

Popper, Hayek and the Open Society

Calvin Hayes

Routledge Frontiers of Political Economy

Popper, Hayek and the Open Society

This is the first book to compare Karl Popper and Friedrich Hayek systematically, and critically assess their contribution to the political philosophy of the Open Society. Hayes compares and contrasts their views on three key areas relevant to their political philosophy; first their views on scientific method, their views on philosophy of social science and then their moral philosophy including their meta-ethical views. The author focuses on their contributions to social science methodology, their ethical views about negative utilitarianism and negative rights, and their contrasting views on utopianism. He finishes by arguing that their versions of liberal political philosophy are both immune to Alasdair MacIntyre's critique of liberal individualism and also meet his challenge to the Enlightenment Project.

Hayes' position is generally controversial in that he defends Popper and Hayek in areas where they are almost universally criticized, namely Hayek's notion of the meaninglessness of social justice and Popper's claim that there is no need for induction in either scientific reasoning or common sense reasoning. One main finding in this book concerns the two major problems that bedevil modern philosophy: induction and the is-ought problem. The author proposes an original solution to the is-ought problem as well to the infinite regress problem.

This book is highly relevant to current debates about the post-Cold War world with implications for debates about globalization, modernization, Westernization, free trade, the elimination of poverty and global justice. It will be of interest to students and researchers engaged with political philosophy, meta-ethical theory, epistemology and economic methodology.

Calvin Hayes is Professor at Brock University in Ontario, Canada and the author of *Fallibilism, Democracy and the Market*. Many of the works of Hayek and Popper are published as Routledge Classics.

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**This is dedicated to my four favourite females: Frances,
Barbara, Susan and Grace**

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Preface

Their faults are many, but whose are few?

Winston Churchill (regarding the Pharisees)

This autobiographical account of how and why I became interested in both Popper and Hayek is intended to help explain both the structure and content of the book. The paragraphs on Popper largely determined Chapter 1 and the paragraphs on Hayek explain the motivation for Chapter 2.

These two chapters in turn set the stage for the prime problem posed and solved (I immodestly claim) in this book. This problem is usually called the Enlightenment Project, which I prefer to pluralize with reference to Alasdair MacIntyre's quasi-rhetorical and deeply philosophical questions: whose justice? Which rationality? I did my PhD dissertation on this topic. The main questions I answer in this preface are "why did I get interested in Popper, then Hayek and finally in MacIntyre?" and "why write a book combining all three?"

I became interested in Popper when I read Chapter 1 of *Conjectures and Refutations*, his fascinating account of his experiences of 1919 that led him, he said, to formulate his views on the demarcation of science from non-science and the solution to the problem of induction. While he says that it arose out of his dissatisfaction with the claims of three supposedly scientific theories of human behaviour (those of Marx, Freud and Adler) what excited me was his alternative to positivism.

Since I explore the details of this in Chapter 3, I will only state why it got me excited and made me want to read all of *Conjectures and Refutations*. It was Popper's willingness to defend metaphysics against its positivist critics while defending a thoroughgoing pro-scientific outlook. The conjectures part of his theory was just as important as the refutation part. This is why I think that, even if the two major revisionist criticisms of Popper's account are both valid, it does not matter for reasons explained in Chapter 3.

What I was less impressed by in Popper was his political philosophy since, at that time I was sympathetic to Marxist, and other egalitarian, socialist views rather than classical liberalism. This made me even less sympathetic to Hayek, whom I knew more by rumour than first-hand acquaintance. What made me

interested in reading Hayek was Samuel Brittan's *Left and Right the Bogus Dilemma*, as well as *Capitalism and the Permissive Society*. The main reference to Hayek in those two books, that stimulated my interest in reading Hayek, was his citation of the appendix to *The Constitution of Liberty*: "Why I am not a Conservative." The title appealed to me since I had long disliked the simplistic division of the political spectrum into "left" and "right" or "liberal" and "conservative" or any other similar conflation of contraries and contradictories. I wanted to think that we could combine what was best in both conservative and liberal ideas as well as left and right and was (and still am) very sceptical of the tendency to conflate those two distinctions. When I eventually read the appendix to *The Constitution of Liberty*, I was very excited and had to read the rest of the book. It made me realize how unfairly *demonized* and *stereotyped* the views of Hayek have been. I deliberately emphasized the two terms in the previous sentence since it is the left-wing "progressives" and "liberals" who preach multiculturalism, tolerance, and diversity, and constantly urge that we should not *demonize, marginalize* and *stereotype*, who nonetheless do not hesitate to demonize people like Hayek who disagree with their "progressivism".

