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Justice and the Foundations of Social Morality in Hume's *Treatise*

JACQUELINE TAYLOR

Hume famously distinguishes between artificial virtues and natural virtues, or, at one place, between a sense of virtue that is natural and one that is artificial. The most prominent of the artificial virtues are those associated with the practices of justice. Commentators have devoted much attention to Hume's explanation of what motivates us to be just. But his main concern in the *Treatise* is to explain why we *approve morally* of just conduct.¹ While there surely are complexities surrounding the issue of the motivation to be just, in one sense Hume's explanation is quite straightforward: self-interest motivates us to establish and follow the conventions of justice. The real interest in his account of the establishment of justice lies in his further explanation of how those conventions transform our moral psychology, and lead us to form shareable moral points of view from which we can reach agreement on the value of characters.

My reading of Hume's account in the *Treatise* is as follows. Hume attributes to us a social morality, the central notion of which is a moral sensibility that has its origins in nature, but that must be extended by social artifice in order to accommodate the various virtues important to cooperative living. I will contend that the moral psychology embodied in a cultivated sense of morality depends on the redirection of our evaluative propensities and therefore *requires* the sorts of convention that Hume associates with justice.² My thesis helps to make sense of the structure of Book III: Hume has genuine philosophical reasons for introducing the artificial virtues prior to the natural ones.³

The main goal of this paper is to show that Hume's philosophy has the resources to explain our ability to balance our appraisal of the artificial and natural virtues, since we need both sorts of virtue to live well. As a foil for my view, I want to use the argument advanced by Barry Stroud and others that Hume faces a special difficulty in explaining how we sustain our approval of particular just acts that considered in themselves appear harmful to the public good. Stroud argues that Hume fails to explain what recommends justice as a virtue to us in all cases, and thus fails to capture the concern we have for fairness.⁴ While Stroud finds in the second *Enquiry* the seeds of a view, based on our sympathetic approval of what tends to the good of mankind, that could provide the materials for developing a naturalistic account of how we come to have a concern for justice and fairness, he argues that Hume's interest lies squarely in the origin of justice and not in how people develop shared social attitudes (Stroud, 216-218). I disagree with Stroud's pronouncement that Hume fails to explain sufficiently our moral approval of justice, but I must leave to one side discussion of the particular social attitudes of justice, such as concern for fairness. My focus will be on how we cultivate a range of shared attitudes of moral appraisal and the relation of these to justice.

Stroud misjudges Hume's project, at least in part, because he neglects the historical context in which Hume was writing, and overlooks some important differences between Hume and his contemporary, Francis Hutcheson.⁵ In Book II of the *Treatise*, in a discussion of virtue and vice as causes of pride and humility, Hume signals the reader that in the next book he will examine "the controversy...whether these moral distinctions be founded on natural and original principles, or arise from interest and education" (T 295). The controversy to which he refers is that between moral sense theorists, such as Shaftesbury and Hutcheson, on the one side, and members of the Hobbesian or "selfish" school, which includes Mandeville as well as Hobbes, on the other. As he starts Book III, Hume seems to suggest that his own system of ethics will reconcile, or at least split the difference between, these two schools of thought, for he says that it may perhaps turn out "that our sense of some virtues is artificial, and that of others natural" (T 475).⁶ But he actually proposes a radically different way of understanding human nature than either the Hobbesians or the moral sense theorists.⁷ He rejects the Hobbesian view that rational artifice alone could explain our sense of moral virtue and our shared conception of the common good. He also disputes Hutcheson's hypothesis that we possess an innate moral sense and disposition for extensive benevolence that together naturally set the good of mankind as an end for us. Whereas Hobbes and Hutcheson each pit nature and artifice against each other, Hume depicts our more cultivated social sensibilities as the product of artifice *and* nature. In what follows I shall draw out Hume's suggestion that we must attend to the *cultural transformation of*

instinct, and not invention or instinct alone, to explain how we cultivate a shareable sense of morality.

In section I, I argue that Hobbes and Hutcheson each postulate what I will refer to as an 'essentialist' moral psychology, and I give some preliminary reasons for thinking that Hume rejects an essentialist approach. In sections II and III, I develop Hume's suggestion that members of the pre-just state possess "uncultivated" moral attitudes. Hume does not tell us a great deal about this uncultivated or pre-conventional morality, so I spend some time reconstructing an account of how it might work. I then use this reconstruction to argue in section IV that the conventions of justice embody certain rule-governed social interactions that have the effect of prompting us to acquire new, shareable concerns, most notably that of the public interest, that we would not otherwise have had. Once we have a common conception of the public interest, we can form shared evaluative perspectives from which to assess the worth of particular character traits. In the concluding section of the paper, I examine and amend Stroud's criticism, and end by briefly considering some implications that Hume's approach, as I have reconstructed it, has for moral philosophy.

I.

In our "civiliz'd state," we typically appraise character traits in terms of whether they enable people to flourish (whether the traits are useful or agreeable for the agent or others), and since we expect others to concur with our appraisals, we must have some shareable conceptions of what is good for society, or good for someone as a member of society (T 479). But Hume denies that we have any innate common conception of, or concern for, the good of mankind. We possess neither a love for mankind as such nor an innate moral sense that naturally disposes us to approve of what promotes the good of society (T 481-482). Instead, "we have no such extensive concern for society but from sympathy; and consequently 'tis that principle, which takes us so far out of ourselves, as to give us the same pleasure or uneasiness in the characters of others, as if they had a tendency to our own advantage or loss" (T 579). Sympathy is the "principle" by which we communicate feelings, opinions, attitudes and values to one another, and as we shall see in more detail below, the social artifices of justice broaden the scope of our sympathetic communication, enabling us to form shareable standards of evaluation (T 316).

Hume's denial that we lack a natural and common conception of the public good represents a significant departure from moral sense theorists such as Hutcheson. Hutcheson *essentializes* both our moral dispositions (forms of benevolence) and our moral sentiments, seeing them as natural and original phenomena. The direction, scope, and causes of our virtuous

motives and moral sentiments are antecedently fixed, and both benevolence and the moral sense naturally set the good of mankind as an end for us prior to any cultural influence.⁸ The moral sense functions independently of “custom, education, example or study,” and indeed, such social influences may corrupt our moral sense and lead to disagreements.⁹ On this view, the expressed moral judgment is simply the “vehicle of discourse” that conveys our natural approbation or disapprobation.¹⁰

Hume rejects this essentialist view for several reasons. First, he shows that the Hutchesonian model has significant problems. Even if all virtue does take the form of benevolence, Hutcheson is unclear about the grounds for making “extensive” benevolence, which extends to everyone, more meritorious than the “private” benevolence that directs us to promote the good of the particular persons we care about and whose interests we comprehend. While he argues that extensive benevolence displays greater virtue, in part because it can regulate our other motives, he also acknowledges that private benevolence, because it better promotes another’s real interests and does more good, generates stronger moral approbation, which in turn has a greater effect in sustaining the agent’s virtuous disposition.¹¹ The tension between our appraisal of these two forms of benevolence becomes especially problematic in Hutcheson’s account of justice. He derives obligations and rights from the moral sense and benevolence, grounding some of these rights in private benevolence and others in extensive benevolence.¹² Since the moral sense has the good of the community in view, justice is simply an extension of natural virtue. But Hutcheson doesn’t adequately establish how the moral sense can “adjust” our evaluative responses appropriately so that we approve of, e.g., fairness taking priority over humanity and kindness.¹³ Throughout his account of justice, Hume challenges the basic tenets of Hutcheson’s position, arguing that we’re not naturally motivated by extensive benevolence,¹⁴ that private benevolence works against the impartial treatment that justice requires (T 482, 487, 496), and that we have no natural concern for the public interest.¹⁵

