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HAS HUME A THEORY OF SOCIAL JUSTICE?

I.

Toward the end of An Enquiry concerning the Principles of Morals, Hume asserts in a footnote that:

*In short, we must ever distinguish between the necessity of a separation and constancy in men's possession, and the rules, which assign particular objects to particular persons. The first necessity is obvious, strong, and invincible: the latter may depend on a public utility more light and frivolous, on the sentiment of private humanity and aversion to private hardship, on positive laws, on precedents, analogies, and very fine connexions and turns of the imagination.*¹

For one who draws the connection between the ideas of justice and possession as closely as he does, Hume's ambivalence here concerning the rules or principles governing the distribution of objects to be possessed is more than slightly surprising. In fact, for admirers of Hume interested in theories of social (or distributive) justice, his failure to state a preference among these various 'principles of distribution' is downright depressing. Is this all Hume has to say on the subject of how possessions are to be distributed within society? Does it not matter to him what the principles are upon which this distribution is accomplished -- as long as it is accomplished? These are the questions with which this essay is concerned, questions which essentially reduce to that of whether Hume has a theory of social or distributive justice at all. To be sure, the amount of space Hume devotes to the discussion of justice would seem to indicate that he is working from a particular theory of social justice, and authors such as Miller, Day, and Árdal ascribe one to him, yet Hume's apparent lack of concern for principles of distribution disputes this ascript-

ion.² For at the center of all such theories -- from Aristotle to Rawls -- lies a preference for a certain principle or set of principles which dictates how advantages (goods, wealth, benefits, etc.) should be distributed.

In order to evaluate Hume's status as a theorist of social justice, two approaches recommend themselves. First, it is necessary to discover and examine in Hume's major works possible criteria which might dictate how possessions should be distributed in society.³ Three such criteria will be dealt with here: the principle of utility as Hume construes it, the formal principle of correct application of law, and the principles Hume entitles the laws of nature". If none of these emerge, singly or in combination, as the principle underlying a Humean theory of social justice, a second avenue for analyzing Hume's views of social justice will be explored. Here some of the critical psychological and moral characteristics which Hume attributes to human nature will be examined to determine whether Hume, though he seems to accept no specific principle of distribution, might arrive at a coherent theory of justice in a negative fashion; that is, through rejecting certain criteria of distribution, particularly merit and need.

II.

The half-heartedness of Hume's commitment to the principle of utility as either a standard of personal morality, a measure of the justness of particular actions, or as an explanatory principle has been frequently documented,⁴ and, although the main purpose of this essay is to examine Hume's theory of social rather than personal justice, a few comments on the latter will form a useful preface for the subsequent argument that Hume is equally as luke-warm toward utilitarianism as an adequate basis of social justice. Three considerations indicate Hume's non-utilitarian approach to personal morality. First, unlike all advocates of utilitarianism, Hume is not a consequentialist on matters

of personal ethics. That is to say, when Hume speaks of what makes persons or their actions virtuous, he insists that the major criterion for such an evaluation is the motive upon which the agent acts. In the Treatise he states that *a virtuous motive is requisite to render an action virtuous*; (T478), and maintains this view in the Enquiry as well.⁵

Hume therefore violates the consequentialist stance implicit in the utilitarian construal of personal morality, but just as seriously, is also left rather cold by the later utilitarian contention of Mill that whatever is just is ipso facto utile. Hume asserts in numerous places throughout the Treatise and Enquiry that particular acts or rules of justice, though undeniably just, may often be *pernicious* or *contrary to the public good*, and are only utile when viewed collectively as constituting a *whole scheme...of law and justice [which] is advantageous to society*. (T579). Such a 'whole scheme' within which single acts or rules acquire their utilities is clearly a standard much too broad for rule utilitarians to accept, and far too distant for the calculations of act utilitarians.