When I had to choose a topic for my PhD dissertation I wanted to compare Hayek and MacIntyre, but had to settle for just MacIntyre. Now I can finally do this comparison. But why would anyone want to do this? I became interested in MacIntyre in three stages. First, I found his article on Hume's notoriously enigmatic is-ought passage very interesting and instructive. I was impressed by his *After Virtue* because of his willingness to resurrect as an alternative to modern moral philosophy an unfortunately discarded concept that has been displaced by the vapid term "values". I liked the title of his book *Whose Justice? Which Rationality?* Moreover, at that time I had the audacity to think that I had the answer to both questions.

Thus my PhD was a not so covert argument that the straightforward answer to both questions was a Popperian theory of *Rationality* and a Hayekian theory of *Justice*. Part V of this book combines the original audacity with later, more sober, reflections on these problems. However, in the end I am still willing to defend my original idea without the assertiveness of Popper when he claims to have solved the problem of induction.

In the introduction, I explain why I chose MacIntyre's criticism of liberal individualism to focus on when I discuss how I solved the immensely difficult problem of selectivity that arises with any book, and especially for one that focuses on two controversial thinkers who have provoked numerous criticisms from many sources. What still fascinates me is the following: MacIntyre has very interesting things to say about reason, tradition, virtue and justice. Hayek has very interesting things to say about reason, tradition, virtue and justice. Hayek and MacIntyre agree totally on reason and tradition, with a strong overlap on virtue, but they have very contrary opinions on justice and liberal individualism. Finally MacIntyre combines the best of both the conservative and leftist critics and because he has generic as well as specific criticisms of both Liberal individualism and the Enlightenment Project, his views are worth contrasting to

the two Austrians. In fact there are some issues on which Popper is closer to MacIntyre and Marx than he is to Hayek.

So while this is the first book (as stressed in the introduction) to compare Popper and Hayek, it is also the first to compare Hayek and MacIntyre since, as far as I can tell, I am the only one interested enough in trying to do this comparison. I am apparently also the only one to think that it was Leibniz who defined the two major problems of modern philosophy before Hume did. Finally, I think the message of all three is highly pertinent to the problems of the non-Western world (as Chapter 15 emphasizes). This is especially true of the Islamic world, but is equally relevant for Africa, Hispanic America, and Asia as they cope with modernization, globalization and Westernization simultaneously. Since all three philosophers combine respect for tradition with acceptance of the good parts of modernity without the irrational hostility to traditional beliefs and values found in many “progressive” thinkers they have a message that both developed and developing societies need to hear and heed.

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Abbreviations

Books/journals

AV	<i>After Virtue</i>
CAR	<i>Conjectures and Refutations: The Growth of Scientific Knowledge</i>
CCH	<i>The Cambridge Companion to Hayek</i>
CEP	<i>Collectivist Economic Planning</i>
COL	<i>The Constitution of Liberty</i>
DRA	<i>Dependent Rational Animals</i>
FAR	<i>Freedom and Reason</i>
FDM	<i>Fallibilism, Democracy and the Market</i>
FTC	<i>The Fatal Conceit</i>
HOH	<i>Hayek on Hayek</i>
IEO	<i>Individualism and Economic Order</i>
JHET	<i>The Journal of the History of Economic Thought</i>
KPFY	<i>Karl Popper – The Formative Years 1902–1945</i>
LLL	<i>Law, Liberty and Legislation</i>
LLP	<i>The Library of Living Philosophers: The Philosophy of Karl Popper</i>
LSD	<i>The Logic of Scientific Discovery</i>
OK	<i>Objective Knowledge: An Evolutionary Approach</i>
OSE	<i>The Open Society and its Enemies</i>
PEM	<i>Popper and Economic Methodology</i>
PH	<i>The Poverty of Historicism</i>
RTS	<i>The Road to Serfdom</i>
SBW	<i>In Search of a Better World</i>
TFC	<i>The Fatal Conceit</i>
TSO	<i>The Sensory Order: An Inquiry Into The Foundations Of Theoretical Psychology</i>
WJWR	<i>Whose Justice? Which Rationality</i>

