

The Diffidence Principle

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When Thomas Hobbes published *Leviathan* in 1651, one of his main concerns was to attack the idea that subjects had rights over their sovereigns. This notion, he thought, would lead eventually to civil war of the kind he had just lived through. In his famously grim view of the State of Nature, everyone has the right to everything, and because this leads inevitably to competition, everyone is afraid of everyone else, a state he calls “diffidence”. This in turn leads to a perpetual state of actual or potential war; the only alternative is for people to give up their “right of nature” to a common power, thus exchanging freedom for the security of civil society.

These days, state of nature theory has for the most part fallen out of favour, while at the same time, the idea of universal human rights is widely accepted amongst the general public. A pre-occupation of liberal political theory has thus been to clarify the notion of rights, and to determine which rights may be regarded as universal. Without absolute rights which are not dependent on the laws or norms of a particular society, life in civil society may be just as poor, nasty, brutish and short (if not solitary) as in Hobbes’ infamous State of Nature.

I shall argue in this paper that, while rights are indeed necessary, they are not, as Hobbes claimed, the same as freedoms, but are compensation for the loss of freedom. I shall also argue that civil society is not something which replaces a hypothetical State of Nature, but rather, co-exists with it, and that the “diffidence” inherent in the State of Nature is actually what guarantees our rights in civil society. Put another way, we may see ourselves simultaneously as members of a society, bound by its rules, and as atomistic individuals pursuing our self-interest.

Before examining the issue of rights, though, it is necessary to look briefly at theories of the good, since a theory of rights is virtually impossible without some notion of good from which to work from. Like Hobbes, I shall work on the assumption that what is good is equivalent to what is desirable.

1 A very thin theory of the good

Theories of the good can be roughly divided into three categories: those that assume something is good because it is desirable, those which assume that goodness is a property inherent in certain things, and those which apply some other criterion by which we judge both desires and objects as good. I have argued elsewhere^[7] that only the

first of these views provides an adequate account of the word “good.” This view can be summarised as follows:

1. Something is good for some person to the extent that it is desired in itself or it contributes to the realisation of a desire.
2. Something is *morally* good insofar as
 - (a) it meets the criteria for good in general (something cannot be moral but undesirable);
 - (b) it is the result of an action by a person (good weather is not a moral good);
 - (c) it involves more than one person (self-regarding actions are morally neutral).

Other theories risk falling back on a partial view of the good (as with moral intuitionism) or complicate the notion of good by attaching to it, not desire in general, but specific desirable things, such as pleasure, happiness or whatever. If we desire something strongly and unquestioningly, it is only natural that we should attach it to our overall idea of the good, and assume that there is something wrong with people who do not share this desire. However, all we have done here is to move the desire up one level; that is, we not only want it, but want others to want it. I may desire freedom more than anything else, and I may also want other people to desire it as much as I do. However, even if they do, all this does is make freedom a moral good; it does not say—yet—that freedom is an essential part of the good, since this valuation of freedom is still, like all values, dependent on desire. Even if all sentient beings throughout the universe were so created as to value freedom more than anything else, we could say with confidence that freedom is good, but would not say that good is freedom.

An example of this problem is found in John Rawls’ “thin theory of the good” [4] which has been justifiably criticised for not being thin enough. Rawls takes a number of goods which he assumes are universal and self-evident in order to provide a blueprint for a just society. However, it is only necessary to tune in to the Discovery Channel to realise that these goods are neither universal nor self-evident, money, however broadly defined, being a case in point. Whatever the merits of Rawls’ “original position” method, it needs an even thinner theory of the good in order to be workable. The account provided here, I think, has the merit of being so thin in terms of moral good as to be virtually anorexic, while at the same time being sufficiently accommodating to include whatever relative goods arise from the circumstances under consideration.

It is not, however, without problems of its own. If good is dependent on desire in this way, we are led almost inevitably to a kind of preference utilitarianism, but in its original form this is a system which has well-known flaws. The basic problem is the same as its basic virtue: that “the needs of the many outweigh the needs of the few,” as Mr. Spock put it. In a situation where there are two alternatives, x and y , and two out of three people prefer x , then the third person will never get y . In other words, we have a tyranny of the majority [2].