Hume’s second reason for rejecting an essentialist sentimentalism concerns his recognition of a diversity of virtue. Not all virtue takes the form of benevolence. The artificial virtues associated with justice cannot be derived from benevolence alone; they require “combination or convention with others” (T 532). Moreover, we possess self-regarding virtues that cannot be construed as forms of benevolence, as well as some “immediately agreeable” virtues that have no particular tendency to promote the common good (T 590). Given the different objects and causes of this variety of virtue, it is implausible that they can all be accounted for by “original instincts” of praise and blame that make no reference to artifice, custom or practice (T 473). Finally, Hume explicitly acknowledges not only that sympathetic

interaction produces cultural variation with respect to manifestations of character and social practices, but also that the redirection and extension of such interaction through certain social artifices (which will take specific cultural forms) turn out to be constitutive of our sense of morality, not corruptive of it.¹⁶ In connecting our sense of morality with social artifice, Hume does not intend to endorse the Hobbesian position. For Hobbes makes a different sort of essentializing move: self-interest is an internal force that antecedently defines our needs, but which must be restrained. The social compact artificially grounds a rule-centered morality that provides the restraint needed for the mutual satisfaction of interest-driven needs. But as Hume argues, mere artifice cannot explain morality:

if nature did not aid us in this particular, 'twou'd be in vain for politicians to talk of *honourable* or *dishonourable*, *praiseworthy* or *blameable*. These words wou'd be perfectly unintelligible.... The utmost politicians can perform, is, to extend the natural sentiments beyond their original bounds; but still nature must furnish the materials, and give us some notion of moral distinctions. (T 500)

We do invent the social artifices associated with justice and morality, according to Hume, but in doing so we both *redirect* natural motivational propensities (interest and partiality) and *extend* natural evaluative sentiments beyond their original narrow bounds. These artificial processes, themselves the "offspring" of natural motives, transform our propensities and sentiments, and don't function simply to contain them (T 526). Hume's task is to show how combining natural propensity and sentiment with artifice prompts us to evolve some shareable conceptions of the common good that actually structure how we engage in the practice of moral evaluation, that is, as the evaluation of *character*.

He approaches this task by introducing the notion of a fictional pre-just state as an explanatory device that can lay bare the role that conventions and rules play for us. Hume stipulates that we regard the pre-just state as a strategy for isolating two "component parts of the mind," that are "requisite in all its actions," namely, "the affections and understanding," and examining separately the effects of relying on affection alone (T 493).¹⁷ He describes our passions as by themselves "blind," and their "heedless," "impetuous" motions can lead us into violence and a "forelorn," "savage and solitary condition, which is infinitely worse than the worst situation that can possibly be suppos'd in society" (T 492, 497).¹⁸ Such language recalls Hobbes' view that whatever limited sociality exists in the state of nature is liable to extinction by individual insecurity and interest. But as Hume characterizes our sociality in the pre-just state, we cannot even make sense of our passions, needs or interests without sympathetic communication and some forms of social convention and evaluative

awareness (T 493). The very meaning of our passions fundamentally depends on or makes reference to social interaction, and this social conception of the passions makes room for reflexive evaluation and some “uncultivated” ideas of natural virtue (T 489). Those in the pre-just state already value relationship with others, although neither natural motives nor uncultivated ideas of natural virtue are by themselves adequate to sustain a growing society. Hume thus sets the stage for explaining why we find in human nature two different kinds of virtue that are irreducibly distinguishable, but nevertheless have a non-contingent connection to, and a mutual influence on, one another.

II.

I will take Hume’s isolating strategy even further, first reconstructing an account of our pre-just motivational psychology, and then turning in the next section to our uncultivated sense of morality. It is noteworthy that in his sketch of our pre-just moral psychology, the motives that Hume focuses on—sexual appetite, affection for children, limited benevolence, interest and resentment—are ones he characterizes in Book II as “calm desires and tendencies,” or “certain instincts,” that “properly speaking, *produce* good and evil” (T 417, 439, my emphasis). These tendencies stand in contrast to our other passions that “proceed from,” or are responses to what we perceive as, good and evil (T 276). The goods that these calm or instinctive tendencies produce include family life and intimate relationships generally.¹⁹ As families develop they exhibit a social organization, with lines of authority and bonds of affection, made possible in part by sympathetic communication: “parents govern by the advantage of their superior strength and wisdom,” redirecting their children’s “untoward affections” and instilling in them “a new affection to company and conversation” (T 486, 489). Hume claims that our social sensibilities both originate and begin to develop in a family setting. Indeed, he offers a conception of the passions as fundamentally social in character.

Most of our passions are not instincts, and they lack “original,” or antecedent, causes (T 281). We might view them instead as culturally informed responses to socially constructed goods and evils.²⁰ We learn what our passions mean—their value, appropriate expression, “just bounds,” and so forth—through conversation and sympathetic communication with one another (T 293). Hume writes that “we can form no wish, which has not a reference to society”; and he suggests quite literally that our passions, even the self-regarding ones, get their life from our communication: the “animating principle of them all is sympathy,” and they would be inert and without “force, were we to abstract entirely from the thoughts and

sentiments of others" (T 363). "Hatred, resentment, esteem, love, courage, mirth and melancholy; all these passions I feel more from communication than from my own natural temper and disposition" (T 317). We learn, often insensibly, what things or persons to love, need, fear, pity, hope for, despise, take pleasure in, and so forth, by being inculcated into local practice and custom.²¹ Our passions may thus properly be understood as forms of communication that enable our participation in a world of value that is historically and socially instantiated.

Despite the promising beginning to social life, the combination of partial affection and limited resources generates conflict between people. Benevolence is naturally limited and puts individuals at odds with others who are strangers to them, since all are similarly motivated to acquire goods to benefit the people they most care about. As we shall see in the next section, the natural operations of both sympathy and our uncultivated evaluative attitudes reinforce partiality in a way that makes it difficult for people to recognize that others not of their immediate circle have similar interests (T 389). So rather than fitting people for larger society, limited benevolence must instead "necessarily produce an opposition of passions, and a consequent opposition of actions; which cannot but be dangerous" to a growing society (T 487). In short, partial altruism is insufficient for dealing with distribution issues because, by its nature, it hinders the building of more extensive social bonds that would allow people to give equal attention to all claims of injury or need. Lacking the conventions that provide rules for fair distribution of resources, any questions of who gets what will be settled only by private or partial conceptions of who is most needy or deserving. At this stage, insecurity about possession threatens to turn interest into an avidity that "acts without any restraint" and "is insatiable, perpetual, universal, and directly destructive of society" (T 492). Since both self-interest and partial affection contribute to this avidity, and natural benevolence to strangers is disproportionately weaker, Hume concludes that we have no affection or "inartificial principle of the human mind" with "both a sufficient force, and a proper direction" to counter avidity and make people "fit members of society" (T 488, 492).

III.