Principles

AS	The autonomy of sociology
BCD	Blank check democracy

BDT	The Bacon–Descartes theory of science and technology
DN	The deductive–nomological model of prediction
DP	Default principles
DQT	The Duhem–Quine thesis
EB	Empirical basis
ECA	The economic calculation argument
EE	Evolutionary ethics
EPP	The Enlightenment Project problem
FT	Fries’ trilemma
ICU	Interpersonal comparisons of utility
IPR	Intellectual property rights
MI	Methodological individualism
NF	The naturalistic fallacy
PHD	The Popper–Hayek theory of democracy
PI	The Pareto improvement criterion
PIE	The positivist, inductivist, empiricist tradition
PRC	The principle of rational criticism
PSR	The principle of sufficient reason
PTA	Problems, theories and arguments
RNA	The Rawls–Nozick argument
SL	Situational logic
SVR	Scientific value relativism
UC	Unintended consequences

Names

HUL	The Harvard University William James Lectures
LSE	The London School of Economics

Introduction

With the fire of life impassioned,
Striving still to truth unknown
J.S. Bach

This book is the first to compare Popper and Hayek systematically. While the prime focus is on their political philosophies, it also explores the meta-theoretical foundation of their ideologies. This means that the methodological, epistemological, and meta-ethical bases of their political theories are scrutinized.

This book examines the relation between the ideas of two expatriate Austrian academics who were both briefly colleagues and lifetime friends, a Nobel Prize-winning economist and one of the most influential and controversial philosophers of the twentieth century. It will primarily compare their views, as the title implies, on the political philosophy of the Open Society.

I do this by comparing the meta-theory under-girding (and sometimes undermining) their views. This entails an examination of their philosophies of (natural and social) science (including the philosophy of history), and their meta-ethical views. I especially focus on the problematic connection between their epistemological theses on social science methodology and the moral and meta-ethical views presupposed and/or entailed by their common commitment to the Open Society. I explore both the similarities and differences between their concepts of the Open Society, including the problem of the priority of liberty and equality. Where they differ, I occasionally present philosophical arguments (of both a logical and empirical nature) to show why one or the other is preferable.

Where it differs from similar books is that it is the first to compare Hayek and Popper *systematically*, rather than focusing on one while introducing the other en passant. I also attempt to justify the claim mooted above concerning “the problematic connection” between epistemology and ethics, and claim to solve that problem in two stages: I argue that “the problematic connection” is due to their mutually shared, but dubious, commitment to the Weberian fact/value distinction. I defend my solution to this problem, which differs from more recent philosophical attempts such as Hilary Putnam’s effort to claim that the distinction collapses or the attempt of Michael Ruse and Edward Wilson to turn moral

2 Introduction

philosophy into applied science. It differs from the views of Alan Gewirth, R.M. Hare, Alasdair MacIntyre, social contract theories, and Stephen Toulmin.

I focus on differences as well as similarities between the two: especially in their views on knowledge, methodology and political philosophy. One emphasis on difference concerns Hayek's "subjectivism" versus Popper's "objectivism", another concerns their differing views on the state's role in reducing inequality and promoting welfare. While I disagree with the efforts of Malachi Hacoen, Raphael Sassawer and Stephen Fuller to recruit Popper's Open Society philosophy to modern egalitarianism, I also resist the ingenious attempts of Jan Lester and Jeremy Shearmur to enlist it for contemporary libertarianism. I argue to the contrary in favour of their minimal (yet revolutionary) egalitarianism, for their optimal (but not maximal) libertarianism, and for their defence of *tradition* without defending *traditionalism*. I also argue that the views of Hayek and Popper make post-modernism, neo-conservatism, and deconstructionism superfluous since they ingeniously solve the problems that such theories think only they can solve. I finish by defending "the Austrian answer" to Alasdair MacIntyre's two questions concerning the Enlightenment Project: whose justice? Which rationality?