2 The need for rights

The most popular way of avoiding the tyranny of the majority is to propose certain fundamental rights which cannot be violated. This, however, raises the question of where such rights come from. If they come from some external non-utilitarian source (divine commandment, Natural Law or whatever) we are placed in a dilemma. If they met our utilitarian standards, they wouldn't have been required in the first place, but if we judge them on utilitarian grounds and find them wanting, then they either cannot be good, or we need to find another, non-utilitarian standard of good. This is theoretically possible, but not exactly elegant. We would have to formulate a rule such that there are two goods, one of which takes precedence over the other (e.g. within the boundaries established by the Ten Commandments, we may practice preference act utilitarianism). We would also need to come up with a third standard of judgement to justify preferring one good over another.

The alternative is to try either to incorporate our theory of rights within a utilitarian framework, or base our utilitarianism on one aspect of a theory of natural rights. The first approach is more-or-less what John Stuart Mill argues for in *On Liberty* [2]. Mill is, of course, famous for both his utilitarianism and his liberalism; the problem he grapples with is how to make a liberal theory of rights square with his prior commitment to utilitarianism. From a practical point of view his arguments are quite convincing; he demonstrates, for example, how in the long term the happiness of all members of society is served by allowing the free expression of ideas, however unhappy their expression may make some people in the short term. From a theoretical perspective, however, there is something lacking. It may be true that, in general, societies have benefitted from freedom of speech, but this does not make it inconceivable that a society could exist where the opposite were the case. Mill himself offers examples of specific circumstances where freedom of speech may be curtailed, so it is no great jump, in theory, to a society where circumstances dictated that freedom of speech in general was not conducive to the public good. In fact, this argument is used by some proponents of so-called "Asian values"; from this perspective freedom of speech may well be good for Western societies which collectively value individual freedom, but there is no reason to apply it to Asian societies which have different priorities. Utilitarian arguments for human rights inevitably come up against this problem, since such rights are necessarily relative to the circumstances which make them desirable, a point to which I shall return shortly.

The second approach, to base a limited utilitarianism on pre-existing rights, obviously requires some justification for assuming the existence of such rights. State of nature theorists have grappled, largely unsuccessfully, with this problem; Hobbes, for example, proposes a "Right of Nature" to take any action which furthers ones own survival, then almost immediately contradicts himself by saying that while we may kill, injure and plunder to further our security, we should never break a contract.¹ Locke is

¹Hobbes does not say here that in a state of nature people will actually keep their contracts without coercion; the contradiction arises from his assumption that it is immoral for them to break their contracts, even when keeping them would result in harm, while not making the same argument for other types of moral behaviour. The argument presented in Chapter 15 of *Leviathan* does not really answer this problem; Hobbes argues that while contracts between individuals have no defence against self-interest motivating one party to

even less successful, in that he derives his “Law of Nature” from theological premises which are by no means self-evident. Nozick’s [3] libertarian contractarianism, though superficially closer to Locke, actually suffers from the same problem as Hobbes, in that while he sees society in terms of a plenitude of individual contracts rather than one big contract, he offers no convincing argument why people should automatically accept the keeping of contracts as a good on a radically higher level than other goods.

Where Hobbes, Locke *et al.* perhaps go wrong is to suppose that rights exist prior to contracts. If a state of nature were to exist, it would start from a position where no one had any rights, rather than where they had unlimited rights, or rights limited only by a “Law of Nature”. In contracting, what people give up are not rights but desires, or rather, certain actions which might lead to their fulfillment. If the desire to live in a society over-rides certain desires which might make such a society impossible, we have contracts, and lose some autonomy in the process. Rights, then, are not lost, but gained; in a sense, a right is a compensation for lost autonomy. What a right does is protect us from some of the undesirable consequences of opting into society. If we accept a hypothetical state of nature in which people agree to come together, we might imagine them saying “OK, I’ll go along with the ethical calculus for the most part, but there are some things which you can’t interfere with.” These may include the rights to life, liberty, or wide-screen televisions; the hard question is to determine what should or should not be a right.

If rights are contractual, they are necessarily contingent, since different people under different conditions will contract to different things. In a world in which all rights were negotiated on a day to day basis, where there was society without a State or even the normal pressures of social conformity, this would present no theoretical problem (although considerable practical ones, perhaps), but as soon as we have civil society, it becomes necessary to formalise rights and duties. The problem here is that it is inevitable that some people in any society will not subscribe to that society’s list of rights; they may, for example, accept the right to free speech but not to wide-screen televisions, or *vice versa*.

