exceptions. Kautilya preceded Machiavelli by nearly 1800 years and appealed to kings' self-interest. Ancient religious scriptures like the *Mahabharat* and *Bhagwad Gita* are packed with political insight. As a result of such thinking, India was able to achieve reasonably accountable governments.[17] On the other hand, Europe had a strong religious voice, as well. People like St. Augustine of Hippo, Thomas Aquinas, and Martin Luther were extremely influential. Islam, too, developed both religious and political strategies. I discuss these two methods below, and examine whether these can actually reduce tyranny.

9.2.2.1 *Religious preaching*

Religions dangled the carrot of luxury in the afterlife, contingent on the king behaving well here. The righteous kings would receive *earthly* pleasures in heaven (in Islam). If the carrot did not work, the stick might work, so they asked kings to behave well or face the music in hell. Fear was deployed by some religions. Elaborately choreographed religious ceremonies and cheap magic tricks were put to work. (Islam does not accept miracles. Mohammed 'disclaimed power to perform miracles'[18] – although that God could transmit messages through him is surely a miracle). Artists with fertile, even febrile imaginations were deployed to depict Hell as a place of endless pain and torture.

But a king with even the most basic intelligence would see through magic tricks. Sometimes the king was asked to use magic to control the people. Kautilya asked the king 'to go to the length of having his secret agents disguised as gods, and allowing himself to be seen in their company, in order that his simpler subjects may believe that he mixes with the gods on equal terms.'[19] If the king could trick the citizens then why would he listen to religious preachers?

To influence such 'smart' kings, religion had to become more sophisticated. An idea of rebirth was introduced as an off-equilibrium threat. Not just Hell was now on offer as punishment but the fact that one could become an insect in the future elife. In Hinduism, 'the type of birth you take in this world, and the conditions of your existence here are all determined by what you did in your earlier existences. You may even be born as an animal, says the Upanishad, if the karma is very bad' (Vivekananda[20]).

The *Brihadaranyaka Upanishad* specifies the range of insects one can be reborn as: 'those who conquer the worlds through sacrifices, charity and austerity' will do well upon rebirth, but those who do not will 'become insects and

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[16] In a lecture delivered at Los Angeles, in 1900 (cited in S*elections from Swami Vivekananda*, Advaita Ashram, Mayavati, Almora 2nd edition 1946, p. 308.

[17] 'The retinue of a grandee in China or Indostan [sic] accordingly is, by all accounts, much more numerous and splendid than that of the richest subjects in Europe… in manufacturing art and industry, China and Indostan, though inferior, seem not to be much inferior to any part of Europe' (Adam Smith in Chapter XI: Of the Rent of Land, *Wealth of Nations*.)

[18] Dawood, N.J. (translator), *The Koran*, Penguin Books, 2003, p.2.

[19] As interpreted by A.L.Basham in his book, *The Wonder that was India*, Fontana, 1971, p.84.

[20] Swami Krishnananda in *Chhandogya Upanishad*, Rishikesh: The Divine Life Society Sivananda Ashram, 1984.

moths, and these frequently biting things (gnats and mosquitoes)'[21]. Given the huge population of insects – more than 200 million on this planet[22] – there must have been a lot of bad people in the past (well in excess of the total number of humans *ever* born). Of course, with many people 'living' in Hell, it is hard to make sense of this hypothesis. It is hard to believe that anyone would believe in this nonsense.

More plausible, therefore was the use of metaphysics, particularly for the sophisticates. One of these concepts was *nishkama karma* – doing one's duty without attachment to the fruits of labour. This excellent precept provided the framework for the king's duty. Sri Krishna counseled king Yudhishthira thus:

> King of men! with sleepless watching ever guard thy kingdom flair,
>
> Like a father tend thy subjects with a father's love and care,
>
> Be unto them like the rain-drop nourishing the thirsty ground,
>
> Be unto them tree of shelter shading them from heat around,
>
> Like the blue sky ever bending be unto them ever kind,
>
> Free from pride and free from passion rule them with a virtuous mind![23]

While this was a more respectful and plausible strategy, only kings properly indoctrinated or exceptionally strategic would follow such guidance. For the rest this would go over their heads.

On average, there was little chance of success of religious strategies. Instead, there was a risk that some feeble-minded kings might become fanatical. Aurangzeb's fanatical beliefs led to great grief for India. Religious turf wars among kings are a problem, as well. Christianity and Islam have hated each other for most of their history, and other religions as well. Things can get gory when kings take sides. Religious strategies often end up encouraging immoral practices like slavery and caste discrimination.

While religious strategists succeeded in raising a broadly ethical and strategic Akbar (although some would question such characterization), a single Aurangzeb undid such good work. The 'know-all' paternalistic kings (generally the most feeble-minded of all) would prevent their citizens from thinking for themselves and crush their liberties, including religious freedom. As Vivekananda pointed out:

> Even the strongest youth remains but a child if he is always looked after as a child by his parents. Being always governed by kings of godlike nature, to whom is left the whole duty of protecting and providing for the people, they can never get any occasion for understanding the principles of self-government. Such a nation, being entirely dependent on the king for everything and never caring to exert itself for the common good or for self-defence, becomes gradually destitute of inherent energy and strength.[24]

In the extreme case, kings who become overly devout might walk off from their duty, bringing in anarchy and weakening the state. (Prince Siddhartha walked out of his father's kingdom in search of spiritual truth.) Even where this strategy works, it takes time, and only works intermittently. India Emperor Ashoka first killed thousands of innocent people before achieving self-realisation and repenting.

Sometimes, priests find political power so attractive that they usurp it for themselves! The Bishop of Rome, the most prominent Christian pontiff after Emperor Constantine's recognized Christianity in 313 AD, became the Pope (Latin for *papa*, father). Not happy enough with such power, he got lands donated to the church and became overlord of the Papal States (which – much later – shrunk in 1870 into the Vatican City: a country, no matter how small). Not all Popes were good. Many connived in the brutal killing of so-called 'heretics'[25], including mass massacre of Protestants. For a religion the founder of which had said: 'He that is without sin among you, let him cast the first stone' (*New Testament*, John 8:1-11), the Popes (presumably sinless) were often

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[21] Chapter on the 'Process of Rebirth'.

[22] The Smithsonian institution estimates that there are more than 200 million insects for each human on the planet. (Information sheet No. 18 of the Museum: [http://www.si.edu/Encyclopedia_SI/nmnh/buginfo/bugnos.htm]

[23] Dutt, Romesh C., *The Ramayana and Mahabharata*, 1899. [http://sacred-texts.com/hin/dutt/maha03.htm]

[24] Translated from a Bengali contribution to *The Udbodhana*, March 1899, cited in *The Complete Works of Swami Vivekananda*, Calcutta: Advaita Ashram, 1989 [1990], vol 4. p.441.

[25] Pope Innocent III (1198-1216) was perhaps the first to introduce the 'Inquisition', a tribunal for punishment of 'heresy.' In 1233, Pope Gregory IX began one of the more cruel Inquisitions, that involved trial without process and witnesses, and the frequent use of torture to extract 'confessions.' In a later, Spanish Inquisition, thousands of 'heretics' were burned at the stakes.

the first to cast the stone. Their tyranny was at least on par with 'ordinary' temporal kings. And they demanded control over peoples' minds, as well.

Another, similar risk to the religious strategy, was that a smart king, upon seeing through the religious trickery, declare himself God! The king could assert: 'I am God!' without fear of contradiction. Egyptian pharaohs, well versed in choreography on a grand scale, built this myth around themselves. After all, if dramatics can keep the people in check, why not do so big time! Fortunately, its citizens were apparently not so easily fooled. The 'Egyptians knew that their divine ruler was only a human being, if a supreme one; they judged him according to his deeds, criticizing pharaohs, plotting against them, and deposing or murdering ineffectual ones.'[26] This tendency of kings to project themselves as God has been widespread in human history. The *Mahabharata* tells us that: 'No one should disregard a king by taking him for a man for he is really a high divinity in human form'.[27] Similarly, the *Laws of Manu* affirm that:

> [t]he Lord created a king for the protection of this whole (creation), taking [for that purpose] eternal particles of Indra, of the Wind, of Yama, of the Sun, of Fire, of Varuna, of the Moon, and of the Lord of Wealth (Kubera). Because a king has been formed of particles of these lords of the gods, he therefore surpasses all created beings in lustre … Even an infant king must not be despised [from an idea] that he is a [mere] mortal; for he is a great deity in human form.[28]

The English King James I (1566-1625) claimed such transcendental privilege, as well. In a speech to the parliament on 21 March 1609, he said:

> Kings are justly called Gods, for that they exercise a manner or resemblance of divine power upon earth. For if you will consider the attributes to God, you shall see how they agree in the person of a king. God has power to create, or destroy, make, or unmake at his pleasure, to give life, or send death, to judge all, and to be judged nor accountable to none: to raise low things, and to make high things low at his pleasure, and to God are both soul and body due. And the like power have Kings; they make and unmake their subjects: they have power of raising, and casting down: of life, and of death: judges over all their subjects, and in all causes, and yet accountable to none but God only.[29]

Kings can not only fool priests – and force them to proclaim their 'divinity', but kill them if they disobey (thus was the Archbishop of Canterbury killed in 1170).

Therefore, using the religious card is fraught. Vivekananda noted that religious strategies don't really work:

> [W]hen the government of a country is guided by codes of law enjoined by Shâstras which are the outcome of knowledge inspired by the divine genius of great sages, such a government must lead to the unbroken welfare of the rich and the poor, the wise and the ignorant, the king and the subjects alike. But we have seen already how far [i.e. how unsuccessful] the operation of those laws was, or may be, possible in practical life.[30]

He therefore advocated political strategies, instead. He had a high opinion about the American revolution. He noted, however, that India had a long way to go since its ancient experiments with self-government had 'never passed beyond the embryo state'[31]. When even religious reformers advocate political solutions, we know that the religious solution is an intellectual dead end.

9.2.2.2 *Strategic political counsel*

Political philosophers tried to reform tyrants by suggesting that the king, too, must sleep. The message being: If the king did not keep his people happy, the people will rebel.

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[26] *Encyclopaedia Britannica*, 2001 CD-ROM edition.

[27] Mahabharata, *Shantiparvan,* Section 67, cited in Cited in Niharranjan Ray, Brajadulal Chattopadhyaya, et.al. *A Sourcebook of Indian Civilization*. Orient Longman, 2000, p.322.

[28] Manusamhita, VII, 3-5, 8, Buhler, *The Laws of Manu*, SBE, Vol. 25, pp.216-7, Cited in Niharranjan Ray, Brajadulal Chattopadhyaya, et.al. *A Sourcebook of Indian Civilization.* Orient Longman, 2000, p.322.

[29] Cited on the official website of the British Monarchy at [http://www.royal.gov.uk/files/pdf/jamesi.pdf]

[30] Translated from a Bengali contribution to the Udbodhana, March 1899. (cited in *The Complete Works of Swami Vivekananda*, Calcutta: Advaita Ashram, 1989 [1990], vol 4. p. 441-42.

[31] *Ibid.*

The clever king readily understands this even without being advised. But for the benefit of other not-so-clever kings, political advisers have kept up this single-minded refrain for thousands of years. Lau Tzu (spelled Laotse by some) – the famous author of *Tao Te Ching* who lived in around 600 BC – was one such thinker. He asked kings to be non-violent, just, and humble. But Lao Tzu failed to explain why a king would listen to his advice. They did not. His ideas remained on bookshelves, unused.

Kautilya (300 BC) and Machiavelli (1469-1527) similarly provided strategic advice to kings. In the *Arthasastra,* Kautilya told the king that 'in the happiness of his subjects lies his happiness'[32] and that '[t]he king should find his religion in promptness of action; the discharge of his duties is a religious sacrifice, and readiness to attend to all alike is his consecration: in the happiness of his subjects lies his happiness, in their welfare his welfare; not his own pleasure, but their's, shall he consider. Ever active shall he be in the discharge of his duties; for in activity lies the root of well-being.'

Kautilya too failed to realise that the typical egotistic, arrogant, and intellectually feeble king could not understand advanced strategic insights. Virtually none therefore followed his precepts. A recent example comes to mind – of king Gyanendra Bir Bikram Shah Dev of Nepal. It is certain that he could have enjoyed a lifelong sinecure in one of the world's most beautiful countries merely by keeping his mouth shut and letting his people exercise notional democracy. The failures of governance couldn't then be attributed to him, and he could have spent his time as a public entertainer, receiving applause for slight movements of his lips and hands. But he was a fool who wanted control. That saw him lose his crown, palace, and place in his nation's history.

Machiavelli's and Kautilya's insights continue to inform the practice of politics, if not political philosophy. Governments must aim to be shrewd and insightful (and ruthless with enemies and miscreants). Such political advice is, however, amoral, basically designed to advance a king's interests. It is utilitarian and instrumentalist advice, not good in itself. At times, the means and ends would get mixed up, thereby harming society. That rulers can often benefit from this advice does not justify it. And it is risky: for few kings will ever to understand that it anyway. We must therefore find a better way to minimize tyranny.

9.3 The advance of popular sovereignty

'The history of liberty is a history of resistance. The history of liberty is a history of the limitation of governmental power, not the increase of it.' – *Woodrow Wilson*[33]

'Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it' – *Thomas Paine, in The American Crisis, 23 December 1776.*

'The whole history of the progress of human liberty shows that all concessions yet made to her august claims have been born of earnest struggle.' - *Frederick Douglass, in a speech at Canandaigua, New York, 4 August, 1857.*

We need total equality between the 'ruler' and the 'ruled'. That citizens must be the equal of kings is an idea that needed many revolutions, much bloodshed, before becoming widely accepted. But before the king's unequal status could be undone, a theory of rebellion was needed. It must have started as a simple assertion of equal freedom, sometime in history. We don't know who first thought of this.

Kings had long asserted a privileged status for themselves, indeed a special relationship with God. While kings may have asserted this, the scriptures often did not give them such absolute power. The *Mahabharata* notes that 'that any king is better than none'[34], but explicitly sanctioned revolt, saying that a king who is oppressive or fails to protect us is no king at all, and should be killed like a mad dog.'[35] This probably kept Indian kings in some check.

In the West, Aristotle had similarly argued for citizen rights to depose tyrants: 'monarchy unaccountable is the first sword of tyranny, and least of all to be endured by free-born men'.[36] After Greece died out, this message

[32] Cited, in Sarma, S.R. *The Soul of Indian History,* Bombay: Bharatiya Vidya Bnavan, 1969*,* p. 86.

[33] *Address to New York Press Club, September 9, 1912.* Though Woodrow Wilson actually increased the intervention of government in US, the principle he was articulating is sound.

[34] Basham, A.L., *The Wonder that was India,* Fontana, 1971, p.89.

[35] Basham, A.L., *The Wonder that was India,* Fontana, 1971, p.88-9.

[36] In the fourth of his *Politics*, chap. X, cited in John Milton's *The Tenure of Kings and Magistrates.*

was lost, and kings became all-powerful. However, Islamic Cordoba brought Aristoteles's ideas to St. Thomas Aquinas who then wrote:

> A King who is unfaithful to his duty forfeits his claim to obedience. It is not rebellion to depose him, for he is himself a rebel whom the nation has a right to put down. But it is better to abridge his power, that he may be unable to abuse it. For this purpose, the whole nation ought to have a share in governing itself; the constitution ought to combine a limited and elective monarchy, with an aristocracy of merit, and such an admixture of democracy as shall admit all classes to office, by popular election. No government has a right to levy taxes beyond the limit determined by the people. All political authority is derived from popular suffrage, and all laws must be made by the people or their representatives. There is no security for us as long as we depend on the will of another man.[37]

According to St. Aquinas, therefore 'there is no security for us as long as we depend on the will of another man.' His ideas gained wide currency, particularly among the scholastics. Lord Acton tells us that around 1309, the Scottish Parliament informed the Pope that:

> the laws and customs of the country, which we will defend till death, and the choice of the people, have made him [Robert Bruce] our king. If he should ever betray his principles, and consent that we should be subjects of the English king, then we shall treat him as an enemy, as the subverter of our rights and his own, and shall elect another in his place. We care not for glory or for wealth, but for that liberty which no true man will give up but with his life. [This appears to me to be a very powerful moment in world history but for some reason it has received limited attention apart from Lord Acton.]

By the 16th century, the idea of popular sovereignty had become widely prevalent. John Pynet, the Bishop of Winchester, argued against kings' divine rights and proposed *passive obedience* (not *dis*obedience) against tyrants.[38] That was at least a step forward. The Jesuits took this much further. They argued that kings don't have any divine rights. Instead, the Church holds is higher power, being divinely ordained. God empowers the Church but the people empower the king. The powers of king are therefore a delegation from the people. The state must defer to people's sovereignty.[39] [Digression: Debates against the divine rights of kings do not seem to have occurred in India. As a result, many Indians, particularly villagers, sometimes imagine the even their elected representatives are divine. Indira Gandhi was often considered a goddess.]

Such sentiments gained strength in the coming centuries. Sir Edward Coke (1552–1634), England's Attorney General (and later Chief Justice) gave a strong interpretation to the *Magna Carta* which, he said, 'is such a fellow that he will have no sovereign'. The king must therefore obey the law.

In France as well, the idea of kings being elected arose – by a council of elders, a kind of parliament, but was not implemented (although it can be argued that the 1789 Estates General, summoned by Louis XIV, for the first time since 1614, was even more representative than the British parliament at that time). French Protestants lost faith in their kings after the massacres of 1572[40] so Francis Hotman wrote a book in 1573 called *Franco-Gallia*. This was 'a truly revolutionary book'[41], and apparently 'breathed the very spirit of Protestantism – a protest against absolutism in state as well as in religion, a vindication of the rights of the intellect of the individual against the claim of blind submission to prelate and secular ruler'[42]. Hotman argued that '[w]hen they [the French] set up kings, they set not up tyrants and murderers, but guardians, overseers, protectors of their own liberties.'[43] He also published another book (anonymously) in 1574, entitled, *Dialogi ab Eusebio Philadelpho cosmopolita in Gallorum et caetera-rum nationum gratiam composite*, in which he argued that 'princes who by evil craft and the violation of the laws of the realm crush the freedom of the states should no longer be esteemed kings, but tyrants and wicked enemies of the Commonwealth.'[44]

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[37] Cited in John Emerich Edward Dalberg, Lord Acton, *The History of Freedom and Other Essays,* ed. John Neville Figgis and Reginald Vere Laurence (London: Macmillan, 1907). [http://oll.libertyfund.org/title/75]. Chapter 2.

[38] Ibid. p.198. (WHICH BOOK! CAN'T FIND IT – look for alternative source)

[39] Ibid. p.189. (WHICH BOOK! CAN'T FIND IT – look for alternative source)

[40] Baird, Henry Martyn, 'Hotman and the 'Franco-Gallia", in *The American Historical Review*, Vol. 1, No. 4, (Jul., 1896), p. 617.

[41] Baird, Henry Martyn, 'Hotman and the 'Franco-Gallia", in *The American Historical Review*, Vol. 1, No. 4, (Jul., 1896), p. 618.

[42] Baird, Henry Martyn, 'Hotman and the 'Franco-Gallia", in *The American Historical Review*, Vol. 1, No. 4, (Jul., 1896), p. 627.

[43] Cited in Baird, Henry Martyn, 'Hotman and the 'Franco-Gallia", in *The American Historical Review*, Vol. 1, No. 4, (Jul., 1896), p. 620.

[44] Cited in Baird, Henry Martyn, 'Hotman and the 'Franco-Gallia", in *The American Historical Review*, Vol. 1, No. 4, (Jul., 1896), p. 627.

Such republican sentiments became more prevalent as time went by. A suggestion also arose (particularly after Newton's *Principia*) that since uniform laws govern heavenly bodies and human affairs, the Law must be above the king, and must give kings their powers, not the other way around. John Milton thus proposed in his 1649 *The Tenure of Kings and Magistrates*:

> To say kings are accountable to none but God, is the overturning of all law and government.' Further, 'The power of kings and magistrates is nothing else but what is only derivative, transferred, and committed to them in trust from the people to the common good of them all, in whom the power yet remains fundamentally and cannot be taken from them without a violation of their natural birth right.[45]

Defending the execution of Charles I in 1649, John Milton asserted that 'it is lawful, and hath been held so through all ages, for *any*, who have the power, to call to account a tyrant, or wicked king; and, after due conviction, to depose, and put him to death.'[46] For good measure, he added:

> None can love freedom heartily but good men; the rest love not freedom but license, which never hath more scope or more indulgence than under tyrants.' Further, 'Since the king or magistrate holds his authority of the people, both originally and naturally for their good in the first place, and not his own, then may a people, as oft as they shall judge for the best, either choose him or reject him, retain him or depose him, though no tyrant, merely by the liberty and right of freeborn men to be governed as seems to them best.

Only after killing one king and exiling another was the sovereignty of the people wrested back in England. (As the Glorious Revolution of 1688, which led to the exile of James II is best known as the start of British constitutional monarchy, I will discuss it later – in chapter 10).

Sentiments against tyrants underpinned the 1776 American Declaration of Independence: 'whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government'. Such a right to revolt was is institutionalised in the 1787 American constitution, albeit implicitly through a threat to create a militia to overthrow the government should security not be ensured. 'A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.' If the Amerian government becomes tyrannical, its citizens will use force to overthrow it.

The idea of a republic is an important implication of popular sovereignty. It was first implemented, perhaps, in ancient Rome. Montesquieu (1689-1755) contributed greatly to a republican theory: 'In republican governments, men are all equal; equal they are also in despotic governments: in the former, because they are everything; in the latter, because they are nothing.' His ideas were greatly influential in the fledgeling USA (particularly through Jefferson).[47] US became the first modern republic, incorporating other Montesquieuian ideas as well – e.g. a range of checks and balances.

Thomas Paine (1737-1809) proposed advancements to the theory of popular sovereignty in his 1791 *Rights of Man* which he wrote to support the 1789 French Revolution. He disagreed with Edmund Burke's (1729-1797) more evolutionary and cautious approach, and wrote that oppressive regimes *must* be overthrown. (Burke had written: 'I should therefore suspend my congratulations on the new liberty of France, until I was informed how it had been combined with government, with public force, with the discipline and obedience of armies, with the collection of an effective and well-distributed revenue, with morality and religion, with solidity and property, with peace and order, with civil and social manners.' Burke had predicted that the French Revolution would lead to – in this order: a republic, anarchy, war, and military dictatorship, which was to come true.)

Paine argued that people must be willing to pay the price of their freedom. Paine was, in my view, at least partially correct. Revolution *can* (and *must*) be an option under certain circumstances. Despite momentary setbacks, a society is likely to be better off by ridding itself of a tyrant. More important, a salutary lesson it is taught to potential future tyrants.

Burke's concerns are very relevant, though. There are grave risks from uncontrolled revolution. Establishing a viable, rules based government immediately after violent overthrow of a tyrant must be given highest priority. Well-designed institutions must be immediately established, else anarchy, that leads to greater tyranny, could set

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[45] John Milton's *The Tenure of Kings and Magistrates* is available online: [http://oll.libertyfund.org/title/271/43725]

[46] In his book, *The Tenure of Kings and Magistrates*

[47]David W. Carrithers, 'Montesquieu, Jefferson, and the Fundamentals of Republican Theory,' *The French-American Review* 4 (Fall 1982).

in. Violent overthrow must be applied only in the rarest of cases, and be tightly managed (which is, of coruse, easier said than done).

Paine's contributions are also important because of his strong belief in political equality and hence in democracy. He would have delighted in India's brave post-independence experiment with democracy, with most Indians then being illiterate. Burke, on the other hand, was sceptical about democracy and preferred aristocratic rule, a reluctance based on negative perceptions about ancient Greek democracy. Hayek was not particularly sanguine about democracy as a solution to the problem of tyranny. In his 1944 *The Road to Serfdom*, he wrote: 'There is no justification for the belief that, so long as power is conferred by democratic procedure, it cannot be arbitrary... it is not the source but the limitation of power which prevents it from being arbitrary.' Citizens must remain vigilant at all times and limit their government's powers.

There is no guarantee that democracy will successfully defend our liberty. Indeed, apart from Hitler's Germany which is perhaps a bad example, India, a genuine democracy, is a good example of how people tend to vote for the freebies of socialism, thus harming themselves). On balance, though, I would side with Paine. Even though Indira Gandhi's 1975 Emergency denied millions of citizens their liberty (thousands were arrested, many forcibly sterlised), she did finally hold elections again, in 1977 because democracy builds a minimum expectation in society about legitimacy. Once people have lived in a democracy, other options no longer seem attractive. Overall, Rudolph Rummel's work shows that democratic governments do act as a bulwark against tyranny. Patrick J. McDonald pointed out in his 2009 book *The Invisible Hand of Peace*, however, that it is not democracy *per se* but economic freedom that reduces tyranny and war.[48] We need the whole gamut of liberty, including democracy and economic freedom.

9.4 Options against tyranny

What happens when tyranny sets and despite our best efforts? The dangers to freedom have not passed. Instead, tyrants can arise – will arise – wherever an opportunity presents itself. We may need a revolution. Patrick Henry said it in simple words: '[G]ive me liberty or give me death!' That spirit will always be needed, else freedom can be easily crushed. Options in the face of tyranny are now discussed.

9.4.1 *Civil disobedience*

After having failed to flatter tyrants and get them to act on petitions, civil disobedience must next be considered. Not everyone agrees to this option. Dr Ambedkar, a classical liberal by most criteria, felt that civil disobedience, non-cooperation and satyagraha are inconsistent with constitutional democracy. In India's Constituent Assembly he said on November 25, 1949:

> If we wish to maintain democracy not merely in form, but also in fact, what must we do? The first thing in my judgement we must do is to hold fast to constitutional methods of achieving our social and economic objectives. It means we must abandon the bloody methods of revolution. It means that we must abandon the method of civil disobedience, non-cooperation and satyagraha. *When there was no way left for constitutional methods for achieving economic and social objectives, there was a great deal of justification for unconstitutional methods.* But where constitutional methods are open, there can be no justification for these unconstitutional methods. These methods are nothing but the Grammar of Anarchy and the sooner they are abandoned, the better for us[49] [emphasis mine].

Constitutional democracy, however, is a necessary but definitely not sufficient condition for freedom. (We don't have to recall Nazi Germany or India's Emergency to confirm that democracy does not guarantee freedom.) In any event, elections are held only infrequently, and systems to recall representatives are non-existent or hard to implement. Under these circumstances, democracies can, at times, misuse the power we have given to the government. Democratic systems can also be so badly subverted that good people simply cannot enter electoral politics (as with India). If the voice of liberty is being curbed, and power misused, then we can step outside the constitutional framework, with a responsible approach to civil disobedience. The disobedient citizen is not denying the need of a government, merely that it is no longer acting in our interest, and must be reformed.

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[48] Review article in *The Age*: http://www.theage.com.au/opinion/politics/free-economies-will-choose-the-money-over-the-gun-20110528-1f9qq.html

[49] Proceedings of the *Constituent Assembly of India* - Volume XI. Friday, the 25th November, 1949 [http://parliamentofindia.nic.in/ls/debates/vol11p11.htm].

There can be a variety of civil disobedience methods. Simple non-violent protest includes chanting slogans or protesting a particular issue on the streets. A stronger form of disobedience breaks a specified law (e.g. the Dandi march). The objector is prepared, in each case, to face the consequences. He does not resist arrest, trial, or punishment. Indeed, he breaks the law publicly precisely to draw attention to the illiberal law. The tyranny is brought to light, and popular support for its abolition demonstrated.

In *BFN*, I regretted that today '[w]e never find any political leader protesting against our freedoms being trampled upon. No Dandi marches; no fasts to death to protest the absence of the rule of law or against corruption.' When I first wrote this section there were a few websites that spoke out against corruption[50], but no national movement. Later a national movement did emerge but it went off on a tangent. That's not going to work. There needs to be a clear path to resolution of the underlying issues, not just a blind civil disobedience movement.

The more extreme form of civil disobedience is a fast to death, *a la* Gandhi. This is not suited to everyone nor suitable for every cause. In chapter 4 we explored the ethics of a fast unto death and found that under certain exceptional circumstances, where a fast directly helps save lives, such as by reducing communal violence, it could be ethical. However, fasts must be undertaken out of love, including of the government that one opposes. They must arise from generosity of the heart, not hatred. Indeed, the anti-corruption movement I cite above made use of fasting to potentially subvert democratic processes. It would appear that fasting unto death is not a valid toolkit of civil disobedience.

Should a government some of whose functionaries, without authorisation, have misused force be termed a tyrant? Among the legitimate uses of force include preventing unruly mobs, or when *specifically authorised* by the a court of law *after due process* including fair trail, or when authorised by a magistrate exercising preventive detention powers (powers duly created through a democratic mandate).[51] Where government functionaries have used force illegitimately but the government holds them to account, then such excessive violence does not constitute a ground for violent revolution. Civil disobedience might still be justified, as expression of citizen voice.

India is a case in point. There has almost never been an authorised, premeditated assault or any pogrom against any group by Indian governments. Therefore, there is no basis for violent revolution in India. The myriads of mini-revolts across India are unjustified. In particular, the existence of systemic corruption and bad policy is not a ground for violent revolution.