Part I sets the stage for the two main actors and their supporting staff as well as their critics, enemies and fence-sitters. The first chapter, while somewhat pretentiously titled, is serious, not facetious. It sets the stage historically by developing an ideal-type intellectual history of the three main areas of direct relevance to our main topic unified by several key ideas: progress, science, enlightenment, modernity, reason and one very key conglomerate of ideas: the Bacon–Descartes theory of science and technology. The Cartesian theory particularly is crucial as a foil for both Hayek and Popper.

Chapter 1 is divided into three sections expounding the key components of any adequate political philosophy that is going to be both political and philosophical, that is not just an ideology or theory or idea, but one well argued and, if not based on the latest knowledge and research at least not in conflict with it. But it must be *political* as well in the sense of *pragmatically valid* as well as *theoretically valid*. It must be something a politician as well as a political scientist, economist, historian or natural scientist (or even a philosopher) could accept intellectually. The first section defines the Bacon–Descartes theory of science and technology. The second section discusses the attempts to duplicate the amazing success of Newtonian science in understanding nature into a foundation for the study of society; of what were called well into the twentieth century the "moral sciences". Both are united by the progressivism inherent in modernity and the Enlightenment, epitomized by scientific knowledge. The third section undermines this unity because of the "discovery" that "moral sciences" is an oxymoron or at the least a "category mistake".

Chapter 2 may seem unique since it says little about either Popper or Hayek. This is due to its origin, as an encyclopedia article (in the regrettably aborted *International Encyclopedia of Public Policy*) on ideology. The primary purpose of this is to challenge, logically and factually, the standard one-dimensional

political spectrum, running from right to left (or vice versa). Its relevance to the major topics of this book should not need argument but it is one example of when I side with Hayek against Popper, in this case on the need to argue about words when it is a question of connotations, not denotations.

Part II examines the early writings of Hayek and Popper in the period from 1933–1945 but also provides a bibliographical background relevant to understanding their early writings. Chapter 3 is based on a talk I gave at my home university in June 2002 just before the Popper Centenary Vienna Conference. It was provocatively entitled “Did Popper plagiarize both Einstein and Bergson?” I retained this title despite reservations about its possible negative connotations. It is not a rhetorical question since my answer to it is “no”. At the very least Popper did not intentionally appropriate anyone else’s ideas. I begin with a brief biographical overview of both since a great deal of what they write is unintelligible without at least some background in the dramatic and tragic events of the first half of the twentieth century, especially in the Austrian society they were born into. The key year for our discussion is 1919 and the key focus is on Malachi Hacohen’s discussion of Einstein’s threefold influence on Popper in 1919. We will compare Hacohen’s reconstruction of Popper’s intellectual development with Chapter 1 of *Conjectures and Refutations*. Hacohen provides a crucial link to Bergson (while mentioning him only once).

However, by contrasting Einstein’s own solution to the problem of theory choice with Popper’s later one, he allows an extremely interesting possibility of comparing the role of intuition in both Einstein and Bergson. This will motivate the development of the main problem posed in this book (and solved, so I claim). This is the connection between Popper’s epistemology and theory of methodology on the one hand and his ethical and political philosophy on the other. The same problem emerges for Hayek in Chapter 11 when we critically examine his evolutionary ethics. Exactly the same problem exists for both of them and for fundamentally the same reason.

In Chapter 4, I compare the first two major achievements of the two authors, made in 1934–1935: *The Logic of Scientific Discovery* and *Collectivist Economic Planning*. The first involves Popper’s attack on the orthodox positivist–inductivist–empiricist accounts of scientific method, (hereafter called the PIE tradition) with its not so hidden agenda of ruling out the legitimacy of traditional metaphysics, theology and ethics. Hayek’s edited book, *Collectivist Economic Planning*, involved the lively debate between Marxists and other socialists with various anti-socialists culminating in the Economic Calculation Argument debate. Apart from the intrinsic interest of both topics this chapter introduces two key points of major importance later: the first is the distinction between three key terms “refutation”, “criticism”, and “falsifiability”. It also establishes both the possibility as well as the plausibility of applying the two terms, “refutation” and “criticism” to the meta-theoretical levels, in these two cases to philosophy of science as well as to political philosophy, the two main themes that glue together this book.