What then, should people do in a situation where the rights which are accepted by their society do not include their most important desires and values², or even run completely counter to them? Such people would have no legal or moral defence against their society, but similarly, society would be defenceless against them.

Classical social contract theory relies on the idea of “tacit consent”; i.e. by living in a society one automatically opts into its contracts, and is therefore bound by its laws. However, this is a rather weak argument, given that in practice people do not choose the society into which they are born, and frequently do not have the means to leave it. They are, in effect, prisoners of the State, or of whatever collective mechanisms exist in its place, and (Hobbes notwithstanding) it is hard to see how a prisoner is obliged to his or

break the contract, the covenant that establishes civil society (by appointing a common power to judge and punish) may not rationally be broken, since the person who breaks it thus sets him- or herself against the whole of society, which could never further their own interests. This ignores the fact that a person may desire to break the covenant more than they desire their own survival. Their action may be unjust, in Hobbesian terms, but may be perfectly rational in terms of attaining their desires.

²I am using “value” here in more-or-less the same sense as Gary Watson [9]; that is, a desired state/event which one would generalise to the extent of regarding it as representative of the good life.

her captors.³ Of course a society may not intend to keep its members captive—only in the most repressive of regimes have people been legally prevented from emigrating—but from the dissenters’ point of view this is not significant; whatever circumstances prevent them from opting out of society, so long as they have not chosen to opt in, they are not bound by society’s rules.

A popular solution to this problem is to declare some rights absolute, universal and immune from State or social interference, while others are relative and may be granted or refused by whatever authorities exist. The State may not arbitrarily deprive us of life, for example, but may choose whether to give us the right to a wide-screen television.

There are two problems with this approach. The first is that it requires the existence of non-contractual rights, as mentioned above. The notion of universal human rights must imply that humans have them simply by being born, and must therefore appeal to some non-contractual standard to justify them. This again implies some version of natural law. While I accept the possibility of natural law in the sense of not limiting moral judgements to purely social or individual considerations, we would do well not to rely on natural law as the basis for social and political institutions, if only because it is so hard to agree on what exactly it is. It is perhaps ironic that the great proponents of natural law, from Cicero through Aquinas to Hobbes and Locke, are in general agreement that it is a set of principles which anyone may derive by reason from nature, but disagree so radically about what those principles actually are, a point nicely satirised by Rousseau in his *Discourse on Inequality* [5].

This relates to the second problem, which is that unless there is a reliable and acceptable way of deciding which rights are absolute, the idea of human rights itself loses credibility. If one person were asked by the United Nations to draw up a shortlist of human rights, he or she might include the right to engage in any kind of consenting sexual behaviour but not the right to limitless accumulation of property, whereas another would propose the opposite.

One possible solution may be found, ironically, in Hobbes. In his version of the state of nature, all are equal, not because of some inherent value, but because even the weakest person has the ability to kill. As William Burroughs put it, “No one can command life, but anyone who can pick up a frying pan can command death.” This results in “diffidence”, i.e. a state where everyone is afraid of everyone else, and it is one of his principle arguments for the necessity of government, since otherwise anyone who is afraid of his or her neighbours may be tempted to launch a pre-emptive strike on them. In practice, however, the real problem with stateless societies tends to be not perpetual war but excessive social conformity. In such traditional societies, people are “diffident” not of each other as of individuals, but of the collective wrath (including the wrath of gods, ancestors and so on); Leviathan is more effective as a common myth than a “common power”.

³Hobbes argues that contracts made out of fear are still binding, giving the example of paying ransoms for prisoners (even after the prisoner has been freed). This is only cogent if we accept the idea that contracts are binding in a state of war (nature); in other words, in war one may kill, destroy and plunder to one’s heart’s content, but lying to the enemy is out of the question. Ironically, this *was* the prevalent view of war in Hobbes’ time (and one which remains in a vestigial form to this day), but if anything, this argues against the idea that a truly Hobbesian state of nature could ever exist; people keep promises made in war because they still see themselves as bound by some of the ties of society.