Why can't morality provide a solution to the problems caused by partiality and avidity? Hume suggests that we have some "natural uncultivated ideas of morality," that track the "ordinary," "natural" or "usual" course of our affective propensities, and thus tend to reinforce partiality (T 488-489). Let's briefly review Hume's well-known argument that we cannot appeal to the regard for justice that we feel as civilized members

of society to explain our original motive for acting justly. The actions we denominate as virtuous or vicious derive their merit or demerit from antecedent motives. It is character, or at the least intention, that comprises the object of our praise and blame.²² The motive for a virtuous action cannot therefore be a regard to the virtue of the action, for “no action can be virtuous or morally good, unless there be in human nature some motive to produce it, distinct from the sense of its morality” (T 479).²³ But there is no such natural motive to justice. The conclusion of this argument establishes that without a natural motive to justice that itself has “moral beauty” and elicits our approval, we can have no moral approval or “regard” for just action, for nothing “renders the action meritorious” (T 479).

Philosophers have paid little attention to the “corollary” to the reasoning in this section: “since no action can be laudable or blameable, without some motives or impelling passions, distinct from the sense of morals, these distinct passions must have a great influence on that sense” (T 483).²⁴ In other words, our natural partiality and “unequal affection,” which confines our strongest attention to ourselves, family and acquaintances, with only the weakest reaching those to whom we are relatively indifferent, influences not only our conduct, but our *evaluation of that conduct* (T 483, 488). Immorality or vice thus consists in some “defect” of our natural affections (T 488). We blame a parent for neglecting his child only because parents typically have, and so we can say should have, natural affection for their children (T 478). We “regard any remarkable transgression of such a degree of partiality, either by too great an enlargement, or contraction of the affections, as vicious and immoral”: we blame equally the self-righteous and the self-centered (T 488). Benevolence to strangers, which has the “proper direction” for countering avidity, lacks the “force” actually to do so, and in any case won’t be approved if it goes against our natural inclinations to promote the good of persons closer to us (T 492). Instead, “all morality depends on the ordinary course of the passions and actions”; and since “our first and most natural sentiment of morals is founded on the nature of passions,” morality must follow the natural variations of the passions, and approve our giving the preference to ourselves, family and acquaintances above strangers (T 532, 491). In effect, our natural sense of morality, conceived as the reflexive approval and blame of our passions and affections, *is caused by* those passions and affections. These basic evaluative attitudes, instead of actively guiding our passions, are themselves guided by the force and natural course of those propensities. Thus rather than giving us a remedy for our partiality, this natural moral sense conforms to it, giving “it an additional force and influence” (T 489). One important implication of Hume’s position is that, given uncultivated morality’s dependence on our natural affections, *we must first change the force or direction of our natural affections if we are to change or extend our moral sentiments.*²⁵

Let's look in more detail at how uncultivated morality works, before turning to the question of how we might redirect our natural passions. Our uncultivated moral sentiments naturally follow our partial affections, and so pose a problem with respect to the approval of justice, which requires that we act impartially. Let me caution against equating uncultivated morality with the moral appraisal of the natural virtues and vices.²⁶ Hume's catalogue of what we recognize as natural virtues from our cultivated moral perspective does not exclusively concern self-regarding or partial conduct (or attitudes), but includes equity, clemency, disinterestedness and fidelity, each of which may require us to act against some more partial concern that we have. Yet some comparison between the "ruder" moral sentiments and our more mature sense of morality will prove useful. Uncultivated morality does function similarly to its more cultivated variant insofar as it purports to take character to be the object of evaluation, finds the merit of character to consist in useful and agreeable qualities, and requires that we sympathize with others in order to gauge the effects that agents' characters have on them.

The merit of virtuous characters consists in their possessing certain "mental qualities" that are useful or agreeable to the person herself or others, and "this principle would have occurred even to the first rude, unpractised enquirers concerning morals, and been received from its own evidence" (EPM 268). Hume's version of uncultivated morality thus contrasts with Hobbes' state of nature, in which evaluation is relative to fluctuating desires. Further, Hume thinks that, despite the narrowness of our natural passions and sympathy, we still tend to reflect on the causes of the benefits or harms we receive to assess whether they are intentional or accidental, and whether they are characteristic of the person. When I receive a benefit from another, for example, I want to know whether the good turn was done from a real regard for me, to flatter me, or perhaps to manipulate me. While we may love another for the simple reason that he is related to us, we also distinguish our various loves by the particular qualities that make persons distinct from one another. Love or hate is not a simple and singular relation between self and other, but is based on what Hume calls a "double relation" of ideas and impressions that implicates the other's possession of particular qualities that give us a separate pleasure or pain (see T 481). A person's character is comprised of durable and distinctive qualities that remain after the action "perishes," providing a stable foundation for the affection or dislike we feel for him (T 349).

Proper moral evaluation depends on an "extensive sympathy" (e.g., T 586, 619).²⁷ In order to arrive at a shared sense of the value of character traits and form "some general inalterable standard, by which we may approve or disapprove of characters or manners," we need a redirected, and more extensive sympathy—a reflective and corrected version of our natural

capacity (T 603). Nevertheless, some degree of sympathy must be at work to produce even our uncultivated and “partial” moral evaluations. We gauge the merit of traits with an eye to the effects they tend to have not only on ourselves but on our family and nearer acquaintances, and sympathy conveys to us the pains and pleasures of others.²⁸ Moreover, since local “custom and practice have settled the just value of every thing,” we also need sympathy to learn the “general establish’d maxims” that guide us “in the proportions we ought to observe in preferring one object to another” (T 294). Sympathy not only makes us sensitive to the feelings of others, and helps us to learn about our own feelings, but is also critical for acquiring the ‘cultural competence’ that is needed to grasp the values ascribed to things and the qualities of persons in a complex social world where a variety of circumstances contribute to the conventions that encode these values.²⁹

But the education of our sympathy begins within the ‘narrower’ confines of our family or tribal circle. The principles that associate ideas in the imagination cue us to sympathize on the basis of contiguity, causation, and recognized resemblances (T 318). We find it natural and easy to sympathize with blood relations, which Hume regards as an instance of causation, or when others’ situations are brought near to us and their passions then “represented in lively colours” (T 481; see also T 318, 353). And while the general resemblance among persons makes us “enter into the sentiments of others, and embrace them,” experience shows that “any peculiar similarity in our manners, or character, or country, or language...facilitates the sympathy” (T 318). Like the principle of custom that produces belief, that of sympathy naturally operates unreflectively, facilitated by various imaginative associations that we find, once we cultivate more collective ethical perspectives, irrelevant to a shared appraisal of character (see T 319-320).

Uncultivated morality does allow us to recognize virtuous and vicious characters, but our narrow focus on who we care about and sympathize with prevents us from consistently ascribing merit or demerit to the same traits no matter who we find possessed of them. From the perspective of cultivated morality, it is “only when a character is considered in general, without reference to our particular interest, that it causes such a feeling or sentiment, as denominates it morally good or evil” (T 472). In the pre-just state, the tendency of people not to sympathize with those to whom they are indifferent, or who they fear may be enemies or competitors for resources, distorts their perceptions of these characters. The problem may remain in civilized society, where we are found competing for distinctively social resources including fame, honor, esteem or love, and material luxuries. Hume notes in the second *Enquiry* that most of us with a cultivated moral sensibility still have a tendency to let these “ruder and narrower passions” regulate our friendship and enmity (EPM 274-275n). But we use such

"pretences" to construct caricatures of others in order to give vent to our own private interest, rather than engaging in an impartial appraisal of character. It is a common "method of thinking" to think well of those who flatter or benefit us (as if that actually makes them better people), and to think badly of those who harm or displease us (T 348). When Hume first asserts that we must appraise character from a more general point of view, he says:

those sentiments, from interest and morals, are apt to be confounded, and naturally run into one another. It seldom happens, that we do not think an enemy vicious, and can distinguish betwixt his opposition to our interest and real villainy or baseness. But this hinders not, but that the sentiments are, in themselves, distinct.... (T 472)

We can now examine how artificial direction guides us in cultivating a shared sense of virtue that allows us to transcend our own 'particular' point of view and to form moral sentiments that can be distinguished from our more partial and interested responses.