Finally, Hume's characterization of the origin of society indicates a third reason for questioning his devotion to the principle of utility. At first glance Hume seems to accept fully the utilitarian conception of the origin of social life, for he argues that the private utilitarian considerations of individuals existing prior to society would force them to recognize that only in society can they realize the degree of force, ability, and security (T485) necessary to meet the contingencies of the uniquely precarious human condition. However, Hume immediately tempers his faith in utility as an explanatory principle, for he states that even though it is indisputable that the social condition is advantageous, it is doubtful that those existing prior to society would have recognized its utility. Thus, he turns to the *natural appetite betwixt the sexes*,

and acknowledges that sexual instinct, rather than utility, is the *first and original principle of human society* (T486).⁶

From what has been said so far it seems reasonable to conclude that Hume is unconvinced about either the explanatory power of the principle of utility, or its attractiveness as a measure of personal justice. However, the major concern of this essay is Hume's consideration of the topic of social justice; thus the question still remains whether Hume is persuaded by the appeal of utilitarianism as a method for arriving at a just distribution of goods within society. It is critical in this regard to begin by grasping what Hume understands the meaning of utility to be -- i.e., how he defines the term, for as is often the case, how one defines a concept determines its acceptability to oneself and others.

Significantly, when Hume speaks of utility, he does not refer to a specific principle such as maximizing the average level of happiness, or to "the greatest good of the greatest number" calculus of Bentham. Rather, utility signifies to Hume nothing more than that which is necessary for the survival of society. Hume never gives anything more explicit about what utility means than this very general account; thus he states that *utility is only a tendency to a certain end* (EM, App.I, p. 286), the end of societal preservation. For this reason Rawls, among others, has concluded that Hume's utilitarianism "is not strictly speaking utilitarian," for "all Hume seems to mean by utility is the general interests and necessities of society."⁷

With the generality of Hume's definition of utility in mind, it is possible to view in a non-utilitarian light his statements in the Treatise and Enquiry which imply an intimate connection between social justice and utility. For instance, if utility means only what is necessary for the survival of society, is the connection between the rules of social justice and utility a natural one? Hume answers

that the connection is not natural, but artificially imposed, and so imposed not because of the universal contingencies of social existence, but in order to command obedience to particular rules.⁸ Secondly and more crucially, are the prescriptions of utility (survival) variable across societies? In other words, is Hume's definition of utility, though general, universal or does utility denote different things in different communities? That Hume believes the latter -- that the dictates of utility vary across societies, is implicit in the quotation with which this essay began, and explicit in the statement that the rules of justice are altered by civil law, *according to the particular convenience of each community* (EM, 196).

With the assertion that the prescriptions of utility vary according to particular social circumstances, Hume places himself outside the mainstream of utilitarian thought, for if utility is allowed to prescribe various things, it is easily discernible that in some societies it may prescribe something entirely antithetical to "the greatest happiness for the greatest number" for the sake of survival. In short, Hume's definition of utility as whatever tends to the survival of society is simply too broad and non-committal for any true utilitarian to accept; it places too few constraints on what is a just and proper distribution of goods within society.

It can be concluded then that if Hume has a particular theory of social justice, it cannot be based upon the principle of utility as usually construed. Furthermore, it is arguable that if Hume were intent on basing a theory of social justice on his own (non-utilitarian) principle of utility, this would be proof enough that he has no theory at all. For if utility is the criterion of a just distribution of goods within society, but utility only means what is necessary for the continued existence of a particular society, and may (and clearly does) differ among societies, then many patterns of distribution are equally

justified by such a theory.⁹

If this were Hume's position, however, it may be jumping to unwarranted conclusions to say that he then has no theory of social justice' rather it may be better to say he has no substantive theory, but does present a formal theory of social justice. Because the requisites of survival (utility) are, for Hume, circumscribed and defined by law, such a formal theory would maintain that social justice is the correct application of law; in other words, that the rules of justice are embodied in law.

III.

In discussing the possibility of a formal theory of social justice in Hume's writings, it is worth noting that what is being attempted here is not a discrediting of such formal theories as either being vacuous, non-prescriptive, or not 'real' theories of justice. Rather, what is to be decided upon is whether all of Hume's comments on the topic of social justice -- on the principles regarding how goods are to be distributed in society -- essentially reduce to a formal notion that the rules of justice are derived from law.