Chapter 5 covers the period from March 1933 until 1945 when *The Open*

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Society and its Enemies was published, shortly after Hayek's best known as well as most notorious book: *The Road to Serfdom*. It is mostly comparative rather than critical, trying to identify precisely both similarities and differences. I especially emphasize their views on the key issue of freedom and equality.

Part III explores the link between the epistemology and methodology of our two authors and their political and moral philosophy. It therefore unites under one roof their views on the philosophy of social science, negative rights and negative utility and utopianism. Chapter 6 is the key link tying everything together: the bridge from philosophy of natural science to social science and political philosophy. The major topics are Popper's critique of historicism, collectivism and utopianism as well as Hayek's contributions to the debates in economics about institutionalism, historicism, marginal utility theory and his theory of complex phenomena and pattern prediction as alternatives to scientism. While the next chapter is entitled "Accentuating the negative", this one could be given the opposite label "Accentuating the positive", since I emphasize the five key points in the Popper–Hayek philosophy of social science. I argue that the views of Popper and Hayek agree here more than in any other area. While they may seem the least relevant to political philosophy I argue in Part V that they effectively immunize the Popper–Hayek theory of democracy from the standard critiques of liberalism, especially those forcefully made by MacIntyre.

Chapter 7 examines and compares the views of Hayek and Popper on negative rights and negative utility and defends philosophically the idea that, for a cosmopolitan outlook, they are the only rationally defensible types of rights or utility. Chapter 8 explores one of the *prima facie* differences between the two writers: Hayek advocated, after the Second World War construction of a "liberal utopia" while Popper rejects utopian schemes of any kind. On this issue, while I originally intended to side with Popper (based mainly on the distinction between ideals and obligations), I have changed my mind (as a good Popperian should occasionally do). I offer some favourable comments on Hayek's willingness to counter leftist idealism with a vision that is not merely conservative (much less "right-wing") nor just old-fashioned liberalism nor a compromise.

As some of the more profound critics of Hayek as well as Popper have recognized the prime weaknesses in their theories come from the candid and very intellectually honest recognition on their part of the limits of reason. Part IV shows how to solve the is–ought problem in a truly Popperian fashion and criticizes Putnam's ingenious but superfluous attempt to dissolve it rather than solve it.

Chapter 9 examines the common commitment of Popper and Hayek to the Weberian position on facts and values. I explain the views of its main proponents in the twentieth century, Weber, Robbins and Arnold Brecht, and indicate how their views undermine what MacIntyre calls "the Enlightenment Project". In Chapter 10, I argue that despite Popper's ingenious and mostly well-argued attempts to refute both relativism and scepticism he ultimately fails. I critically examine his appendix to the 1961 version of the *Open Society* where Popper discusses relativism of both the cognitive and cultural type. I argue that his inge-

nious, often cogent, and mostly well-argued theses in the end are insufficient to undermine or answer MacIntyre's later challenge to "the Enlightenment Project". However I also argue that it is easy to provide a Popperian solution to the is-ought problem strictly analogous to his own negative solution to the problem of induction, based on his theory of criticism in *Conjecture and Refutations*.

Chapter 11 provides a transition to the final part of the book. I examine whether evolutionary ethics must commit what G.E. Moore called the "naturalistic fallacy". I discuss a lively recent debate over Hayek and the naturalistic fallacy in JHET, look at Hayek's final book, *The Fatal Conceit*, and discuss the mirror image problem of is and ought provided by problems of self-interest versus altruism.

In Part V I apply the meta-theory defined and defended in Chapter 10 to answer the two questions from the title of MacIntyre's book *Whose Justice? Which Rationality?* Chapters 12 and 13 define what I call the Hayek-MacIntyre paradox. This emerges from the interesting point that their views on the three topics in the title of Chapter 12: *Virtue, Tradition and Reason* are virtually identical, more similar than they are to anyone else. Yet their views on liberal individualism, justice and the incommensurability of values (as described in Chapter 13) are strikingly different.