IV.

How do the conventions grounding justice influence our sense of morality? Let me remind you of my limited aim as we turn to answer this question. My reconstruction of pre-conventional morality in the previous section is intended to show that it is critical to explain how we come *to approve morally* of just conduct, given the limits that our natural partiality imposes on our uncultivated moral sentiments.³⁰ Just conduct is characterized by our impartial treatment of those to whom justice is owed (respecting property rights, honoring contracts and promises, allegiance to government, etc.), regardless of any "spite and favor" we may feel towards them, and without reference to our own interest (T 532). If there are virtues of justice, then we must approve of such impartial treatment. There are two issues that I will be concerned with answering. First, we need an explanation of how we can approve of impartial conduct, given our propensity to favor and care more about those who stand in some special relation to us, or who in some way benefit us. Hume has to show how entering into the conventions of justice enables us to redirect interested and partial passions, and how we subsequently form more extensive moral sentiments that transcend our natural partiality. Second, Hume must explain how we balance our appraisal of the artificial virtues, once they are established, with our appraisal of the natural virtues, and what we do about real or apparent conflicts between the two sorts of virtue. I shall take up this second issue in section V.

With respect to the first issue, Hume's strategy is to begin by separating the question "concerning the manner, in which the rules of justice are establish'd by the artifice of men" from that concerning our reasons for regarding justice as virtuous and injustice as vicious (T 484). His approach clearly suggests that the problem, to which the conventions of justice provide the solution, is a matter of prudence, not morality. The conventions of justice are in the first instance intended as a means to "cut off all occasions of discord" and enable people to pursue successfully their more interested and partial concerns (T 502). Taking practical measures to preserve society concerns "men's sagacity or folly," not their goodness or wickedness (T 492). How can people satisfy their passion for acquiring goods for themselves and their intimates without that passion undermining itself, as it does "when it acts at its liberty" (T 480)?

The solution requires that people recognize a similarity of interest across a broad group, and give a similar weight to others' concerns. But, as we've seen, they lack a natural love of mankind as such, and there will be differences in the psychological attitudes at work between a group of adults with no natural ties to one another and members of a family, parent and child, between whom there are various emotional bonds. Additionally, the imaginative associations, such as resemblance and contiguity, that facilitate the operation of natural sympathy tend to inhibit the operation of sympathy when a greater imaginative effort is required, as it is when we sympathize with those who seem different or are distant from us (T 386). So what might prompt people to take the right sort of attitude towards one another's interests?

The remedy derives from artifice, not nature, "or more properly speaking, nature provides a remedy in the judgment and understanding, for what is irregular and incommodious in the affections" (T 489). The rules of justice are artificial and a human invention because they proceed from "thought or reflexion," although if something is "absolutely necessary," as justice is to the support of society, then it may "properly be said to be natural" (T 484). Indeed, the opposition between nature and artifice may be disputable since

[w]e readily forget, that the designs, and projects, and views of men are principles as necessary in their operation as heat and cold, moist and dry: But taking them to be free and entirely our own, 'tis usual for us to set them in opposition to the other principles of nature. (T 474)

Our designs and projects will take thought, judgment, and reflection (as well as passion and imagination), but the necessity of our living with some degree of foresight, deliberation and inventiveness shows the naturalness of these principles. We could say justice is not natural in this sense: we possess

no natural principle of justice, that is, no passion (or set of passions) that disposes us to treat others equitably regardless of their relation to us or of our own interest in a particular outcome. Nevertheless, justice is still in our nature as something that we naturally find it necessary to invent:

Nature has...trusted this affair entirely to the conduct of men, and has not plac'd in the mind any peculiar original principles, to determine us to a set of actions, into which the other principles of our frame and constitution were sufficient to lead us. (T 526)

How then does judgment, thought or reflection intervene? Rather than setting the understanding in opposition to interest, Hume claims that "the passion of self-interest" restrains itself by altering its direction; and this alteration takes place "upon the least reflection" (T 492). At T 583, Hume equates passionate "reflexion" with a "distant view," which makes possible "a general calm determination of the passions." The reflection of interest in the imagination, interest surveying itself, exhibits what we may think of as the 'general rule' of interest.³¹ Hume first introduces the notion of a general rule as a pre-reflective imaginative propensity to generalize on the basis of resemblances. But because its activity precedes reflection, it often associates on the basis of resemblances that turn out to be "accidental circumstances" rather than "efficacious causes," giving rise to prejudice and putting imagination in conflict with judgment (T 149).³² The pre-reflective propensity is basic, and makes it possible and necessary for the mind to form a second set of corrective and reflective general rules which "are form'd on the nature of the understanding, and on our experience of its operations in the judgments we form concerning objects" (T 149).³³ Hume extends our capacity for reflection to our sympathy, passions and sentiments, and we can characterize both the pre-reflective and the reflective and redirected patterns of these affective elements in terms of general rules. If some imaginative or affective propensity that misleads us is a 'rule', then rules do not naturally, in and of themselves, have authority for us, although they may determine us, e.g., to belief or action. And significantly, the rules we do take to be authoritative are not independent of the basic, pre-reflective propensity, but get formed when that natural propensity leads to contradiction. Reflection on the causes of the conflict or contradiction yields higher-level rules that correct or redirect, rather than eliminate, the natural propensity.³⁴ Higher-level rules acquire authority because they characterize our reflective and self-corrective habits, yielding beliefs that cohere with experience, and actions that won't defeat the ends of the passions that produce them.³⁵ Reflective and self-corrective habits of thought, feeling and action in this way give rise to our normative perspectives of reasonableness, prudence or morality.

Interest's self-review allows it to stand back from its "propensities that display themselves upon the approach of an object" (T 536). The naturally eager and unrestrained movements of avidity at its liberty would lead us into a "solitary and forlorn condition," the outcome that follows upon everyone acting with the same "universal license" (T 492). To accept the general rule generated by unrestrained interest would be to endorse a self-destructive habit. But we've had experience of how the exercise of a more restrained interest, through the rudimentary rules governing family life, leads to its successful satisfaction (T 493). Over time, the evidence shows "that the passion is much better satisfy'd by its restraint, than by its liberty" (T 492). The general rule of restrained interest calls for collective habits of directed action.

Hume defines convention as "a general sense of common interest" in the regulation of conduct (T 490); and also as an "agreement" or "a sense of interest, suppos'd to be common to all" in a system of actions (T 498). Notice that the common sense of interest is not an interest in the acquisition of goods, but rather an interest in regulating our conduct more systematically in order to stabilize the possession of those goods; it is an interest in doing what is absolutely necessary for our interest in acquiring goods to be satisfied. In expressing that sense of interest to one another, the members of society are induced to regulate their conduct by certain rules:

I observe, that it will be for my interest to leave another in the possession of his goods, *provided* he will act in the same manner with regard to me. He is sensible of a like interest in the regulation of his conduct. When this common sense of interest is mutually express'd, and is known to both, it produces a suitable resolution and behaviour. (T 490)

This first convention provides the means for coordinating our efforts, through a scheme of rules that works to the interests of each.