The major difficulty in deriving such a formal theory from what Hume has to say about justice is the problem of deciding what Hume means by 'law'. On many occasions he draws the equivalence between justice and law,¹⁰ and therefore appears to opt for formalism, yet it is never clear whether 'law' means positive law, civil law, general empirical laws of social existence, or social norms and conventions peculiar to particular communities (that Hume does not mean 'natural law' in the traditional sense should be clear immediately from his repudiation of reason as the basis of morality).¹¹ John Day enunciates the relationship in Hume's thought between law and justice as follows:

But how are they to decide what goods are due to which men? They do this by establishing

rules or laws. . .These are the rules of justice.¹²

Unfortunately, this only indicates that the rules of justice are man-made, something already implicit in Hume's rejection of natural law, and in his dictum that justice is an artificial virtue. The question still festers: what does Hume mean by the 'law' from which (in the formalist view) the rules of justice emerge?

It would be a simple matter to adjudicate the issue of Hume's formalistic approach to social justice if his only statement on the subject were that found in the Enquiry, in which he states that *the object of municipal laws is to fix all the questions with regard to justice* (EM,286). According to this statement, a formal relation is implied between justice and civil or positive law. However, as Day points out, Hume insists upon the possibility that the rules of justice can be observed "in a society without government in which there are no laws formulated and enforced by constituted authority."¹³ This clearly vitiates the claim that Hume's formalism is tied to positive law, but does not (yet) disprove the general thesis that Hume presents a formalistic theory of social justice, for in the Treatise he speaks of the establishment of the *laws of society, that is, by the laws of justice* (T491). Here the 'laws of society' must not necessarily be construed as municipal laws, for as stated by Day, justice does not presuppose a legal system for Hume. But if the laws of society are not positive or civil laws, what are they -- norms, conventions, empirical laws concerning human psychology or social behavior? Indeed, Hume says they are all of these.

. . . justice takes its rise from human conventions; and that these are intended as a remedy to some inconveniences, which proceed from the concurrence of certain qualities of the human mind with the situation of external

objects. (emphases Hume's) (T494)

Thus, if the formalist argument is still to be maintained, it must somehow cope with the obvious informality of the position that, for Hume, the rules of justice are derived from accidental human conventions (which need not be elevated to the level of positive law), and indirectly from the attributes of human psychology which necessitate those conventions.¹⁴

Surely the informal relationship between justice and conventions, human psychology, and the external environment cannot be the basis of a formal theory of social justice. It is simply indiscernible then whether Hume puts forward such a formal theory, for it is not sufficiently clear what the 'law' is from which the rules of justice are derived. Day gives a possible explanation for Hume's uncharacteristic hedging on the issue of whether justice does emerge from law.

Hume seems afraid that if he openly confessed that the rules were obtained from laws, people might not be sufficiently convinced of their universality and of their appeal to men outside legal systems.¹⁵

Such speculation on Day's part, if true, supports his contention that Hume's theory of justice is indeed formal, but does not resolve the preliminary question concerning Hume's confusion over what the laws are from which the rules of justice are obtained. In the face of this prior ambiguity, to maintain a formalistic conception of social justice in Hume is simply unwarranted.

IV.

Without a formal theory of social justice then, Hume is indeed without any theory at all, unless he provides some principles of justice, other than the principle of utility, which are substantive in nature. Ostensibly, Hume does supply such needed principles of social justice

which are to stand above mere positive law and considerations of public utility; these are embodied in what he names the *laws of nature*, which are enumerated as that of the stability of possession, of its transference by consent, and of the performance of promises (T526). These three laws all apply to property,¹⁶ a concern which Hume says is the precipitating (if not the immediate) impetus for the establishment of society. If these laws do in fact form the nuclear principles of a theory of social justice for Hume, such a theory is, in David Miller's terms, not only conservative, but "an unusually narrow version of conservative justice."¹⁷ Still, a narrow theory of social justice is better than no theory at all, hence the final question to be dealt with in deciding if Hume presents a positive theory of social justice is whether that theory is grounded upon the principles of the laws of nature.