In civil society, however, what we might call the “diffidence principle” (with apologies to John Rawls) may be a safeguard against State or societal oppression. If people’s fundamental desires are continually thwarted, they may become loose cannons, liable to engage in any kind of anti-social behaviour, including violence.

Put another way, we might see civil society, not as coming after the state of nature, but as coexisting with it. The vast majority of human interactions rely on nothing more than goodwill and rational self-interest; contracts, rights and coercive institutions simply exist as a backup when these relations break down⁴. It should therefore be a prime concern of this civil superstructure that at the very least it does not make people more inclined to anti-social behaviour than they would have been in its absence. Organised terrorism and disorganised crime, however regrettable they may be, are symptoms of social malaise more than they are causes. It therefore is to the advantage of any society not to oppress anyone too much, or at least not to let them think that they are oppressed.

Of course no society can ensure that all its members are content. It can, however, take steps to assure that very few reasonable people are placed in a position where they would declare war on the society of which they happen to be a part, and that where people do rebel against the laws and norms of society, the result is positive, or at least not too bloody. Even if absolute human rights prove to be theoretically untenable, it is possible to determine a minimal set of rights which are applicable under almost all conditions, and a rough benchmark for such rights might be that if they were not granted under conditions where it was practical to grant them, a significant number of rational and well-meaning people would opt out of society, or make war on it.⁵ We obviously would not include the right to wide-screen televisions here, since not all societies are capable of providing them, and not many people number them amongst their most important desires (let alone values); conversely we might include the right to health care (where available), since health is pretty high in most people’s priorities, and whatever standard of health care a society is capable of providing, it should be capable of allocating it according to need, rather than to, say, skin colour, religious beliefs or the ability to pay.⁶

Ultimately, whatever rights are granted by a society, we would do well to remember that a right is an imperfect approximation of a freedom. A person living outside any kind of society is completely free, in that the only obstacles to the realisation of their desires are physical, not social. Any kind of social contact produces situations where freedom is restricted by other people, and where a society reaches a certain degree of complexity, it becomes necessary to formalise the limits to which this restriction may be tolerated, but we may argue that the more formal rights a society possesses, the more potentially repressive that society is. We do not argue for the right to sneeze, because no society attempts to stop people sneezing, and we would be right to be worried about

⁴This is similar to the argument of Anarchists such as Colin Ward[8], who claim that society is essentially anarchic; the existence of the State fosters the Hobbesian illusion that it is somehow a fundamental part of society, without which society would breakdown.

⁵By “well-meaning” here, I mean that their significant desires include the desire that other people realise their own significant desires, or in other words, that they value human well-being.

⁶This is not to say that health care should always be provided by the State, or that it should always be free, though that is certainly one alternative. We may not have a State at all, or health care may be provided by independent organisations with or without State support, and with or without payment by those who can afford it. The same applies to any other services a society chooses to provide by right (in this limited sense).

the kind of society in which it would be necessary to assert such a right.⁷

3 Case studies

To see how such a system might be applied in practice, I shall examine two problems: one concerning individual relations and one concerning society as a whole.

The suicide problem

It is now a general assumption that under normal circumstances, anyone has the right to take their own life. By “right” here, we mean, in the terms of discourse established so far, that the contracts of a just society should prevent interference with the realisation of this particular desire⁸. It is possible to argue, of course, that suicide is bad—it generally causes grief to the associates of the deceased, for example—but the only *absolute* arguments against it are non-consequentialist. Locke, for example, echoes the traditional Judeo-Christian view in saying that our bodies are the property of God, and thus only God may decide when they should cease to exist. However, I am dealing here with a minimal set of interpersonal ethics which could form the ground-rules for a society in which individuals may have radically different desires and beliefs. Introducing God or other metaphysical elements here would invalidate the whole endeavour, however pertinent they may be to *personal* morality (in the sense of a system of rules by which individuals increase the chances of actualising their personal values).

The question here is what we would do if a friend were intent on killing themselves in front of us. A natural reaction is to try and stop them, but this would involve violating their right to kill themselves. Is there any way we can justify our action?