Of course, the trust, authority and affection shaping and reflected in the social arrangement of the family don't naturally extend over the larger social arena. Hume indicates that the diminished sense of trust makes a difference, and he emphasizes that the convention need not be automatically entered into by all members of society. The rule "arises gradually, and acquires force by a slow progression, and by our repeated experience of the inconveniences of transgressing it" (T 490). Indeed, "this experience assures us still more, that the sense of interest *has become common* to all our fellows, and gives us a confidence of the future regularity of their conduct" (T 490, emphasis added). Who enters the convention at its earliest stage may depend on the dispositions of the members of society.³⁶ Since the restraint of interest is self-imposed by those entering into the convention (rather than imposed by wise parents), the first move may need to be made by those who have had a

better early experience and and have developed some confidence that such restraint won't leave them bereft of goods: Hume asserts that when even one person performs an act of justice, "this becomes an example to others" (T 498). Sympathy with the more confident can encourage others to participate (T 321). David Wiggins suggests that practices arising from conventions may even result accidentally or from falling into habits in which we are then encouraged to continue because they turn out to increase our force or ability, as in Hume's example of the two men rowing a boat for mutual benefit.³⁷ Since the happiness or misery of others affects us "when brought near to us, and represented in lively colors," an emergency could also prompt the kind of cooperation that leads to a practice (T 481). Over time, the evidence shows: "the whole plan or scheme is highly conducive, or indeed absolutely requisite, both to the support of society, and the well-being of every individual" (T 497).

The general sense that interest is common is not the same as our concern for the public interest: no agent feels that the claims of the public good outweigh her own interests (including the interests of those to whom she is partial). Rather, the combination of people concurring in the scheme and mutually expressing their resolution to abide by certain rules gives each individually a motive to follow the rules. Instead of following self-interest "at its liberty," and focusing narrowly on the objects of our immediate interest, I agree to restrain that passion, or rather, to redirect it by conforming my conduct to certain rules; but I observe that it is in my interest to do so only on the expectation that others will similarly restrain themselves (T 480). We agree to conform our conduct to collectively-determined rules, even where our own immediate interest is not directly met or is opposed—indeed, our "interested passions are oblig'd to adjust themselves after such a manner as to concur in some system of conduct and behaviour"—because it is the only way for interest to avoid defeating itself (T 529). Thus artificially-redirected interest naturally obliges us and serves as the original motive to justice.

Nevertheless, in comprehending the interest of each individual this convention has an unintended result: our observance of the specific rules of justice leads us to form a shared conception of the public interest (T 529). I contend that it is here that we first make the shift from our "narrow," "partial" or "particular" point of view to a general moral perspective, founded on extensive sympathy. The redirection of self-interest and coordination of our actions with others changes the way we evaluate precisely those actions associated with the convention. With respect to the actions we now describe as just or unjust, our interest has shifted to whether they conform to collectively-determined rules; we no longer focus on consequences, the relation of the agent to us, or our own private view of her character. *The shift in interest influences the direction of our sympathy.* Reflection on the necessity

of the rules of justice gives us an interest in how rule conformity or violation affects other members of this broader community. The scheme of rules gives us a more general and widely shared perspective from which we can sympathize with the effects of just and unjust actions on all those participating in the convention: “when the injustice is so distant from us, as no way to affect our interest, it still displeases us; because we consider it as prejudicial to human society” (T 499). Sympathizing with others generally in this way gives rise to our concern for the public interest: “This system, therefore, comprehending the interest of each individual, is of course advantageous to the public; tho’ it be not intended for that purpose by the inventors” (T 529). With a set of conventions in place, we in effect create the public interest by redirecting and extending our sympathy to include all those who participate in the scheme.³⁸

Hume notes that although this extended sense of virtue is

deriv’d only from contemplating the actions of others, yet we fail not to extend it even to our own actions. The *general rule* reaches beyond those instances, from which it arose; while at the same time we naturally *sympathize* with others in the sentiments they entertain of us. *Thus self-interest is the original motive to the establishment of justice: but a sympathy with public interest is the source of the moral approbation which attends that virtue.* (T 499-500)

He has detailed how we make the transition from a narrow prudential perspective, that gave us a natural obligation to adjust our passions and concur in a scheme of conduct, to a moral point of view. With some more general moral perspectives, we can distinguish between the sentiments we feel from “the general survey” and those from our own particular perspective, and see why only the former constitute our specifically moral sentiments. I’ve emphasized in this section the importance of these rule-based conventions in helping us to redirect our natural passions; as Hume writes, “this is the reason why the sense of moral good and evil *follows upon justice and injustice*” (T 499, emphasis added).³⁹

V.

Let us return now to Stroud’s criticism and to the issue of whether we can sustain our moral approval of justice. Hume recognizes that even when justice should prevail, we may feel the pull of our more partial affections, or may naturally feel approval for what we perceive as an act of kindness or self-regard: the beneficent man who justly restores a fortune to “a seditious bigot” although the public suffers, and the man who “may impoverish himself by a signal instance of integrity,” may both “have reason to wish, that with regard to that single act, the laws of justice were for a moment

suspended in the universe" (T 497). Stroud argues that the weakness of Hume's strategy is that he appeals to self-interested motivation to establish our regard for justice as a virtue. While it may be true that society as a whole is better off with rules of justice in place, it does not follow that each individual in fact profits from each act of justice. The man who has a reason to wish the laws of justice suspended because justice is harmful to his own interests, also, according to Stroud, has a reason to violate the laws of justice if he thinks he can get away with it (Stroud, 209-210).

Let's keep our focus primarily on the approval of justice. On Stroud's reading of Hume, self-interest provides the grounding for our approval of justice. Because we encounter cases where our own interest is not served by our acting justly, interest will in those cases actually dictate that we act against the requirement of justice. So self-interest fails to sustain our moral approval of justice in certain cases. But as we've seen, Hume does not ground our moral approval of justice on self-interest. Sympathy with public interest is the source of our moral approval of justice, and indeed, of most of the virtues. Pointing this out does not, however, dissolve the general problem to which Stroud's criticism points. After all, the beneficent man is not moved by self-interest but by altruism, and he perceives the public good to suffer if he acts in accordance with justice. He thus appears to experience a conflict between two competing moral claims. Is it the case that he wishes he could suspend the laws of justice, say in order to give money to a worthy cause rather than to the bigot, because he wishes that he could be kind rather than just?

Here's one possible solution for Hume. Someone who wishes he could suspend the laws of justice wants to advance either his *particular* conception of the public good, or a *particular* conception of his own interest. But in those cases where we may feel the promptings of more partial concerns (either altruistic or interested) which go against justice, we should approve of those actions required by rules of justice because we accept the inflexibility of those rules. Hume has stipulated that the inflexible rules of justice are unchangeable "by *particular* views of private or public interest"; the rules provide us with a *common* conception of the public good (T 532, emphasis added). This reading gets further support from Hume's emphasis on justice as a scheme: it is "the whole plan or scheme" that is "highly conducive, or indeed absolutely requisite" to the well-being of society and its individual members (T 497). Some just acts, considered individually, may *appear* to be inhumane, or to compromise our own integrity or the public good, but we have to keep in view that it is the overall scheme, and not the particular instance, that produces the advantage.⁴⁰ The suggestion is that if a rule of justice applies, then what we take to be a matter of kindness or self-regard is not really so because the conventions of justice determine the scope of the natural virtues. In short, no conflict exists between our sense of humanity

and our sense of justice. Consider, for example, what Hume says about the relationship between justice, on the one hand, and anger and injury on the other. While “any harm or uneasiness has a natural tendency to excite our hatred,” we learn to distinguish between accidental and intentional action (T 350). But in the case of punishment, even intention need not render an action injurious: “one that has a real design of harming us, proceeding not from hatred and ill-will, but from justice and equity, draws not upon him our anger, if we be in any degree reasonable”(T 350-351). Our acceptance of the operations and purpose of the legal system affects our understanding of harm and injury. The harm inflicted when the judge’s intended sentence is carried out does not constitute a (legal) injury, and we do not regard the judge’s action as one to which anger would be an appropriate response. If juridical considerations determine the scope of the natural virtues in a similar manner, then Hume appears to anticipate a more Kantian division between perfect and imperfect duties, where the perfect duties establish the conditions under which we may act on the duties of virtue.⁴¹