There are two reasons for rejecting the thesis that Hume's theory of social justice (such as it is) is articulated through the mechanism of the laws of nature. First, it is doubtful that Hume presents these 'laws' as prescriptions for society to follow in its distribution of wealth. The laws of nature seem to be rather more like descriptive 'topics' or categories of justice which every society fills in with its own positive laws and utilitarian considerations in its own way. Thus, the laws of nature do not prescriptively supersede the positive laws, conventions, or utilitarian calculations of society, but are contingent upon them. For example, Hume insists that the second law of transference by consent depends upon the particular practices, traditions, and even superstitions of a given society, for it is these that define what the terms "transference" and "consent" are to mean in the social context. Similarly, the law regarding performance of promises is *founded on the necessities and interest of society* (T519). Finally, the first law of the stability of possession is contingent upon civil laws, for they det-

ermine what number of days or months or years should be sufficient to justify a claim of proprietorship. Hume therefore concludes:

Civil laws here ~~supply~~ the place of the natural code. . . [and] in general we may observe that all questions of property are subordinate to the authority of civil laws, which extend, restrain, modify, and alter the rules of natural justice, according to the particular convenience of each community (EM,196).

A theory of social justice whose principles are open to alteration or even restraint by non-generalizable positive laws which pander to the 'convenience' of particular societies (or realistically, to the interests of those in a position to determine what is convenient),¹⁸ is manifested in those societies not as theory, but as ideology.

The relativity of the laws of nature across societies and legal systems also indicates that these do not constitute a theory of social justice for a second reason. Hume postulates that the laws of nature are adjusted to fit the needs (conveniences) of each society, but does not consider the possibility that these needs may dictate a direct violation of the three laws. Particular circumstances or conventions may indeed necessitate the contravention of the laws of nature however, and such a breach of the laws would be justified (for Hume) because of the criterion of utility. One example will suffice: consider a society plagued by conflict and violent confrontations over rights of inheritance. It is entirely plausible that such a society might decide to end the debates and battles over who should inherit and how much by instituting primogeniture. If properly enforced, such a decision would be in the interests of social justice in light of Hume's dictum that *the safety of the people is the supreme law* (EM,196), yet it would clearly violate the second law of nature which stipulates that transference of property be

based upon the consent of the parties involved.

The incompatibility between Hume's laws of nature and the principle of utility (as he construes it) illuminates an interesting point concerning the various principles presented in this essay as possible bases for a Humean theory of social justice. It has been shown that none of these principles -- that of utility, the formal principle of obedience to law, or the principles found in the laws of nature -- are individually sufficient to serve as a foundation for a theory of social justice for Hume. This is due in part to their vagueness, but primarily because of their inability to differentiate between the various styles of distribution of wealth extant in different societies, and the resultant incapacity to offer generalizable prescriptions concerning that distribution. However, it is now evident that neither can these principles taken together form the foundations of a theory of social justice, for in practice they quite easily conflict with one another. It has already been shown how Hume's principle of utility might contradict the laws of nature; similarly, because Hume believes that the public interest is articulated in positive laws, such laws could conflict with the second law of nature for the same reasons. Furthermore, if law is construed as convention, it is easily seen how conventional practices may violate the dictates of utility when environmental circumstances change. The conclusion then is inescapable: none of these principles, taken singly or in concert, establish the grounds sufficient for maintaining that Hume has a theory of social justice.

V.

Although Hume's writings lack a particular, positively presented theory of social justice, this is no license for concluding that he has nothing further to say on the subject. Indeed, though Hume is incorrigibly hesitant in deciding which principles of distribution are

acceptable in a theory of justice, he has no qualms whatever about asserting which ones are not. Those criteria not permissible in Hume's view are two: merit (desert) and need. Hume's rejection of these two principles of distribution is not, however, founded on a belief that they are somehow inimical to the maintenance of justice in society, but that they simply will not work given the "nature and situation of man." Therefore, in order to understand why Hume repudiates merit and need as principles of distribution -- and if he is justified in doing so given the prescriptive impotence of his version of the principle of utility and the laws of nature, it is necessary to delve into his views of human psychology and the limiting effect of human nature on the establishment of social justice.