9.4.2 *Violent revolution*

Where a government repeatedly uses excessive and illegitimate force, or executes a pre-mediated onslaught against a particular group then violent resistance can be an option. While the grounds for violent revolution can't be precisely laid out, at least some of the grounds used in the American and French revolutions would not, in my opinion, be sufficient to movitate violent revolution. On the other hand, there are clear cases like Hitler's Germany but in such a case neither civil disobedience or violent revolution will work. The Jews on their own accord could not have succeeded in a violent revolution. Exit was their only option, which too was blocked off by most of the Western world. Such are the tragic outcomes of tyranny. The case for the rest of the world to step in was clear. But no one seemed to care.

9.4.3 *Exit*

The last option is to walk out: to migrate. We can at best and only share responsibility for our society. None is solely responsible. If others don't join hands to oppose tyranny, or if opposing it is simply not an option, then we must leave, migrate to a more free society. Nations exist *solely* to meet our needs – of life and liberty. If they fail to provide these absolutely fundamental needs, then the social contract becomes a worthless piece of paper. In particular, if our own countrymen won't fight for their freedom, there is no point in living in that country. So long as one makes a genuine attempt to change things before leaving, this is not only a defensible, but a necessary option. The nation is not bigger than us.

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[50] E.g. See the Fifth Pillar [http://india.5thpillar.org/], and the Anti Corruption Movement Chennai, [http://anticorruptionchennai.com]

[51] Even then the use of force could well be illegitimate, for even democratic governments cannot truncate our freedoms without an extremely strong basis. The testing of such causes should be included as part of judicial review required under the social contract.

10. The pillar of democracy

'No man has a natural right to commit aggression on the equal rights of another, and this is all from which the laws ought to restrain him.' – *Thomas Jefferson.*

There is a notion in that capitalism refers only to economic matters. *The Columbia Encyclopedia* says: 'Capitalism does not presuppose a specific form of social or political organization: the democratic socialism of the Scandinavian states, the consensus politics of Japan, and the state-sponsored rapid industrial growth of South Korea while under military dictatorship all coexist with capitalism.'[1] But this is a total misrepresentation. Capitalism and good governance including a form of democracy are of one piece. Even a cursory reading of Adam Smith's 'system of natural liberty' (which Marx ridiculed by calling it 'capitalism') shows that the idea of good governance underpins capitalism.

Sometimes, increasing 'economic' freedom while restraining 'political' freedom might achieve a temporary bounce in income (as with Singapore), but genuine innovation can't flourish in this situation. And the quality of life remains low – bereft of basic freedoms. John Locke argued in 1690 that property can be protected only when laws are made by people's representatives.

> [T]he people finding their properties not secure under the government as then it was (whereas government has no other end but the preservation of property), could never be safe, nor at rest, nor think themselves in civil society, till the legislative was so placed in collective bodies of men, call them senate, parliament, or what you please, by which means every single person became subject equally with other the meanest men, to those laws, which he himself, as part of the legislative, had established.[2]

In the mind of the classical liberal philosophers, political freedom is an indistinguishable part of freedom. We can't meaningfully have one without having the other. Adam Smith was aware of Locke's work. Also, by his time, British democratic institutions had become well entrenched. So he focused more on economic freedom, not re-litigating democracy. But that he advocated democracy is clear: 'The assembly which deliberates and decides concerning the affairs of every part of the empire, in order to be properly informed, ought certainly to have representatives from every part of it.'[3] In advocating the union of England and America (his book, published in March 1776, was too late to change events) he suggested that America should send 'fifty or sixty new representatives to Parliament' and that there was 'not the least probability that the British constitution would be hurt by the union of Great Britain with her colonies.' A forthright and clear advocate of democracy.

Abhorrent to him would have been the idea of an authoritarian system like that only permits economic freedom. Smith did offer one questionable suggestion, though, in relation to democracy, that 'the number of American representatives' should be 'in proportion to the produce of American taxation'. One can't agree with him on this since each person should have one vote regardless of the taxes he pays. But the key point is that both Locke and Smith supported a form of democracy. One therefore can't accept a narrow conception of capitalism. Capitalism *includes* democracy, else it is not capitalism but its perversion.

Not all classical liberals (e.g. Burke and Hayek) have been sanguine about democracy, and there is no doubt that public choice theories show how the design of democracies can significantly impact their operation. And it can be argued that the experience of the Greeks with democracy was not very positive (with Socrates, for instance). So why is democracy and good thing to have?

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[1] The Columbia Encyclopedia, Sixth Edition.2001-07. Columbia University Press. Entry on 'capitalism'. [http://www.bartleby.com/65/ca/capitali.html]

[2] From Locke's *Two Treatises of Government*, 1690. Para 94, Chapter VII, Of Political or Civil Society. [http://socserv2.mcmaster.ca/~econ/ugcm/3ll3/locke/government.pdf]

[3] Smith, Adam, *The Wealth of Nations*, Volume 1I. Chicago: University of Chicago Press, 1976, p.139.

The answer to this is that apart from democracy, there is no other basis for society-wide decision-making among equally free people. Monarchy (or dictatorship in any form) is unacceptable from first principles. Whether the decision-making process in a particular form of democracy is inclusive, is the key question. Whether the electorate is educated is another. But every alternative model of governance has even more flaws.

Apart from the moral argument of equal liberty being only possible in a democracy, let us not forget that there are many instrumental utilitarian reasons for democracy. Democratic nations are less likely to go to war. 'According to Rummel, of 353 pairings of nations fighting in major international wars between 1816 and 1991, [only] one occurred between democracies.'[4] Rummel found that '[d]emocracy solves, by *controlling power better than any other form of government*, the problems of genocide and mass murder, internal violence, bilateral violence, as well as war'[5] (italics mine). Bruce Russett (1993)[6] and Spencer Weart (1998)[7] came to similar conclusions.

There is yet another benefit. Famines don't easily develop (or continue for long) in democracies because representatives' jobs are at risk if anyone dies of starvation on their watch. It could be argued that British democracy did not prevent the Irish famine, but it is clear that the poor Irish farmer was not represented in the parliament. This is one more reason why the poor (even those who don't pay taxes) must have a vote.

I now take a look at the history of democracy.

10.1 Precursors of modern democracy

Equal freedom – at least for the elites – was first initiated in ancient Greece and India (the Indian experiments in this regard have been important but less influential).

10.1.1 *Greek city states (and the Roman republic)*

In 507 BC, Cleisthenes (a noble) helped introduce democracy in Athens. Subsequent, self-governing Greek city states and republics were based largely on these early experiments. Theirs was mostly direct democracy (albeit limited to the elites – the poor, the women and the slaves cid not vote; even modern democracies introduced universal franchise only very recently.) Athenians selected their officials by lot from amongst eligible citizens, a process perhaps similar to the modern jury selection. Everyone was assumed equally capable of holding every office. The elected officials rotated roles across portfolios. The assembly of all citizens held the elected officials to account:

> [T]he principal legislative body [in Athens] was the Assembly of all citizens, the boards of lawmakers and juries were chosen by lot from the citizens; the Council which prepared the Agenda for the Assembly was chosen annually by lot from the citizenry; the decisions of the Assembly were subject to review only by the people's courts.[8]

Rome started out like any another small Italian city state but decided to revise the Greek model. Rome was governed by two elected consuls, each empowered to veto the other. Elected magistrates reported to the consuls and managed day-to-day affairs. The two consuls and the magistrates were paid, and together formed the executive branch. The consuls thereafter nominated citizens to the Senate (thus creating a Council of Elders). The consuls and Senate, together, recommended laws to the popular assembly which voted upon these proposals. Upon approval by the assembly, the laws were enacted. Centuries later, John Adams and James Madison used elements of the Roman model to design the American democratic model. The bicameral (upper house, lower house) concept is now found (in some form) in most democracies.

Given the ups and downs of history, neither the Greek nor Roman democracy survived. The Greek states, which had once expanded into parts of Italy, shrank and disappeared upon subjugation by Rome. In 44 AD Rome rejected to democracy and became a monarchy upon Julius Caesar's assassination. Thus '[a]ntiquity [had already] rejected Democracy. As a form of government, it lacked permanence even in Athens, and in the realm of

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[4] Cited in Moore, John Norton, 'Solving the War Puzzle', in *The American Journal of International Law*, Vol. 97, No. 2, (Apr., 2003), p. 282.

[5] Peterson, Jr., H. C., 'Twelve Problems With Ted Galen Carpenter's Review of Power Kills', [http://www.hawaii.edu/powerkills/PK.REV.HCP.HTM]

[6] Russett, Bruce. *Grasping the Democratic Peace: Principles for a Post-Cold War World*, 1993.

[7] *Never At War: Why Democracies Will Never Attack One Another* (Yale, 1998).

[8] Cited in Grofman, Bernard, 'Lessons of Athenian Democracy: Editor's Introduction', *PS: Political Science and Politics*, Vol. 26, No. 3, (Sep., 1993), p.472.

speculation the most famous thinkers both of Greece and Rome – Plato and Aristotle, Cicero and Seneca – were against it.'[9] Socrates, in particular, had significant concerns about democracy, that seems to be vindicated when a jury of 500 Athenians condemned him to death for allegedly 'refusing to recognise the gods acknowledged by the state … and corrupting the young.'[10]

Plato (428-348 BC), his student, suggested that citizens (the demos) are driven by blind opinion whereas the government should be based on the Truth, which requires expertise. In his *Republic* he proposed oligarchy, instead. His views, which are extremely patronising of the common people, and statist in intent, were readily adopted by medieval aristocrats first, and later by socialists who found in his ideas of central planning of the state much that they wanted themselves to do. To that extent Plato is rightly considered to be a major enemy of liberty. Fortunately, not all the ancients thought this way. Some Athenians thought, instead, that solution to the problems of democracy is to be found by increasing democracy and educating people.[11] They were right and Plato was wrong.

10.1.2 *Indian republics and panchayats*

Coterminous, but independent of Greek efforts (although some interaction can't be ruled out, given the extensive trade between Greece and India in those days), ancient India developed its own models of democratic governance as well. Romila Thapar notes that 'monarchical states in the Ganges plain were well established by fourth century BC, ... [n]evertheless chiefdoms and oligarchies, the gana-sanghas, had for some time held their own in competition with evolving monarchies.' [12]

While not pure democracies (unlike in Greece), Indian republics or *gana-sanghas* were cooperatives of oligarchs, of nobles who came together in decision-making councils. 'Megasthenes refers to the republican Sabaracae who opposed Alexander with a force of 6000 cavalry, 6000 infantry, and 500 chariots. Nyasa was an oligarchy governed by a Council of 300, – like the Sakyas, Mallas and Lacchavis of Buddha's days. Malavas, Yaudheyas and Arjunayas were other tribes with *democratic constitutions*'.[13] A.L. Basham, upon careful analysis, thinks that calling some of these states republics is appropriate.[14] The Marquess of Zetland exclaimed: '[I]n the Assemblies of the Buddhists in India, 2000 years and more ago, are to be found the rudiments of our Parliamentary practice of the present day'.[15] I have not (yet) found evidence of such Indian institutions influencing the West (or *vice versa*) although that can be ruled out, given, extensive trade links of the past. Regardless, I agree with Vivekananda who wrote:

> The voice of the ruled in the government of their land – which is the watchword of the modern Western world, and of which the last expression has been echoed with a thundering voice in the Declaration of the American Government, in the words, 'That government of the people of this country must be by people and for the good of the people' – cannot however be said to have been totally unrecognised in ancient India. The Greek travellers and others saw many independent small States scattered all over this country, and references are also found to this effect in many places of the Buddhistic literature. And there cannot be the least doubt about it that the germ of self-government was at least present in the shape of the village Panchayat which is still to be found in existence in many places of India.[16]

These assemblies used their powers judiciously, with a cooperative and consultative approach. As S.R.Sarma notes: 'Arrian alludes to the prosperity of some of these early republican states, and observes that they "exercised

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[9] Wollheim, Richard, 'Democracy', in *Journal of the History of Ideas*, Vol. 19, No. 2, (Apr., 1958), p. 225.

[10] Xenophon, *The Memorabilia*, Translated by H. G. Dakyns, 1897, [http://www.fullbooks.com/The-Memorabilia1.htm]

[11] Euben, Peter J., 'Democracy Ancient and Modern' *PS: Political Science and Politics*, Vol. 26, No. 3, (Sep., 1993), p. 479.

[12] In her article, 'Epic and History: Tradition, Dissent and Politics in India' in *Past and Present* November 1989 (p.3-26)

[13] In his *The Soul of Indian History. Bharatiya Vidya Bhavan.1969*. p. 87.

[14] In his book *The Wonder that was India*. Fontana. 1971, p.97

[15] In his foreword to *The Legacy of India*, edited by G T Garrat, 2005, New Delhi: Black and White.

[16] In a Bengali contribution to the *Udbodhana*, March 1899, in *The Complete Works of Swami Vivekananda*, Calcutta: Advaita Ashram, 1989 [1990], vol 4. p. 442.

authority with moderation"[17]. What was perhaps missing, although its existence can't be ruled out (but could have been lost in time or might well be recovered in the future), was a theory of the republic.

The Indian republics soon faded out. Monarchies took over, whether strong, weak, benevolent, or tyrannical, or indigenous, or foreign. Vivekananda cautions us from reading too much into early Indian initiatives: 'the germ remained for ever the germ; the seed though put in the ground never grew into a tree. This idea of self-government never passed beyond the embryo stage of the village Panchayat system and never spread into society at large.'[18] One could argue perhaps that democracy didn't make much sense in a feudal, caste-based, agricultural society, where it was optimal, for economic reasons, to ensure that certain modes of living were replicated without change over the generations.

However, recent discoveries indicate that some democratic institutions did continue in India at the local level. For instance, in around 920 AD (in the reign of Parantaka Chola), the village Uthiramerur had 'a veritable written Constitution of the village assembly' as well as a 'written Constitution prescribing the mode of elections. It was inscribed on the walls of the village assembly.'[19] The inscription:

> gives astonishing details about the constitution of wards, the qualification of candidates standing for elections, the disqualification norms, the mode of election, the constitution of committees with elected members, the functions of [those] committees, the power to remove the wrong-doer, etc. … The villagers even had the right to recall the elected representatives if they failed in their duty! … [T]he entire village, including the infants, had to be present at the village assembly … when the elections were held…. Only the sick and those who had gone on a pilgrimage were exempt… [T]he village was divided into 30 wards, one representative elected for each. Specific qualifications were prescribed for those who wanted to contest. The essential criteria were age limit, possession of immovable property and minimum educational qualification. Those who wanted to be elected should be above 35 years of age and below 70... Only those who owned land, that attracted tax, could contest. …A person serving in any of the committees could not contest again for the next three terms, each term lasting a year. Elected members, who suffered disqualification, were those who accepted bribes, misappropriated others' property, committed incest or acted against public interest.'[20]

More discoveries will certainly throw light on India's village assemblies. What is almost certain, though, is that these innovations in democracy were soon lost, and did not influence either India or the rest of the world.

The concept of democracy was revived in India only after the arrival and political domination of the British. However, democracy was not offered on a platter. What was thought to be good for England was not considered suitable for India. Even J.S. Mill thought that and ability to discuss and debate was needed before greater self-governance could be given to the people: 'Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion. … we may leave out of consideration those backward states of society'. Thomas Macaulay's, in a speech entitled, "Government of India", delivered in the House of Commons on the 10 July 1833 was more hopeful:

> It may be that the public mind of India may expand under our system till it has outgrown that system; that by good government we may educate our subjects into a capacity for better government; that, having become instructed in European knowledge, they may, in some future age, demand European institutions. Whether such a day will ever come I know not. But never will I attempt to avert or to retard it. Whenever it comes, it will be the proudest day in English history. To have found a great people sunk in the lowest depths of slavery and superstition, to have so ruled them as to have made them desirous and capable of all the privileges of citizens, would indeed be a title to glory all our own.[21]

We should also keep in mind that battles for greater democracy were being waged everywhere, including in England which did not have for suffrage for poorer men and for women, then. By the 1930s, therefore, India was not too far behind England in its democratic practice.

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[17] S.R. Sarma – IN FULL

[18] In a Bengali contribution to the *Udbodhana*, March 1899, in *The Complete Works of Swami Vivekananda*, Calcutta: Advaita Ashram, 1989 [1990], vol 4. p. 442.

[19] Details in a book by Dr. R. Nagaswamy, *Uthiramerur, the Historic Village in Tamil Nadu*, Chennai: Tamil Arts Academy.

[20] Reported by the *Hindu* newspaper on 11 July 2008: [http://www.hindu.com/fr/2008/07/11/stories/2008071151250300.htm]

[21] http://www.columbia.edu/itc/mealac/pritchett/00generallinks/macaulay/txt_commons_indiagovt_1833.html

The Mutiny of 1857, which put the fear of revolt into the British, motivated them to get 'natives' represented in India's governance. Many Indians submitted petitions from about 1860 for a role in government.[22] These events led to *The Indian Councils Act, 1861* and later, to *The Indian Councils Acts* (of 1892 and 1909) and the *Government of India Acts* (of 1919 and 1935). Each of these progressively implemented democracy in India. The *India Act* 1935 was to prove so useful that India's constituent assembly adopted it as the basis for India's 1950 Constitution. As a result, India follows the Westminster democratic model that is in many ways ahead of the British model. While England remains a primitive (albeit constitutional) monarchy, India is a proud, constitutional republic.

India's indigenous system, a mix of Islamic, Hindu laws, and thinking based on strategists like Kautilya, had never been formally codified. Justice had been whimsically administered by kings and his ministers. Most of India's modern laws show the influence of British classical liberal reformers, for instance the *Indian Penal Code* of 1860.

10.2 The evolution of modern democracy

The precise path of modern democracy is not self-evident but it is seems that its seed emerged first in medieval England with the concept of 'parliament' – a word derived from 'parley', a peaceful meeting between the king and the people's representatives. The kings of England made it a practice to convene the early parliaments 200 years before the *Magna Carta* (of 1215 AD), noting that the representatives were not elected, and had no power to make the laws. But not only in England did representative bodies emerge by around 1000 AD. Even the French, the Spanish, and Dutch had established similar consultative forums. It is possible (although not obvious) that Greek ideas about self-governance, when re-discovered by 12th century Scholastics like St. Aquinas, gave a boost to democratic experimentation – and theory building – by around 1200 AD.

10.2.1 *The growing power of early British parliaments (1265-1688)*

The *Magna Carta* of 1215 was the result of a standoff[23] between King John I and his barons who were unhappy with John's increasing demand on their resources. The common people of London welcomed the barons by opening the gates, letting them take over London. The *Magna Carta* was extracted out of reluctant King John I. Among other things, it committed him to the systematic and judicious application of the laws. But implementing this commitment was never going to be easy. Before he died the following year, King John got it annulled by the Pope, and, for full measure, got the barons excommunicated.

While the next king (Henry III) was a minor, the barons who ruled on his behalf re-proclaimed the *Magna Carta*. Upon becoming king, Henry III distanced himself from this proclamation. The barons didn't like that, and led by Simon de Montfort, defeated Henry III in battle in 1264, taking him prisoner. Henry was reinstated, as a figurehead.

Simon de Montfort was perhaps the first modern democrat. The parliament he summoned in 1265 was far more representative than its predecessors. He declared: 'what concerns all should be treated of, and approved of by all'. This was a major breakthrough. But Henry III's son, Edward I, fought back and got de Montfort killed the same year, in 1265.

These initial reversals did not diminish what was to become the transformational role of the *Magna Carta*, which had changed the way people thought about kings. The clamour arising from barons and lords for involvement in decisions only increased. The demand that king enforce the rule of law, grew louder. Each time a king needed money (mostly to wage war), the aristocrats ratcheted up their demand for a greater role. Each victory then made further victories a little bit easier. Thus, when Edward I ran out of funds in 1295, he was forced to summon a 'model parliament'. This parliament not only included the usual suspects – the members of the clergy and aristocracy – but two knights from each county, two burgesses from each borough, and two general *citizens* from each city. The concept of representation had by now matured a lot, yet it was still a far cry from ancient Greek democracy. Fifty years later this model parliament split into the House of Lords and House of Commons. The die had now been cast for democracy as we know it.

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[22] Kapur, A.C., *Constitutional History of India, 1765-1984*, New Delhi: S.Chand & Co., 1985, p.79.

[23] The web site of the British Library states, 'It was a practical solution to a political crisis which served the highest ranks of feudal society.'

The *Magna Carta*, revived in fits and starts, lived on. Many of its clauses (such as clauses 39, 39, 45) that affirmed rights to a fair trial, soon became embedded in the law. Clauses 1, 9, and 29 are similarly in force today. Many others influenced later statues.[24]

These parliaments were not, however, institutionalised, and continued to be subject to kings' whims. Consider James I (who ruled from 1603 to 1625 after Queen Elizabeth I). Recall that we met him in relation to his views on the divine rights of kings. James I dissolved his first parliament in 1611, summoned a new one in 1614, and soon dissolved that one as well. His third parliament, summoned in 1621, famously impeached Sir Francis Bacon (the scientific method man). Dissolving his (third) parliament, James I was forced to summon it again in 1623 when he fell into dire straits and needed to raise taxes.

This poor relationship of the king with parliament was worsened by his son, Charles I, who commenced in 1625. Finally, the parliament, tired of such whimsy, determined to oust Charles I. In 1642, a ferocious civil war broke out in which one of every ten English males of fighting age was to die (freedom has never came cheaply). The parliamentary forces, led by Oliver Cromwell, finally defeated and arrested Charles I in 1647. A court established by the House of Commons in 1649 tried the king. Charles declined to make a plea, arguing divine right, hence asserting that he was above the law. The court made short shrift of this claim and ordered him beheaded – in public. (Modern judicial systems would, no doubt, better preserve the dignity of the offending prisoner.) The bell had tolled for the British monarchy. Either they behaved henceforth, or they would lose their heads.

Oliver Cromwell now led the people's council which ruled England till 1653. But establishing a genuine democracy is not easy. Frustrated with the council's constant infighting, Cromwell disbanded it, albeit with great reluctance. His model of democracy was not working. The Conservatives (who followed Hobbes's ideas) could not get used to the idea of managing themselves. A reluctant dictator was he, from all accounts. But after Cromwell's death in 1658, things deteriorated rapidly in England as his third son, Richard made an abortive attempt to become king. Chaos was now descending, so in 1660 the Conservatives brought back Charles II, the son of Charles I. The enormous wealth and power of Charles II was surely a determinant in his return to power. But also, the theory of democracy and republic had also not yet been advanced. Hobbes had argued for a sovereign but in real fact supported a king. Locke (born in 1632) and Montesquieu (born in 1689) were yet to come to the scene. The Whigs needed a theory of democracy so England could become confident enough to govern itself without kings.

The kings now had one last chance to show respect to the parliament. And the parliament needed to learn to discipline itself before it could become ready to govern.

10.2.2 *The Glorious Revolution of 1688*

The British monarchy had not yet learnt its lessons. Yes, Charles II, by now keenly aware of the parliament's powers, managed to keep it happy till his death in 1685. But his brother James II, who followed him, wasn't as foresighted. It turns out that in 1669 James II had converted to Catholicism (which was not a politically savvy thing to do). He thereafter began to promote Catholicism, arguing liberty of conscience. England did not welcome this. When he became king, his actions to promote Catholicism came back to bite him. James worsened matters by proroguing the parliament soon upon ascending the throne, entirely dissolving it two years later. That was the final mistake from which the British monarchy would never recover.

Members of the dissolved parliament now joined forces and organised an armed revolt in 1688, led by no less than James's own (Protestant) Dutch son-in-law, William III, who was married to his daughter Mary II. Many of James's officers, being Protestants as well, deserted him. When his other daughter (Anne) also declined to support him, James II took the option given to him of fleeing to France, thus marking the Glorious Revolution – a bloodless coup. The parliament now firmly took upon itself the power to make laws and administer justice, while accepting the monarchy as a decorative figurehead. William III agreed to take on this well-paying decorative role which had no real responsibilities, hence no accountability.

William convened the world's first modern parliament which declared him and Mary II joint 'rulers' on behalf of the people. The parliament also passed the *Bill of Rights* (also called the *Declaration of Rights*) which, upon receiving the relevant rubber stamp of the king, became *An Act Declaring the Rights and Liberties of the Subject and Settling the*

[24] [http://www.answers.com/topic/magna-carta]

Succession of the Crown. This *Declaration*, together with the *Magna Carta*, constitutes the British social contract. England has not yet felt the need to write a comprehensive constitution. Among other things, the *Declaration*:

- established 'That the pretended power of suspending the laws or the execution of laws by regal authority without consent of Parliament is illegal', and 'That the pretended power of dispensing with laws or the execution of laws by regal authority, as it hath been assumed and exercised of late, is illegal'. It ended divine rights, and placed kings below the parliament's thumb;
- required the king to seek the parliament consent to raise taxes, including for ongoing military expense;
- guaranteed free and fair elections to the parliament (though representation was restricted);
- guaranteed 'parliamentary privilege' or freedom of speech without liability to members of parliament during parliamentary proceedings; and
- established the order of succession to the throne.

After the revolution, 'Parliament sharply curbed the royal prerogative powers, denied the kind the power to dismiss parliaments or to replace judges at pleasure, took firm control of the government's purse strings, asserted its supervision of the military, and strengthened property rights.'[25] The *Triennial Act* of 1694 prevented kings from disbanding the parliament and placed a requirement for general elections to be held every three years. The British parliament has assembled ever since without arbitrary dissolution.

The Whigs (classical liberals), implementing Locke's ideas, won most of the seats in these early parliaments. This clearly shows that classical liberalism was the driver of modern democracy. One Possible reason why England grew particularly rapidly after 1688 was the parliament's greater perceived stability which increased its ability to borrow money, although the borrowings were not always wisely spent (England was to have privately funded infrastructure till well into the 20th century.) Indeed, since 1694, when the Bank of England was created the British government has tended to borrow heavily often without regard to its ability to repay, more so towards the end of the 20th century.

The liberation of England from monarchs had impacts that would be felt across the world. British. In 1789, about a hundred years after England was liberated, the French Revolution took place. This revolution, however, was in many ways driven by ideas other than liberty. Rousseau's pitch for fraternity and equality (which had strong collectivist underpinnings) was the dominant idea in the French revolution. Voltaire's did not understand liberty well enough, either. More problematically, many leaders of the French Revolution like Maximilien Robespierre came from a utopian Jacobian socialist tradition. The French Revolutionaries therefore moved towards positive liberty in a desire to liberate 'man from suffering' (Hannah Arendt[26]). Justice (freedom) was not their goal.

Robespierre was a petty dictator whose goal was to 'abolish' religion in order to, supposedly, introduce the 'age of reason'. To achieve this, he created the Terror which killed about 70 or 80 people each day on totally trumped-up charges. National Convention members, and leading scientists were killed. This was a 'tyranny of a few ... who had such a passionate love for democratic virtue that they felt compelled to kill all those who disagreed with them. France was turned into a slaughter house. Everybody suspected everybody else.' Finally, 'Out of sheer fear, a few members of the old Convention, who knew they were the next candidates for the scaffold, finally turned against Robespierre, who had already decapitated most of his former colleagues. Robespierre [a coward at heart in my view] tried to kill himself but failed. He ... was dragged to the guillotine.[27] After Robespierre was hung, the Terror abruptly ceased. Paris danced with joy and relief. The 'positive liberty' ideas of Rousseau, however, did not disappear, but re-emerged with Hegel who learnt about the French Revolution during his youth, followed later by Karl Marx.

History tells us that the French Revolution did little to bring about a free society. Edmund Burke's was right. However, Thomas Paine's advocacy of the revolution did manage to influence liberty on the other side of the

[25] Starr, Paul, *Freedom's Power*, New York: Basic Books, 2007, p.32-33.,

[26] Cited in Harzenski, Sharon, 'Terrorism, A History: Stage One' *Journal of Transnational Law & Policy,* Vol. 12:2, p.148. [http://www.law.fsu.edu/journals/transnational/vol12_2/harzenski.pdf]

[27] Van Loon, Hendrik Willem, 'The Story of Mankind',

Atlantic. When Jefferson understood Locke and Paine, he combined these ideas into the American revolution. And that, indeed, is the world's defining revolution of liberty.

10.2.3 *The American Declaration of Independence, 1776*

The American Revolution was blessed to have some of the best leaders, unlike the French Revolution which had some of the worst. Through this revolution, the 'Americans followed the example of Britain in creating a form of constitutional government, but they gave a new meaning to constitutionalism and a new structure to government'[28]. 'With the American founding, constitutional liberalism became both a state-limiting and a state building strategy, at once a method for creating power and building in checks against its misuse.'[29]

This revolution took place between 1763 and 1789 (what is called the American War of Independence was sandwiched between – from 1775 to 1783). Perhaps its most valuable product was the 1776 *Declaration of Independence,* a successor of the British *Declaration of Rights*. The first ten amendments to the 1791 US Constitution, collectively known as the (American) *Bill of Rights* also descend from the British declaration. The American *Declaration*, crafted primarily by Thomas Jefferson with input from John Adams, Benjamin Franklin, and a few others, talks about liberty in what can only be called a scintillating manner. In doing so it gives voice to Locke's natural rights concept and gives words to our deepest aspirations for life and liberty. Is language is forthright:

> 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.

These are among the most elegant words ever strung together, words we wanted to say but couldn't find expression. Here's another gem:

> That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.' This affirms our power as sovereign individuals to overthrow despotic regimes. It does, however, caution us from rushing to judgement: 'Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes.