But does this solution tally with Hume’s moral psychology? I think a Humean ethic along the lines that I’ve presented here conceives of morality as dynamic, with convention and character having a reciprocal influence on one another. It is true that just as the artificial virtues arise from our participation in social conventions and practices, the natural virtues are likewise shaped by such conventions and practices. Nevertheless, our conception of kindness, or courage or fidelity, for example, is influenced not simply by law, but by diverse factors that vary from culture to culture, including manners and religion, economic practices, and the particular structure of institutions such as government and the family. Kindness is not simply responsiveness to distress, and self-regard is not simply gratifying material needs; but what counts as kindness or self-regard is worked out, and perhaps negotiated or reinterpreted, within a specific cultural context. And conversely, the inflexibility of the rules of justice doesn’t render them entirely indefeasible. As Hume writes in the second *Enquiry*, “the laws have, or ought to have, a constant reference to...the situation of each society,” suggesting that our conception of justice should change and our laws should be modified (as in fact they sometimes are) as our social understanding of our collective interests changes (EPM 196).

Although the rules of justice are, generally speaking, inflexible, they are not entirely indefeasible, and various considerations may lead us to revoke or revise a particular rule or practice. The real problem for Hume is to explain how our sympathy-dependent moral approval of justice gets produced at all in the case where a just action appears harmful to the public good. At T 580, Hume argues that his hypothesis, that our sentiment of morals “proceeds” from our sympathy with the interests of society, is “much more probable with regard to the natural than the artificial virtues.” Every

particular action motivated by a natural virtue has some beneficial effect, either for the agent or some other person. This makes it easier for us to sympathize with the effects of the agent's action, and to feel approval for her character. In contrast, certain just acts, considered individually, appear inhumane or to compromise our own integrity, and it takes greater effort for us to sympathize with and approve of the just agent. Indeed, if the individual just action has no visible good effects with which we can sympathize, then the problem seems to be one of the failure of sympathy.

It is not clear from the text that Hume recognizes any particular difficulty in explaining how we sustain our moral approval of justice in such cases. After noting the contrast between the artificial and natural virtues in terms of how they affect our sympathy and the generation of our moral sentiments, he introduces two objections to his account. These concern the natural variability and potential failure of sympathy. His answer to the second objection, concerning the failure of sympathy, has relevance for the approval of justice, although Hume does not explicitly note this. I think it is worth drawing out the relevance since we will then have an answer to my amendment of Stroud's criticism (that is, that sympathy-based moral sentiments cannot sustain our approval of justice in certain cases). Hume presents this second objection as follows. When someone has a virtuous character, we approve of her character, and continue to do so even in an instance where accidental circumstances prevent her from acting virtuously. But if approval is based on sympathy, and we sympathize with the effects of character, then in a case where virtue "fails of its end," there are no effects with which we can sympathize (T 584). Thus, Hume's account of sympathy-based moral sentiments cannot explain our continued regard for the agent in the case where she is prevented from acting virtuously.

Hume argues that we correct for the failure of sympathy in such cases by relying on general rules. General rules produce a "species of probability" that allows us to complete imaginatively the causal connection between a virtuous motive and its typical effects, so that we sympathize with the usual tendencies of character traits rather than with the actual observed consequences (T 585). This corrective method of imaginatively completing the causal sequence between a virtuous motive and its usual effects turns out to be particularly useful in helping us sustain our approval of justice in those instances where a just action seems to go against the public good. The just character is "fitted to be beneficial to society," and it is character and not particular actions that are the focus of our moral sentiments (T 585). With respect to justice, we overlook the fact that the particular instance appears to have no direct or immediate benefit, and imaginatively represent to ourselves, not so much the typical effects of the just disposition as its general or long-term effect. Indeed, we may actually feel disheartened by a particular just act, and yet recognize, even if only from the more general moral point

of view, that the system of justice is advantageous. Notice that the imaginatively-induced moral sentiment can co-exist with a more occurrent affective response, but “these emotions are so different in their feeling, that they may often be contrary, without destroying each other” (T 586). The corrections to our sympathy create a more stable perspective such that “the imagination adheres to the *general* views of things, and distinguishes betwixt the feelings they produce, and those which arise from our particular and momentary situation” (T 587). Even if these imagination-constructed evaluations feel weaker than our natural affective response, they have a force and durability that the latter lack because they implicitly refer to collectively-determined standards of value.

I’ve argued that a common moral perspective (or some set of such) depends on those conventions of justice that lead us to extend our sympathy to include everyone participating in the practices of justice and thereby form a shared conception of the public good or interest. These conventions indirectly broaden our ethical outlook and make it possible for us to acquire new society-wide concerns and commitments. When we correct for the variability and failure of our sympathetic propensities, we can fix on the proper object of moral praise or blame, namely, some trait of character. But our cultivated moral sensibility does not exist independently of the specific social setting in which we form this shared conception of the public good and identify the various virtues that promote our own and the public good. Hume’s aim is thus not so much to privilege rules and law as to display the transformative effects of culture, manifested in our conventions and institutions, on our initially ‘narrow’ nature.

In conclusion, I suggest that my reading reveals that Hume’s approach can give us some general methods for examining critically the relations between conventions (that we can specify as particular institutions and practices) and our motivational and evaluative propensities, and how these latter get extended, restrained or redirected through social practices. Hume tells us explicitly that he hopes to persuade us that he has provided a convincing explanation of morality because, by his explicitly disclosing the self-correction of our sympathetic and passionate propensities, we can approve reflectively of the principles from which our cultivated sense of morality is derived. As he puts it, his explanation of how our sense of morality is based on “an extensive sympathy with mankind” has an explanatory advantage over more essentialist views: it allows us to approve not only of virtue and the sense of virtue, “but also the principles” from which our sense of virtue is derived, “so that nothing is presented on any side, but what is laudable and good” (T 619). This evokes the notion of ‘transparency’ that Bernard Williams thinks essential to ethical thought; that is, the need, especially for the moral philosopher, to acquire greater reflective social knowledge—historical, psychological, anthropological, etc.—in order

to understand the connections between natural propensities, conventions, and cultural understandings of character and moral sensibility.⁴² A Humean ethic envisions our moral life as a social morality: morality is embodied in a shared moral sensibility, constituted by a sympathetic interaction that itself shapes, reflects and sustains historically and culturally given relations and institutions.⁴³ It thus allows us to focus on the mutual influence between convention and character, and on how our institutions and practices define social roles, construct traits of character, and shape the modes we use to express censure, encouragement, and so forth.