An extreme way to justify this is the “opt out clause” described above: in situations where an individual’s strongest desires are thwarted, all contracts are voided. If the person concerned is your spouse, child or lover, you may very well say “To hell with rights and contracts, I’m going to stop them because that’s what *I* want.” However, if we choose this drastic option, we have in effect violated *all* their rights by voiding the social contract: we have effectively put ourselves in a state of war with them.

A less extreme alternative is to assume that, at the moment of deciding to kill themselves, they are not in fact acting on their strongest long-term desire (or will) but are “under the influence of” a strong but transient desire. Such would be the case if they were influenced by alcohol or some other drug, reacting to some traumatic event or suffering from a temporary or treatable mental illness. If, acting on this assumption, we were to stop them, we might be playing God, but this might also be justified by the circumstances. If we are mistaken, and the person really desires to kill themselves,

⁷Similar considerations apply to prohibitions, since the formal prohibition of an act usually implies that a fair number of people are performing it. For example, the Koran prohibits female infanticide in the strongest terms but does not mention male infanticide, simply because the pagan Arabs buried their daughters alive but not their sons. If an Abrahamic prophet had lived among my ancestors, he might well have said “Thou shalt not use thine enemy’s head as a drinking bowl.”

⁸By “just society” here, we can understand the kind of society a rational person might wish to be a part of, starting from some kind of Rawlesian original condition where they had no foreknowledge of who they would be in that society.

they will doubtless find the opportunity to do so later, and we will have only caused them a temporary inconvenience; conversely, if we are right, we have saved them from a terminal error.

Beggars in Spain

This second case study is considerably more problematic. *Beggars in Spain*[1] is a novel which examines the possible consequences of genetic engineering: if some people are genetically enhanced in ways which make them vastly more productive (in this case, they have no need to sleep), are they morally obliged to support less able humans? The general answer given by the genetically enhanced is a resounding “no”. The “sleepers” who make up the majority of the population cannot compete effectively with the sleepless, and thus become increasingly dependent on handouts which the sleepless are increasingly reluctant to provide; according to them, society is based on mutually beneficial contracts, and those who have no benefit to contribute are sub-moral “beggars” who deserve nothing. When the sleepless finally secede from the USA, they state in their declaration of independence that “all men are *not* created equal.”

In terms of classical (and neo-) liberalism, the sleepless are in the right. People have an absolute right to the fruits of their labour, and if that means the less able starve, that’s just tough. Given that this is the dominant ideology these days, it is an extremely worrying scenario; genetic engineering of this kind may still be some years in the future, but even now the disparities brought about by natural genetic differences and, even more so, by differences in education and access to technology, are enough to make such a scenario real. If we do indeed have an absolute right to the fruits of our labour, and we happen to have the skills to survive in the information age, why on earth should we care about some unappealing Third World / urban ghetto unproductives who want to live off our taxes?

There are two objections to this position. The first concerns the view of (in)equality the sleepless propose. Much ink has been spilt on the question of whether people of different genders, races or whatever can be equal, but here we are provided with a very obvious and inescapable inequality: the sleepless are not only more productive, they are also healthier and more intelligent. However, this, like the debates concerning less glaring inequalities of ability, ignores the essential point, which is that inequalities in talents are of no significance whatever; real moral and political equality consists in regarding everyone’s desires as equally important.

This does not mean that all desires are equal, however. Not only is strength of desire important, as we saw before, but the degree to which the fulfillment of one desire will lead to the fulfillment of other desires needs to be taken into consideration. If we put ourselves in the position of a parent with two children, who has enough resources to put one of them through medical school or buy the other a sports car, we would surely chose the first option, no matter how much the other child wants to drive a Ferrari. It is not that the desire to be a doctor is better *per se*, but that in fulfilling that desire, the child will ultimately fulfill the desires of many people to have better health.

The point in moral equality is that it is not important from whom a desire originates. Thus sexism is not the view that women and men are different (which they are in certain respects), nor even that men do some things better than women (or *vice versa*); it is the

idea (usually unacknowledged) that the desires of one sex somehow count for more than those of the other, irrespective of what those desires may be. If, for example, we were to go for the Ferrari option simply because that child was a boy and our aspiring doctor was a girl, we would obviously be unjust⁹.