Hume prefaces his discussion of human psychology by insisting upon the essential uniformity of human nature;¹⁹ and though his view of man is not thoroughly Hobbesian, there is room in his brutally realistic appraisal of the species for few saints, no great legislators, and no philosopher-kings. He recognizes certain characteristics of the human personality which both necessitate and make possible the establishment of some rules of social justice, while at the same time rendering it impossible that those rules be based upon the criteria of merit or need. First, Hume asserts that it is self-interest which motivates men to establish society in order to release themselves from the savagery of the state of nature and to secure property. Furthermore, it is self-interest, or rather intelligent self-interest,²⁰ that motivates individuals to acknowledge the need for some rules of justice, so that property may be held and transferred without the threat of violence and the destruction of society.

However, it is because the self-interest propensities of persons are so easily transformed into the regrettable but so distinctively human attributes of selfishness, self-love, and partiality that social justice

cannot be founded upon need or merit. Hume goes so far as to maintain at one point that self-love is the real origin of the rules of justice;²¹ thus, accepting this as true, it is easy to discern why merit is not a viable principle of social justice. Because it is difficult to love what one does not hold in high regard, self-love felicitously tends toward self-conceit, which in turn muddles the idea of merit by defining it in terms of one's own "meritorious" characteristics or actions. Consequently, Hume concludes that

. . .so great is the uncertainty of merit, both from its natural obscurity, and from the self-conceit of each individual, that no determinate rule of conduct would ever result from it (EM, 193).

In like fashion, Hume contends that need cannot be an adequate principle of social justice, for if a distribution according to need were possible, it would require a degree of pure and impartial benevolence so great that were people actually motivated by such altruism, the whole idea of justice would never have been discovered. Therefore, the mere existence of the idea of justice witnesses to the selfishness and partiality of the human race, and verifies that justice defined as 'to each according to his needs' is an unattainable principle.

Again; suppose, that, though the necessities of [the] human race continue the same as at present, yet the mind is so enlarged, and so replete with friendship and generosity, that every man has the utmost tenderness for every man, and feels no more concern for his own interest than for that of his fellows; it seems evident, that the use of justice would, in this case, be suspended by such an extensive benevolence, nor would the divisions and barriers of property and obligation have ever been thought of (EM, 184-185)

For Hume then, the unacceptability of need as a criterion for the just distribution of social wealth arises from the unrealistic amount of human benevolence it requires for its viability as a standard.

However, Hume's rejection of the principle of need should not be construed as an assertion that benevolence is entirely absent in the human character. On the contrary, Hume forcefully maintains that though benevolence is unreliable, it is an inherent attribute of persons as social beings and derives from two sources: from the peculiar human trait of sympathy, a concept which will be dealt with later; and from gratitude. What Hume understands by gratitude here as a source of benevolence is not merely reciprocation for services rendered by others, for if this were the case, benevolence would be reducible to a contingency of prudential self-interest. Rather, Hume believes that benevolence proceeds from the satisfaction derived from the company of another, and the gratitude which that companionship engenders.²² Benevolence is a positive virtue for Hume, and it is for this reason that he claims that *of all crimes that human creatures are capable of committing, the most horrid and unnatural is ingratitude* (T466).

There is one further element in human psychology which Hume presents as a reason for the unworkability of need as a criterion of distribution: it is what might be called human 'prudential and ethical myopia'. Human beings are shortsighted, posits Hume, both prudentially because they prefer the gratification of present needs in spite of possible deprivation later on, and ethically because they are 'partial' -- they only recognize and are sympathetic to their own needs and interests and those of persons close to them, to the exclusion of the more general interests and needs of all. This myopic ethical point of view is what makes benevolence (even when pure and emanating from a sense of gratitude) always partisan, and tainted by a *violent*

propension to prefer contiguous to remote (T537). Certainly, such benevolence is not sufficient, in Hume's view, to meet the requirements of a distribution of social goods according to need.