In his *Treatise* account of justice, Hume elaborates a system of conventions that he claims "comprehends the interest of every individual" (T 529), and conduces to "the well-being of every individual" (T 497). Because we collectively create the notion of the public interest, it potentially reflects the interests of each one of us. Elsewhere, especially in his essays, Hume undertakes a more specific analysis of social and political institutions. We need this greater specificity in analyzing particular institutions embodying, for example, property rights, marriage and family structures, or government, to see exactly who is included in social practices, and how their participation is determined. Hume himself points out how easy it was for patriarchal colonizers to throw off the restraints of justice and humanity with respect to the indigenous peoples whose lands they appropriated, as well as with respect to "the female sex" (EPM 191). His insightful characterization of modesty and chastity as artificial virtues for women, virtues that function to restrain women's sexual appetite so that men can be assured of their paternity and feel more encouraged to participate in child-rearing, is not without problems. More attention to gender difference is critical for a Humean account of justice that puts the family structure at its center. We can question the value of such artificial conventions and virtues, and examine whether we find welcome their consequences, for example, in perpetuating gender-specific character traits. By turning to empirical studies to acquire more reflective social knowledge, as Williams suggests, we might question whether we possess even the instinctive propensities that Hume attributes to us, or wonder whether certain social arrangements might lead us to mystify an instinctive propensity, such as affection for children, that is thought even by some feminist theorists (if not necessarily by Hume) to be more essential to one gender.⁴⁴ Perhaps the most valuable aspect of Hume's social morality is that its core notion of a shared moral sensibility allows us to locate ourselves historically and culturally, and reflect critically on the principles, and on the shaping of those principles, from which that sensibility derives.

NOTES

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1 As Hume puts it, he wants to examine "the reasons, which determine us to attribute to the observance or neglect of these rules [of justice] a moral beauty and deformity"; in David Hume, *A Treatise of Human Nature*, ed. L. A. Selby-Bigge and P. H. Nidditch (Oxford: Clarendon, 1978), 484. References in the text will be given parenthetically as 'T'. I also refer in this article to Hume's *Enquiry concerning the Principles of Morals*, edited by L. A. Selby-Bigge, 3rd ed. revised by P. H. Nidditch (Oxford: Clarendon, 1975), references given parenthetically as 'EPM'.

2 Although my focus is different, the interpretation and reconstruction that I offer complements the account given by Gilles Deleuze in his important but underappreciated (in Anglo-American philosophical contexts) book, *Empiricism and Subjectivity: An Essay on Hume's Theory of Human Nature*, translated by Constantin V. Boundas (New York: Columbia University Press, 1991); see especially Chapter Two. I'm also sympathetic to J. L. Mackie's argument that the natural virtues turn out to be a subset of the artificial virtues, and that our impartial and interpersonal appraisals of the natural virtues must be understood as a system, analogous to the system formed by the rules of justice; in *Hume's Moral Theory* (London: Routledge and Kegan Paul, 1980), Chapter VII. Mackie does not, however, discuss what I make a central claim in this paper, viz., the dependence of our "system" of moral appraisal on the conventions of justice.

3 *Treatise* III ii, concerning the artificial virtues, is 96 pages long, while III iii, on the natural virtues, is only 47 pages long. Páll Árdal draws attention to the length and centrality of the part on justice, without indicating its philosophical significance, in *Passion and Value in Hume's Treatise* (Edinburgh: Edinburgh University Press, 1966), 163; see also Annette C. Baier, "Hume's Account of Social Artifice—Its Origins and Originality," *Ethics* 98 (1988): 757-778. In Chapter 8 of *A Progress of Sentiments: Reflections on Hume's Treatise* (Cambridge: Harvard University Press, 1991), Baier suggests that Hume may have put his account of the artificial virtues first to demonstrate how the transition from 'is' to 'ought' does get made, and because some thought-informed contrivance is needed to adopt that shared viewpoint from which we evaluate all virtues.

4 Barry Stroud, *Hume* (London: Routledge and Kegan Paul, 1977); see Chapter IX. See also the discussion by Francis Snare in *Morals, Motivation and Convention* (Cambridge: Cambridge University Press, 1991), especially Chapter 7.

5 See especially Stroud, 10. Stroud also accepts Norman Kemp Smith's thesis (in *The Philosophy of David Hume: A Critical Study of Its Origins and Central Doctrines* [London: MacMillan, 1940]) that Hume's originality lies in

his extending the Hutchesonian account of moral judgment to belief and causal judgment.

6 Ken O'Day takes the line that Hume wants to reconcile egoism and sentimentalism, in "Hume's Distinction between the Natural and Artificial Virtues," in *Hume Studies* 20.11 (April 1994): 121-141.

7 Hume appears to regard moral sense views as those that posit a moral instinct; see T 619. In contrast, Hume characterizes his own position by reference to our 'sense of morality' or 'sense of virtue' rather than a moral sense.

8 Hutcheson wrote Gilbert Burnet that human beings "by the very frame of their nature desire the good of a community." Letter to Burnet, 12 and 19 June 1725, in Hutcheson's *Illustrations on the Moral Sense*, edited by Bernard Peach (Cambridge: Belknap, 1971), 209.

9 Francis Hutcheson, *An Inquiry into the Original of our Ideas of Beauty and Virtue, in Two Treatises, I. Concerning Beauty, Order, Harmony, Design, II. Concerning Moral Good and Evil*, 4th ed. (London, 1738), II I vi. Hereafter cited as '*Inquiry*'.

10 I borrow the phrase "vehicle of discourse" from the introduction to *Language and the Politics of Emotion*, edited by Lila Abu-Lughod and Catherine A. Lutz (Cambridge: Cambridge University Press, 1990).

11 For example, of extensive benevolence Hutcheson writes that it "appears of itself a more amiable principle, according to constitution of our moral sense, than any particular passion" (*Inquiry*, VII ix 12). But then he says of the more particular form of benevolence that "nature has so well ordered it, that as our attention is more raised by those good offices which are done to ourselves or our friends, so they cause a stronger sense of approbation in us, and produce a stronger benevolence toward the authors of them" (*Inquiry*, V ii); this stronger moral approbation in turn reinforces the virtue of the agent: "by this constitution also the benefactor is more encourag'd in his beneficence, and better secur'd of an increase of happiness by grateful returns, than if his virtue were only to be honour'd by the colder general sentiments of persons unconcern'd" (*Inquiry*, V ii).

12 Hume wrote to Hutcheson concerning the latter's position on the foundations of justice: "You sometimes, in my opinion, ascribe the original of property and justice to public benevolence, and sometimes to private benevolence towards the possessors of the goods, neither of which seems to me satisfactory. You know my opinion on this head. It mortifies me much to see a person, who possesses more candour and penetration than any almost I know, condemn reasonings, of which I imagine I see so strongly the evidence." Letter of 10 January 1743, in *The Letters of David Hume*, edited by J.Y.T. Grieg, 2 Volumes (Oxford: Clarendon, 1932), 147-48.

13 In particular, Hutcheson must accommodate what he calls "external" rights, given the laws governing property and contracts. External rights allow for force where "it would have been more humane or kind in any person to have acted otherwise, and not have claim'd his right" (Hutcheson's example is the miser who exercises his external right by recalling a loan from a hardworking but poor tradesman), because universally denying such rights

"would do more mischief than all the evils to be fear'd from the use of this faculty" (*Inquiry*, VII vi). For further discussion, see Stephen Buckle, *Natural Law and the Theory of Property: Grotius to Hume* (Oxford: Clarendon, 1991), esp. 218-222.

14 T 481: "there is no such passion in human minds, as the love of mankind, merely as such, independent of personal qualities, of services, or of relation to ourself." In Book II, Hume argues that love is an indirect passion, and we love individuals for particular qualities they possess or because they bear some relation to us. See also T 488, 492, 495-496.

15 T 481. See also T 496: "if men pursu'd the publick interest naturally, and with a hearty affection, they wou'd never have dream'd of restraining each other by these rules...."