The reasons for America's wanting independence from Britain are not relevant, but they seem to suggest that England remained wedded to mercantilism despite the Parliament's law-making supremacy after 1689. The power earlier misused by kings was now being misused by the aristocracy. The British parliament had also started demanding higher ethical standards – such as from the East India Company. Thus it launched an impeachment proceeding against Robert Clive in 1767 (he was acquitted). Many of its decisions were, however, highly questionable or short-sighted, such as its refusal to let American colonies be represented. The key charges made against King George III in the *Declaration* include:

- He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.
- He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people. He has refused for a long time, after such dissolutions, to cause others to be elected.
- He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

It is not obvious whether allegations against the British king were attributable to him or to the Prime Minister Lord North (1770–82). Edmund Burke – a parliamentarian at that time, demanded conciliation with America[30].

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[28] Starr, Paul, *Freedom's Power*, New York: Basic Books, 2007, p.41.

[29] Starr, Paul, *Freedom's Power*, New York: Basic Books, 2007, p.52.

[30] Burke, Edmund, 'Speech on Moving His Resolutions for Conciliation with the Colonies,' March 22, 1775. *The Works of the Right Honourable Edmund Burke*, Vol. II. (of 12), Project Gutenberg. [http://www.gutenberg.org/files/15198/15198-h/15198-h.htm#CONCILIATION_WITH_THE_COLONIES]

But clearly he did not succeed. Regardless of who was responsible for the perceived tyranny, England must surely rue the revolution. Imagine England's power had USA remained part of England.

10.2.4 *The right to vote*

Many early liberals advocated a restriction on the right to vote only to those who can (apparently) do so responsibly. 'Locke in the Second Treatise on Government makes clear that suffrage depends on property: only parts of the public that pay taxes have a right to vote, in proportion to the assistance which they afford the public.'[31]

It is not to the classical liberals but to a 'pragmatic' branch of liberals: the utilitarians, that we owe universal suffrage. Bentham argued that it 'is the only way of promoting "the greatest happiness for the greatest number"'[32]. James Mill (1773-1836), the father of J.S. Mill also advocated widespread democracy. J.S. Mill agreed in relation to women but did not think that those who live off charity (parish relief) should be so entitled. Thus, 'the receipt of parish relief should be a peremptory disqualification for the franchise. He who cannot by his labour suffice for his own support has no claim to the privilege of helping himself to the money of others.'[33]

Mill's argument, however, is not tenable. We come together as a nation to protect our life and equal liberty. We agree that members of the society whose resources fall below a social minimum will be provided frugal relief until they or their children can stand on their feet. Such payments are not to be thought of as charity but payouts based on the premiums paid in advance through taxes. At the minimum the recipient may have paid taxes in the past, or his parents may have done so; or his children will do so in the future.

For equal freedom to be achieved, every normal adult (without significant mental disabilities) should have the right to vote. If the poor are not permitted to vote, they will lose the ability to oppose laws that discriminate against them or destroy their liberty. Fortunately, modern societies have by now have broadened the franchise to all adults (generally over 18).

10.3 Citizen-leadership in democracy

In chapter 9 I outlined a few methods to prevent tyranny. Despite being more peaceful, democracy does not guarantee the absence of tyranny. As noted earlier, India's being a democracy did not prevent Indira Gandhi from declaring emergency on frivolous grounds. Also, Hitler's Germany was (notionally) a democracy – albeit (in hindsight) with major design flaws. Thus, the Nazis secured only 12 seats in 1928 in the Reichstag, increasing their tally to 230 out of 608 in 1932 through strong-arm tactics. Nazi seats reduced to 196 subsequently. While his party was at no time close to a majority, Hitler undertook devious machinations with Chancellor Franz von Papen in order to come to power.[34] Once in power, he was unstoppable.

Hitler could not have come to power in England with the few seats he commanded. This points to the importance of identifying and closing loopholes in the design of democratic institutions. In *BFN* I have detailed many of the loopholes that allow corrupt Indians to rise to the top. In addition, some methods to hold democracies to account are suggested, below.

10.3.1 *Citizen assertion, and vigilance*

Citizens need to supervise their democratic government, even though it is not practicable to exercise direct oversight. But the key point is the assertion of citizens sovereignty, at all times, over representees. Citizens are the principals, political representatives their agents. Calling political leaders by their first names is a good start. There is no case for glorifying politicians with honorifics. If they want to use titles, call them 'Dear Citizens' Agent' or something similar to make sure they know their place – but definitely not 'Your Highness' or 'Your Honour' which give them an inflated ego, and primes them to look down upon the rest of the people.

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[31] Gordon, David, 'The Attempt at Vindicating Lincoln', Mises.org, 26 November 2008. [http://mises.org/story/3224]

[32] Heywood, Andrew, *Political Ideologies: An Introduction*, Hampshire: Palgrave MacMillan, 2003, p.45.

[33], Chapter VIII (OF THE EXTENSION OF THE SUFFRAGE), in Mill, J.S. [1861], 'Considerations on Representative Government', *On Liberty and Other Essays*, Oxford: Oxford University Press, World Classics Paperback 1991, p.322.

[34] see [http://www.huppi.com/kangaroo/L-hitlerdemo.htm]

It will be very foolish on our part, also, to treat a government as a benevolent agency. Being vigilant, even suspicious about potential misuse of government power is all-important. 'Trust but verify' must be our motto. Demand full accounts at all times. Fortunately, modern governments generally publish detailed reports to let us know how our money is being spent. But unnecessary secrecy is another problem. The media must shine the light of truth on the government's actions, subject only to the nondisclosure of defence secrets. Mechanisms to seek accountability can include requiring Local Boards to be established by each government office. Implementing this, however, requires a level of sophistication not evident even in the best of societies today.[35]

10.3.2 *Leading the society: forming government*

Only those who understand human nature, namely the classical liberals, realise that power is a heady brew. Now, if those who understand temptations of power don't aim to form government, then our governments are likely to turn against us (because they are least self-aware). The liberal is obliged to deliver the social contract he talks about, and offer himself as a representative to elected bodies. Once liberals form government, they must deliver good governance. Such governments, controlled by freedom-loving citizens, cannot become rogue governments.

India has been bereft of classical liberal leadership since the demise of the Swatantra Party in 1973. The freedoms of its citizens have therefore been significantly truncated by its socialist governments over the past six decades. Intense corruption characterises the Indian democratic system, which is only notionally accountable to is citizens. Changing governments every few years is not enough. The liberal must become a doer. It is time for Indian liberals to get involved in the governance of their nation. Only when India genuinely adopts the system of natural liberty will security and justice – and freedom – be ensured.

[35] See Appendix xxx of *Online Notes* – details.

11. The pillar of the rule of Law

'When the legislative and executive powers are united in the same person … there can be no liberty' [and] … 'there is no liberty, if the judiciary power be not separated from the legislative and executive.' – *Montesquieu*[1]

'For as in absolute governments the king is law, so in free countries the law ought to be king; and there ought to be no other.' Thomas Paine in *Common Sense*

Equal liberty implies and is contingent upon equal treatment under the law. This means having a 'government of laws and not of men.'[2] Governments must take decisions based on general principles, not apply rules arbitrarily to specifically people. As F.A. Hayek explained in his book, *The Fatal Conceit*: "The question then is how to secure the greatest possible freedom for all. This can be secured by uniformly restricting the freedom of all by abstract rules that preclude arbitrary or discriminatory coercion by or of other people, that prevent any from invading the free sphere of any other. In short, common concrete ends are replaced by **common abstract rules.** Government is needed only to enforce these abstract rules, and thereby to protect the individual against coercion, or invasion of his free sphere, by others".

This concept has been incorporated in different ways into two different legal systems and codes of law.

11.1 Laws must clarify expectations

The laws must be codified and made available to everyone. This is the basic step towards creating the rule of law. Ancient Mesopotamia who was perhaps the first to have a system of making general laws. In Old Babylon Hammurabi had codified the law (albeit in a simplistic manner) in the 18th century BC. This meant that people knew what was expected and how they would be treated under specific circumstances. In ancient India, religious laws and a political philosophy existed, but formal codes or general laws were not prevalent. The king's opinion was paramount (e.g. in *Ramayana*).

The Roman emperors first introduced a systematic, codified legal system to ensure consistent provision of justice across their domains. Further systematisation was commissioned by the Byzantine emperor Justinian I (482/483-565) through his *Corpus juris civilis*. (It is from this title that the Roman law tradition is referred to as 'civil' law.) His laws, intended originally for use in the Eastern Roman empire, later spread across Western Europe through tachers like Irenius (d.1125) at the University at Bologna in Italy (a major centre of legal learning).[3]

The Roman tradition of law was later extended by Napoleon through the codes he created between 1804 and 1811. Note, though, that neither Roman law nor Napoleon's codes applied to the Emperor or senior officials. These were not general laws in that sense, and these societies therefore did not have the rule of law.

A somewhat different (and almost as old) tradition arose separately in England where the kings initially began to use used elementary law codes (simpler than Roman law). The code of King Ethelbert of Kent (600 AD) comprised ninety sentences of the following sort: 'If one man strikes another with the fist on the nose – three shillings.'[4] This was, again, not a general code since it discriminated amongst various classes. Fines varied with social rank. 'If a man slay another in the king's *tun* [dwelling], let him make *bot* [compensation] with fifty

[1] Montesquieu, *L'Esprit des Lois* (Spirit of the Laws), 1748. Translated by Thomas Nugent, 1752. [http://books.mirror.org/gb.montesquieu.html]

[2] From the 1780 Constitution of the state of Massachusetts.

[3] Cited in *A History of World Societies* by John P. McKay, Bennett D Hill and John Buckler (1988), Volume 1. London: Houghton Mifflin Co., p.411.

[4] Lefroy, A. H. F., 'The Anglo-Saxon Period of English Law', *The Yale Law Journal*, Vol. 26, No. 4, (Feb., 1917), p. 293.

shillings.' On the other hand, 'If a man slay another in an eorl's [Earl's] *tun*, let him make *bot* with twelve shillings.'[5] Clearly, it was cheaper to ambush and kill your enemy inside an Earl's *tun*. Anglo-Saxon law, which came in later, continued such differential treatment. The fine for killing a king was £1 500 but killing a prince a mere £750.[6]

These traditions were much refined after the Norman conquest of England in 1066. What is called 'common law' (Anglo-American law) began to no develop. Common law is different from codified law, in that it is a practical law that has evolved not through kings' fiat or a code of law but through *the discovery of the principles of justice* by judges deciding real-life issues over the years. Trial by jury (of twelve lay jurors) emerged as part of this process, during the thirteenth century. Common law is thus a 'body of customary law, based upon judicial decisions and embodied in reports of decided cases, which has been administered by the common-law courts of England since the Middle Ages.'[7] Common law 'developed features that differed strikingly from the system of Roman law operative in continental Europe. [It] … relied on precedents: a decision in an important case served as an authority for deciding similar cases. By contrast, the continental judges, trained in Roman law, used the fixed legal maxims of the Justinian code to decide their cases.'[8] These collective precedents evolved into non-arbitrary rules that then took the shape of a code of law.

Roman and common law have converged over the years, although greater weight is placed on precedent in countries with a common law tradition (that now includes India, given the influence of the British in its lawmaking process). According to Bruno Leoni, however, the common law tradition even underpins Roman law, whereby both the 'Romans and the English shared the idea that the law is something to be *discovered* more than to be enacted.'[9] I will not investigate the merit of this claim but merely agree that over the past two hundred years, the two systems have steadily become closer. Most importantly, in both systems of modern law, exemption for senior officials and politicians no longer exist.

11.2 The same rules for all

Our good friend, the *Magna Carta*, has been crucial to the advance of freedom in many ways. One of its major contributions was its insistence that laws must not only be known in advance (and hence non-retrospective) and must apply equally to all, including (at least for the most part, initially) to the king. Even though the English kings continued to be powerful till 1688, the *Magna Carta* steadily chipped away at their widespread wings. Of course, the *Magna Carta* was not perfect and permitted the king a ceremonial role, letting him 'grant' citizens their liberty, thus: 'We have ... granted to all the Freemen of our Kingdom, all the underwritten Liberties'. This is sheer nonsense, for none can grant us liberty, only take it away (or return it back on our demand) but such bombastic words kept kings out of our hair.

The important thing was that the *Magna Carta* 'granted' liberties to citizens, including the liberty of body: 'No freeman shall be seized, or imprisoned, or dispossessed, or outlawed, or in any way destroyed; nor will we condemn him, nor will we commit him to prison, *excepting by the legal judgement of his peers, or by the laws of the land*' (emphasis mine). The *Magna Carta* also required kingly functionaries to behave judiciously, even judicially (with due process). Thus, 'no Bailiff ... shall put any man to his law, upon his own simple affirmation, without credible witnesses produced for the purpose.' And the king's capricious decisions ware curtailed. His decisions could now be scrutinised by a group of twenty five Barons who formed an appellate body.

Another innovation brought justice close to the people by requiring the king to establish courts in designated, fixed places (earlier, these were itinerant and whimsical). 'Ordinary lawsuits shall not follow the royal court around, but shall be held in a fixed place.' This requirement went on to become the modern institution of independent courts. In addition, the *Magna Carta* established standards for weights and measures, these being public goods that markets may not effectively supply; a government can establish standards to reduce information gaps and ensure consistency of calculation.

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[5] The *Anglo-Saxon Dooms*, 560-975 available in full on the internet.

[6] *The Book of Knowledge*, Sydney: Golden Press, 1983, p.138.

[7] *Encyclopaedia Britannica*, 2001 CD-ROM edition.

[8] Cited in *A History of World Societies* by John P. McKay, Bennett D Hill and John Buckler (1988), Volume 1. London: Houghton Mifflin Co., p.400.

[9] Leoni, Bruno, *Freedom and the Law*, Nash Publishing, Los Angeles, 1972, p. 10. (cited in de Soto, p.162.)

In general, the *Magna Carta* laid a strong foundation for the rule of law. After many teething troubles, each British king began to routinely re-proclaim the *Magna Carta* – particularly, as we have seen, during moments of financial need. And so, the *Magna Carta* became embedded into the English psyche, and through them influenced the nations they later colonised.

11.3 The right to be produced before a court

In medieval England, when someone was detained by a lower court, it was usually very difficult to appeal to the king (royal court). Over time, however, it became possible for detainees to lodge petitions with the royal court through their agent, or – where possible – personally, seeking their release or fair trial. The royal court would then sometimes issue what was called the writ of *habeas corpus* (Latin: 'you (shall) have the body') to release the detainee, thus overriding the magistrate (the writ would not help those imprisoned after due process, such as after a criminal trial). This appellate capacity marked a major advance. Such writs began to appear in as early as the 11th century, but their more formal use began from 1305. By the time King John I was forced to sign the 1215 *Magna Carta* (through its clauses 36, 38, 39, and 40) the writ had become part of community expectations. It was formally institutionalised through the *Habeas Corpus Act* of 1679.

Today, no free society comes without a right to this writ, which is to be considered by the higher courts except in the most exceptional circumstances. Thus, the US Constitution states: 'The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it' (Article 1, Section 9). Many countries now allow detainees to lodge their plea with a designated judge even in the middle of the night. In India, this writ has been used in many cases (for instance by Kanu Sanyal, a Naxlite leader detained till 1971 in the Visakhapatnam jail upon the arbitrary direction of the District Magistrate of Darjeeling). The India Supreme Court, unfortunately, refused to use this power during the Emergency, an action which let Indira Gandhi imprison her political opponents without recourse.

11.4 Separation of law-making and adjudication

It may appear obvious to us today that the makers of law should not also administer the law. This is to ensure that laws are made for the general case and are not arbitrary. The lawmaker is required to imagine how he or she may personally fare under the law, given its universal applicability. But obvious as this may appear to us, the distinction between the roles of lawmaker and adjudicator evolved arose in governance systems only relatively recently. It was primarily based on the arguments of Montesquieu (1689-1755) who wanted checks and balances including separation of the powers of the legislature, judiciary and executive. He wrote:

> "When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty… Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would then be the legislator. Were it joined to the executive power, the judge might behave with violence and oppression. There would be an end to everything, were the same man, or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals" (Baron de Montesquieu, *Spirit of Laws*, 1748).[10]

Unchecked power, he believed, is almost certain to be used arbitrarily. Expecting perfect objectivity from any human being is inappropriate, for it is impossible. Therefore, it is important that the persons that makes a law, persons that administers the law, and persons that assesses whether the administration of law is consistent with the law, must be separate.

These views influenced Jefferson and, through him, impacted on the design of the American constitution. The USA thus became the first nation on earth to comply with most of the principles that determine the rule of law. Its constitution insisted on 'due process of law' – which thus came to be widely accepted as a basic institution of liberty. (It is moot, though, whether the USA actually delivers the rule of law today.)

[10] https://billofrightsinstitute.org/essays/separation-of-powers-with-checks-and-balances

12. The pillar of private property rights

> '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.'
>
> – *Ayn Rand,* 'Man's Rights', in *The Virtue of Selfishness*.

India's ancient social contract theory implicitly defended property rights, but in the West, Cicero was one of the earliest thinkers to emphasise the institution of property: 'For political communities and citizenships were constituted especially so that men could hold on to what was theirs. It may be true that nature first guided men to gather in groups; but it was in the hope of safeguarding their possessions that they sought protection in cities'.[1] As the scholar Howard Williams explains, 'the concept of property has been a central concern of political philosophy from classical times onward. … Property relations go to the root of any social system'.[2] Thus, if the fruits of our labour are to be at the mercy of any passing stranger (or gangster), then the society will be mired in murderous conflict.

There are essentially two types of 'property': one belonging collectively to a tribe or nation and the other to individuals. Individual property rights are innate within the framework of group territorial rights which, however, must precede individual rights and are contestable.

12.1 National territorial rights (the Fortress)

Before looking at individual property rights, the first question to address is this: From where do nations get the right to territory?

Territorial rights are based *entirely* on occupation and control and exist only as long as the collective is able to exercise such control. It is purely the power, vigour and energy of the collective that preserves a nation's boundaries. Might is the only right. National boundaries have no other basis, theories of ethnicity and culture notwithstanding.

Even where boundaries are drawn from inside an ivory tower (as the boundaries of India and Pakistan were drawn in 1947, or the boundaries of many Middle Eastern and African countries in the mid-20th century), physical force must defend them. Without physical control, boundaries can change hands (such as Kashmir's boundary which changed hands after its king fled for his life). There is no known mechanism to revert the ownership of a particular territory after it is lost. If a nation can't defend itself, it can't exist. Changes in territory once made are irrevocable; only to be changed through any further violence.

History is a feast of moving national boundaries. New barriers continuously arise. In rare cases, national territory can be purchased. In a few other cases, small independent territories might agree to come together, as in the case of Australia. (In this regard, debates in Australia about *terra nullius* are misplaced. The British took possession of the territory of Australia and so long as they hold possession of it, their claim of nationhood is entirely valid. While Australia might (and should), in its strategic self-interest, share land with Aboriginal communities, their claims are intrinsically worthless.)

Since a heterogeneous group of people is unlikely to put the effort to defend territory, nations are typically built on existing ethnic, tribal, or language relationships. Sometimes, religion might come into the mix, as with the origin of Pakistan. Such a logic typically applies only to small nations. But we have seen throughout history the origin of truly large nations such as the Roman Empire and the Mauryan empire in India, and the USA today. Large national states typically arise because the technology of war allows control over large territory.

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[1] Marcus Tullius Cicero, *De Officiis* 2.73, http://www.claremont.org/publications/pubid.248/pub_detail.asp

[2] Williams, Howard, *Kant's Political Philosophy*. New York: Macmillan, 1983.

To those of us who believe in moral principles, the idea of coercive control as the only basis of the nation state might seem abominable. But we must take heart. *Homo sapiens* has evolved as a rather ferocious animal species, that has strong tribal tendencies. Ferocious territorial battles based on different perceptions of tribal-ness are certain to occur even in the future. Instead of ruing this unpleasant reality, we should acknowledge it and preparing to defend, with comprehensive force, our nation's territory from rogue nations and religious groups. It is evident that blood fertilises a nation. That primal law can never be changed.

12.1.1 *The curse of jingoism and expansion of territory*

Our nationalism must, however, be strategic. We must not elevate the country above us, and never deify it. Albert Einstein was partly right when he said: 'Nationalism is an infantile disease. It is the measles of mankind. … Our schoolbooks glorify war and hide its terrors. They inculcate hatred in the veins of children.'[3] While nationalism has its benefits, unrestrained glorification of the nation can cause great damage. As Morgenthau noted:

> the great mass of the individual members of a nation ... identify themselves with the power and the foreign policies of the nation, experience this power and these policies as their own, and do so with an emotional intensity often surpassing the emotional attachment to their individual aspirations for power.[4]

The reality is that even if a nation has no historical antecedents or basis (as with Pakistan and almost African nations), its citizens typically go overboard about the nation. Ritual military parades, celebrations and solemn occasions, soon arise. While some emotional bonding with one's territory is important, nationalism can easily go overboard. War mongering is the first outcome. Many ancient Greek philosophers recommended the expansion of their national boundaries to get slaves and glory. The last such major bout of expansionism was Hitler's lust for Lebensraum. Supporting such ambitions is foolish. In the end, former foes become allies, their people inter-marry and national boundaries change – yet again. Alexander conquered everything in sight but Madedonia is a tiny nation today. A great nation doesn't need a huge amount of territory. What is needed is liberty and good governance.

12.1.2 *Should there be unions of nations?*

The experience of the European Union shows that it is close to impossible to have such unions without creating perverse incentives among the participating nations. Far better, perhaps, to have well-governed independent states. Let each nation offer good governance, and its purpose would have been served.

12.1.3 *Migration from less to more free nations*

Because of differences in freedom and opportunity across nations, people tend to exit unfree nations and move to more free nations.

12.1.4 *Types of secession and how to deal with them*

Secession is sometimes part of the revolutionary strategy to exit tyranny (discussed in chapter xx), such as the American Revolution. At other times, secession might be driven by parochial, tribal considerations, to perhaps preserve culture or language. Many secessionist movements in India fall into this category. In an ideal world, violence would not be needed for the creation of new nations. The Canadian referendum of 1995 on Quebec's secession is an excellent role model, a civilised consideration of secession. Once freedom is uniformly available across the world, secession will become irrelevant.

But there are situations where reason doesn't work. Movements like ULFA[5] which kill people indiscriminately, show great disregard for life and liberty. Why would anyone trust such people to look after the freedoms of 'their' people? If such movements are not grounded on reason, they must be curbed.

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[3] Cited by Carl Sagan in *Broca's Brain*, New York: Ballantine Books, 1979, p.37.

[4] Morgenthau, Hans J., and Kenneth W. Thompson, *Politics among Nations: The Struggle for Power and Peace*, New Delhi: Kalyani Publishers, 1985, p.118.

[5] United Liberation Front of Assam.

12.1.5 *Are we responsible for tyranny in other nations?*

Up to which point should a nation sit and watch, as a mere observer, the tyranny that is occurring in another nation?

The answer is simple. National sovereignty is an artefact of convenience. Mugabe's regime was involved in mass murder, hundreds of thousands of people were driven out of Zimbabwe. Would-be Stalins, Maos, Idi Amins, Mugabes and Hitlers must be nipped in the bud. This is a non-negotiable for our species. We need to take sides, else we will find ourselves overtaken at some stage by the enemies of humanity.

12.1.6 *What about harms caused to other nations and the international commons?*

Pollution (air and water) is an example of negative effects that transcend national borders. But there are many such problems, such as excessive harvesting of fish. And this is not just about national property. Vast amounts of seabed, sea and space remain un-allocated.

No nation should be able to harm other people or even wildlife without consequence.[6] A global social contract may have to be negotiated, with stringent enforcement mechanisms for accountability *across* boundaries. This is going to be almost impossible to achieve. While the League of Nations and the United Nations are attempts in this direction, these entities have largely failed. Ideally, all territory (including water) must be allocated to some nation or other. This is one of the surest ways to reduce such harmful external effects. But these problems require both wisdom and potentially some coercive mechanisms. How such cross-national problems are resolved is the next frontier for mankind. In each case we need to advance both human freedoms and accountability.

12.2 Individual property rights

The question of defending individual private property can arise only after national territory has been firmly established. Such territorial rights typically depend on the implicit or explicit exercise of violence.

12.2.1 *From our private conception of property to property rights*

Starting from our body and our personal property, we can probably extend the concept of property to our environment to the extent we are able to exercise any real control over it. If we think something is our property, it probably is. But it is only recognised as a property "right" once society recognises it in some way. As Armen Alchian noted:

> The rights of an individual to the use of resources (i.e., property rights) in any society are to be construed as supported by the force of etiquette, social custom, ostracism, and formal legally enacted laws supported by the states' power of violence or punishment.[7]

Property rights are "a method of assigning to particular individuals the 'authority' to select, for specific goods, any use from a nonprohibited class of uses."[8]

12.2.2 *The origin of property and property rights*

How these ideas of property first arose is matter of considerable interest.

Animal behaviour throws useful light on how property might have originated. Some animals and birds live in a 'house', being a nest, burrow or cave; particularly when they are breeding. Some animals, such as the major carnivores, exercise control over territory by marking or otherwise defining the territory's boundaries. Such territory can be three-dimensional, such as in water. Fresh water crocodiles control demarcated stretches of a river. Fish defend their "territory" amongst corals. Having a home in which to live and rear our young has a biological basis. This might not have been relevant when humans were hunter-gatherers, but became significant when man settled into agriculture. Land on which to grow food would become the biological extension of our self.

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[6] For instance, the issue about compensation for the pollution caused by greenhouse gases.

[7] Alchian, Armen A., *Economic Forces at Work*, Indianapolis, Liberty Press, 1977, p.129.

[8] Alchian, Armen A., *Economic Forces at Work*, Indianapolis, Liberty Press, 1977, p.130.

Property as we know it, but in rudimentary forms, must have emerged early during the agricultural epoch. In building a house, in wearing clothes, in the rituals of marriage, in bringing up children, and in the act of dying, parts of 'us' – our property – were created, transmitted, or remained behind. The following are parts of our 'natural' personal property or possessions: (i) our body (subject to the limitation outlined in chapter 4 – our body being better considered as a lease); (ii) immovable and movable assets (that are of interest to others even after our death); and (iii) things that only we value, such as the crayon drawings our children make.

12.2.3 *Violent defence of property*

The existence of inequality of power among primates, and the occurrence of fierce battles in the animal world over control of territory tells us that violence would have been a natural foundation for the defence of property. Since property "rights" are closely associated with the ability to defend them, property was probably never distributed evenly. Alpha males among primates 'own' disproportionately more 'things' than weaker males.

12.2.4 *Examples of property in primitive tribes and societies*

We can examine how property might have originated by looking at primitive tribes that were, till recently, a common feature in most developing countries. Most tribes assert claim over certain territory and are willing to war in its defence. Individual members of a tribe typically own personal possessions: a designated place to sleep, for instance. They might also own 'chattel'[9], movable property. For instance, the most important chattel in Arunachal Pradesh tribes is (was) *mithun* (a kind of cow), what was used also in marriages as dowry. The existence of dowry itself (a set of goods that *belongs* to a woman) points to the existence of individual property rights. Some tribes in rural Thailand pass on the house to the youngest daughter.

Arguably, not all tribes understood or had property. Paul Pilzner has suggested that some Native Americans didn't understand the concept of land ownership. When European settlers paid them for land (from which natives had removed edible plants and game), the Natives thought they had got a good deal, not realising they had given away the right to all future produce from that land.[10] It appears to me, though, that this might have been a case of poor communication about the nature of the transaction. In any event, Native Americans very clearly understand this now, so we can conclude that knowledge about property rights is not rocket science and can be readily understood.

More evidence for the natural evolution of property rights is found in Hernando de Soto's book, *The Mystery of Capital*, which shows that detailed records of land ownership are maintained even by illegal settlers, largely through mutual recognition. We observe who owns what, and in acknowledging other's property we create property rights for everyone.

12.2.5 *State recognition of property rights*

To achieve higher levels of civilisation, state recognition of property is essential as part of the broader social contract. Most civilised societies did indeed recognize property. The Genesis 23:1-20 (*Old Testament*) describes how Abraham purchased land from Ephron for 400 shekels of silver (implying the existence of both private money and private land). The discussion of usury in the Bible (and in the *Mahabharata*) points to the existence of property rights (noting that the scriptures objected to usury, not to the existence of money *per se*. We now know that the scriptures' understanding of interest rates was faulty – but that is a different matter).

The *Dharmasastras* and Kautilya's *Arthasastra* have many references to property, such as discussions on the valid proofs of possession and ownership of property, its purchase and sale, inheritance; and donation.[11] Romila Thapar tells us that "Private ownership of land emerged [in India] in areas where the village economy had been established"[12]. She added that "[i]n the post-Gupta period references to the sale of land to individuals, increase.

[9] The word apparently derives from the movable 'cattle.'

[10] Pilzner, Paul Zane, *God Wants You to be Rich*, New York, Simon & Schuster, 1995, p.26.

[11] Sternbach, Ludwik, 'Review of *Theory of Property in Ancient* India by A. M. Samozvancev', in *Journal of the American Oriental Society*, Vol. 101, No. 4, (Oct. - Dec., 1981), p. 487.

[12] Thapara, Romila, *The Past and Prejudice*, Patel Memorial Lectures, New Delhi: Publications Division, 1973, p.39.