VI.

On the basis of the characteristics which Hume ascribes to human nature, it is indeed logical for him to deny the advisability of using need and merit as criteria of distribution. However, one such personality trait has not yet been discussed, one that indicates the depth of Hume's insight into the human psyche. That final attribute is Hume's provocative and much disputed concept of sympathy. It remains to be considered whether human sympathy, as Hume construes it, is capable of overcoming the self-love and partisan prejudice of man's tepid inclination toward benevolence, and thus of overturning his own judgement that the principles of need and merit are unacceptable as criteria of social justice.

That Hume recognizes sympathy as a quality endemic to all persons is apparent from the beginning of Book II of the Treatise; in fact, its universality is essential for the particular and psychologically technical definition which he gives to it. For sympathy does not signify for Hume an emotion or feeling such as compassion or pity -- if it did its universality would be questionable empirically. Rather, Hume refers to sympathy as a uniquely human form of communication, from whose operation it results that

. . . the minds of men are mirrors to one another, not only because they reflect each other's emotions, but also because those rays of passions, sentiments, and opinions, may be often reverberated. . . . (T365).²³

Hume's use of the two models of a mirror and an echo in illustrating in the above quotation how sympathy functions,

indicates several points concerning the nature of this interesting concept. First, sympathy is a purely mechanical phenomenon in human beings which fits snugly into Hume's mechanistic psychology -- sympathetic inferences about another's emotional state are only possible through observation of his bodily behavior.²⁴ Second, sympathy functions not only as a device to know what others' passions, sentiments, and opinions are, but it 'reverberates' back upon the observer and aids in the discovery or further articulation of his own passions, sentiments, and opinions. Thus, sympathetic understanding acts as much as an instrument of self-knowledge as of knowledge of others. Third, it is the human capacity for sympathy which makes man so irrevocably a social being. Henry Aiken elaborates.

What Hume is emphasizing in his doctrine of sympathy is that man is pre-eminently a social being, not in the sense of being altruistic or in the sense that the fulfillment of his wants requires the aid of others, but in the more important sense that whatever others do, their joys and sorrows, loves and hates, have an immediate and continuous impact upon our own sentiments. It is this capacity for reciprocity of feeling which renders possible a common moral life.²⁵

Much more could be said concerning Hume's notion of sympathy, but its relevance for this essay lies specifically in the question of whether sympathy effectively broadens personal benevolence -- thus making it less partisan or "partial", and therefore rendering the principles of need or merit viable as criteria of social justice. It would seem that sympathy could have this effect, but Hume insists that it does not for two reasons. First, Hume argues that the sympathetic recognition that another is in pain in no way necessitates that the observer will come to his aid if it requires self-sacrifice on the observer's part,

even if that sympathetically communicated message causes pain in the observer as well.²⁶ Thus, it is Hume's considered opinion that when the dictates of sympathy and self-interest conflict, self-interest comes away the victor. Second, sympathy is partial in exactly the same way as benevolence. Just as the motivation toward benevolence diminishes as the distance between persons increases, so sympathy is also weakened by great geographic distance or weak emotional ties.²⁷ Furthermore, the stirring of sympathetic communication with another requires that the observer actually have had the same experience witnessed in the person observed;²⁸ thus the power of sympathy to impel benevolence is lessened due to its limited applicability.

It is apparent then that Hume's ascription of sympathy to the psychological make-up of human beings does not contradict his claim that merit and need are unacceptable principles of distribution due to man's intrinsically limited benevolence and self-love. There is one further element in the social experience of man that may force this contradiction upon Hume however: socialization. Hume often stresses the importance for the public acceptance of the principles of justice of parental instruction, formal education, and moral tutelage by politicians. These are, of course, primary instruments for the socialization of the citizenry to the particular ethical norms and mores of a society. The critical question therefore arises: how powerful does Hume think these instruments are in directing the activities of individuals subjected to them? Is socialization capable of redirecting (if not altering) the passions of man -- and if so, to a degree sufficient to make need and merit, and the degree of benevolence they presume, appear to a self-interested and partisan man to be the most prudent principles of social justice?