16 E.g., at T 316-317, Hume writes: "To this principle we ought to ascribe the great uniformity we may observe in the humours and turn of thinking of those of the same nation; and 'tis much more probable, that this resemblance arises from sympathy, than from any influence of the soil and climate...."

17 See also Gerald J. Postema, *Bentham and the Common Law Tradition* (Oxford: Clarendon, 1986), 92-93, and Duncan Forbes, *Hume's Philosophical Politics* (Cambridge: Cambridge University Press, 1975), 78 n 2.

18 Compare what Hume says about reason acting alone, T 264-269.

19 As Hume notes in Book II, "the relation of blood produces the strongest tie the mind is capable of in the love of parents to their children" (T 352).

20 For the purposes of this paper, I understand goods and evils as social constructs in a broad and generic sense, as the product of social practices. Much more needs to be said about social construction in relation to Hume's views, but that lies beyond the scope of this paper. I want primarily to undermine what has come to be a fairly standard view that understands Hume to be equating good and evil straightforwardly with pleasure and pain (as sensations). Hume suggests the equation himself several times, e.g., T 276, 439; but he is clearly attempting to articulate an account of the passions that underscores the importance of social relations and other social factors to our understanding of the causes, objects, meaning, and so forth of our various passionate responses. This social model of passion is especially clear in T II iii-xii.

21 "[I]f a person full grown, and of the same nature with ourselves, were on a sudden transported into our world, he wou'd be very much embarrass'd with every object, and wou'd not readily find what degree of love or hatred, pride or humility, or any other passion, he ought to attribute to it" (T 293-294).

22 If we don't know the agent's character, then to evaluate some particular action we must at least have knowledge of her intention; see T 348-349. For an excellent discussion of the relation between intention and character, see Chapter 7 of Baier's *A Progress of Sentiments*.

23 See also T 532: "No action can be either morally good or evil, unless there be some natural passion or motive to impel us to it, or deter us from it; and 'tis evident, that the morality must be susceptible of all the same variations, which are natural to the passion."

24 Tito Magri discusses this passage in "Natural Obligation and Normative Motivation in Hume's *Treatise*," in *Hume Studies* 22.2 (Nov. 1996): 231-253.

25 He thus eliminates the need for what turns out to be a rather unstable pairing of features in Hutcheson's hypothesis, viz., that it is due to the goodness of God that we possess an original moral sense that approves of those affections tending to the public good, and that such benevolent affections do, as it happens, motivate us. See Hutcheson, *Inquiry*, VII xii.

26 Although see the discussion at T 532.

27 Hume also discusses a natural variant of "extensive sympathy," which he describes as a future-oriented sympathy requiring "a great effort of imagination" (T 385-386).

28 Although a more "partial" sympathy, that "views its objects only on one side," can lead us to feel a "communicated passion" more strongly than the agent with whom we sympathize actually experiences it (T 370-371).

29 On the notion of cultural competence, and for further discussion on the relation between codes of value and cultural ways of perceiving, see Pierre Bourdieu, *Distinction: A Social Critique of the Judgement of Taste*, translated by Richard Nice (London: Routledge & Kegan Paul, 1986).

30 My focus here is not on the question of the motive to justice, nor on that of the relation between motive and obligation. I should also note that in this section I look at the notion of an artificial convention in quite general terms, working with Hume's discussion of the first convention of justice, that of property rights. I agree with Gerald J. Postema's point that "the job of the rules of justice is to constitute a people, to make a community out of an aggregate of socially inclined but ununified individuals," and that "the first thing needed to constitute a people is the definition of property rights, not a definition of offences against the person"; in *Bentham and the Common Law Tradition*, 105. For excellent discussions of the various problems that the different conventions of justice are meant to solve, and the relations between these conventions, see Baier, *A Progress of Sentiments*, Chapter 10; and Chapters 3 and 4 of Postema.

31 Gilles Deleuze asserts that "justice is not a reflection on interest, but rather a reflection of interest, a kind of twisting of the passion itself in the mind affected by it. Reflection is an operation of the tendency which restrains itself"; in *Empiricism and Subjectivity*, 43. See also Baier's discussion of Hume's pairing of reflection with sympathy and the passions, in "Hume, the Reflective Women's Epistemologist?" in *Moral Prejudices* (Cambridge, MA: Harvard University Press, 1994): 76-94.

32 See Thomas K. Hearn, Jr., "'General Rules' in Hume's *Treatise*," *Journal of the History of Philosophy* 8 (1970): 405-422.

33 "Tho' custom be the foundation of all our judgments, yet sometimes it has an effect on the imagination in opposition to the judgment, and produces a contrariety in our sentiments concerning the same object" (T 147-148). The corrective rules, articulated in T I iii 15, are the ones "by which we ought to regulate our judgment concerning causes and effects," because they enable us "to distinguish accidental circumstances from efficacious causes" and so to know when objects really are causes or effects

(T 149).

34 As Hume says, the corrective rules are really just “a new direction of the very same principle,” indicating that they are simply a more reflective version of the more basic propensity (T 150). See Hearn, “‘General Rules’ in Hume’s *Treatise*.”

35 See Baier, *A Progress of Sentiments*, Chapter 4; and “Hume, the Reflective Women’s Epistemologist?”

36 My claim that the general rule of restrained interest enjoins us to form collective habits for acting systematically is consistent with Hume’s claim that such reflective rules do not always prevail; he illustrates one version of the point, with respect to the general rules that establish epistemic norms, with a different sort of example of how fear and insecurity can overturn the belief that a man ought to have that he is perfectly secure at T 148.

37 David Wiggins, “Natural and Artificial Virtues,” in *How Should One Live?*, edited by Roger Crisp (Oxford: Oxford University Press, 1996), 135-136.

38 Hume argues that the general and inflexible rules of justice “are contrary to the common principles of human nature,” because they override not only the biased judgments we make in favor of our own interest, but also our own particular view about how the public interest may best be served: the rules of justice “are unchangeable by spite and favor, and by particular views of public or private interest” (T 532).

39 See also T 533: “After that interest is once establish’d and acknowledg’d, the sense of morality in the observance of these rules follows naturally, and of itself.”

40 See also T 579: “considering each case [of justice] apart, it wou’d as often be an instance of humanity to decide contrary to the laws of justice as conformable to them.... The whole scheme...of law and justice is advantageous to the society; and ’twas with a view to this advantage, that men by their voluntary conventions, establish’d it.”

41 See J. B. Schneewind, “The Misfortunes of Virtue,” *Ethics* 101 (1990), section VII. Schneewind argues that Hume finds the artificial virtues more crucial for the existence of society, and thus he associates Hume’s view with the Pufendorfian understanding of perfect and imperfect duties, rather than with the Kantian account.

42 Bernard Williams, *Ethics and the Limits of Philosophy* (Cambridge, MA: Harvard University Press, 1985), 199-201.

43 For more on the notion of “social morality,” see David Wiggins, “Claims of Need” and “Universalizability, Impartiality, Truth,” in his *Needs, Values, Truth*, 2nd edition (Oxford: Basil Blackwell, 1987/91).

44 Richard A. Shweder questions whether there are any universal basic emotions; see for example, “‘You’re Not Sick, You’re Just in Love’: Emotion as an Interpretive System,” in *The Nature of Emotion*, edited by Paul Ekman and Richard J. Davidson (Oxford: Oxford University Press, 1994). On women’s affection for children, see Catherine A. Lutz, “Engendered emotion: gender, power, and the rhetoric of emotional control in American discourse,” in *Language and the Politics of Emotion*.