Inscriptions dating to the period after the sixth century A.D. frequently refer to purchase of land and the transfer of property."[13]

12.2.6 *Evolution of modern property rights*

The modern legal right to property perhaps first arose with the *Magna Carta*. Prior to the *Magna Carta*, English kings had the power to take possession of any land in their domain. After the *Magna Carta*, the king and his functionaries were restrained from such intrusions: "No Constable nor other Bailiff of ours shall [i.e. the king's] take the corn or other goods of any one, without instantly paying money for them." Such restraint also applied to "the horses or carts of any free-man", and to "another man's wood". Procedures were laid down for kings to comply, before seizing any land. A section in the *Magna Carta* clarified how rights over movable property or chattel transmit to the deceased's relatives and friends: "If any free-man shall die intestate, his chattels shall be distributed by the hands of his nearest relations and friends... saving to every one the debts which the defunct owed".

Significant advancements have occurred in record keeping over the centuries. As Hernando de Soto points out, "Before the fifteenth century in Europe, for example, even though some isolated registries did exist in some parts of what is today Germany, most official rules on how property transactions ought to work were unwritten and known only through oral traditions." Many parts of the West prevented transfers of land (including through sale) outside one's family (a practice called "entail"). Thomas Jefferson abolished this restriction[14] (I'm not aware of such restrictions in ancient India, although the practice of primogeniture effectively had a similar impact).

12.3 Characteristics of property rights

12.3.1 *Property is attributable only to living persons*

Property (movable and immovable) can only be attributed to a living person. While national territory continues after we die (the nation lives on), individual property must necessarily pass on to another living person (or legal entity), else it must revert to the nation. This principle is called eminent domain. Governments usually auction properties that are without an heir and deploy the proceeds towards the general revenue.

12.3.2 *More land is not necessarily desirable*

Note that land is different to other forms of property. Unlike money (the more of which is always better) having more land is not necessarily a better thing. We don't care for land in a desert, the cost of building boundary wall around which will exceed any benefits that can be derived. Therefore, only that much of land is demanded the benefits of holding which outweigh holding costs. In modern societies, people therefore don't buy vast chunks of agricultural land, preferring instead to invest in city apartments stacked on top of each other. Fixation with land as a form of property, typically found among old philosophers, is therefore not justified.

12.3.3 *The nature of property rights determines incentives for production*

We care more for property that we personally own than we care for the commons, shared property. The returns from property (such as land) depend therefore on the nature of ownership. The fastest way to increase crop, timber and fishery yields is to parcel and sell the commons to individuals for private use. Wherever such well-defined *private* property rights are established, wealth (and hence civilization itself) is the inevitable result. As Wolfgang Kasper noted: "Without a respected property rights system the exclusion costs can be so high that agricultural production does not take place."[15] For instance, India – which was at the world's largest economy for most of human history, particularly during the agricultural epoch, had (relatively) well-defined private property rights.

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[13] Thapara, Romila, *The Past and Prejudice*, Patel Memorial Lectures, New Delhi: Publications Division, 1973, p.42.

[14] de Soto, Herndando, *The Mystery of Capital*, Bantam Press, London, 2000, p. 171.

[15] Kasper, Wolfgang, *Property Rights and Competition*, Sydney, The Centre for Independent Studies, 1998, p.65.

12.3.4 *Property rights are not absolute*

Property rights can't be absolute, being constrained by practicability and accountability. Just because of I own a plot of land does not mean that I own the sky above it or the earth below it. And just because I own a knife doesn't mean I have the right to slice off someone's nose. Similarly, just because I own a house doesn't mean I can make loud noise in my house at night.

12.3.5 *Property rights can be bundled and unbundled*

It is evident that the characteristics of property are man-made and hence property can be sub-divided and reassembled into bundles. By renting a house, I can acquire temporary property right to live in it, even though its title remains with the owner.

12.3.6 *Inevitability of inequality*

Perhaps the simplest explanation was given by John Ruskin in *Unto This Last*.

> Suppose two sailors cast away on an uninhabited coast, and obliged to maintain themselves there by their own labour for a series of years. If they both kept their health, and worked steadily, and in amity with each other, they might build themselves a convenient house, and intime come to possess a certain quantity of cultivated land, together with various stores laid up for future use. All these things would be real riches or property; and, supposing the men both to have worked equally hard, they would each have right to equal share or use of it.
>
> Suppose that after this arrangement had been made, one of them were to fall ill, and be unable to work on his land at a critical time--say of sowing or harvest. He would naturally ask the other to sow or reap for him. Then his companion might say, with perfect justice, "I will do this additional work for you; but if I do it, you must promise to do as much for me at another time. I will count how many hours I spend on your ground, and you shall give me a written promise to work for the same number of hours on mine, whenever I need your help, and you are able to give it."
>
> … This is, of course, an example of one only out of many ways in which inequality of possession may be established between different persons. … [T]here are two modes in which the inequality … may be established – namely, by increase of possession on the one side, and by decrease of it on the other.[16]

This doesn't mean that any current "distribution" of wealth will tell us much about future distribution. As people's talents and opportunities change over the generations, there is much social mobility, with people changing places in the wealth rankings.

12.4 Theories of individual property rights

For a long time, the existence of property was taken for granted, much like gravity was taken for granted before its 'discovery' by Newton. Then some philosophers asked: What gives us the power (or right) to take something from Nature? How does a natural object (or its transformation by man) become associated with a particular person as his or her property? What are the rights of those who come to a scene late, having missed the opportunity to take ownership of virgin land? Four such theories are outlined below.

12.4.1 *Property is a loan from the king*

According to this theory, the entire national territory belongs to the sovereign. The entire nation is Crown land. Individual land rights are "settled" but overlordship remains with the king. King James I (1566–1625) insisted that all of England belonged to him: "[Kings arose] before any estates or ranks of men, before any parliaments were holden, or laws made, and by them was the land distributed, which at first was wholly theirs. …And so it follows of necessity that kings were the authors and makers of the laws, and not the laws of the kings."[17] There are few, if any, takers of this view today.

[16] https://www.gutenberg.org/cache/epub/36541/pg36541.txt

[17] In his book, *The Trew* [*True*] *Law of Free Monarchies*.

12.4.2 *Property rights are shaped by changing views of the collective*

Marxists reject property rights entirely. Fabian socialists believe these are arbitrary, decided by the collective. Harold Laski wrote:

> the existing rights of property represent, after all, but a moment in historic time. They are not today what they were yesterday and tomorrow they will again be different. It cannot be affirmed that, whatever the changes in social institutions, the rights of property are to remain permanently inviolate. Property is a social fact, like any other, and it is the character of social facts to alter.[18]

Nehru argued, based on Laski's views, that property is an arbitrary concept.

Likewise, Rawls rejected private property: "justice as fairness includes no natural right of private property in the means of production". According to him, our talents belong to the society and a central planner should decide how our talents should be put it to use to advance the common weal, particularly economic equality. Such a planner would use 'formulae' (Rawls could not say what the formulae looked like, though), to allocate property.

Such paternalistic or statist views have been instrumental in the growth of the massive welfare state in the West, which has brought the West to its knees.

12.4.3 *Labour theory of property rights*

John Locke thought that property rights are innate. (Note that in outlining Locke's theory I have combined it partially with Nozick's, the latter's views being an offshoot of Locke's.) To make this idea palatable to Christian theologians who had a history of making candles (at the stake) out of those who raised questions (such as Giordano Bruno's fate of 1600 in Rome), Locke expressed himself in a round-about manner, aiming to side-step potential landmines.

Locke began his book by noting that we own *ourselves* (Nozick begins similarly, as well). "Man has a *Property* in his own *Person*. This no Body has any Right to but himself." Hence, Locke argued: "The *Labour* of his Body, and the *Work* of his Hands, we may say, are properly his. Whatsoever then he removes out of the State that Nature hath provided, and left it in, he hath mixed his *Labour* with, and joyned to it something that is his own, and thereby makes it his *Property*." In his view, property rights are created by adding our labour to what we might take from nature.

But how can we take things from Nature? Locke thought that our divine gift of life gives us the right to the fruits of Nature. "Men, being once born, have a right to their Preservation, and consequently to Meat and Drink, and such other things, as Nature affords for their Subsistence." But if everything is given to all humans *in common,* how can anyone appropriate a *particular thing* for his exclusive use? Locke thus asked: "God, as King *David* says, *Psal.* CXV. xvi. *has given the Earth to the Children of Men,* given it to Mankind in common. But this being supposed, it seems to some a very great difficulty, how anyone should ever come to have a *Property* in any thing"[19]? So Locke suggested (a thread picked up by Nozick) that we can convert previously undiscovered (or unowned) natural resources into our personal property, *provided* we leave sufficient behind for others. Nozick calls this the 'Lockean proviso'. However, this idea is flawed in many ways. First, it is absurd to use the Bible to pose the question. Second, there are logical reasons to disagree with Locke.

The crux of Locke's view, that our property rights are related to one's labour, can only be ever partly valid. Our labour (our *time*), when "mixed" with a gold nugget that we might have picked up during a walk through the woods, can be in such cases an insignificant fraction of the value of the gold nugget. The finder of the nugget and someone who then steals it will likely "mix" their labour with the nugget in similar amount. But mixing his 'labour' with a gold nugget that belongs to someone else doesn't give a thief any rights of ownership of the nugget. Similarly, someone might receive a gold mine as inheritance, thus not having ever touched any of its gold, but the gold in the mine would still be his. Property is related only to accountability, and has little to nothing to do with labour expended.

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[18] In his *A Grammar of Politics*, 1960, cited a footnote on p.77 in *Working in a Democratic Constitution: A History of the Indian Experience*, by Granville Austin (1999). OUP, Delhi (2003 paperback edition).

[19] Locke, John, *Two Treatises of Government,* Book 2, Chapter 5 (Of Property). [http://socserv2.mcmaster.ca/~econ/ugcm/3ll3/locke/government.pdf]

The argument that we own our own person is too strong. Above all, this leaves everyone free to take their lives at will, contradicting Proposition 1 and diminishing (destroying) life. Locke himself argued against a right to suicide (the individual, he said, does not have the "Liberty to destroy himself" – why not, if he does "own" himself?). Nozick – who took Locke's arguments further – was logically consistent and 'permitted' suicide, rejecting the idea that preservation and enhancement of human life is the aim of philosophy.

In addition, Locke ignored the idea of national territory. But control over territory is vital before acquiring anything from nature. Today, almost all of nature is already pre-owned. One can't walk to a piece of land and start digging or take away cattle that one finds grazing in a meadow.

Further, Locke over-emphasised land (or the fruits of nature). The Lockean proviso is basically irrelevant because natural resources are almost irrelevant today. Wealth (the present value of all future income streams flows from our labour and assets) is created almost entirely from human ingenuity. It has little or no relationship to the amount of land we own. Primitive tribals possess a lot of land but that doesn't make them wealthy. Bill Gates or Edison did not dig up land but both did well enough without it. When a mere truckload of sand can be converted, with human ingenuity, into computer chips, then natural resources are essentially irrelevant.

Finally, the Lockean proviso implies that people should leave 'enough and as good'. But how can one leave 'enough and as good' of one's brain, which is one's most valuable asset?

Locke's explanation is flawed at many levels.

12.4.4 *Property as justice*

The last major view about property rights (a view to which I subscribe) considers property rights to be a consequence of accountability. As David Hume (1711-1776) said: ""Tis very preposterous … to imagine, that we can have any idea of property, without fully comprehending the nature of justice, and shewing its origin in the artifice and contrivance of men. The origin of justice explains that of property. The same artifice gives rise to both."[20] Hume described the evolution of property rights in his book, *History of England*. He noted that under the system of feudalism, land was distributed as a reward for service in conquest. The feudal lord's ability to use it was conditional on supplying a military force. In such a system, individual property was not able to arise. Over time, society thought about this and "[i]t seemed equitable, that one who had cultivated and sowed a field, should reap the harvest." As a result, fief holdings "at first entirely precarious, were soon made annual". Thereafter, "In proportion as agriculture improved, and money encreased, it was found, that … the produce of a large estate could be much more conveniently disposed of by the peasant himself … than by the landlord or his bailiff". This led to the payment of annual rents, later money rents instead of 'in kind'. Finally, it dawned on men that "farms were better cultivated where the farmer enjoyed a security of possession". This led to the practice of granting longer leases to peasants. This ultimately led to the bonds of servitude of the serfs being broken. Feudalism morphed into the modern system of property because "[t]he interest of the master, as well as that of the slave, concurred in this alteration."

With the concept of justice underpinning property rights, everything falls in place. If I happen to find a gold nugget on my morning walk, it is I who has found it, *none else*. Prior to its being found it was lying on the ground unrecognized (unless someone had dropped it accidentally – in which case the nugget *will* need to be returned to its rightful owner – if such owner comes forward and proves his prior ownership). Our action of *recognising* the rock as a nugget and picking it up *is sufficient* claim for ownership. There is not, and never was, any requirement to leave part of that nugget behind for those who come later (the Lockean proviso). The reality is that there is no obligation (nor ever was) for those who come later to a scene. John Sanders, too, points out that "the famous Lockean proviso …is both conceptually incoherent and self-defeating"[21].

How exactly is property related to justice? Consider trade. Some trade involves an exchange of physical goods. But others (such as a psychotherapy session) might involve a mere discussion, an exchange of his intellectual property for our money (our money is our property). In all cases, though, ownership is built through the record of the record of such transaction and attribution of actions to relevant people. The more the people observing a transaction or trade, the better the chance of proving ownership. With the exchange of land we may ask

[20] In his *A Treatise of Human Nature*, Book III: Of Morals, Part I: Of virtue and vice in General, Sect. II: Of the origin of justice and property. [http://oll.libertyfund.org/title/342/55219]

[21] Sanders, John T., 'Projects and Property', in David Schmidtz (ed.) (2002). *Robert Nozick*. Cambridge University Press, p.39.

witnesses to attest to the exchange, and provide proofs to the government to record the exchange. In other cases, both our memory and written records such as a credit card statement will suffice (the psychologist might keep his own records, as well, to confirm that we did trade property). All attributions and accountabilities are fully matched. Payments are made as agreed and applicable. And property is transferred.

With intellectual property, our property exists merely by virtue of our having *thought* about something. We create this form of property inside our head: a song, a poem, an article, a book, a scientific theory. But note that unjust thoughts don't generate property. A thief might think while stealing, but he's thinking about how to *divest us* of our property. Such thoughts are unjust and don't generate property rights.

Since justice is always related to an individual, never to a collective, property is necessarily attributable to specific individuals. There is no collective attribution, no collective ownership. Group territory does exist, but it is less based on justice than on possession. It is Jack the Ripper who should go to the gallows, not his entire village. Where property is unbundled into discrete rights, each portion is attributable to *specific* individuals, such as shares held in a company.

Through the process of justice, everything we are born with (our name, our body, and bequests received), as well as everything we acquire through our actions and thoughts, becomes part of *us*. Property mirrors our actions and thoughts. It is *us*: indistinguishable, our extension.

While justice explains the origin of all property, and property rights are generally recognised by society, it is the role of the state to enforce them, as part of the system of justice. State-contingent enforcement doesn't mean that the rights *exist* only because of enforcement. A sapling can be trampled upon and destroyed but its emerging into existence is an independent fact. Property rights thus *precede* the state and, indeed, motivate the need for a state. The state does *not* create property, merely protects it. As Rousseau recognised[22]:

> Look into the motives which have induced men, once united by their common needs in a general society, to unite themselves still more intimately by means of civil societies: you will find no other motive than that of assuring the property, life and liberty of each member by the protection of all …
>
> It is certain that the right of property is the most sacred of all the rights of citizenship, and even more important in some respects than liberty itself; either because it more nearly affects the preservation of life, or because, property being more easily usurped and more difficult to defend than life, the law ought to pay a greater attention to what is most easily taken away; or finally, because property is the true foundation of civil society, and the real guarantee of the undertakings of citizens: for if property were not answerable for personal actions, nothing would be easier than to evade duties and laugh at the laws.

Note that this view – that we have created the state mainly to defend our property rights – sits in stark contrast to socialist views (that also originated from Rousseau) which consider property to be an outcome of exploitation. If our property rights are not enforced, we are entitled to organise to overthrow the state. If our property rights are not defended, we can't be sure how others will treat the outputs of our efforts, and economic activity will come to a standstill. If people have the option of *not* returning money they have borrowed from us, anarchy will ensue; exchange will stop. Entrepreneurship and innovation will come to a halt. If a farmer is not sure that the state will protect his ownership over his farm produce, he will stop planting seeds. If an industrialist can't be sure that he will be allowed to own the proceeds from the sale of the cars that he makes, he will stop making cars. In place of cooperation, trust, innovation and productivity, theft, corruption, and pillage will ensue. That is a pretty much what happens in Third World countries like India.

Fortunately, for thousands of years, people have (by and large) acknowledged each other's property through an implicit Nash equilibrium in which everyone reciprocally accepts others' rights to keep what they have justly earned. The overwhelming majority of people want their property rights to be enforced; if these are not enforced, they are willing to use their gun. Agricultural societies are privy to much homicide from land disputes amongst close relatives. As Armen Alchian noted, "private property rights are rights not merely because the state formally makes them so but because individuals want such rights to be enforced, at least for a vast, overwhelming majority of people."[23]

* * *

[22] Jean-Jacques Rousseau, *The Social Contract and Discourses by Jean-Jacques Rousseau,* translated with an Introduction by G.D. H. Cole (London and Toronto: J.M. Dent and Sons, 1923). [http://oll.libertyfund.org/title/638]

[23] In his *Selected Works*. Liberty Press. 1977. p.129

Clearly, while the state *does* enable property rights, it does not *create* them. The *Magna Carta* linked property rights to the concept of justice, and there it stands today: with formal property records being created by the state in order to defend freedom (justice). With these fundamentals assured in the West, economic development received a major fillip. If these rights are better protected in India (as part of a systematic reform of governance), there will be no limit to its prosperity.

13. The pillar of equal treatment

> Let us all hope that the dark clouds of racial prejudice will soon pass away and the deep fog of misunderstanding will be lifted from our fear drenched communities, and in some not too distant tomorrow the radiant stars of love and brotherhood will shine over our great nation with all their scintillating beauty. – Martin Luther King, Jr.[1]

Equal freedom means, above all, being treated equally by the society. One man can't be the slave of another. Some people can't be treated as superior to others by birth. Most importantly, they can't be any discrimination in recruitment to public office on grounds of 'race' (including caste) or religion. The playing field must be level. Only demonstrated merit must count, not predetermined characteristics. In addition, there are implications for equal opportunity and the social minimum, as outlined in chapter 4.

13.1 Equal individual sovereignty

Our sovereignty is supreme. We exist for no one's sake but ours. And so we insist on equal treatment and dignity. The implications of this can be illustrated by looking at three cases: slavery, the so-called population 'problem' and the scourge of foreign aid.

13.1.1 *Sovereignty over our body: No slavery!*

Going where we want to (at least within a common national territory), doing as we please. These are the most basic freedoms. But even these were not available to everyone until relatively recently. Some don't have these even today. In particular, slavery was actively supported, or at least accepted, by all major societies *and* religions. Aristotle justified slavery, declaring (circa 350 BC) that:

> some men are by nature free, and others slaves, and that for these latter slavery is both expedient and right.'[2] and, 'Where then there is such a difference as that between ... men and animals (as in the case of those whose business is to use their body, and who can do nothing better), the lower sort are by nature slaves, and it is better for them as for all inferiors that they should be under the rule of a master.

The 'great monuments' of most ancient societies – monuments which we travel far to see and admire – were usually built by slaves, being civilians captured in war. Thus, Homer refers to slaves acquired in war in *The Odyssey*. Nearly a third of the residents of the Roman empire were slaves who belonged to originally to the tribes of northern Italy, France and Britain. Of these France (Gaul) was worst affected, providing Julius Caesar with as many as a million slaves.

Trading in slaves became a major occupation from around 900 AD, with Islamic traders being its pioneers, the slaves being sourced from Western Africa. Local tribal kings were given trinkets in return for people who were then sold in the Middle East and Europe. African kings participated actively in this trade (surely a strong counter-argument to those who commend to us the tribal 'state of nature').

The discovery of the New World fuelled an increasing demand for cheap labour, and Europeans soon joined the slave trade. Vice Admiral Sir Francis Drake, a famous explorer, made a fortune in the mid-1500s from the slave trade. The European slave trade became a crescendo between 1700 and 1810. About three million Africans slaves were sold by British merchants alone. Altogether 10 to 28 million slaves, mostly Africans, were shipped to North and South America in the 400 years starting 1450. Packed like sardines on small ships, thousands perished during the long Atlantic voyage.

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[1] Martin Luther King, Jr. in 'Letter from a Birmingham Jail,' 16 April 1963.

[2] In his *Politics*, 350 BC

Later, between 1826 and 1920, to alleviate labour shortages in the colonies, the British introduced the concept of indentured labour – a 'milder' form of slavery. Thousands of Indians were taken as indentured labour to places like the Mauritius and West Indies. Most could not earn enough to save for a return to India after completing their indenture, and remained behind as reminders of this inhuman practice.

But no one protested against slavery, or very rarely. The earliest protest was by Epictetus (55-135 AD), a Greek philosopher who was born as a slave. He wrote, 'What you shun enduring yourself, attempt not to impose on others. You shun slavery – beware of enslaving others! … Vice has nothing in common with virtue, nor Freedom with slavery.'[3] But his was a rarely heard voice. Except for a few slave revolts (mostly unsuccessful, such as the failed battle in 73 BC led by Spartacus) slaves were too weak to defend themselves from oppression.

Even the early classical liberal founders, often racist, justified slavery. Some thought of blacks as a lower species. David Hume believed that Negroes were 'naturally inferior to the Whites'[4].

By the end of the 18th century, however, a murmur of dissent had started to rise. Two different viewpoints, one religious, the other liberal, were behind this change. French liberal philosophers (Chevalier de Jaucourt, Diderot and Voltaire) were among the first to question slavery. 'Unlike earlier years, when only a few solitary, barely audible voices protested in France against black slavery, the middle of the eighteenth century saw a gradual awakening of the French collective consciousness under the prodding of the *philosophes*.'[5]

Religious perspectives were changing, as well. The Quakers of England, a Christian sect (neither Protestant nor Catholic, it seems) came to a view (contrary to the typical Christian position) that slavery violated Christ's message. They therefore petitioned the British Parliament in 1783 against the slave trade. Quaker Thomas Clarkson wrote *An essay on the slavery and commerce of the human species* in 1786. And in May 1787, the Society for Effecting the Abolition of the Slave Trade was formed.

Finally, the parliament got involved. William Wilberforce (a parliamentarian) played a particularly important role at this stage. In 1792, the House of Commons agreed (by 230 votes to 85) to abolish the slave trade, but the House of Lords, consisting of slave-trading aristocrats, did not support this. Some progress was finally made with the 1807 *Abolition of the Slave Trade Act* that empowered the government to impose fines on slave trade. Its unintended consequence, though, was that ship owners, when raided by the Navy tended to throw their slaves overboard to avoid fines, killing many of them in the process. This remedy turned out to be worse than the disease. Slaves in the British Empire were finally set free through the *Slavery Abolition Act of 1833*. To help slave-traders transition to the new system, the British government partially compensated them. (The idea of transitional arrangements in such cases has useful policy implications.)

France took longer to abolish slavery. Its Society of the Friends of Blacks addressed the French National Assembly in 1790, seeking the abolition of slavery. In 1794, the Assembly abolished it but Napoleon brought it back in 1796. It was to be finally abolished only in 1848.

Things were more challenging in the New World where the entire economy depended on slaves. Benjamin Franklin (1705-1790) was among the first in the world (not just in the USA) to write against slavery. But he had no effect on this matter. Most slaves in America were deployed in the southern states. Northern USA, which was industrialising rapidly, did not need slaves to that extent. Some of these states had abolished slavery by 1860 (of course, much after England). Unhappy that the southern states were not following suit, a person by the name of John Brown decided to take the law into his own hands. He collected a few supporters in 1859 and tried to seize the federal armoury in Harpers Ferry (a West Virginian town) with the aim of distributing these arms among the Southern slaves. His effort to seize the armoury failed, but in this process he galvanised the North and sent shivers down the spines of the southerners.

In 1860, Abraham Lincoln was nominated for presidency by the newly formed Republican party. Lincoln was elected President with just 40 per cent of the popular vote (the rest of it being split among four other candidates). Lincoln didn't believe in equality among the 'races' but he didn't like slavery at all.[6] But nowhere

[3] Epictetus, *The Golden Sayings of Epictetus*, translated by Hastings Crossley, XLI. [http://www.gutenberg.org/files/871/871-h/871-h.htm]

[4] Hume, David, *The Philosophical Works of David Hume.* Available online – Google Books.

[5] Hunting, Claudine, 'The Philosophes and Black Slavery: 1748-1765', *Journal of the History of Ideas*, Vol. 39, No. 3, (Jul. - Sep., 1978), p. 407.

[6] In 1858, during a debate with Stephen Douglas, he said that (the alleged) differences between the races 'will probably forever forbid their living together upon a footing of perfect equality.' He added: 'I have no purpose to introduce political and social equality between the white

during his campaign did he claim he would abolish slavery. Abolition of slavery was not compatible, in his view, with the objective of a President – to 'preserve, protect, and defend the constitution of the United States'[7]. He didn't raise this issue the first years of his presidency, either.

But the die had been cast. Not happy with his election, and suspecting the worst, seven (South Carolina, Mississippi, Florida, Alabama, Georgia, Louisiana, and Texas) of the 15 American states (the ones that supported slavery) pre-emptively seceded. And so on April 12, 1861 a civil war broke out. Lincoln ultimately did issue the Emancipation Proclamation of 1863 using his War Powers. This proclamation gave slaves in the USA, including those in the seceding states (the Confederate territory) their freedom. His 'Union' army physically emancipated most American slaves as it advanced. It was only in 1865 that (in his second term as President) Lincoln finally made a powerful statement against slavery: 'Whenever (I) hear any one arguing for slavery I feel a strong impulse to see it tried on him personally.'[8] Later, in 1865, after the end of the Civil War (Lincoln had been assassinated in the meantime), the USA enacted its Thirteenth Constitutional Amendment which formally abolished slavery.

Brazil was the last major bastion of slavery in the West. It too finally abolished slavery in 1888. Regrettably, however, slavery continues in some pockets of the world even today such as in Africa.[9] Also, in India, bonded labour is perhaps still found in some remote villages. In 1982 Supreme Court Justice PN Bhagwati wrote about this reprehensible system, thus: 'This system, under which one person can be bonded to provide labour for another for years and years until an alleged debt is supposed to be wiped out, which never seems to happen during the lifetime of the bonded labourer'. India did abolish bonded labour in 1976 (through the *Bonded Labour System (Abolition) Act*) but it is difficult to confirm whether all traces of bonded labour have since been removed.

Personal servants

This is an appropriate place to consider the use of personal servants. No doubt those who choose this occupation do so voluntarily, and so it is not a direct attack on their liberty. But it is surely deeply humiliating, and in some ways dehumanising. Not all full-time servants are treated with dignity in India (I wish myself, in retrospect, that I too had treated some of my servants with more respect than I sometimes showed them). Pyarelal, the personal secretary of Mahatma Gandhi in his later years, reporting on a day of silence by Gandhi in his book, *Mahatma Gandhi: The Last Phase,* described Gandhi's views on this subject thus:

> [On one of Gandhi's silent Mondays, a group of fifteen 'Socialist' students visited him. Gandhi jotted down replies to their questions on slips of paper, his practice on days of silence.]
>
> Now tell me how many of you have servants in your homes? [They said a servant in each home.] And you call yourself Socialists while you make others slave for you? It is a queer kind of Socialism which, I must say, I cannot understand.... The first step in the practice of Socialism is to learn to use your hands and feet. It is the only sure way to eradicate violence and exploitation from society.[10]

It is the lack of job opportunities in socialist India that compels some people to become personal servants. Most Indian socialist leaders, being the most corrupt of all, have the largest number of personal servants (so much for the claims of equality in socialism). One cannot expect the prevalence of servants in India to dissipate until socialism and its associated corrupt governance system disappears. With increasing freedom, the poor will find more worthy occupations. As well, the middle class will no longer be able to afford servants.

In the meantime, some new laws are perhaps needed to regulate the employment of personal servants so that people don't deprive servants of their basic freedoms and dignity. In particular, people with full-time personal servants must be required to provide for the educational and career development of servants' children. Similarly, no servant should be made to work for 24 hours a day throughout the year. Now, it would be wront to introduce labour market rigidities, for that will harm the poor the most. However, while greater freedom is needed in the labour market – such as the ability to create individual contracts which are self-regulated – certain minimum standards can be mandated. There is no liberty to mistreat our fellow humans.

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and black races.' – cited in Timur Kuran (1995). *Private Truths, Public Lies: The Social Consequences of Preference Falsification*. Cambridege, Mass. Harvard University Press, p. 314.

[7] Lincoln, in a letter to Albert G. Hodges on April 4, 1864.

[8] Abraham Lincoln, in a speech to the 140th Indiana Regiment, 17 March, 1865.

[9] E.g., see reports on this subject by Anti-Slavery International and the Office of the United Nations High Commissioner for Human Rights.

[10] Cited in Louis Fischer *The Essential Gandhi.* Edited by Louis Fisher. Vintage Books. New York. 1962. p. 305.