Significantly, the success of the argument that for Hume socialization must be capable of making merit and need efficacious principles of justice does not depend upon

the effectiveness of socialization in altering human nature. If it did, the argument would immediately fail, for Hume states unequivocally that neither teachers, parents, politicians nor moralists are capable of rooting out the unsavory characteristics of human nature; and indeed, *did the success of their designs depend upon their success in correcting the selfishness and ingratitude of men, they wou'd never make any progress* (T521).

Yet in the same breath Hume admits that though the undesirable passions cannot be eliminated, they can be re-directed, that is, made congruent with the virtues of benevolence and public spirit. Thus, it seems that through the agents of socialization, benevolence can be made to permeate society, not because persons are no longer ruled by selfishness, but because they have been made to realize that benevolence is the most prudent means with which to realize the objects of their self-interested desires. Hume concludes:

Hence I learn to do a service to another, without bearing him any real kindness; because I foresee, that he will return my service, in expectation of another of the same kind, and in order to maintain the same correspondence of good offices with me or with others (emphasis added) (T521).

With such altruism rampant in society, are there any possible grounds left on which Hume could further dispute the viability of the principles of need and merit as criteria of social justice?

Hume has, in fact, one round left with which to defend his claim that need and merit are unacceptable. The problem with the above argument is that benevolence grounded in prudence is not real benevolence in Hume's mind -- and he has insisted that real, "pure" benevolence is what is required in order to make merit and need workable criteria. It should be remembered that Hume is not a consequentialist--virtue for him is contingent upon the motives that produce

it, not upon outward appearances or results. Clearly, calling such simulated altruism which emanates from prudential self-interest "benevolence" would strike Hume as a vicious misnomer, for doing so would strip benevolence of its moral character.

But why is "pure" benevolence necessary anyway? After all, Hume is only attempting to prove that merit and need are unworkable principles of social justice, not that they are immoral. If socialization can make them work, what difference should it make to Hume whether they are based upon a specious moral foundation? Indeed, if "pure" benevolence is not necessary for the viability of need or merit as criteria of social justice because socialization can make them work without it, should Hume have rejected need and merit at all? It looks like there is a possible theory of social justice in Hume's writings after all, one based on either the criterion of need or of merit. Why then does he reject them? To these questions Hume never adequately responds, and, because he does not, the relationship between moral principles, inherent human personality traits, and the power of socialization is never made clear. As a result, the debate over whether Hume is justified in rejecting the principles of merit and need as criteria of social justice cannot be resolved.

It is regrettable perhaps to conclude on such a note of indecision, but such irresolution functions admirably nonetheless to underscore what has been the major point of this essay: the marked hesitancy and irresolution on Hume's part concerning what principles should underlie a theory of social justice. It was demonstrated in the first half of this essay that Hume does not in fact articulate positively a theory of justice, because the alternative principles upon which such a theory might be constructed are insufficiently prescriptive when presented individually, and contradictory when considered jointly. Similarly, Hume does not arrive at a theory of social justice

negatively, that is, by a process of eliminating certain principles; and does not for two reasons. First, rejecting need and merit may narrow the field a bit, but there are numerous candidates still in the running which Hume chooses not to consider. Second, his arguments for eliminating need and merit are at best inconclusive in light of his emphasis upon the power of socialization. Therefore, at the risk of displaying ingratitude, it must be concluded that Hume has presented no theory of social justice whatsoever.