In Chapter 14, I argue that Hayek and Popper have answers to MacIntyre's two questions about justice and rationality without accepting his (MacIntyre's) views about consensus while easily incorporating his arguments about virtue and tradition. This would solve the two prime problems with individualism, egoism (with its "rootless individualism") and the problem of common good. Chapter 15 exposes the key mistakes made by the naïve proponents and critics (both left and communitarian) of liberal individualism and associated ideas such as progress, modernity, enlightenment and reason. The Popper-Hayek theory of democracy is the genuine middle way synthesizing the libertarian, egalitarian and conservative values that any society needs if it is to be both a viable and morally just society. The epilogue deals with the more recent writings of MacIntyre where he fails to develop any remotely valid challenge to either Fukuyama's claims about the lack of any viable alternative to liberal individualism or to the great Austrian tradition of political and economic liberalism.

In that epilogue, I discuss MacIntyre's re-statement of the standard objections to liberal individualism made over and over again by its critics. This is that the agenda of political debate is set by those in power and so many voices are not heard. A good summary of such an argument is the following:

It would be interesting to discover how far a seriously critical view of the benefits to society of the law of copyright or the expression of doubts about the public benefits in the existence of a class which makes it living from the writing of books would have a chance of being publicly stated in a society in which the channels of expression are so largely controlled by people who have a vested interest in the existing situation.

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While this sounds like it could have come from the pens of Chomsky, Marcuse, Galbraith or MacIntyre (as well as numerous others) it does not. It was written by Friedrich von Hayek in 1948 (p. 225, fn. 3). Similarly Popper's numerous critics could argue as follows against his philosophy of social science: "the Newtonian method of explaining and predicting singular events by universal laws and initial conditions is hardly ever applicable in the theoretical social sciences" (Boylan and O'Gorman 2007: 27). As I point out in Chapter 6 these words are those of Popper, not his critics.

There are problems not addressed in this book that deserve greater attention. This is due to the meta-problem of selectivity, which in this case involves a set of three sub-problems. The first sub-problem is deciding what to emphasize in the vast writings of Popper and Hayek. Sub-problem two is deciding which among the numerous critics of both I should discuss and either agree with, or refute, or ignore. Since I would have to write two or three books to do justice to all the critics I solve this sub-problem by choosing some of the more recent writers and then finish by focusing on MacIntyre because he has a generic criticism of the liberal individualism defended by Popper and Hayek but never specifically addresses their views. It also enables me to formulate an argument in Part V that is completely my own argument but which combines my own meta-theoretical, factual and logical arguments with some of those used by both Popper and Hayek as well as some they should have used but did not. The main justification (to use a non-Popperian term) for this is that it immunizes their views against the majority of criticisms made of their views. Sub-problem three was deciding which alternative views on meta-ethics and moral philosophy to discuss especially those concerning the is-ought problem.

Another point concerns the weakest points in Popper and Hayek. This does not lie where many critics think it does, in their political theory or their inconclusive arguments. Rather it lies in their demonology and hagiography. Popper and Hayek overrate certain thinkers and underrate others. Those unfairly demonized include Aristotle, Hegel, Descartes, Bentham and Keynes, and those unreasonably canonized include Voltaire, Russell and Marx. I also would agree with some of the critics who argue that Hayek's biggest error was rejecting macroeconomics. Robert Skildesky made this point and he also confirmed for me what I had long suspected, that the differences between Hayek and Keynes were not that significant compared to their common enemy, the collectivists of both the right and left.

I finish with a comment on the opening quotation, two lines from J.S. Bach's magnificent *Jesu, Joy of Man's Desiring*. The reason I put them at the outset is only coincidentally related to my discussion in an appendix of Chapter 3 about the conversion of the Popper family to Lutheranism or to the fact that Bach was Popper's favourite composer. It is because the two lines epitomize what the academic careers of Popper and Hayek were all about. While they appear in the context of a specifically Christian hymn, they can and should be appreciated by persons of any religious belief, those of no belief, or those of an agnostic attitude (the attitude of Popper and Hayek themselves). The second line may seem the

easier one to relate to their views since both emphasized repeatedly the importance for politics and ethics of *what we do not and cannot know*.