13.1.2 *I'm not your 'population problem'!*

Some people suggest that there is a population 'problem'. They say, for instance, that there 'too many' people in India. The mean there are too many poor people in India. No one is saying that there are too many rich or 'beautiful' people. Perhaps the lowest point of this diatribe against the poor was Paul Ehrlich's 1968 *The Population Bomb*. But even recently, in 2011, *The Age* entitled an article: 'Yearning for a baby: why developing countries say they need IVF too'[11]. This implies that mothers from developing countries are different to those from 'developed countries, and that developing countries are 'over'-populated. A racist, anti-life sentiment. Why don't we first ban 'developed country' women from using IVF – so they can lead the way? Indeed, why not all developed country people commit suicide first?

Evidently, it doesn't occur to such paternalistic fools that they are referring to their fellow human beings. It is intolerable for anyone to suggest that the mere presence of others on this vast Earth is a 'problem'. As I have said above, let such people commit suicide. One less racist, anti-life fool. And why is India's population a 'problem' and not America's or Europe's?

Let's ensure first that all the rich Americans like Bill Gates and Barack Obama – and all film stars and famous people – are sterilised and then we can discuss this issue further.

Such racist views ignore the huge increase of European populations in the 18th and 19th centuries. In the historical context, India is now barely beginning to recover its original 'share' of world population after the disproportionate expansion of Europeans during their colonial period (Table yy). I'm not suggesting that 'historical proportions' of population have intrinsic meaning, but we must rap the knuckles of those who cry wolf about the so-called 'large' number of poor people on earth.

And why did the number of Europeans increase so rapidly in the 18th and 19th centuries? Because of the great boost to commerce, industry and science that arose from advances in liberty and led to startling improvements in health and general prosperity (improvements that Karl Marx the blind 'economist' missed). The most significant advance came from simple improvements in sanitation and public health which cut down infant mortality by more than half. Given that it takes time for people to realise that more children will survive than they initially expected, European birth rates rapidly begin to exceed death rates, leading to a massive growth in population. Like in developing countries later, it took decades for European fertility to re-adjust and return to replacement levels. The 'surplus' population so generated migrated across the world and – supported by European technical advances – fuelled colonialism and imperialism.

As a result of this massive *European* 'population bomb' the share of *undivided* India in the world's population plummeted from 21.5 per cent in 1750, to 17.3 per cent in 1900. This share has barely recovered since then, and will return to around 22 per cent of world population by about 2020, tapering off in due course as birth rates fall with greater freedom.

In that sense India and other developing nations are seeing a delayed return to their 'orignal' share of world population, consistent with global advances of freedom and science. It is clearly a good thing that the world now has a higher (and more innovative) population. The Earth can sustain a very large, prosperous human population. Gandhi was entirely wrong (being ignorant both of science and economics) when he is reported to have said: 'The earth provides enough to satisfy every man's needs, but not every man's greed'[12]. I don't know about greed, but there is enough on Earth for all of mankind, for a very, very long time. There is no shortage of resources, since natural resources hardly matter; it is human ingenuity that is relevant.

Table yy: Population of undivided India as a ratio of world population

	World	*India**	*Indian proportion of world population*
1750	791	170	21.49
1800	978	186	19.02
1850	1262	222	17.59

[11] http://bit.ly/rgkPFv. *The Age*, 14 August 2011.

[12] Cited in Pyarelal, Mahatma Gandhi, Volume X: *The Last Phase*, Part II (Ahmedabad: Navajivan, 1958), page 552.

1900	1650	285	17.27
1950	2517	439	17.44
1990	5295	1078	20.36
2025	8473	1882	22.21

Note: Figures are in millions. *Includes Pakistan, Bangladesh, and India.

Sources: Various, based on research I conducted in 1998 (the 2025 projections were of from reports published in the late 1990s, and may now be over-estimates) [*Update using Angus Madison's last book*].

No relationship between population size and prosperity

Most concerns about so-called 'excessive' population are based on ignorance about the way humans choose to reproduce, and about the meaning of 'natural' resources. Even some educated Indians have bought into the hysteria created by some people in the West about India's allegedly 'large' population. India's National Population Policy (2000) thus states: 'Stabilising population is an essential requirement for promoting sustainable development with more equitable distribution.'[13] But the historical context and moral underpinnings make this an obnoxious policy. But it must also be challenged for erroneously making a link between income (or quality of life, more generally) and population size.

Two mechanisms are supposedly responsible for this alleged 'relationship. First, a Malthusian route is suggested whereby land and natural resources experience a diminishing marginal capacity to sustain increased population. In relation to this, the point to note is that natural resources only constrain us so long as we haven't yet thought of new ways to change the situation. But more generally, human abilities far exceed the constraints that nature may impose.

Resource 'scarcity' usually vanishes within a fairly short time once markets are allowed to operate freely. This is because of the incentives created by price signals. When it become temporarily scarce, the relevant resource's price will rise. Alternatives then become economically viable, and, as increasing economies of scale set in, the market demand increases for the alternative 'resource', with the new 'resource' ending up cheaper than the resource it displaced. More venture capital is invested by businesses in areas where resource constraints are being felt, for that's where the quick profits will first emerge. Recycling, and inventing more efficient ways to use existing resources, is also more likely with free markets. Where *extremely large* research costs are involved, and the outcome *extremely* uncertain, it might be appropriate for a government to subsidise research (the case of fusion energy is perhaps the only one that comes to mind).[14] Box 99 discusses the example of energy.

India's 'problem' is not the size of its population, or its 'limited' resources, but that its socialist (centrally controlled) policies and governance make it nearly impossible for businesses to invest profitably in new research, or to introduce substitutes.

Box 99

Energy: There is no resource shortage

Modern life as we know it will grind to a halt if we can't generate sufficient electricity. Literally infinite quantities of energy are embodied within matter ($e = mc^2$). 'The complete conversion of [just] one gram of mass into energy …releases … the equivalent of the explosion of roughly a thousand tons of TNT.'[15] Should we succeed in extracting all its energy, just one gram of hydrogen could light a typical house for 1000 years. But we don't know how to do this – yet.

Two processes: fission and fusion, are able to extract modest quantities of energy. During the period since 1942 (when the world's first nuclear reactor went critical), the safety of nuclear reactors has

[13] [http://populationcommission.nic.in/npp_intro.htm]

[14] One has to be very cautious about such things, e.g. see Terence Kealey, *Sex, Science and Profits*, London: William Heinemann, 2008.

[15] Carl Sagan in *Broca's Brain*, New York: Ballantine Books, 1979, p.27.

approximately risen ten-fold.[16] It would be reasonable to suggest that nuclear energy is the safest mode of energy generation today (with safety beig measured by the number of lives lost per megawatt generated from the point of discovery of uranium to plant decommissioning), although the high cost paid by society after each major incident (e.g. Fukushima) does detract from its net benefits.

However, mankind must not fear nature but conquer it. We should not become cowards and run from science. We have taken a lot of losses in our quest for liberty over the centuries. We can take a few more losses in our quest for our domination of nature. It is crucial to learn from our experience and improve nuclear energy, not to give up.

But there is a supply constraint. Heavy atoms like uranium are rare and so mankind needs to shift to fusion energy for which, however, no solutions yet exist. That is why government funding is admissible in this area, and is taking place.

Other forms of energy can be readily developed by private businesses if clear market signals are allowed. These include the use of the kinetic energy that swirls about in the atmosphere (wind) and in the sea, and the heat emitted by the sun. The reason we don't extract such energy today is because cheaper alternatives (coal, oil, gas, hydro-power) exist. But once these become scarcer their prices will rise and alternatives will become viable, and ultimately cheaper. However, there is no cause to subsidise these forms of energy, for it is not optimal to outsmart the market.

One thing I can safely predict – that in the coming decades, the relative share of energy costs in our household budgets will continue to shrink despite our consuming far more energy than we do today. That is, unless we interfere with the market, and try to subsidise uneconomic energy sources.

There are ultimately no theoretical limitations to energy production, only practical limitations, most of which will be definitely overcome. In this regard, I commend Julian Simon's book, *The Ultimate Resource*[17], which provides a detailed description of how the resource and energy market works.

The second 'proof' that population is allegedly a problem is that social investment apparently dissipates when spread over a larger than smaller population. Thus, if a society wants to educate a large number of people, they will apparently end up being educated badly since a fixed sum of money needs to be spread across all of them. This is incorrect, for the more the people, the more the taxpayers (except at the beginning of the demographic transition). Assuming constant marginal tax rates, proportionately more revenue is generated. This yields the *same* per capita availability of funds for education, as with a lower population. In any event, education is an investment with perhaps the highest rate of return. Funds can be readily borrowed during the demographic transition to educate children who will easily be able to repay this loan in the future because of the wealth generated from education.

Economic growth is ultimately related to the level of freedom in a society. It is totally unrelated to its absolute population size. Instead, there are many benefits of a large population, particularly on the increased level of innovation through network effects (assuming a high-quality education system).

In brief, population size is a *non-issue*. There might be some environmental impacts, but these are minimal in the free society which has developed sufficient resources, scientific knowledge, and technologies to preserve the environment. The setback to the environment in the early stages of industrial development is easily alleviated as greater prosperity emerges. So ultimately, we only need one thing: *equal freedom*. Governments don't have to get involved in preventing people from being born nor in subsidising new births. Planning for their family should be left to the citizens. After all, determining the size of their family (so long as they remain responsible for its care) is their basic freedom.

13.1.3 *No foreign aid, please! Teach us if you can*

No civilized free society can (or should try to) become self-sufficient. Division of labour is absolutely critical. Open commerce allows different societies to make things in producing which they have a comparative

[16] James A. Lake, former president of the American Nuclear Society in 2000-2001, at [http://usinfo.state.gov/journals/ites/0706/ijee/lake.htm].

[17] Book 2 is freely available at [http://www.juliansimon.com/writings/Ultimate_Resource/].

advantage. The free society focuses on becoming rich, after which it can import whatever it needs. It does not block imports or exports of legal goods on *any* pretext.

And so, while self-sufficiency is anathema, the liberal insists on self-reliance. Always willing to learn new things from others, he firmly refuses handouts or charity unless he has fallen into dire straits. He prefers to stand on his own feet even if that means earning barely enough for one complete meal each day. This insistence on self-respect and self-reliance seems to be completely missing from the thoughts of utopians, socialists, and paternalistic philosophers on the one hand, and self-interested bureaucrats in international organizations, on the other. Both of these groups keep advocating an increase in foreign aid to (allegedly) reduce world poverty. Thus, philosopher Peter Singer recommended, in 2007, that $808 billion be spent each year by developed countries on foreign aid.

The liberal opposes foreign aid: except in life-threatening situations. No one has a right to help us without our *prior* consent. Self-respecting people demand to be left alone to determine their own destiny, even if that leads to self-inflicted poverty and disease. Foreign aid humiliates the recipient while exalting the donor. It is a form of 'soft' racism, being based on sentiments like the 'white man's burden'.

It is one thing to trade with a nation as an equal – something to be commended; but quite another thing to humiliate that nation through foreign aid. That such generosity is suspect is also obvious from restrictions imposed on free trade, including massive agricultural subsidies for already rich farmers. These restrictions deny poor nations the opportunity to sell their products and lift themselves out of poverty through their own effort.

We know that poverty can be readily eliminated if poor nations bootstrap through policies of freedom. Capitalism can readily transform the poor into productive, prosperous humans. Poor countries are poor not because they receive less foreign aid then they need, but because they *refuse* to use Adam Smith's simple suggestions, preferring the delusions of the quack, Karl Marx, instead. Most allegedly 'poor' countries (like India) have always had enough more than resources to *eliminate* poverty almost instantly if they really want to – through a negative income tax regime[18]. But their leaders are corrupt *and* ignorant about good policy. Foreign aid can never help countries that select or elect incompetent fools as their leaders.

Foreign aid, in many cases, becomes poison. It can lead to many unethical and harmful outcomes. Throwing money into socialist dens of corruption merely goes into the pockets of politicians and bureaucrats. Foreign aid given to countries like India finds its way into Swiss bank accounts. Even where aid is directly supervised (as was the case with Afghanistan and Iraq recently) corrupt practices invariably emerge because no one is accountable for the proper use of such aid. Indeed, it is a moot question: What is the proper use of foreign aid? Without addressing this question much of the sound and fury about foreign aid is irrelevant. Only direct prevention of starvation, and teaching, constitute proper forms of aid.

Peter Bauer examined the theory of foreign aid, and evidence of its impacts and found that aid usually makes poor countries even poorer since it does not focus on teaching but direct delivery of projects that are susceptible to severe corruption. It is crucial to remember that foreign aid is fungible. Local politicians who might have otherwise felt compelled to spend at least something on food for starving people, are now enabled to buy guns with this money, thus often strengthening their corrupt, dictatorial regime. Foreign aid is thus pure evil.

The main point to note, though, is that charity can give someone a fish for a day, but won't teach the person how to fish. Donors should become partners, teaching poor countries the policies of freedom. This will also foster longer-term security in the West which currently spends trillions of dollars on defence against terrorists or pirates who often breed in developing nations.

It is important, however, that before the West can teach the policies of freedom to the poor, it *must* throw its markets open. Else its claims to teach will be hypocritical and will fall on deaf ears. And it must employ respectful ways of teaching. The classics of liberty, such as books by Adam Smith and John Locke, can be made available cheaply in developing nations. It will be inappropriate to directly teach such things, though. Citizens of the poorer nations should be encouraged and supported to teach themselves. Giving scholarships to good students from poor nations to study in the West is good, although such scholarships should be provided subject to the students returning to their countries (for at least a few years) after completing their education.

Finally, these partnerships can be made deeper and more enduring at the government level. Senior bureaucrats from developing countries should be brought in for long term secondment to local, state and federal

[18] See my article in the August 2009 issue of *Freedom First, which is* available at http://tinyurl.com/y6bfrnc.

governments in the West. This direct experience is important since much information about governance can't be imparted through books. These have to be two way secondments, with people from the West being seconded to work in in the Third World as well. These secondments will be very productive for both governments involved. These secondments can, in due course, lead to policy partnerships in which participating countries (potentially more than two) work as a team on agreed policy areas, such as on mechanism to improve public private partnerships, and regulatory reform.

In sum, it is not a good idea for international bodies (or misguided philosophers) to set aspirational foreign aid 'targets'. There are better ways to achieve excellent outcomes for the poor.

In some cases it may become necessary for poor nations to be compensated for negative externalities created by rich nations (such as greenhouse gas emissions – although these do not appear to be a pollutant[19]). Such compensation, where necessary, should be organised by channelling funds directly to relevant private businesses in the poor nations. For instance, a market mechanism with quality control can be established to procure appropriate carbon sequestration certificates. (This is a bad example since this is CO_2 is not a pollutant, but I'm talking about the general principle here.) The underlying principle must be of equal freedom and equal respect.

13.2 The end of racism

Racism violates equal freedom because it treats people unequally, discounting merit. From the economic perspective, it reduces the society's opportunities by not making full use of the talent of those being discriminated against.

The practice of racism is based on ignorance, in particular, ignorance about biology and statistics. Many otherwise good thinkers in the past fell prey to racism because knowledge had not advanced sufficiently then. With our current state of knowledge, racism simply has no legs to stand on. But even if people were found to differ in their genetic heritage, that would not justify stereotyping (or, worse, depriving anyone of liberty) on the basis of skin colour. As Hayek eloquently wrote:

> To rest the case for equal treatment of national or racial minorities on the assumption that they do not differ from other men is implicitly to admit that factual inequality would justify unequal treatment, and the proof that some differences do, in fact, exist would not be long in forthcoming. It is of the essence of the demand for equality before the law that people should be treated alike in spite of the fact that they are different.[20]

Unfortunately, as Charles Hirschman notes, '[e]ven in modern societies, which have exposed the myth of racism, race remains a widely used term for socially defined groups in popular discourse – and, in some countries, also in scholarly research, and public policy.'[21] It is and urgent task before our generation to banish the ignorance that leads to the moral blackhole of racism.

To understand the concept of 'racism' better, it is useful to recapitulate its history. Racism is a relatively modern phenomenon and concept. As Hirschman notes, 'race and racism are not ancient or tribal beliefs but have developed apace with modernity over the last 400 years and reached their apogee in the late nineteenth and the first half of the twentieth century.'[22] Indeed, Robert Draper believes that "[t]he ancient world was devoid of racism'[23], not only were darker-skinned people like the Indians far more advanced than ancient Nordics or Caucasians, the extremely dark-skinned Nubian civilization was relatively advanced. (The Nubian civilisation preceded, or was coterminous, with the Egyptian civilisation. The modern world doesn't know much about it yet because archaeologists have only recently started discovering its glories.[24])

That different people had had different skin colour was (very sensibly) attributed by the people to climatic variation. No implication was drawn about differences in ability merely on the grounds of skin colour. Instead,

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[19] I have studied this issue extensively on my blog.

[20] In his 1960 *The Constitution of Liberty*

[21] Hirschman, Charles, 'The Origins and Demise of the Concept of Race', in *Population and Development Review*, Vol. 30, No. 3, (Sep., 2004), p.385.

[22] *Ibid.* pp.385-86.

[23] Draper, Robert, 'Black Pharaohs', *National Geographic*, February 2008, p.41.

[24] See 'Black Pharaohs', *National Geographic*, February 2008.

the Greeks (who are more tanned than 'white') were prejudiced *against* the northern whites who were thought to be 'barbarians', fit only to be used as slaves. The Greek historian Herodutus wrote: 'Barbarians can neither think nor act rationally [and] … are incapable of living according to written laws'.[25] The Greeks and Romans benchmarked and competed with the darker cultures of the Middle East and Egypt, not with the primitive North Europeans. Julius Caeser said of the British tribals derogatively that they painted their bodies blue with woad[26]. Nevertheless, manumitted (released) slaves were allowed to mix with the rest of the community. Enslavement of white 'barbarians' in the Roman empire did not lead to racism as it came to be in the recent centuries. James Dee points out that 'the most remarkable aspect of all [in Greek and Latin literature] … is the absence of the kind of obsessive and corrosive concern with 'whiteness' and 'blackness' that so disfigures our modern world.'[27]

Further, the Jews were tanned by the sun as well, not 'white'. Jesus Christ, one of them, was tanned. None attributed weaker ability to Jews merely because of skin colour. Early Christianity readily elevated three North Africans to the rank of the Bishop of Rome (Pope): Victor (183-203), Gelasius (492-496), and Mechiades or Militiades (311-314). With dark skinned religious leaders, racism could not have been even remotely imagined.

The earliest signs of racism in the world seem to have appeared in India where the caste (*varna*) system, based originally on individual merit, degenerated into a hereditary system based to a large extent on skin colour. When darker skinned Indian aborigines were absorbed into Hinduism, they were usually allocated a lower caste. Later, after *Manusmriti* prohibited inter-caste marriage, India became a firmly racist society. Today, skin colour and caste are strongly correlated in India, and because a lighter skin (generally) indicates a higher caste, with marriage to a person of higher caste being preferred, lighter skin shades are blatantly advertised as a special feature in the marriage market (information on 'complexion' is specifically provided in all ads). The blatant racism found in marriage advertisements in India is not found anywhere else in the world.

Consciousness about caste seems to have spread beyond the Hindus even into the Christians and Muslims of India. Not many Indians will marry (or allow their children to marry) pitch-black Africans from Somalia. In that sense, possibly 99 per cent of Indians are racist. India recently imported 1000 British 'actresses' for petty roles in Hindi movies – but none from dark Africa. Why? The fact that Indians place a disproportionate value on 'white' skin colour at least partly explains why Sonia Gandhi is readily acceptable. Had she been from black Somalia, her inclusion into India's culture would have been much harder.

The Indian government denies that caste practices are racist[28], but I find that hard to believe. On the other hand, the idea found among some members of the so-called 'white races' that they are somehow superior to others did not arise until recently. 'The first examples of "white race/people" in the Oxford English Dictionary are no earlier than the 1600s, when Europeans were deeply involved in African slave-trading; the same seems to be true of the corresponding terms in the major European languages.'[29] The origin of this idea coincided, unsurprisingly, with European slave trade that beban in the mid-1500s. The increasing technological prowess of Europe provided further impetus.

Most black African and Egyptian civilisations had either disappeared or lost prominence in the first millennium. India went into relative decline from around 1750. Primitive tribes that arose in some of these place (like Africa) were unconcerned about the welfare of their own people, and readily handed over their own people as slaves in return for baubles. Slave owners and traders presumably assumed therefore that blacks form a morally loathsome sub-species.

Whatever the cause, human history was now re-written. Greeks were first assimilated in the 'white' race (after the rehabilitation of ancient Greece). Christ, the Jew, lost his Middle Eastern tan and became a blonde Nordic. By 1782, no less an advocate of liberty than Thomas Jefferson wondered whether blacks were a different *species*:

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[25] Cited in William C. Bradford, 'Barbarians at The Gates: A Post-September 11th Proposal to Rationalize the Laws of War' (September 6, 2003). bepress Legal Series. Working Paper 54, p.109. [http://law.bepress.com/expresso/eps/54]

[26] Dee, James H., 'Black Odysseus, White Caesar: When Did 'White People' Become 'White'?' *The Classical Journal*, Vol. 99, No. 2, (Dec., 2003 - Jan., 2004), p. 164.

[27] Dee, James H., 'Black Odysseus, White Caesar: When Did 'White People' Become 'White'?' *The Classical Journal*, Vol. 99, No. 2, (Dec., 2003 - Jan., 2004), p. 162.

[28] Shobhan Saxena. 'Caste: Racism in all but name?', *Times of India*, April 26, 2009, http://bit.ly/p7K9bc.

[29] Dee, James H., 'Black Odysseus, White Caesar: When Did 'White People' Become 'White'?' *The Classical Journal*, Vol. 99, No. 2, (Dec., 2003 - Jan., 2004), p. 164.

> [T]hough for a century and a half we have had under our eyes the races of black and of red men, they have never yet been viewed by us as subjects of natural history. [I] advance it therefore as a suspicion only, that the blacks, whether originally a distinct race, or made distinct by time and circumstances, are inferior to the whites in the endowments both of body and mind. It is not against experience to suppose, that different species of the same genus, or varieties of the same species, may possess different qualifications. Will not a lover of natural history then, one who views the gradations in all the races of animals with the eye of philosophy, excuse an effort to keep those in the department of man as distinct as nature has formed them? This unfortunate difference of colour, and perhaps of faculty, is a powerful obstacle to the emancipation of these people. Many of their advocates, while they wish to vindicate the liberty of human nature, are anxious also to preserve its dignity and beauty. Some of these, embarrassed by the question `What further is to be done with them?' join themselves in opposition with those who are actuated by sordid avarice only. Among the Romans emancipation required but one effort. The slave, when made free, might mix with, without staining the blood of his master. But with us a second is necessary, unknown to history. When freed, he is to be removed beyond the reach of mixture.[30]

It goes to Jefferson's credit that despite his (false) apprehensions about blacks, he was clear that even if his apprehensions turned out to be true, only the best behaviour could be justified. For instance, in response to a letter to Henri Grégoire on February 25, 1809, he wrote:

> Be assured that no person living wishes more sincerely than I do, to see a complete refutation of the doubts I myself have entertained and expressed on the grade of understanding allotted to them by nature, and to find that they are on a par with ourselves … but whatever be their degree of talent it is no measure of their rights. Because Sir Isaac Newton was superior to others in understanding, he was not therefore lord of the property or person of others.[31]

Had Jefferson been alive today, it is evident that he would have opposed even the slightest form of racism.

India's experience with European racism was, however, mixed. It didn't perhaps help that when the British reached India in 1600 they found the practice of *sati* and child marriage in the midst of opulent Mughal grandeur (and decadence). Later, it perhaps didn't help that Katherine Mayo's 1927 *Mother India* – thousands of copies of which sold in the West and are found in all second-hand shops in the West even today – claiming that the morality of the Indian was allegedly as different to that of the British 'like the colour of the skin'[32]. Despite such public inspections (Mayo's book is still wrapped in controversies of all types) of India's underbelly, the kind of racism experienced by the 'Negroes' in America was never seen in India.

Why? First, the British had personally experienced an inferior social and economic status in India for well over a century. When the British East India company was established in 1600. Captain William Hawkins was sent to beseech the Mughals for a port from which to trade – which he secured in 1608, and founded Surat. For the next 157 years their social status remained considerably below Indian nobles and gentry. They were also generally considered unclean, also because they ate beef. They were outside the pale of Indian society. By the 1740s, however, military expertise of the British was being sought by rival Indian kingdoms. As British status was elevated to approximately the Kshatriyas, this might have meant they began to see themselves as superior in some way.

The British saw significant amount of Indian talent, such as Raja Rammohun Roy, from the very early years. And as Macaulay noted, Indians displayed significant talent in learning the English language. As European students of India's literature became involved, the beauty of India's ancient philosophy mesmerised many of them. So while there might have been some increasing status of the British, it was not possible discriminate vigorously against such a smart people.

Further, by the time England finally achieved a major political foothold in India in 1858, slavery had been long abolished in England and overt racism was considered in poor taste. Indians who went to UK to study (such as Nehru, Gandhi or Jinnah) did not experience overt racism in the form that Gandhi later experienced in South Africa. Hence the mixed journey of racism in India.

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[30] Jefferson, Thomas. *Notes on the State of Virginia.* Published originally in 1781-1782. Internet edition at the University of Virginia: [http://etext.virginia.edu/toc/modeng/public/JefVirg.html]

[31] See the scan of the letter Jefferson wrote, at [http://www.loc.gov/exhibits/jefferson/images/vc80.jpg]

[32] Mayo, Katherine, *Mother India*, London: Johathan Cape, 1932, p.225.

To what extent is racism found in the West today? We note that 'interracial' marriages were forbidden in many parts of the USA till as late as 1967. Similarly, Australia had a White Australia Policy until 1973. Today no Western nation practices overt (official) racism. Nevertheless, a great amount of soft or latent racism continues. Thus, the *Economist* of 15 November 2008 reported that 'American firms are one-and-a-half times as likely to interview a person they think is white than one they think is black even if both have identical qualifications.'[33] That they harm their own self-interest through such discrimination seems to escape them. (A business that discriminates on irrelevant characteristics will lose to those that don't.)

The prevalence of racism can also be deduced from proxies. An exit poll by Associated Press on 22 April 2008 indicated that '16 per cent of white Democratic voters considered race an important factor and 43 per cent of these said they would either vote Republican or not vote at all if Obama were to be the Democratic nominee.'[34] In other words, potentially 7% of Democratic party voters are likely to implement their racist views. If we assume that a similar proportion applies to Republican voters and thus to the USA as a whole, then around 7% of the American population (white or black) actively discriminates on the basis of skin colour. Interestingly, the British National Party secured 'about 6 percent of the British vote in European elections' in June 2009,[35] broadly confirming this proportion. Of these 5-8%, the more intellectually challenged ones actively pursue 'white' supremacy arguments on the internet.[36] Fortunately, civilisation is often cyclical, as hubris inevitably enters the leading civilization, marking its reversal and inability to compete against fresh, vigorous challenge. Since good ideas are no one's monopoly, 'black' civilisations will inevitably recover their (relative) glory once they adopt the path of freedom. In many ways the change is already underway. Such economic prowess in the East will blow apart, entirely, the myth of racism. Even the most ignorant will finally begin to understand.

On the whole, the vast majority of Westerners are not blatantly racist today. A good number of 'whites' and 'blacks' inter-marry. Barack Obama is himself the product of one such marriage. Labour now moves across more freely the world, and dark-skinned people are beginning to hold senior positions, further reducing the prevalence of racist beliefs. Similarly, Indians now head (or headed till recently) companies like McKinsey, Citibank, and ArcelorMittal, apart from a plethora of IT companies. The world of the future thus has competitiveness and merit written over it. The best will win, irrespective of their skin colour. For that goal to be realised, though, all countries will need to adopt the imperatives of freedom.

It seems to me that caste-based racism will be the hardest to eradicate. While outward manifestations of racism have started receding somewhat, it will take much longer for 'lower castes' of India to develop the self-confidence shattered over thousands of years, blow by blow. The government should get out of the way (I've discussed the reservations issue at length in *BFN*). Instead, there is an urgent need for reform in Hinduism. 'High castes' Hindus can start by inviting 'Harijans' to their homes for dinner, and encouraging 'inter-caste' marriage. Mainly, though, there are three options (I'm not considering practicability issues here):

a) mutual exchange of caste in which Brahmins and the higher castes could convert themselves into Harijans for at least two generations, and Harijans into Brahmins. This would not change their economic status, just a change in caste;

b) all Hindus can henceforth be called Brahmins; or

c) all Hindus can be declared to be Harijans. And if Brahmins don't like the first and third idea, we should ask: Why not? If Brahmins object to their loss of 'caste', I am comfortable with recommending that the oppressed castes should leave Hinduism. A racist religion is not worth swearing loyalty to.

Soft racism in the West against India will, however, end only when India gets its act together and becomes an economic powerhouse (that day will come faster suggestions in *BFN* are followed). Only when the 'white' Western world fully realises that its finds its assumptions about Indians were false, then (and only then) will soft racism die.

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[33] The paper in question is: Levine, Ross, Levkov, Alexey and Rubinstein, Yona, 'Racial Discrimination and Competition', *NBER Working Paper* No. W14273, August 2008. [http://ssrn.com/abstract=1248934]

[34] Article by Anatole Kaletsky entitled, 'US may not be ready for a black president' in *The Australian*, 25 April 2008. On the web at [http://www.theaustralian.news.com.au/story/0,25197,23593328-26397,00.html]

[35] [http://news.yahoo.com/s/ap/20091020/ap_on_re_eu/eu_britain_far_right]

[36] E.g. [http://www.white-history.com/], [http://www.geocities.com/white_truth/]

13.3 Equal freedom for women

The West is prosperous today at least in part because its women are free, and are able to work in almost any occupation. The same laws generally apply to everyone – regardless of gender. And both men and women often share housekeeping and child-rearing duties. India can't achieve its potential if half its population remains ill-educated or if it is prevented from the free exercise of its talents.