To put it simply, a desire may be assessed in terms of its consequences, but not in terms of who it originates from; thus, the desires of “beggars” count as much as those of productive individuals. As a productive individual, my desire to own a wide-screen television may be assigned more weight than that of an unemployed alcoholic, but only because this may encourage me to be more productive, not because my desires are more important than his. If it were to the benefit of society to keep the unemployed happy in case they might burn the ghettos, my desire for a wide-screen TV would have to take second place until the situation changed to the extent that disaffected university teachers were burning the campuses. This ties in with the diffidence principle; even if the sleepless do choose to lord it over the sleepers, it would be in their own interests not to do it too much.

A second, and perhaps more appealing, objection is based on empathic desire, the desire that other people also realise their desires. Our desires are not restricted to our own well-being, but also encompass the well-being of those we love, and, to a lesser but still significant degree, those of sentient beings in general. It may be argued that empathic desire is essential to any social system; if people had no desire that others fulfill their desires, we would have a truly Hobbesian state of nature, and life would indeed be poor, nasty and all the rest. The primary disadvantage of unrestrained market economics is that it moves society in this direction: in order to justify their riches, the rich need to advocate an ideology which downgrades empathic desire and produces productive sociopaths, or at the very least, self-deceiving individuals who can donate a tiny fraction of their wealth to charity and call themselves philanthropists. Meanwhile, the poor get angrier and nastier, and it is hard to tell which class is less appealing¹⁰.

Both these arguments seem to support the view that property rights—or at least unlimited property rights—should not come into the category of “minimal rights” described earlier.

If we conclude that the sleepless have no absolute right to their wealth, we still need to consider whether they have any obligation to support the sleepers. In terms of the “very thin theory of the good” outlined earlier a person “ought to” do something if it significantly furthers the chances of realising a desire (including values, in the Watsonian sense).¹¹ From the sleepless’ point of view, then, they have no obligation to

⁹If this example seems absurd, we would do well to remember that in many traditional societies, such a judgement would not appear so. This prioritising of male desires does make a perverse kind of sense in societies where the impact of women’s actions is severely limited. If the economic well-being of a family is dependent almost entirely on the achievements of its male members, it may be rational to prioritise their desires, however unjust this may be. In such a case, keeping the son (and potential breadwinner) happy by buying him a sports car might well be preferable to educating a daughter who in all likelihood would not be able to benefit economically from her education.

¹⁰An interesting feature of late-capitalist societies which have rejected social democracy in favour of a free market ideology is that, rather than the proletarianisation that Marx predicted, we see a kind of “lumpenisation”, whereby those members of the proletariat who can maintain their economic value are absorbed into the middle class, while those who can’t become part of an economically powerless underclass.

¹¹I have examined this question in more detail in *Some Semantic and Cognitive Aspects of Desire*[7] and

help the “beggars”, since it would not realise any of their desires, and the moral system they value actively discourages this kind of aid. On the other hand, if the question is not what the sleepless but society as a whole ought to do, we can apply the standard ethical calculus: to misquote Mr. Spock this time, the desires of the many outweigh the desires of the few. In these terms, the sleepless ought to aid the sleepers up to the point where their fundamental rights (as defined earlier) are violated.

The important point here, though, is that if people genuinely do not desire the well-being of society as a whole, it is pointless to present them with this “ought”; it would be like trying to persuade Ghengiz Khan not to invade Russia. In cases of radical, inescapable and irreconcilable conflicts of desire, the only alternative is a state of war (whether or not this includes actual physical fighting).

4 Conclusion

We have now come some way from the simple desire-based ethics proposed at the start of this paper, which is only to be expected, given the complex theoretical and practical problems raised by actual human societies. If the result seems to be an uneasy mixture of utilitarian and contractarian ethics with a dose of anarchism thrown in, I would argue that this is inevitable because these paradoxes are inherent to human society: people desire utility, justice and freedom in varying proportions.

To summarise the argument, we can say the following:

1. Good depends on desire.
2. Moral good depends on a balance of individual desires, including values and empathic desires.
3. Contracts are sometimes necessary to formalise relationships of benefit and obligation.
4. Rights are dependent on contracts, and are a compensation for the loss of autonomy involved therein.
5. Individuals start from a position of autonomy, and may return to it whenever the existing contractual system frustrates their most important desires sufficiently.
6. Consequently, certain minimal rights may be supposed to exist in any worthwhile society.

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