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1. David Hume, Enquiry Concerning the Principles of Morals, ed. L. A. Selby-Bigge, 2nd ed. (Oxford, 1955), App.III, p.310.
2. See David Miller, "The Ideological Backgrounds to Conceptions of Social Justice," Political Studies, XXII, 4 (Dec. 1974), 387-399; John Day, "Hume on Justice and Allegiance," Philosophy, L (1965), 35-56; Páll S. Árdal, Passion and Value in Hume's Treatise (Edinburgh: The University Press, 1966). Miller and Day both assume that Hume's theory of social justice is founded upon the principles regarding property and promises that Hume entitles the "Laws of Nature." (See Day, p.37; Miller, p.391. Also, see Miller's account of Hume's "conservative" theory of social justice in his recent book, Social Justice (Oxford: Clarendon, 1976.)) Árdal, though he is not specifically concerned with the question of whether Hume has a theory of social justice, assumes that he does, and that it is merely formal in that it provides for distributing goods according to principles of "right" and "obligation" which are simply "legal terms" (p.180).
3. In this essay I will concern myself exclusively with Hume's Enquiry Concerning Morals and Treatise, though I acknowledge that other of Hume's smaller works, such as the Essays, also deal at least tangentially with the concept of distributive justice. Hereafter, Enquiry is 'EM,' Treatise is 'T.'
4. See Hume's Moral and Political Philosophy, ed. Henry Aiken (New York, 1972), pp. xxviii, xxiv; and Bernard Wand, "Hume's Non-Utilitarianism," Ethics, 72 (1962), 193-196.

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5. Wand, op. cit., p.193.

6. Cf. also EM, App.I, p.285; App.III, p.303.

7. John Rawls, A Theory of Justice (Cambridge, Mass.: Belknap, 1971), p.32.

8. Treatise, pp.480-481.

9. Hume further indicates his acceptance of the notion that utility is a concept whose content varies according to different societies in stating that civil law supplants the laws of nature in assigning different lengths of time of possession necessary for ownership according to the different utilities proposed by the legislator (emphasis added) (EM,196).

10. Treatise, 490-491; Enquiry, pp.195-197, 285-286.

11. See Frederick Watkins, Hume: Theory of Politics (London: Nelson, 1951), pp.x-xv.

12. Day, op. cit., p.37.

13. Day, op. cit., p.46; Treatise, p.541.

14. The reason for rejecting the view that Hume presents a formal theory of justice is clear, for after all, it was Hume who insisted that 'ought' statements (e.g. rules of justice) cannot be derived from factual assertions (e.g. 'human qualities' or 'situations of external objects'). Thus, the only way to argue that Hume presents a formal theory of justice is to argue that Hume did not insist upon the separation between ought and is for which he is famous. MacIntyre in fact does just this, for he asserts that Hume does not separate is from ought as is usually assumed, and the proof of this is his theory of justice. Such a view is provocative for its novelty, but we are not willing to overturn 200 years of scholarship concerning Hume quite yet. (Alisdair MacIntyre, "Hume on Is and Ought", Against the Self-Images of the Age (New York: Schocken Books,1971)).

15. Day, op. cit., p.47.

16. Treatise, pp.526-7, 597.

17. Miller, op. cit., p.391.

18. One need not believe that Hume's views on property do in fact make up a theory of justice in order to understand that those views manifest a distinctly aristocratic bias. See Watkins, op. cit., pp.xvi, xvii; Miller, op. cit., p.391.

19. See Watkins, op. cit., p.xv; Day, op. cit., p.44.
20. Day, op. cit., p.37.
21. Treatise, p.529.
22. Enquiry, App.II, p.300.
23. See Árdal, op. cit., p.45. Árdal uses this quotation from the Treatise to illustrate that sympathy as Hume uses the term is not the same as benevolence or of putting "oneself into the other person's place" as in Adam Smith's usage; rather, Árdal maintains that sympathy for Hume is a type of communication. Much of what is said in this paper regarding Hume's notion of sympathy relies heavily on Árdal's interesting and thorough account of it in Passion and Value, particularly pp.41-69.
24. Aiken, op. cit., p.xxii.
25. Ibid., p.xxiii.
26. Treatise, p.586.
27. Aiken, op. cit., p.xxii.
28. Árdal, op. cit., p.46.