Such equal freedom for women has, however, been only a relatively recent phenomenon even in the West. In the not too distant past, a few upper class girls could expect to get educated: 'up to 90 per cent of early modern women [in the West] were illiterate. Women were officially denied entrance to universities until the nineteenth century.'[37] But in '1792 Mary Wollstonecraft … denounced the subjection of women in her "Vindication of the Rights of Women"'[38]. 'In 1843 Mrs. Henry Reid published "A Treaty for Women" and many suffrage pamphlets followed.'[39]

It was not till the later half of the nineteenth century, though, that serious attempts were made to educate women. Franes Buss and Dorothea Beale in England, and *Sacré-Cœur,* an order of nuns in France, established secondary schools for girls in around 1850. Alumni of these early schools fuelled a further demand for freedom. J.S. Mill supported women's education in his 1869 essay, *The Subjection of Women*, wherein he argued that 'if freedom is a good for men, it is for women'.[40] He asked:

> was there ever any domination which did not appear natural to those who possessed it? … The subjection of women to men being a universal custom, any departure from it quite naturally appears unnatural… Nothing so much astonishes the people of distant parts of the world, when they first learn anything about England, as to be told that it is under a queen; the thing seems to them so unnatural as to be almost incredible. To Englishmen this does not seem in the least degree unnatural, because they are used to it; but they do feel it unnatural that women should be soldiers or Members of Parliament.

It is obvious (he noted) that many women were no longer satisfied with the existing order. They wanted to vote. And so, 'In 1867 seventy-three members of Parliament voted in favour of an amendment to the Reform Bill, moved by John Stuart Mill, which would have given unmarried women householders the vote on the same condition as men.'[41] While this Bill failed to pass, the demand for women's equality had now become part of the mainstream reform agenda. The doors of higher education therefore finally did open to women. Thus, by 1871, women's colleges came up in the universities of Oxford, Cambridge and London.[42] And in 1918, English women did finally got the right to vote.

Then there were other forms of oppression of women that needed to be fixed. Under the law, all women were treated as the personal property of men. The law 'conveyed all a woman's personal property to her husband by the wedding ceremony, and deprived her of all authority over her children and of any contractual capacity during his life.'[43] Changes in this oppressive system took place, but slowly. Initially, the *Infants and Child Custody Act, 1839* gave women some custodial rights. The 1857 *Matrimonial Causes Act* allowed women to sue for divorce but husbands retained most property acquired by women during the course of the marriage. Custodial rights were later extended in 1873 and 1886, and through the *Guardianship of Infants Act, 1925*. Only in 1882 did the *Married Women's Property Act* gave women ownership rights in property.

Despite many reforms, the struggle for equal freedom for women has still some way to go. In most societies (including in the West) women are still restricted, to an extent, in their choice of a profession. On the other

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[37] Whitehead, Barbara J. (ed.), *Women's Education in Early Modern Europe: A History, 1500-1800*, New York: Garland Publishing, 1999. Limited preview on Google books.

[38] Stone, Olive M., 'The Status of Women in Great Britain', *The American Journal of Comparative Law*, Vol. 20, No. 4 (Autumn, 1972), pp. 592-621.

[39] Stone, Olive M., 'The Status of Women in Great Britain', *The American Journal of Comparative Law*, Vol. 20, No. 4 (Autumn, 1972), pp. 592-621.

[40] Mill, J.S., *The Subjection of Women,* in 1869.

[41] Stone, Olive M., 'The Status of Women in Great Britain', *The American Journal of Comparative Law*, Vol. 20, No. 4 (Autumn, 1972), pp. 592-621.

[42] Lazarus and Coppel, *The Making of the Modern World*, Melbourne: Macmillan, 1967, p.196.

[43] Stone, Olive M., 'The Status of Women in Great Britain', *The American Journal of Comparative Law*, Vol. 20, No. 4 (Autumn, 1972), pp. 592-621.

hand, in socialist India, most women are illiterate or ill-educated, and their capabilities are only fractionally used by society. Policies of freedom are urgently needed to unleash the potential of half of India's population.

13.4 Ending stereotypes

Stereotypes are prejudices about entire groups – being convenient shortcuts we take in forming preliminary assessments about others. This includes halo effects that favour particular groups regardless of the merit of specific individuals. Inappropriate discrimination based on 'race', caste, and gender is typically mentioned in this context, but these are not the only characteristics on which people discriminate. The free society demands equal freedom, and that means everyone's contribution – in matters for which taxpayers pay – must be considered on merit. Accordingly, the Victorian *Equal Opportunity Act* prohibits the following discrimination as well, on grounds of: age; physical features such as height; marital status; pregnancy; lawful sexual activity; impairment; parental status or status as a carer; political belief or activity; industrial activity; religious belief or activity; and breastfeeding. All these stereotypes diminish equal opportunity and equal freedom.

However, there is an important proviso. Stereotypes that affect public office (including government jobs) are particularly pernicious. Such decisions must definitely be based on merit. Those who discriminate on the basis of irrelevant characteristics for tax-payer funded jobs must be punished. But it is important that discrimination under the law must only be penalized for matters which taxpayers fund. Private businesses must be entitled to discriminate whichever way they like. It is an employer's fundamental right to appoint a particular person he or she is going to pay for. Since there is no right to be employed in the private sector by any employer, discrimination (including racism) cannot be objected to by the state. Private individuals may discriminate, but they will suffer the consequences (of losing out talented people).

Why do we stereotype others even if will ultimately harm only us? It is primarily the result of ignorance. For instance, I mentioned to an Australian colleague that while growing up in India I used to read a lot of comics and novels. The colleague then inquired whether these were translations, imagining that Indians could not read English! Many people in the West find it hard to believe that many Indians learn to speak, read and write English fluently, and don't learn it after reaching the West! This might appear to be a case of harmless ignorance but this person has since been promoted and will soon recruit people, depriving otherwise talented people of (say) Indian origin, job opportunities. People with Indian names usually aren't even called for an interview. Helen Szoke, a former CEO of the Victorian Equal Opportunity Commission noted that despite labour and skill shortages, recent arrivals from non-English-speaking countries do not easily get jobs compatible with their skills.[44] This hurts everyone involved.

Stereotyping remains the last frontier of equal freedom. However, laws alone won't change this. Education is the key. But also greater competition and freedom in society, which will allow the most meritorious to succeed, regardless of difficulties faced through discrimination.

13.5 A social minimum for all

In chapter 4 (and also in *BFN*) I outlined the concept of equal opportunity. In a free society some people will always fall through the cracks of the competitive marketplace, for instance those without the mental or physical wherewithal to compete successfully. The institution of reasonable equal opportunity includes, besides equal treatment, a social minimum for all in this chapter.

The free society should enable people to work with dignity to the extent they can, and having done so, should they fail to make a sustainable living despite their best efforts, they should be supported at a frugal level by taxpayers as part of a social insurance scheme. This minimum would include, among other things, sufficient provision to just eliminate dire poverty, as well as children's education. Doing so ensures this will be an 'entitlement' (subject to due effort), not charity. While the argument whether educating children in this manner with taxpayer funds is controversial, it should be supported primarily for utilitarian arguments: one based on positive externalities experienced by society of such education. Liberalism is usually the consequence, not cause, of good education. Further, good school education enables everyone to achieve a reasonably equal starting point, and thus, through free actions after that, achieve their potential.

[44] **Szoke, Helen,** 'Australia, land of the fair go (as long as you're not foreign)', *The Age*, July 18, 2008. [http://www.theage.com.au/opinion/australia-land-of-the-fair-go-as-long-as-youre-not-foreign-20080717-3gwd.html]

People would of course remain free to contribute to charitable organisations of their choice to top up someone's economic means beyond the social minimum. Going beyond the social minimum is not the responsibility of the state.

14. The (many) other pillars of freedom

'A properly functioning free market system does not spring spontaneously from society's soil as crabgrass springs from suburban lawns. Rather, it is a complex creation of laws and mores ... Capitalism is a government program.' - *George Will*[1]

In this chapter I briefly touch upon a few other important institutions of freedom, noting that there exist other institutions that simply can't be covered in a book this size.

14.1 Freedom of expression

Freedom of expression is a well-known pillar of freedom, but rarely is it actually to be found. During covid, the US government demanded censorship of speech from media companies. Countries like Singapore that are free economically often fail in this regard.

14.1.1 *The crucial role of Charles Blount and John Locke in freedom of expression*

A brief review of the evolution of free speech is worth undertaking. Figure xx highlight key milestones for the freedom of press. Without such freedom there can't be freedom of expression or freedom of speech.

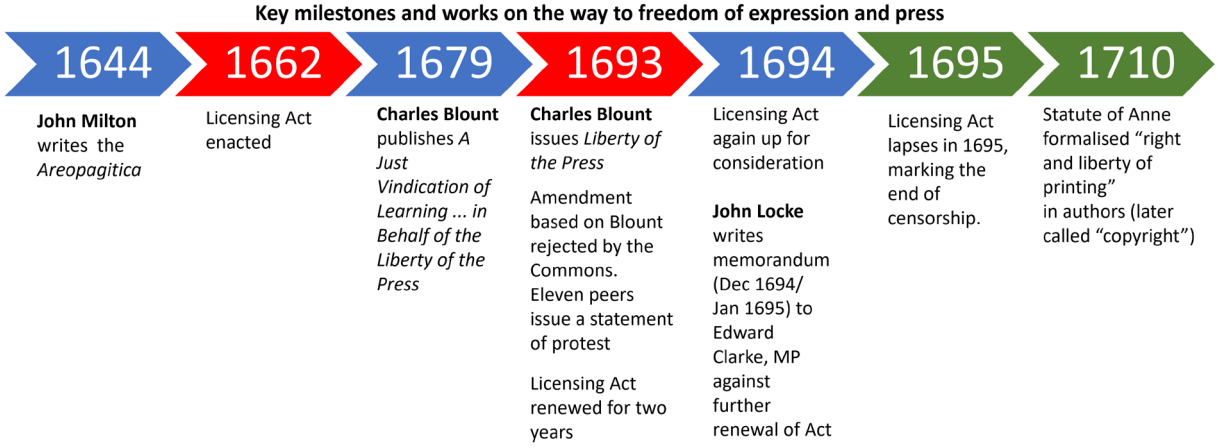

Figure xx: Chronology of the liberty to print (freedom of press)

Thomas Babington Macaulay has summarised the events leading to the 1693 renewal, under protest, of the Licensing Act in 1693 in which Charles Blount (1654-1693) played a key role.[2] Macaulay noted that despite Blount's low intellectual and moral character, "it is in a great measure to him that we must attribute the emancipation of the English press." In a 1679 book he wrote at the age of 25: *A just vindication of learning, or, An humble address to the high court of Parliament in behalf of the liberty of the press*, Charles Blount wrote: "Learning hath of late years met with an obstruction in many places, which suppresses it from flourishing or increasing, ... and that is, the Inquisition upon the Press, which prohibits any Book from coming forth without an Imprimatur; an old Relique of Popery, only necessary for the concealing of such defects of Government, which of right ought to be discover'd and amended."[3] He further wrote:

[1] George Will speaking in *This Week with Sam Donaldson*, ABC News, Jan. 13, 2002.

[2] https://www.sabhlokcity.com/2016/02/the-fascinating-role-of-charles-blount-in-bringing-an-end-to-censorship-in-england/

[3] https://quod.lib.umich.edu/e/eebo/A28439.0001.001?rgn=main;view=fulltext

> It reflects upon our Church and Clergy, of whose labours we should hope better, and of the proficiency which their Flock reaps by them; then alter all this Light of the Gospel, this continual Preaching, they should be still frequented with such an un-principled, un-edify'd and Laick rabble, as that the Whiff of every new Pamphlet should stagger them out of their Catechism and Christian walking. This may have much reason to slagger and to discourage the Ministers, when such a low conceit is had of all their Exhortations, and the benefiting of their Hearers, at that they are not thought fit to be turned loose to three Sheets of Paper, without a License; that all the Sermons, all the Lectures Preached, Printed and Vented in such numbers and such Volumes, should not be Armour sufficient against one single Enchyridion Unlicensed: I am confident that a Kingdom governed by the rules of Justice and Fortitude, or a Church built and founded upon the rock of Faith and true Knowledge, cannot be so Pusillanimous. That all freedom of Writing should be thus restrained with the proud curb of an Imprimatnr, must needs administer cause of doubt, and discouragement to all Learned and Religious men, who may justly suspect the Reason and Power of that cause which durst not stand a Tryal of Skill. Every Author Writes either Truth or Falshood; If he Writes Truth, why should he be oppressed or stifled? And if he delivers what is False, let him be confuted by Answer, whereunto every Author is subject; since no cause ever suffered by being answered, only by Fire and Faggot. That Liberty is the Nursery of Science, appears in that there is nothing hath so much clouded and discouraged the Italian Wits, as their Inquisition; which restraining all manner of Philosophick freedom, hath for these many years produced nothing but obsequious flattery: In which Country the Famous Galileo was oppressed under the Inqusitions Tyranny, for thinking otherwise in Astronomy, then the Dominican and Franciscan Licensers thought.[4]

Remember, this is nearly 200 years before J.S.Mill's *On Liberty*. A powerful achievement. It appears that (possibly) as a result of his advocacy, the Licensing Act of 1662 was allowed to expire but it was renewed in 1685, until its final expiry in 1695.

In 1693 Blount published *A Just Vindication of Learning and of the Liberty of the Press*, largely a re-hash of John Milton's 1644 work, *Areopagitica*, in which he concluded, as Milton had done, by "recommending that any book might be printed without a license, provided that the name of the author or publisher were registered". Blount died in 1693. A 2023 masters thesis Can Kazan has detailed analysis of how the Licensing Act finally lapsed, marking the end of censorship in the UK. This involved a prominent role played by John Locke, who must perhaps be credited for the final lapse of the Licensing Act:

> In either December 1694 or January 1695, Locke composed a detailed critique of the Licensing Act, which played a significant role in Clarke's and, consequently, the Commons' opposition to its renewal.
>
> … On April 18, Clarke presented the Commons' reasons to the Lords against the renewal of the Licensing Act. Locke's influence could be felt through this response. The Commons' case included questioning the role of the licenser, the impracticalities of the legislation, the authority of messengers to search and seize books within homes, and the degree of discretion over punishment and the ambiguity of offensive books. The restraints upon the printers to practice their trade, the monopoly of the Company of Stationers over most of the classic authors, and "a great Number of the best Books" was also criticized. They also added that "without Doubt, if the late King James had continued in the Throne till this Time, Books against Popery would not have been deemed offensive Books." With their reasons presented, the Commons decided not to renew the Act, and on May 3rd 1695, the Licensing Act expired with the prorogation of the parliament — never to be revived again.[5]

The end of the Licensing Act marked a boom in writing, a mass explosion printing (and newspapers). Macaulay wrote that the lapse of the Licensing Act "has done more for liberty and for civilisation than the Great Charter or the Bill of Rights"[6]. However, it appears Macaulay was not aware of Locke's memo to Clarke. Macaulay wrote his history of England upon his return from India in 1838. Peter King had written about Locke's memo in his 1829 book. Macaulay might have missed reading Peter King's book.

It appears that Charles Blount and John Locke had another thing in common: scepticism about "standard" religion and an inventive theory about the human reality:

> in a short time Deism and Naturalism became quite fashionable …. The principal writers of the English school were Lord Herbert of Cherbury (1581-1648), whose works tended to call in question the

[4] https://archive.org/details/bim_early-english-books-1641-1700_a-just-vindication-of-le_blount-charles_1679/page/(10)/mode/2up

[5] https://t.co/ohmwEbQuQ9 - Can Kazan (2023). "Liberating the Press: The Political Economy and Intellectual Forces Behind the Demise of the Licensing Act".

[6] https://en.wikisource.org/wiki/The_History_of_England_from_the_Accession_of_James_II/Chapter_XXI

existence of a supernatural religion; John Hobbs (1588-1679) the apostle of absolute rule, who saw in religion only a means of keeping the people in subjection; John Locke (1632-1704), nominally a Christian himself, whose philosophy of Empiricism and Sensualism barred the way effectively against belief in a supernatural religion; Charles Blount (1630-93), who like Flavius Philostratus sought to discredit Christianity by setting up Apollonius of Tyana as a rival of Christ; Collins, the patron of free-thinkers (1676-1729); John Toland (1670-1722), who although originally a believer in Christian revelation tended more and more towards Pantheism; and Tyndal (1656- 1733), who changed from Protestantism to Catholicism and finally from Christianity to Rationalism.[7]

14.1.2 *Development in the US Constitution and by J.S. Mill*

British liberal philosophers were perhaps the first to advocate a strong form of freedom of expression, perhaps none more eloquently than J.S. Mill in his 1859 essay, *On Liberty*. India imbibed many of these ideals during British rule. Despite the rampant corruption found in the Indian press today (news can be readily purchased), India does maintain a largely free press.

But India never internalised this concept. Salman Rushdie's *Satanic Verses* and many other books were banned; and the screening of *Da Vinci Code* prohibited. The government failed to protect Deepa Mehta during the making of her film, *Water*, and D.N. Jha similarly force to publish his book, *The Myth of the Holy Cow*, outside India.

14.1.3 *Is freedom of speech absolute?*

I'm not suggesting absolute freedom of expression. Like all other freedoms, freedom of expression must be closely integrated with accountability. But since writing something against someone is merely an opinion, not a direct physical attack, the relevant threshold for accountability must be much lower than accountability for any physical aggression. People can simply ignore any writings with which they don't agree.

In the USA, as Glenn Greenwald has explained:

> The government is absolutely barred by the Free Speech clause from punishing people even for advocating violence. That has been true since the Supreme Court's unanimous 1969 decision in Brandenburg v. Ohio, which `overturned the criminal conviction of a Ku Klux Klan leader who had publicly threatened violence against political officials in a speech.
>
> The Supreme Court ruled that "except where such advocacy is directed to inciting or producing imminent lawless action" — such as inciting a mob to burn down a house or hiring a hit man — "the constitutional guarantees of free speech and free press do not permit a state to forbid or proscribe advocacy of the use of force." [Source]

John Danford explains J.S. Mill's views on freedom of speech in his book, thus:

> What is most clearly outside the bounds of government regulation, according to Mill, is the realm of speech and opinion. The expression of mere opinions, Mill argues, can harm no one. The suppression of any point of view is unjustifiable because to suppress an opinion is to claim a monopoly on truth, which no one possesses. The power to control the expression of opinion, then, is illegitimate. "The best government has no more title to it than the worst," Mill says. "lt is as noxious, or more noxious, when exerted in accordance with public opinion, than when in opposition to it. If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would beno more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind."
>
> It is not merely *unjust* to suppress opinions but also unwise or even dangerous, according to Mill. "The peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error." Thus there are two branches to his argument: "We can never be sure that the opinion we arc endeavoring to stifle is a false opinion; and if we were sure, stiffing it would be an evil still."
>
> Mill's arguments for complete freedom of speech are probably the most famous portion of *On Liberty,* and are widely accepted in societies such as the United States, where the legal system in recent

[7] https://gutenberg.org/cache/epub/2396/pg2396-images.html

> decades has refused to permit oven democratically elected legislatures to go very far in curtailing speech. including speech deemed offensive or obscene by a large majority. Of course, no freedom is absolutely without some limit, and, as Mill himself admitted, "even opinions lose their immunity when the circumstances in which they are expressed are such as to constitute their expression a positive instigation to some mischievous act. An opinion that corn-dealers are starvers of the poor, or that private property is robbery, ought to be unmolested when simply circulated through the press, but may justly incur punishment when delivered orally to an excited mob assembled before the house of a corn-dealer, or when handed about among the same mob in the form of a placard." But of course speech in such a circumstance can readily he considered to be something other than mere words, and thus to fall into the category of action or conduct, which Mill concedes may be regulated by society.[8]

14.1.4 *Examples to demarcate the boundaries of free speech*

Given the complexity of the issues involved, demarcating the boundaries of freedom of expression remains a challenge. Two examples can give us a sense of the difficulties involved.

Burning the national flag

Consider someone who, convinced that his freedoms have been trampled upon by the nation, burns the national flag in protest: doesn't attack anyone, just burns the flag. Is that a crime? Certainly it is, in India. The *Prevention of Insults to National Honour Act*, 1971 provides for imprisonment of up to three years or fine, or both, for anyone who (in public view) mutilates, defaces, defiles, disfigures, destroys, tramples on, or otherwise brings the National Flag into 'contempt'. I believe this law is incompatible with liberty.

I do not make this assertion lightly. I claim that the national flag must be defended with our own life. But on the other hand, no citizen will usually take the extreme step of burning the flag casually. Such an act signals that something is wrong. The nation should therefore investigate the *cause* of the unrest.

The US imparted a lesson in liberty to all nations when it *ruled out* the criminalisation of flag burning. In 2006, an amendment to the US Constitution was proposed to prohibit flag burning, but the US Senate *rejected* the amendment. Senator Daniel K. Inouye, who lost an arm in World War II, fighting for USA, said during the debate that that flag burning 'is obscene, painful and unpatriotic', … '[b]ut I believe Americans gave their lives in the many wars to make certain that all Americans have a right to express themselves – even those who harbor hateful thoughts.'[9]

Such commitment to freedom is uniquely American, it would appear. Hundreds of its own soldiers die in wars to protect the American flag, but the same soldiers who risk their lives insist on defending the right of their fellowmen to *burn* that flag. That is what they fight for. The national flag is subordinate to the claims of liberty.

Artistic license?

It has become fashionable for artists and writers, claiming artistic 'license', to insult Islam, Christianity, Hinduism and other religions. But they are wrong; they have no such license. While an analytic critique of a religion is perfectly legitimate, vilification and abuse is *not*. Artists are in no way special, in now way exempt from the laws of the land. Everyone's liberty must be subject to the same standards of accountability. And so artists must exercise self-restraint.

But what about artists who don't' restrain themselves? Should we ban their work or kill them? Clearly not. Three things must happen in the free society:

- As the saying goes, 'sticks and stones may break my bones but words will never hurt me'. We must therefore learn to tolerate others' opinions, no matter how tasteless. And if we don't like a particular artist's work, we don't need to go out of the way to look for it. We must therefore foster forbearance, forgiveness; even a thick skin.
- It is legitimate to take offence to some types of art but that offence can be resolved through a *civil* suit. The plaintiff can try to prove, for instance, that he tossed and turned and lost, say, five hours of sleep because of

[8] Danford, John W., *Roots of Freedom*, Washington: ISI Books, 2000, p.166-167.

[9] Reported in the *Washington Post*, June 28, 2006, [http://www.washingtonpost.com/wp-dyn/content/article/2006/06/27/AR2006062701056.html]

the offensive art. The court can then compensate the plaintiff for the lost sleep. Class-action suits could be pursued where a number of people feel offended.

- But no matter what an artist does, violence against an artist can *never* be condoned. The law must punish violence against any artist; even stupid artists deserve the protection of the law.

Unfortunately, governments world-wide seem to have formed a habit of banning books, movies, and even internet blogs, arguing that failure to do so would endanger public order. That is usually a specious argument. The government's job is to ensure freedom of expression *and* law and order. Just because an unruly crowd protests and threatens public order doesn't mean the freedom of the artist can be reduced.

True, there might be a few instances where a society could reasonably impose a generic ban on freedom of expression, such as banning nudity in public places on grounds of protecting common decency. However, situations of this sort could be resolved by demarcating separate areas for nudists. I'm not advocating this, but this is one way to deal with the problem. The goal must be to maximise liberty while minimising demonstrated, proven harm.

14.2 Free markets, free banking and public finance

14.2.1 *Free markets*

One of the most important institutions of the free society is the market, by which is meant a market adequately regulated for harm prevention and accountability. In 1776 Adam Smith demonstrated the happy coincidence between freedom, morality, and prosperity, a fact since confirmed repeatedly.

Adam Smith had essentially rediscovered what Lau Tzu (whom we have met earlier) had written in China over 2000 years ago. Tzu had effectively formulated the *laissez faire* principle[10] in which he advised kings to let things be, for things then would get done 'on their own'. If kings focus on providing security, then order and prosperity will emerge spontaneously. Some of his sutras (translations below are from different sources) were:[11]

> 17. As for the best leaders (rulers), the people do not notice their existence... When the best leader's (rulers) work is done the people say: 'We did it ourselves!'
>
> 37. Tao invariably takes no action, and yet there is nothing left undone. If kings and barons can keep it, all things will transform spontaneously.
>
> 57. Win the world by doing nothing. How do I know it is so? Through this: The more prohibitions there are, the poorer the people become... The greater the number of statutes, the greater the number of thieves and brigands. Therefore the sage says: I do nothing and the people are reformed of themselves. I love quietude and the people are righteous of themselves. I deal in no business and the people grow rich by themselves.

Like John Locke, Adam Smith was not entirely original (none of us can possibly be). The French Physiocrats had propounded *laissez-faire* directly prior to him, and his teacher Hutchinson had elaborated key concepts of liberty as well. What Smith did was to bring together these threads with great insight, and proposed the remarkable hypothesis that the more we endeavour to increase our *personal* wealth, the more prosperous the society. Till today most people aren't able to understand this somewhat non-intuitive concept.

While Machiavelli said that selfishness is inevitable, Adam Smith showed that selfishness can be a virtue. Doing well for ourselves is a *good* thing – so long as we do so ethically. Life is not a zero-sum game. The size of the 'pie' is expanded each time we trade and seek to advance our interests. In a free society everyone wins through competition. Even if our relative share of larger the pie declines (because, say, one Bill Gates acquires – through merit – an inordinate share of the increased wealth) we all stand to gain. There are productivity gains as well as increased absolute incomes. Francis Edgeworth (1845-1926) illuminated this idea through a diagram known as the 'Edgeworth box', something I'd strongly recommend that you get someone to explain to you. Steven Pinker provides an elegant summary of the benefits of trade, thus:

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[10] Roderick T. Long in 'Austro-Libertarian Themes In Early Confucianism' in the *Journal of Libertarian Studies* Volume 17, no. 3 (Summer 2003), pp. 35–62 available on the web.

[11] 17 is by MacHovec, Frank J. New York: The Peter Pauper Press, 1962. 37 is by Professor Wing-tsit Chan. 57 is by Lin Yutang of the *Importance of Living* fame.

> If I have two pounds of meat and no fruit, and you have two pounds of fruit and no meant, the second pound of meat is worth less to me than the first (since there is only so much meat I can eat at a sitting), and you feel the same way about your second pound of fruit. We're both better off if we exchange pound for pound.[12]

As Smith's insight is so counterintuitive that billions of people steadfastly refuse to 'believe' his conclusions. They prefer, instead, to harm themselves through collectivist solutions in which government planners organise and 'improve' things for others. The problem is that our intuition is wrong in relation to virtually all complex systems (such as the human body, human society, climate, and ecology) because of the non-linearities and self-adjusting mechanisms involved.

We may 'feel' that if Bill Gates can be *forced* to work for the society's welfare, we would become better off. If Microsoft was nationalised and lowly paid bureaucrats placed in charge, then wonderful software would presumably emerge. By forbidding others from producing similar software we could avoid 'unnecessary duplication of effort'! Or we could force Bill Gates to increase the number of software DVDs he produces. Or we could fix the sale price of the software. All this would (presumably) eliminate the intense inequality by which a minute of his time is worth our entire lifetime's effort.

But by pandering to our ill-informed intuitions, we would destroy the goose that lays the golden egg. The society would come to a grinding halt, for people's incentives would be grossly misaligned. There is little that is more dangerous than good intentions without sense. Adam Smith would have easily predicted the disastrous fate that awaited countries like USSR, China under Mao, and India (for most of its independent history to date). The wisdom that governments can best create wealth by doing (almost) nothing, is seemingly beyond the capacity of most citizens and politicians. When faced with complex systems like the economy, such people make simplistic, dramatically false deductions. It appears to them that they can change outcomes by changing inputs, but that they cannot do so in the face of multiple factors, non-linear interactions, feedback loops, and self adjustments, goes above their head.

In *BFN* I showed at length (in chapter 3) why free markets must underpin the free society, and why the price system must be allowed to regulate a society's resource allocation decisions. In this context, I'd like to highlight a point that I made in *Online Notes*, that freedom includes not only the freedom to compete but the 'freedom to organise to eliminate competition'[13], which means allowing transparent attempts by businesses to cooperate. We must beware of amateur 'economists' who insist on perfectly competitive markets. Causing *economic* 'harm' through competition is not 'injury' but a necessary step that drives innovation and wealth generation. The less competitive and cost effective firm are weeded out or forced to innovate.

14.2.2 *Free trade*

The corollary of free markets is free trade. Trade amongst ancient civilisations was largely free, without many tariffs or quotas. The reason why the world failed to grow rapidly despite this was because of sovereign and security risks. Governments in the past were mostly unstable: law and order, justice, was rarely enforced: and piracy and thuggery was rife. Obviously, trade can't flourish under such conditions.

It was only when – after the 18th century – the European kings reduced their internecine warfare, leading to more stable, powerful nation states, that trade grew stronger. As the *Leviathan* grew, law and order became relatively more assured, and trade began to increase, facilitated by technological advances in weapons and shipping. As a result of their economic growth from trade, the Portuguese, Spanish, Dutch, French, and (finally) the British chose to become became imperialists, with a view to exercise direct control over the places from which they traded. Wealth helped generate more wealth and power.

But the benefits of trade are counter-intuitive. Most people oppose free trade, arguing that exports are good but imports are bad. According to these simplistic but politically influential mercantilist beliefs, trade is a zero-sum game in which one country must gain at the other's expense. Self-sufficiency and the infant industry argument are typical examples of such thinking. But Adam Smith clarified that this is a self-harming ideology, and that free trade necessarily benefits both sides. He wrote:

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[12] Pinker, Steven, *How the Mind Works*, London: Penguin Books, 1999, p.502.

[13] Frank H. Knight (1935) in 'Economic Theory and Nationalism', in *The Ethics of Competition and Other Essays*. Cited by Daniel B. Klein, 'Discovery Factors of Economic Freedom', in Uncertainty and Economic Evolution: Essays in Honor of Armen A. Alchian. New York: Routledge, 1997, pp.165-180.

> [N]ations have been taught that their interest consisted in beggaring all their neighbours. Each nation has been made to look with an invidious eye upon the prosperity of all the nations with which it trades, and to consider their gain as its own loss. Commerce, which ought naturally to be, among nations, as among individuals, a bond of union and friendship, has become the most fertile source of discord and animosity.[14] …It is in consequence of these maxims that the commerce between France and England has in both countries been subjected to so many discouragements and restraints. If those two countries, however, were to consider their real interest, without either mercantile jealousy or national animosity, the commerce of France might be more advantageous to Great Britain than that of any other country, and for the same reason that of Great Britain to France.[15]

David Ricardo (1772-1823) refined this through a theory of 'comparative advantage'. According to this, each nation should do what it does best (as measured by what produces the greatest *economic value*), not what it does most cheaply or abundantly – although in many cases these would overlap. It is better for everyone that Einstein should have an incentive to spend his time doing physics (in which he is *really* good) than milking cows, even if he also happens to be the world's fastest milker of cows. The area in which we provide the greatest value to society is usually signalled by our skill that is paid the most (Einstein was paid $16,000 by the Princeton University in 1933, an amazingly high salary at that time, given he only had a diploma, not even a degree in science. He had also got the Nobel prize, of course, in 1921[16].) We must therefore aim to maximise our income. Having done that, we can hire appropriate assistance to do the chores. Einstein should do physics and buy milk with his earnings.

This idea is implicit in Adam Smith's discovery of the division of labour in which everyone specialises in a small thing in which they excel. Smith wrote: 'Jack of all trades will never be rich, says the proverb'[17]. Wanting to be self-sufficient is a great mistake (*self-reliance* is a different matter). A corollary to this is that markets must be completely free. Only then can people be deployed in their most productive vocation. Price signals must not be disrupted.

As a result of liberal thought (Locke, Smith, Ricardo), political pressures finally began to build up by the end of the 18th century in Europe in favour of free trade. The repeal of the corn laws in the middle of the 19th century perhaps set the stage for greater freedom. Accordingly, USA and Europe grew rapidly, mostly driven by intra-West trade (not as much with the colonies, which had been responsible for earlier growth). As such intra-West trade increased, India's share of world trade plummeted from nearly 25 per cent in 1750 to 2.4 per cent in the 1950s (and to 0.4 per cent 1980, finally perking up again to about 1.6 per cent only recently). The wealth of Europe and USA was thus largely built by trading with *each other*, not so much by exploiting colonies (at least partly contradicting Dadabhai Naoroji's 1901 thesis, *Poverty and un-British Rule in India*). Empirical analysis confirms the underlying theory that trade benefits everybody and leads to economic growth. This is readily evident from a study of the economic progress of Japan, the East Asian tigers, and now China.

The repeal of Corn Laws

I propose to briefly discuss, at this stage, the repeal of the 1815 British Corn Laws in 1847, as a useful illustration of the value of free trade. It is also a major milestone in the institutional development of global trade.

To begin with, we observe that in England 'corn' means any grain, but primarily wheat – not only maize. The British Corn Laws had a long history. Free trade of grain had been allowed initially, but later trade restrictions were periodically imposed. By 1773 corn was freely traded again, with restrictive duties largely being abolished. As a result 'both agriculture and industry flourished.'[18] Adam Smith, however, was still not happy: 'the praises which have been bestowed upon … that system of regulations which is connected with [the exportation of corn] are altogether unmerited.'[19] Analysing these laws, he argued for even *greater* freedom.

But the laws were to soon change – for the worse. The landed aristocracy increased its control over democratic politics by controlling 'pocket boroughs' – tiny parliamentary constituencies comprising, in some instances, as

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[14] Smith, Adam, *The Wealth of Nations*, Volume 1. Chicago: University of Chicago Press, 1976, p.519.

[15] *Ibid*., p.521.

[16] Mentioned by Carl Sagan in *Broca's Brain*, New York: Ballantine Books, 1979, p.32.

[17] Smith, Adam, *The Wealth of Nations*, Volume 2. Chicago: University of Chicago Press, 1976, p.38.

[18] Thomas, J. A., 'The Repeal of the Corn Laws, 1846', *Economica*, No. 25, (Apr., 1929), p. 55.

[19] Smith, Adam, *The Wealth of Nations*, Volume 2. Chicago: University of Chicago Press, 1976, p.29.

few as seven voters (most of the former residents had migrated to cities). By paying these voters, the lords got an easy seat in parliament, thus controlling not just the House of Lords but also the House of Commons. Wanting to squeeze monopoly rents, the aristocrats amended the Corn Laws to prohibit imports until English wheat became three times its 1815 price.

While wheat farming is not a pure monopoly, these laws significantly dampened the supply of foodgrain and the aristocrats reaped bumper profits. Wheat prices became unbearably high. At the time when workers earned between 7½ and 13½ shillings a week, respectively, an ordinary loaf of bread now cost between 1½ to 2 shillings.[20] Most workers could therefore only afford potato and cheap grains. This put upward pressure on coarse grains and industrial wages, hurting the new industrial class. The landed gentry wanted trade protection but the industrialists wanted free trade. Angry urban residents – mostly represented by the Whigs (classical liberals) – threatened civil war.

The *Reform Act* of 1832, driven by the classical liberals, delivered key parliamentary reforms. For instance, it got rid of 56 pocket boroughs that had given undue power to the lords, and also extended voting rights to the wealthy industrial class. Subsequently, basing his arguments on David Ricardo's work, Manchester businessman Richard Cobden launched the Anti Corn-Law League in 1838. On the other side, the Chartist (union) movement increased pressure for universal suffrage for *all* men older than 21, electoral districts of equal size, voting by secret ballot, an end to property qualification for entry into Parliament, and pay members of parliament. Both the Anti Corn-Law League and Chartists broadly agreed on these matters.

However, the Chartists didn't want free trade, arguing it would reduce wages. On this, they sided with Marx (through Friedrich Engels who was frequent contributor to their newspaper[21]). In a later 1853 article, Marx wrote that the industrialists had betrayed the workers: 'In 1842, when the Manchester School, under the banner of free trade, enticed the industrial proletariat into insurrectionary movements, and, in the time of peril, treacherously abandoned them'[22]. Marx, allegedly an 'economist', could not understand the fundamentals of economics, and so he misguided the workers. The good thing is that this debate convinced the Prime Minister, Robert Peel, by 1845, that Corn Laws must go. His party (the Tories), however, didn't agree with him.

Things came to a head in the autumn of 1845 due to completely unrelated reasons. Disease caused almost the entire potato crop in Ireland to fail. Now:

> The traditional remedy for famine was to suspend the Corn Laws and open the ports. But Peel told his Cabinet that if he did this he could not promise to reimpose them, and a majority in the Cabinet felt that they could not support him in this policy on those terms. He therefore retired, but the Whigs could not, or would not, form a government. Peel, therefore, returned to office at the Queen's request, repealed the Corn Laws himself [gradually over three years] and was hounded from office again...[23]

Peel's success is remarkable, for he achieved it with Whig, not Tory support[24]. This repeal, as indicated above, was phased over a few years.

It would have been nice if I could report to you that wheat imports increased and its price fell immediately upon the repeal of these laws. But wheat prices stayed largely where they were. That itself, however, is a major success story – in that the prices did not rise any further, given that the repeated failure of the potato crop had led to a significant increase in wheat consumption, exercising upward pressure on wheat prices.[25]

In Ireland the situation was becoming dire. Irish landlords, in total disregard of their tenants, continued to export wheat to mainland England where prices were high. As a result, between half to a million Irish peasants – who had neither potato to eat nor could afford to buy wheat – starved to death.[26] Two million of them, evicted by extortionist landholders for failure to pay rent, left Ireland, migrating mostly to the USA. Ireland was severely

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[20] Davis, M.O., *The Story of England*, Oxford: Clarendon Press, 1936, p.293.

[21] [http://www.marxistsfr.org/archive/marx/works/subject/newspapers/moral-world.htm]

[22] In an article in *New York Daily Tribune*, No. 3925, November 15, 1853, [http://www.marxists.org/archive/marx/works/1853/11/15.htm]

[23] Kitson Clark, G., 'The Repeal of the Corn Laws and the Politics of the Fortie', *The Economic History Review*, New Series, Vol. 4, No. 1, (1951), p.3.

[24] Cameron, Rondo, *A Concise Economic History of the World*, New York: Oxford University Press, p.277.

[25] Fay, C. R., 'Corn Prices and the Corn Laws, 1815-1846', *The Economic Journal*, Vol. 31, No. 121, (Mar., 1921), p. 26.

[26] Kinealy, Christine, *A Death-Dealing Famine: The Great Hunger in Ireland*, Pluto Press, 1997. Google books.

depleted. While the repeal of Corn Laws did not create much relief for the Irish farmer, it perhaps prevented even worse consequences.

The best way to help the poor is through free trade. Adam Smith was perhaps the first to argue that free trade prevents famine. Today some people rail against globalisation. But we don't' have genuine globalization. There are still too many trade barriers, and the misguided leaders of poor nations continue to exacerbate poverty by either closing their economies to foreign investment, or by protecting 'infant industries'. Mercantilism is alive and is kicking across the world.

Not just trade, the other key aspect of a free society – democracy – plays a role in preventing famine. The primitive English and Irish 'democracy' of the 1840s was clearly insufficient, however, to prevent famine. Democracy without genuine representation can be as bad as any other tyranny. Plato was clearly wrong in imagining that 'elites' are trustworthy. What we need is *genuine* democracy in which the common man is well represented. But while democracies quickly alert governments about a famine, what can prevent famine in the longer term is free trade.

Marx was an enemy of freedom in many ways, including in his opposition to free trade. He foolishly argued that 'free traders cannot understand how one nation can grow rich at the expense of another'[27]. He couldn't understand basic Ricardina arguments. In a speech in 1848 he said: '[W]e are told that free trade would create an international division of labor, and thereby give to each country the production which is most in harmony with its natural advantage. You believe, perhaps, gentlemen, that the production of coffee and sugar is the natural destiny of the West Indies'[28]. (While Marx opposed free trade, he thought it might do some good – tactically – for socialism, by 'hastening' the collapse of capitalism. No doubt, Marx would fail the most basic economics course if he were alive today.)

Marx looked around with blinkered eyes and failed to observe the steadily rising incomes of ordinary workers. His misperceptions and misunderstandings led him to a confused philosophy which was to destroy millions of lives in the future. In his 1848 *Communist Manifesto* he called upon the 'proletariat' to march towards a dictatorship as a first step towards communism. The ten planks of communism in the *Manifesto* included:

1. Abolition of property in land and application of all rents of land to public purposes.

3. Abolition of all rights of inheritance.

7. Extension of factories and instruments of production owned by the state...[29]

His goal was to abolish the most fundamental liberties, so that people could be forced to become equally 'rich' (poor). As Milton Friedman noted, 'Underlying most arguments against the free market is a lack of belief in freedom itself.'[30] Unfortunately, both mercantilist and socialist hatred of liberty is alive and kicking. Thus, most Western nations heavily subsidise their farmers and impose significant barriers on agricultural imports from developing countries. Such mercantilist approaches are particularly common in the labour market. In India, too, we hear the chant for *swadeshi* from at least one major political party.

14.2.3 *Free labour markets*

The free society's labour market must is necessarily be free. Its workers must be free to leave a job if they get a better offer. Similarly, employers must be free to let bad workers go, and to hire better ones. Any intervention in labour markets will necessarily reduce freedom except where it is becomes necessary to ensure justice (in relation to worker safety) and to require basic non-exploitative working conditions. This rules out, for instance, a mandatory minimum wage – for such an intervention in the price of labour inevitably harms the prospects of the least skilled workers who are found at the bottom of the job pyramid. Such unskilled workers are the first, therefore, to lose their jobs, for employers simply can't afford to hire anyone at a wage that is greater than the value produced (marginal product). Wages of unskilled workers inevitably tend towards substance level, for it is

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[27] From Karl Marx, The Poverty of Philosophy, cited in Morgenbesser, Sidney, 'Imperialism: Some Preliminary Distinctions', in *Philosophy and Public Affairs*, Vol. 3, No. 1, (Autumn, 1973), p.26.

[28] Marx, Karl, 'On the Question of Free Trade', a Speech to the Democratic Association of Brussels at its public meeting of January 9, 1848. [http://www.marxists.org/archive/marx/works/1848/01/09ft.htm]

[29] *The Communist Manifesto* [http://www.anu.edu.au/polsci/marx/classics/manifesto.html].

[30] *Capitalism & Freedom*, 1962.

possible to produce something only up to the point when it is no longer possible to further employ labour. Regardless of the implications this may have for the workers who are at the subsistence level (the social minimum must be at a frugal level generally lower than this level – to ensure there are incentives for people to work even at *very* low wages), imposing a restriction on employability of workers merely makes them unemployed and dependent on charity.

This system of freedom also motivates lowly paid workers to increase their skills, for only through skill can we produce wealth. These are the benefits of the free market in labour: that it maximizes production, minimizes unemployment, and maximizes incentives for self-development.

Despite this, governments keep dabbling in the labour markets. Even Kautilya (in the *Arthasastra*) could not avoid recommending a centrally controlled wage system for *everyone,* including merchants. Thus:

The superintendent of commerce shall fix a profit of five percent over and above the fixed price of local commodities, and ten per cent on foreign produce. Merchants who enhance the price or realize profit even to the extent of half a pana more than the above in the sale or purchase of commodities shall be punished with a fine.

Kautilya then explained 'how "just" wages for a number of occupations, ranging from musicians to scavengers' would be determined, with government superintendents regulating these including 'the earnings … expenditure, and future earnings of every prostitute.'[31] Governments find many spurious and populist reasons to interfere. It is our freedom that governments find so difficult to promote. Freedom in labour markets must be ensured.

Trade unions

Trade unions see themselves as an interest group that promotes worker welfare and working conditions. It is (at least partially) true that unions have played an important role in advancing worker welfare. It should not be forgotten, though, that most advances were brought about by the classical liberals. Indeed, the very idea of promoting trade unions owes a lot to classical liberal philosophers like Adam Smith and J.S. Mill, who were the first to suggest that without such combinations (unions), workers were unlikely to see any improvements in their working conditions. They therefore suggested legislation to stop the race to the bottom.

Thus, if one worker offers to work for ten hours a day instead of eight, he will be employed at the expense of one who is willing to work for only eight hours a day. And the worker willing to work for ten hours a day will be fired when someone else, willing to work for twelve hours a day, steps forward. In such a positional arms race, it is not in anyone's interest to stop harmful actions (basically the inevitable 'solution' is that everyone will work 24 hours a day) unless the law prohibits everyone from doing such a thing.

Starting from guilds and friendly societies, trade unions have been supported by writers like Adam Smith. Smith wrote: 'The masters, being fewer in number, can combine much more easily; and the law, besides, authorises, or at least does not prohibit their combinations, while it prohibits those of the workmen.'[32] He noted also that in disputes with labour, the 'masters … never cease to call aloud for the assistance of the civil magistrate, and the rigorous execution of those laws which have been enacted with so much severity against the combinations of servants, labourers, and journeymen.'[33]

Employers combine equally, or more, Smith wrote, but make a hue and cry when workers do so: 'We rarely hear, it has been said, of the combinations of masters, though frequently of those of workmen. But whoever imagines, upon this account, that masters rarely combine, is as ignorant of the world as of the subject.'[34] Workers become 'desperate, and act with the folly and extravagance of desperate men, who must either starve, or frighten their masters into an immediate compliance with their demands.'[35] Despite this, the 'workmen … very seldom derive any advantage from the violence of those tumultuous combinations, which . . . generally end in nothing, but the punishment or ruin of the ring-leaders.'[36] Employers often take recourse to the 'dirty tricks' department to isolate

[31] Scheuttinger, Robert L. and Eamonn F. Butler, 'Wage and Price Controls in the Ancient World', *Mises Daily*, 2/27/2009, [http://mises.org/story/3346#part5]

[32] Smith, Adam, *The Wealth of Nations*, Volume 1. Chicago: University of Chicago Press, 1976, p.74.

[33] *Ibid*, p.75-76.

[34] *Ibid*, p.75.

[35] *Ibid*, p.75.

[36] *Ibid*, p.76.

and neutralise union-leaders. I agree with Adam Smith that unions are necessary to balance the forces operating in the labour market.

William Wilberforce, a Protestant MP – who was to later help in the abolition of the slave trade – was, however, an opponent of unions. In 1799 he suggested that a general measure 'to prevent unlawful combinations of workmen' would be desirable.[37] Fortunately, other Whigs did not see it this way. The *Combination Act* of 1825 gave workers the right to form trade unions and bargain collectively. It is *crucial*, in this context, to note that Karl Marx – or the idea of socialism more generally – had *nothing* to do with trade unions.

Unions not only *preceded* Marx by nearly a century, it was the classical liberals who advocated on their behalf and helped formalise their role in society. Indeed, the socialists denied of France unions *any* role whatsoever. And while Marx later, tactically, attempted to graft trade unions into his socialist movement, the trade unions didn't much care for his ideas. A 1866 socialist document (that Marx helped draft) noted:

> Unconsciously to themselves, the Trades' Unions were forming centers of organization of the working class, as the medieval municipalities and communes did for the middle class. If the Trades' Unions are required for the guerrilla fights between capital and labor, they are still more important as organized agencies for superseding the very system of wages labor and capital rule.[38]

There remains an uneasy relationship between unions and socialists. Some socialists imagine that unions will serve their the interests of socialism, but the forget that unions are not demanding an end to capitalism or the price system, but a better status of workers within capitalism. In general, the more free a country, the more active its unions. Indeed, communist China has abolished them altogether, arguing that the state represents the interests of workers.

Unions also have a role in representing the voice of workers in a business. Apart from providing a voice to workers who are too busy or ill-equipped to deal with complex work contracts, they can be used by businesses to assess employee opinions, and even involve workers in key business decisions. Good unions must therefore be recognized as a vital part of capitalism. Capitalism does not forbid or oppose collective bargains. But workers must remain free to either join a union or use other means of representation, including individual work contracts. Laws to mandate that workers must join a particular union are not compatible with liberty. Workers could choose to, for instance, represent themselves through agents (e.g. authors and actors often hire agents to negotiate for them).

The liberal remains concerned about the collusion between industry and workers to block free trade. Such imposition of controls that artificially protect particular industries, are inimical to the interest of the free society. When unions become mercantilists or Luddites, the liberal draws a line and opposes them. We want checks and balances so that everyone benefits, not a one-sided protection of workers.

Health and safety of workers

A somewhat related issue that often confuses some advocates of liberty is worker safety. Marx, through his poor research skills, was instrumental in creating a myth that freedom harms the health and safety of workers. In reality, free societies had made laws to protect workers *well before Marx came on the scene.* The increasingly representative British parliament introduced many protections for worker safety in response to increasing complaints about the worker safety – well before the socialists came to the scene.

By 1833, British Parliamentarians had 'determined to use the power of the state to correct what they considered intolerable conditions in the factories.'[39] Robert Torrens, a parliamentarian (and economist of some repute), argued that limiting daily work by children and young persons to ten hours was compatible with economic science. While permitting children to work for ten hours sounds atrocious to us today, it is important to remember that children had often worked equally longer in agricultural fields, often dying an early death because of poverty and poor nutrition. The point is also that it was ultimately the liberal conceptions about accountability that led to the abolition of child labour, not socialist delusions. The liberals have sided with the right thing against feudal and industrial interests. That fight for the rights of the common man continues till today.

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[37] Pelling, Henry, *A History of British Trade Unionism*, Middlesex: Penguin Books, 1963, p.25.

[38] Gilbert, Alan, 'Social Theory and Revolutionary Activity in Marx', *The American Political Science Review*, Vol. 73, No. 2, (Jun., 1979), p. 534.

[39] Sorenson, Lloyd R., 'Some Classical Economists, Laissez Faire, and the Factory Acts', *The Journal of Economic History*, Vol. 12, No. 3, (Summer, 1952), p.253.

The *Factories Act* of 1833 greatly improved working conditions, and acted as a motivation for further reforms in the future. Thus, John Ramsay McCulloch, Nassau Senior, and J.S. Mill continued to argue for more reform. Mill noted the positional arms race that I pointed out above – that employees who want to work for less than ten hours a day will soon find themselves without a job. The solution must therefore be political[40]. He wanted certain minimum working conditions should be legislated.

As a result, humanity is still expanding the limits of freedom – with accountability. While good organisations don't need to be regulated for health and safety of their employees, laws that to mandate minimum safety outcomes (not prescribing how this is to be achieved), have a role to play in the free society. A wage contract is not license to harm workers who have only signed up to provide a service, not to give up their life or limb. Similarly, the employer must treat workers with deep respect, and has simply no authority to misbehave with or bully workers. A further regulatory model that advanced worker safety (without impinging on employers' freedoms) was developed in 1971 by Lord Robens[41]. This approach aimed for co-regulation, by encouraging industry to establish its own self-regulatory standards backed by government force, where necessary. This model has led to further improvements over the years, till today, the workers in the free Western societies is far better protected than anywhere else in the world.

International movement of labour

A genuinely free society will permit labour movement freely across its borders, subject only to skill and security considerations. Through these flows, cross-fertilisation of ideas will increase, increasing the capcity of a society to innovate. If skilled people can readily exit the less free countries, it will impose additional pressures on such unfree countries to increase the level of freedom. Some of this is already happening with the West absorbing the most talented people from India and China, which has forced these countries to liberalise. The other way this is happening is by industries locating to nations with cheaper skilled labour. Both these methods help to increase liberty.

14.2.4 *Free banking*

A well-managed system of money creation and its management, including a sound banking system to borrow and lend money is vital to the free society. Money, the medium of exchange, must be regulated well in order to avoid distorting people's incentives. I'll touch upon banking first, below, and then make a few observations about money.

The banking system arises from the difference between two people's inter-temporal preferences for consumption, and the difficulty of intermediation between them. One of them (say, 'A') has some spare money that he doesn't need today but will need in the future. The other one, (say, 'B') needs that money (say, precisely the same amount) to invest in a potentially profitable enterprise, and is happy to repay it tomorrow from profits of that project. In doing so, he is happy to share some of his profits with A.

Now, if a secure mechanism to transfer money from A to B can be devised then A can lend, say, Rs. 1000 to B upon A's agreement to get back *more than* Rs. 1000 in the future. If this trade goes ahead, then both lender A and borrower B become better off (apart from the society, which receives the benefit of new investment). The increased value has essentially arisen from new (or increased) production, from *real* increase in wealth.

But the problem A and B face is that they don't know each other, and even if A knew what B wanted, A might not lend, not knowing whether B will flee with the money. Information asymmetry and uncertainty in enforcement of contracts prevents the 'market' from functioning. But this is where banks step in to solve this constraint on wealth creation.

A bank solves the possibility of default by taking sufficient collateral (e.g. title to B's factory). To minimize risk of the loan not being repaid, it also verifies the viability of B's business plan. After that the bank tells A that it need not worry about B. It is the bank that guarantees repayment to A. As part of this guarantee, the bank keeps a certain proportion of its money untouched, so A can feel more confident about getting his money back. Once A sees all this in place, he agrees to lend to the bank, which then lends to B.

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[40] *Ibid*, p.262.

[41] *Report of the Inquiry into Safety and Health at Work* chaired by Lord Robens.1972.

Without going into the details of banking, one thing that strikes us is that banking system has not yet fully resolved these problems because a competitive banking system creates its own risks. Competition to lend creates a tendency among bank managers to lend even to bad businesses, thus risking the depositors' money unnecessarily. Prudential regulation of banks is therefore a vital part of the free society but remains an area where much needs to be done.

What is the appropriate rate of interest that the bank should charge B (given that B is not directly offering to pay A)? The best way to think of this is by considering what would happen in the absence of the bank. In that case, A and B would negotiate based on their preferences and expectations. If A wants to consume more today and less tomorrow, then A will demand a higher interest rate. An interest rate that is too low will reduce A's incentive to part with his money, so B will need to bid it up. Of course, B will never pay more than the expected net gain after all the trouble he will undertake to make the investment. So somewhere between these boundaries, the proper interest rate will get established, through negotiation.

The more the competition (i.e. thicker the market), the better the likelihood that optimal interest rates will be determined across society for each class of risk, with projects that are more risky paying more, and those with lower risk paying less. Competition among banks would ensure that the interest rate is just sufficient to cover critical bank costs and relevant risks. The 'price of money' would then reflect the best economic use it can be put to compared with alternatives, given to the society's time preference for consumption.

But now comes the question: who should 'produce' money – the actual medium of exchange? Modern societies generally do not permit the private issue of money. However, money was mostly issued by private parties in the past. A range of objects served as the medium of exchange: gold, silver, bronze, even iron, silk and some other commodities. But paper currency interests us the most. Financial institutions in China first issued paper currency sometime between 600 and 800 AD. Soon, the Chinese government got involved and began to issue its own paper currency. But by 1455 its use stopped because of it becoming degraded.

In India, indigenous bankers began using what is called the *hundi* system (an equivalent of a bill of exchange) from around the 12th century.[42] In the Levant during the medieval era, private notes (bills of exchange) to settle trade were created. By 1661, formal paper currency was re-invented by Stockholm Banco in Sweden. But it soon went bankrupt, being unable to honour its notes. The concept, however, stayed on, and ultimately the practice spread across Europe. For a long time, the 'gold standard' supported paper currency which was thus convertible into gold.

Historically, the production of money has been fraught with difficulties. Many issues are involved, particularly fraud. It is possible that if allowed to issue money and determine interest rates – subject to prudential regulation – banks will innovate and evolve a range of methods to manage risks. Having the issue of money independent of government will mean that banks won't 'have the right to call on the Government or any other institution'[43] to save them when things went bad. They will live or die on their own merit, and it would become the responsibility of depositors (or independent agencies hired by them) to verify bank credibility, and hence decide whether to use a particular bank's notes.

Unfortunately, banks haven't been allowed, for the most part, to operate freely, particularly during the 20th century.[44] This is not because banks are unreliable (particularly after they regulated for prudence) but because governments like to control money so they can borrow a lot of it for themselves. In theory, anyone who wants should be able to make coins or print money (being an obligation to pay a certain value in return, say gold). Creation of central banking is the mechanism governments use to control the production of money. For instance, by 1694, a few years after the Glorious Revolution, the British government found itself in financial srife. The 'solution' it found to its problems was to give the (private) Bank of England monopoly power to print money. For this favour, the government received a loan of £1.2 million from the bank – a huge amount at that time.

A few enlightened governments did buck this increasing trend for the production of government money. Sweden allowed free banking between 1830 and 1902, during which economic booms and busts were virtually eliminated

[42] Desai, S.S.M. *Economic History of India*, Bombay: Himalaya Publishing House, 1980, p.319.

[43] Smith, Vera C., *The Rationale of Central Banking and the Free Banking Alternative*, [1936], Indianapolis: Liberty Fund,1990, p.170.

[44] See also Cameron, Rondo, *A Concise Economic History of the World*, New York: Oxford University Press, p.309-323.

and bank failures dramatically reduced.[45] But given the discipline it imposes on governments (which they find very hard), Sweden abandoned free banking.

Today, central banks exist exclusively for one purpose: to stop or obstruct markets for the production and supply of money (and determination of genuine, market-based interest rates). The US Federal Reserve Bank (Fed), established in 1913, soon become a Frankenstein's monster, choking the monetary system and leading to bank failures. Its becoming a lender of last resort gave private banks an incentive to lend without care. It has been argued that the Great Depression was caused almost entirely by a range of bad decisions taken by the Fed. In particular Milton Friedman found that the Fed's excessive contraction of money supply created the Great Depression. Basically, it is impossible for a central bank to dabble in such things which are best left to private banks. Central planners can never get enough information (or information-processing incentives) to make good decisions. Von Mises attributed the Great Depression to the related aspect – of the Fed's keeping interest rates artificially low by expanding money supply excessively in the beginning. Central banks simply can't determine the 'right' level of money supply, and they should not try. Only the free market (with the government acting as prudential regulator) can determine the optimal money supply.

Today, the markets in money are not free, nor is there free banking – by which I mean (primarily) the absence of a central bank. As a result, both consumers and entrepreneurs are in perpetual quandary about their plans. They can never discover the true value of money in the midst of this quagmire. Americans, for instance, saved so little and borrowed so much till the global financial crisis of 2008 – not because they were stupid but because the Fed effectively forced them to do so. By (often) forcing interest rates below what the market rate would otherwise have been, the Fed has forced Americans to consume more and save less, leading to over-investment in certain goods at the expense of what the Americans would have really wanted.

Worst affected are salaried folk whose life savings are devalued by price inflation caused by unwarranted increases in money supply. No sensible person would have reasons to save if his savings are degraded by the government, earning negative interest after inflation and taxes. The consumer is better off by consuming in excess today, or by switching to gold or real assets. This leaves less funds for long-term productive investment, although unproductive investment can increase in the meanwhile because of artificially low interest rates. Basically, the market is seriously distorted, and people's actual preferences not revealed.

Indeed, for a wealth-destroying event of the magnitude of the global financial crisis (GFC) of 2008 to have occurred despite celebrated economists managing the Federal Reserve Bank shows that 'standard' economics has failed at a fundamental level. Instead, the ideas of thinkers like von Mises and Hayek – much neglected in the past but who repeatedly warned us about state-induced distortions in money markets – have now been firmly vindicated. Unfortunately, 'mainstream' economics is still more inclined to side with Marx and Keynes.

Central banking gives bank the incentive to take risky decisions knowing well that the government or central bank will bail them out. This is grossly inappropriate as it violates the fundamental principle of liberty – accountability. When someone makes a bad decision, the tax payer should not be asked to pay for the loss. Central banks, like any centralised body, magnify bad decisions. The solution is simple: abolish central banking and allow private banks come up with their own funding and currency models, under prudential regulation. There are many alternative models of banking and given a chance the markets will find the best, and even create even more effective models.

The government's role must be restricted to prudential regulation. It must not act as the insurer of last resort. A banking business, like any other business, must insure itself appropriately. The owners of the business that takes needless risks must pay. People in a free society are free to remain as stupid as they want to be, without requiring hardworking taxpayers are to bail them out. Through market determination of interest rates for each category of risk, people will be expected to take responsibility for their borrowing and lending decisions.

Fatal conceit afflicts central banks as they 'fine tune' the economy by tinkering with money supply and (hence) its price. Alan Greenspan (whom Ayn Rand erroneously thought was her disciple) wrote in the 1960s that the Fed had 'nearly destroyed the economies of the world' in the 1920s, and that 'a free banking system stands as the protector of an economy's stability and balanced growth'. Despite this, Greenspan, as the Federal Reserve chairman, not only did not advance the shutting down of the Fed, but kept interest rates artificially low, precipitating, ultimately, a major decline in the American economy. The artificially low interest rates he

[45] Lakomaa, Erik, 'Free Banking in Sweden 1830–1903: Experience and Debate', *The Quarterly Journal of Austrian Economics,* 10 (2), Summer 2007, pp. 25-44.

established (and provided unlimited liquidity at these low levels by turning on the money tap) persuaded entrepreneurs worldwide to build houses and car factories in excess, leading to over-investment (or mal-investment in Mises's terms) that was similar to the one which led to the roaring 20's and subsequently to the Great Depression. By doing what he had earlier decried, Greenspan betrayed liberty.

It is time to shut this apparently limitless tap of money that is owned by central banks, and free societies should move to a free banking system based on a well-regulated gold standard. Central banks should morph into independent regulators of privatised money and banking. Many of its functions should be unbundled, and specialist regulators created to deal with coins and notes issue and deposit lending. The lender of last resort function should be the job of private insurance companies, with a specialist regulator to ensure the solvency of these insurance companies. Reforms on these lines will allow citizens to discover the market's true interest rate, allow risks to be priced appropriately, and therefore facilitate uninterrupted prosperity. Of course, good fiscal policy would need to accompany such reforms, and a transitional path established that includes, say, note issue powers to banks that meet certain minimum criteria, initially; in competition with the central bank.

14.2.5 *Paying for the social contract: public finance*

The social contract authorises governments to provide us with public goods like defence, police, justice, and (under certain circumstances) infrastructure and social insurance. Taxes pay for the cost of these goods. The proper funding of government functions must therefore be an integral part of the social contract. Citizens can't create a government, give it certain functions, but then not pay for these functions. There is no free lunch in life. We should not expect to get government services cheaply, leave alone free. (By the way, this perspective is dramatically different to either the 'New Classical' or the anarchic approaches in which government activity is considered to be a waste. I do not agree with such cynical approaches.)

Note that it is *citizens* who authorise the social contract, *not* companies or other legal entities. Citizens vote for and run a government, not companies. And it is citizens who sign the social contract, not companies. Therefore, individual citizens must pay taxes: not companies or other legal entities. Second, *all* citizens must pay taxes except when someone is simply too poor to pay and needs access to social insurance. These are basic requirements of equal freedom.

How much should citizens pay? Should there be a single flat fee per citizen, i.e. a poll tax, or should different citizens pay different amounts – and if so, on what basis? In a perfectly competitive market, everyone pays the same price for a service (such as for a kilo of onions or a haircut) regardless of the ability to pay. Where monopolistic control exists, however, different prices are often charged for a similar service. Such price discrimination (PD) is based on consumers' differential willingness to pay (note that willingness to pay is equal to the ability to pay under most circumstances). PD is commonly practiced, examples being student discounts for entry to a museum, or different fees charged from Indians and foreigners to enter Taj Mahal (different price for *exactly* the same good).

Price discriminating taxation by the state

Optimal provision of public goods is achieved with 'Lindahl prices'. In this, each person pays a *different price* for the same public good, a price equal to the value the person places on the public good.[46] The obverse of this problem is the question: what should the (monopoly) state charge for its services (public goods) to ensure that everyone gets what he wants?

Without PD, a monopoly will usually restrict supply. Where PD is feasible, however, a monopoly will tend to increase its output to accommodate all preferences, including those who can afford to pay less (upto the marginal cost of production). In doing so, it produces 'the same level of output as would a competitive industry'[47]. It does so by skimming all consumer surplus.[48] This shows that the poll tax solution is inappropriate, leading to a significant undersupply of public goods. A 'tax structure that levies the same tax on all citizens cannot in general

[46] Joe Stevens, *The Economics of Collective Choice*, Westview, 1993, p. 106.

[47] Hal Varian, *Microeconomic Analysis,* W. W. Norton and Company, 3rd edition, 1992, p. 243.

[48] The amount over and above the market price for a product that that different consumers would be willing to pay if its supply were significantly reduced.

be Pareto efficient'[49]. But if we reject poll tax, we can either have a flat tax or a progressive tax. Which of these is a better way to deliver the optimal level of public goods to society?

Note that consumer surplus increases disproportionately with income for, as illustrated in auctions, the rich are willing to pay *disproportionately more*. That is why they tend to bid up the price up to the point where their consumer surplus is exhausted. Each incremental unit of money thus has relatively lower marginal value to them, therefore they are just a little bit less happy to pay Rs.1 000 for a product they want, as they are to pay Rs.900. The extra Rs.100 matters little. A flat marginal tax that charges richer citizens at the same rate for every increase in their income as what is charged from the poorer citizens will mean they won't pay an amount equal to the Lindahl price, leading to an under-supply of public goods.

Progression in tax rates with increases in income, being a form of price discrimination, is therefore the correct solution to the question of the level of tax that people should pay. Tax should thus be set at the point where the rich and poor experience *equal marginal disutility* (being the mirror image of the point at which they receive *equal marginal utility* from public goods).

A few practical arguments that are relevant to this discussion reinforce this conclusion, as well. First, the social minimum (a universal insurance scheme operated through the tax system) adds a measure of progression to the classical liberal tax system. Progressive taxation of income is also needed to offset indirect taxes (such as consumption and excise taxes) which are regressive and hit the poorest the hardest. Even F.A. Hayek, an advocate of flat taxation, accepted that a modicum of progression is needed for these two reasons. He did not, however, formulate the more fundamental arguments that I have suggested above, and to that extent he was not clear enough about his recommendations.

There is another important reason for progressive taxation. PD is optimal only when *exactly* the *same* good is provided by a government to all citizens. Often, though, the rich receive both a greater *share* and *quality* of government services than the poor do. For instance, they use the court system disproportionately more than the poor, and if a rich person's daughter is kidnapped, the head of Police personally gets involved while in the case of a poor slum-dweller's daughter being kidnapped, the local police officer may not even get registered the case. With such differential service, an additional product is effectively being delivered to the rich, in which a *further increment* must be charged of them.

The reality is also that the rich actually pay far less than their share of taxes because of their ability to influence politicians to create tax shelters, exceptions, havens, exemptions, and loopholes. For example, consider the typical regressive capital gains tax regime. Assume that A and B start with the same level of assets and invest equally in, say, land. Assume next that A receives windfall gains as his land triples in value, even as B's stagnates. Most tax systems treat A's windfall gains very lightly even though A is now considerably richer than B, and hence able to pay more. Windfall gains must therefore be taxed at least proportionately (i.e. based on a flat tax model). There is no justification for subsidized tax treatment for such income. Similarly, some of the rich also manage their affairs cleverly and often avoid taxes altogether. The richest also never pay the worst tax of all – inflation: because they own real estate and shares which are inflation-proof.

Warren Buffet noted in June 2007 that in 2006 he paid only 17.7% of his $46 million income as tax, while his employees paid 32.9% of their income as tax. At the same time, the poor fork out heavy consumption and indirect taxes. Such regressive taxation is the norm across the world. So, it is only the salaried upper middle classes that pay the highest marginal tax rates.

The truth of course is that although the rich influence politicians to exempt them from paying taxes, they usually end up suffering the most from these exceptions. While they may own the best Mercedes, they then have to hire heavily armed security guards and drive through sludgy, potholed roads. Their quality-of-life declines since they are depending on regressive taxation to provide for public goods.

The practical problems with PD

There remains, of course, the basic problem of discovering what these differential tax rates should look like, fixing them, and collecting the taxes arising from PD. The monopoly can price discriminate only if it knows consumer preferences and its transaction costs of calculating different prices for each consumer, and charging them separately, are low. Without these it can only impose hurdle pricing (by placing hurdles between 'seats' and

[49] Robert Frank, *Microeconomics and Behaviour*, Irwin McGraw Hill, 3rd edition, 1997, pp.622-23.

pricing them differently). '[T]he more finely the monopolist can partition her market under the hurdle model, the smaller the efficiency loss will be.'[50]

Since governments don't know our Lindahl price, they must necessarily establish hurdle taxation (with brackets that are broadly based on citizens' ability to pay).

Let us note that since the rich often don't pay current (notionally) taxes, introducing an overall flat tax might be an improvement in many cases (such as when both Warren Buffet and his employees pay 20% of their income in tax). Progressive taxation is also not as practical as it could theoretically be. We have already noted that governments can't determine the level of progression that captures everyone's consumer surplus from public goods. Second, progressive taxation is often unjust for those with variable income (such as sports celebrities who are taxed at high marginal rates during their few years of high income, while those who receive the same total income but spread evenly over the years are taxed less. (In theory, the annualised lifetime net worth of individuals must be used as the base for taxation, but this can't be implemented). Third, if a country sets its highest marginal tax rates too high, its rich will abandon the country, or smuggle out their capital (capital flight).

Such difficulties with progressive taxation imply that only a modest level of successfully implemented. Hayek's recommendations on taxation[51] can be extrapolated to give us a broad rule of thumb: that where income taxes are the primary source of taxation (as should be the case), then the highest marginal tax rates should be a little bit *above* the country-wide proportion of taxes to GDP, with two tax brackets equal to, and below, this proportion. In India, this could mean a top marginal tax rate of (say) around 30 per cent with two brackets at 20 and 15 per cent each. Such low rates will, of course, not work at the moment, given India's narrow income tax base. Such reforms require mandatory tax returns by all citizens.

To summarise, the following principles of taxation should apply: that (a) citizens (not companies) should pay taxes; (b) paying taxes must be mandatory unless someone is below the poverty line; (c) taxes should be based, to the extent possible, on the annual average of the lifetime net worth of an individual; and (d) taxes must not be regressive but must price-discriminate through a modest level of progression – the average marginal tax rate approximating the share of taxes to GDP. Thus the middle class would pay at a marginal tax rate approximately equal to the proportion of all taxes to GDP; the rich would pay at a rate a little above this; and those below the poverty line would receive a negative income tax payout.

The total tax collected should be neither too much nor too little, being just enough to ensure *effective* delivery of the necessary government services. Aspirational goals are inappropriate, but the appropriate level will depend on the society and its circumstances. A society with honest people (like Japan) will need less policing and hence lower taxation. Corrupt societies will need higher taxation (but of course, the corrupt won't pay: making this a difficult conundrum).

In any event, there is no need for mindless fascination with low taxation as a basic principle. The *right* size of government with *right* functions must drive taxation policy. Today, India's socialist government imposes an extremely low (overall) tax burden but it then *squanders* these precious revenues on unnecessary activities, thus destroying the country's wealth. The consequent under-supply of basic public goods – like defence, police and justice: including the defence of property rights – has led to significant crime, capital flight, and poverty.

Other basic principles that should inform taxation include:

- No taxation without representation (i.e. democratically determined taxes).
- Inflation is the most regressive form of taxation. The liberal therefore opposes deficit financing except in the rarest circumstances (like war).
- Taxes must be levied by that tier of government which administers the relevant service (the principle of subsidiarity).
- Citizens must be taxed, not goods. However, some Pigovian taxes to facilitate the internalizing of negative externalities could be considered in extreme circumstances (As a general rule, such taxes should be avoided, but the option should remain for extreme circumstances). Market-based instruments should preferably be used to control negative externalities.

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[50] *Ibid*, p.418.

[51] In his book, *Constitution of Liberty,* Routledge & Kegan Paul, 1960, p.323.

- The variable cost of a government service (such as the cost of processing a license) should be recovered from the concerned individual or industry (being the cost recovery principle).
- The government should not own land except for roads, common infrastructure, Parliament, courts, the basic requirements of defence establishment, and police stations. This will ensure that land is not wasted and is put to its most productive use. All surplus public lands should be auctioned and revenues so raised, used to keep taxes low.
- Transfers of assets from one generation to another should be treated seamlessly. There should therefore be no inheritance tax.

The liberal is not a utopian and realises that practical matters regarding the ease of collection of taxes will influence the tax system, even though distortions can result from these considerations. A mix of indirect and direct taxes and the use of visible current income (not discounted future income and wealth) is therefore advisable. (Some implications for India of a liberal public finance system have been explored in *BFN*.)

14.3 What about emergencies?

I can do no better than to quote Hayek here (from *Constitution of Liberty*):

> We have up to this point represented those guaranties of individual freedom as if they were absolute rights which could never be infringed. In actual fact they cannot mean more than that the normal running of society is based on them and that any departure from them requires special justification. Even the most fundamental principles of a free society, however, may have to be temporarily sacrificed when, but only when, it is a question of preserving liberty in the long run, as in the case of war. Concerning the need of such emergency powers of government in such instances (and of safeguards against their abuse) there exists widespread agreement.
>
> It is not the occasional necessity of withdrawing some of the civil liberties by a suspension of habeas corpus or the proclamation of a stage of siege that we need to consider further, but the conditions under which the particular rights of individuals or groups may occasionally be infringed in the public interest. That even such fundamental rights as freedom of speech may have to be curtailed in situations of "clear and present danger," or that the government may have to exercise the right of eminent domain for the compulsory purchase of land, can hardly be disputed. But if the rule of law is to be preserved, it is necessary that such actions be confined to exceptional cases defined by rule, so that their justification does not rest on the arbitrary decision of any authority but can be reviewed by an independent court; and, second, it is necessary that the individuals affected be not harmed by the disappointment of their legitimate expectations but be fully indemnified for any damage they suffer as a result of such action.
>
> The principle of "no expropriation without just compensation" has always been recognized wherever the rule of law has prevailed. It is, however, not always recognized that this is an integral and indispensable element of the principle of the supremacy of the law. Justice requires it; but what is more important is that it is our chief assurance that those necessary infringements of the private sphere will be allowed only in instances where the public gain is clearly greater than the harm done by the disappointment of normal individual expectations. The chief purpose of the requirement of full compensation is indeed to act as a curb on such infringements of the private sphere and to provide a means of ascertaining whether the particular purpose is important enough to justify an exception to the principle on which the normal working of society rests. In view of the difficulty of estimating the often intangible advantages of public action and of the notorious tendency of the expert administrator to overestimate the importance of the particular goal of the moment, it would even seem desirable that the private owner should always have the benefit of the doubt and that compensation should be fixed as high as possible without opening the door to outright abuse. [DN: SUMMARISE/PARAPHRASE, ADD NOTES FROM COVID]

* * *

It is worth reminding ourselves that free market institutions are only a small part of capitalism. To confuse capitalism with free markets is to ignore its comprehensive basis. The genuine free market can only exist along with institutions of good governance and democracy. The entire set of institutions of liberty is of one piece. The entire package, combined, is known as capitalism.

PART 4: WHAT LIES AHEAD

15. Modern societies emerge into freedom

'[I]f the perpetual oscillation of nations between anarchy and despotism is to be replaced by the steady march of self-restraining freedom; it will be because men will gradually bring themselves to deal with political, as they now deal with scientific questions'. - *Thomas Henry Huxley*[1]

It is time to step back from the details and look at the broader canvas of mankind's journey of liberty. A major step towards freedom has been the creation of sovereign nations, with sovereign individuals who underpin these nations. Imperialism has mostly come to an end. During this process of nation formation, however, a range of collectivist utopias have competed for attention, with millions of lives being squandered in dangerous collectivist enterprise. Fortunately, the world has by now largely rejected such socialism (except in India and a few Third World pockets). There also remains the task of guiding new generations that are born away from utopias including libertarian anarchy (which seems to be very attractive to the inexperienced).

I will outline some of these issues in this chapter, and close by examining what we could do, in our private lives, to nudge the world towards liberty. This is a journey in which everyone must put their shoulder to the wheel. Let us build World 2.0[2] – the next world, a free world.

15.1 'Sovereignty' of nations: The end of imperialism

Over the past few centuries, the fortress (nation) has been more vigorously shaped and defended. The technology of weapons has helped increase the size and sustainability of nations. This step – a move from anarchy to a strong state – must always be the first step to freedom. Before our freedoms can be safely protected, our nation must be genuinely free and independent. Being a colony of an imperial power is untenable. Being responsible for making the laws and for governing our own society – even if this temporarily involves having to suffer a dictator, monarch or corrupt democratic representatives – is preferable to 'beign' foreign rule. Indians should, for instance, be ever grateful to the leaders of their independence movement for creating a new nation with *potential* for freedom. (India's neighbours have not been as fortunate.) Many other nations also achieved independence in the second half of the twentieth century, and most of humanity now resides in sovereign nations.

However, not all these independent nations, including India, are free. We must recognise at all times that a nation is merely a fortress, the shell of the social contract. The main thing we need is not independence of our nation but freedom. Nations must aim to adopt the principles of capitalism and freedom. The challenge in doing so is to avoid jingoism. Nationhood can deteriorate into tribalism unless we remind ourselves of its main purpose. Expansion of territory or elevating the nation into a god are irrational goals. It is fine to call refer to 'Mother India', but at no time should 'Mother India' become more important than India's citizens.

15.2 Shunning utopias like the plague!

Collectivist utopias easily trap the unwary – particularly the newly formed nations. Idyllic daydreams and utopias that bear no relationship to reality have been the bane of mankind. Whether Plato's *Republic*, Thomas Moore's *Utopia,* Gandhi's *Ram Rajya*, or Marx's communism, all utopias downplay the dark side of human nature and exaggerate our cooperative and altruistic aspects. All utopias collapse in the end, but before that they often take a untold toll on humanity. Murray N. Rothbard explained the risk associated with socialist utopias, thus (although he himself was not averse to a libertarian one):

[1] In Huxley, *Science and Culture*, 1880 [http://homes.chass.utoronto.ca/~ian/huxley1.htm]

[2] http://www.facebook.com/group.php?gid=103716679688275

> [A]bsurd fantasies are at the root of the Marxian utopia of communism. Freed from the supposed confines of specialization and the division of labor (the heart of any production above the most primitive level and hence of any civilized society), each person in the communist utopia would fully develop all of his powers in every direction. As Engels wrote in his *Anti-Dühring*, communism would give "each individual the opportunity to develop and exercise all his faculties, physical and mental, in all directions." And Lenin looked forward in 1920 to the "abolition of the division of labor among people … the education, schooling, and training of people with *an all-around development* and *an all-around training*, people *able to do everything*. Communism is marching and must march toward this goal, and *will reach it*."[3]

Edmund Burke suggested that utopians are divorced form reality because they imagine 'their speculative designs as of infinite value, and the actual arrangements of the state as of no estimation'[4]. The liberal, on the other hand, is aware of the limits to human knowledge, and denies the possibility of any single person's ideas about society is 'perfect'. Unintended consequences overwhelm utopia. The liberal recommends, therefore, the messy alternative of democracy in which all people, not a 'chosen' few, decide. Extremist ideas inevitably get ironed out during this process. Since the liberal understands how humans *actually* behave, not how they *should* behave, he sets in place checks and balances, and participates as a vigilant citizen and citizen leader.

Capitalism is designed to deal with human ignorance, hatred, corruption, evil, deception, and extremes of emotion. It does so by denying anyone the power to tell us how to run our lives. It leaves us free subject to our being accountable. Capitalism creates wealthy societies not by exhorting us to work for our society, but by letting us work for our own interest. Of course, there is the issue of failure. Not everyone succeeds. Democracy and equal opportunity take the sting out of such failure and prevent violence as a 'remedy'. But being work in progress, capitalism never reaches a 'final' shape. Each generation helps improve its institutions.

Unfortunately, capitalism has got a bad rap because people tend to attribute the extensive failures of government intervention to the failure of capitalism. It is a grave error, for instance, to attribute the sub-prime mortgage fiasco of 2007-08, or business cycles more generally, to capitalism. These things arise from flaws of human nature that are not addressed in the design of institutions. Political foolishness and paternalism, or simply laziness and stupidity of regulators underpins these problems. Bad regulation does not mean that the theory of capitalism is bad, but that it has not been understood or adequate checks and balances not introduced.

Let me elaborate on the sub-prime crisis. In this case, the failures of the US Fed (outlined in the previous chapter) were greatly exacerbated by welfare socialism. State-owned Fannie Mae was created in 1938 to funnel federal funds into home loans, thus artificially boosting housing demand. It was later notionally privatised in 1968 but remained guaranteed by the US government. Freddie Mac was created in 1970 to allegedly provide Fannie Mae with some competition. The dabbling of the government in the housing market, and the growth of American welfare socialism worsened this – with Jimmy Carter's 1977 *Community Reinvestment Act*. This act asked private banks to lend money to people with low or no income, thus over-riding good lending practices. Fannie May and Freddie Mac (FMFM) were 'leaned upon' by successive US governments to buy the sub-prime mortgages so issued by banks. Then began what is best described as government-supported fraud. FMFM not only began to guarantee the sub-prime loans issued by Bear Stearns, but also directly sold these repackaged mortgages to foreigners.

Holding those who make false claims about a product to account is a primary role of the government, but in this case the US Office of Federal Housing Enterprise Oversight, charged with supervising FMFM, did not identify the fraud being perpetrated by FMFM. Activities of equally dubious nature were separately unfolding in relation to financially engineered products. Thus, Credit Suisse Group Sellers misled markets about the risk of the securities it sold because these had received AAA ratings from Standard & Poor's – which in turn had completely failed in its due diligence. Self-regulation therefore failed dramatically because the regulators were complicit in the crime. To add to these problems, urban planning laws in many parts of the USA prevented urban boundaries from expanding even though thousands of new housing loans were being issued by banks. The consequent shortage of land put artificial pressure on house prices.

The whole thing therefore ended very badly. But then bailouts started. There is risk attendant on all investment. Some investments will fail. A fundamental requirement of capitalism is that the state must never bail out failed investments. Unfortunately, in 2008 the USA government wasn't sufficiently contrite about its over-management

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[3] Rothbard, Murray, *Egalitarianism as a Revolt Against Nature*, Mises Institute, 1974. [http://mises.org/story/3071]

[4] Burke, Edmund, *Reflections on the Revolution in France*, p.90 [CHECK]

of the economy and the debacle it had created in league with the Fed. It therefore threw massive amounts of taxpayer funds at failing companies, destroying any semblance of individual accountability. Spending taxpayer funds to bail out failed companies is sheer theft – from hardworking taxpayers.

Politicians often do really stupid things – that are totally incompatible with the theory of freedom. What capitalist societies therefore need is to build better systems to prevent politicians from interfering where they shouldn't. Economic design can help, as well as greater awareness of the dangers of such interference. We also need the recognition of the dangers of under-regulation where prudential regulation is needed. The way out is for (classical) liberals to engage actively in the politics and governance of their society.

In brief, business cycles occur not because the theory of freedom is defective but because freedom with accountability is not always enforced. We must be aware, though, that capitalism is meant for imperfect people and that imperfections will remain in its implementation, although hopefully these will reduce over the course of time. Despite these limitations, the good thing is that capitalism won't kill people because of utopian ambitions.

Capitalism in the sense I mean does not exist anywhere in the world today. Reasonable approximations, however, are found in the USA, Australia and others. We find overwhelming evidence that even a small increase in freedom can powerfully boost the incomes of the poor. Capitalism grabs the poor by the scruff of their neck and sucks them into a powerful vortex of freedom which leads them to prosperity, health, and ethical outcomes. It enables them to stand on their own feet. It builds capability. It does not spoon-feed.

'Good' capitalism also reviews its regulations regularly and refines them to minimise (the inevitable) government failures. Things like the sub-prime crisis will come and go, but relatively free societies like the USA will continue to prosper even as countries like India remain strangled by their socialist leadership. It is surely time for India to admit its gigantic mistake and take strong steps towards greater freedom.

15.3 Where to, now?

Where to from here? I think that the main thing is to be patient. Because of the significant shortcomings of human nature, social change **is necessarily** slow. Human nature refuses to accept good arguments or evidence (nor does it motivate us to change things even when we know the change will make things better). We hold on to our previous views stubbornly. I have rarely come across anyone who has changed his mind through debate[5].

Many American Christians deny evolution regardless of the enormous amount of scientific evidence presented. And some Muslims continue to believe that killing non-believers on a mammoth scale will assure them a passage to Paradise, despite rebuttal of such beliefs by other Muslims. Some Hindus continue to deny that Hinduism originally had a caste-less society. Similarly, many people refuse to accept the benefits of freedom despite the overwhelming evidence on offer. Even if they think that freedom is a good thing, they balk at the steps necessary to change things.

True, societies *do* change, but over many generations, particularly since liberty is never imposed (unlike communism which, being unnatural, must be imposed). But social change is also not unidirectional: it can wax and wane. Ideas long proven to be wrong often re-emerge, particularly as children rebel and want to prove their parents wrong. Only incrementally therefore, and with vigorous promotion by each generation, will people ultimately abandon utopia, bigotry, and accept liberty.

But things don't ever change on their own. The require people who are willing to steop out and change things. History is made by humans. Our contributions all add up. It is through books, articles, blog posts, conversations, and other efforts of millions of people that freedom will ultimately triumph. It definitely won't happen by being a mere observer. Responsible citizenship is the key. It is my hope that the time I have devoted to writing, and on building the Freedom Team of India (freedomteam.in) will make a useful contribution.

Being a mere mortal, I do become despondent at the low uptake of good policies and good ideas in India and the world. We all can do so much better if only we let each other free to do their best, without imposing our preferences on them. Why bother ourselves about the God others believe in, the clothes they wear, the foods

[5] E.g. in his article entitled 'Economic Consensus Calls for Bit of Give and Take', in *The Weekend Australian*, April 24-25, 2010, p. 14, John Caroll, a professor in La Trobe University, admitted that a view he strongly advocated in the early 1990s against free markets was wrong [see: http://bit.ly/cwMrIV].

they eat? Why make this life – which is already challenging enough, even more difficult by creating a conflict where none need exist?

But we can't do more than what is reasonably possible without *at any time* sacrificing our self-interest. It is wrong to ask anyone to sacrifice for anyone else, leave alone for the 'nation'. We must all remember that the nation is a joint responsibility. Anyway, after paens have been written to liberty, 'we must,' as Candide said, 'go and work in the garden'[6].

Living our lives is why we care about liberty. The garden beckons.

'The inherent vice of capitalism is the unequal sharing of blessings; the inherent virtue of socialism is the equal sharing of miseries.' *Winston Churchill*

'Believing in capitalism does not mean believing in growth, the economy, or efficiency. Desirable as these may be, these are only the results. Belief in capitalism is, fundamentally, belief in mankind.' - *Johan Norberg*

[6] Voltaire. *Candide.*

Acknowledgements

My acknowledgements for this book are almost entirely the same as for *BFN*, so I have not repeated them again here but placed a copy on the internet[1]. I'd like to, however, make special mention of Suresh Anand, Captain Pullat, and Gavan O'Farrell, once again, for having taken the time to provide me with valuable feedback on early drafts of this book (Suresh Anand, again, provided the most comment). Of the others, thanks go to Supratim Basu for an engaging debate with me on equal opportunity which impelled me to streamline my arguments and make them even more air-tight, to Shanu Athiparambath for pointing out an inaccurate attribution to Ayn Rand when it should have been Alan Greenspan, and to Vivek Iyer for pointing out a blooper regarding the Nash equilibrium which I accidentally overlooked, and pointing out technical details re: Pareto optimality which I have since dealt with in a footnote.

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NOTES FOR FURTHER WORK

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