While to many this seems to be too negative a basis on which to construct an ethical system or political ideology it does have a positive note since it emphasizes our striving after the unknown truth, not a sceptical, relativist, post-modern resignation to the possibility of ever acquiring truth. It is primarily a rejection of the idea that the powers that be have that knowledge and therefore the right or duty to rule us in our best interests. It is also related to the first line since neither Popper or Hayek were ivory tower academics solely concerned with the disinterested pursuit of truth of interest and relevance only to intellectuals, scholars, philosophers and academics. They were fired by a passionate intensity to make the world a better place, or in Popper's own words: they were both "In Search of a Better World". Such a world cannot be created by pure reason, but neither can it be made by mere passion. It requires the judicious combination of both.

Part I

**Popper, Hayek, modernity
and ideology**

1 Popper, Hayek and the grand narrative of modernity

A minute criticism of minute points without an understanding of the great problems of cosmology, of human knowledge, of ethics and of political philosophy and without a serious and devoted attempt to solve them, appears to me fatal.

Popper (1992: 185)

Why bother studying Popper and Hayek in the twenty-first century? They may have had contributions to make in the heyday of positivism, historicism, fascism, Nazism, communism and socialism, but in the third millennium, surely we face unique and unprecedented problems. We have passed into a post-modern world with the challenges of terrorism, globalization, AIDS, poverty, feminism, environmental degradation and the “clash of civilizations”. My answer to these challenges is that not only *were* Popper and Hayek great philosophical thinkers but their theories and arguments, especially in political philosophy, are particularly relevant in the present age, whether it is characterized as the “end of history”, the “clash of civilizations”, post-modernism, or whatever other “ism” one cares to chose, including “the new terrorism”.¹

In addition, an age that stresses its tolerance, diversity, multiculturalism and inclusiveness ought not to forget two of the seminal thinkers responsible for propagating such principles long before they were purloined by “politically correct” ideologies the last few decades. That Popper and Hayek grew up in one of the most interesting multicultural societies that ever existed gives this argument a special pertinence. In their lifetimes, Austria (and Germany) developed from being traditional authoritarian societies towards becoming open societies, and then regressed to a uniquely twentieth-century authoritarianism. Then both returned to being open societies. This makes their theories, as indicated in this introduction, especially relevant for those societies undergoing rapid transitions into modernity in the twenty-first century.

Finally, a number of books dealing with both Hayek and Popper appeared in the last decade of the twentieth and the first decade of the twenty-first century. This indicates a resurgence of interest in both men, primarily for the reason that they present alternative solutions to problems that other philosophical theories do not. Some of the noteworthy of such books include Malachi Hacohen’s *Karl*

Popper the Formative Years, 1902–45, Edmonds and Eidinow's *Wittgenstein's Poker*, Bruce Caldwell's *Hayek's Challenge* and two books by Alan Ebenstein: *Friedrich Hayek A Biography* and *Hayek's Journey* as well as numerous recent books of collected essays.²

This book will be the first to compare Popper and Hayek *systematically*. While the prime focus is on their political philosophies, I will explore the meta-theoretical foundations of their ideologies. This means that the methodological, epistemological and meta-ethical bases of their political theories will receive serious logical and philosophical scrutiny.

A further question to consider is “what makes someone a great philosopher (or thinker or theorist)?” There are at least two factors. The first is profound and effective criticisms of previous (and/or prevailing) views. The second is the ability to argue for an alternative view that exhibits what Joseph Schumpeter called “vitality”.³ Popper and Hayek clearly qualify on both points. Popper had cogent, if not devastating, criticisms of the main meta-theories in *philosophy of science* in his day. Hayek had cogent, if not devastating, criticisms of the main meta-theories in *philosophy of social science* in his day. Both had ingenious, partly persuasive but ultimately unsuccessful theories of *moral and political philosophy* that are less cogent than their epistemological and methodological challenges to the reigning positivist, scientific views. This is primarily because they failed to challenge effectively the prevailing Weberian view on meta-ethics.

The three italicized terms in the previous paragraph will provide the skeleton for this chapter and the entire book. It is why I began with the provocative quote from Popper's *In Search of a Better World* (SBW). Since the main point in this chapter is to explicate the major problems of modernity, I do so by situating Popper and Hayek in the intellectual context in which they matured. I provide a definition of the contentious term “modernity” and then present a grand narrative of its emergence and eventual triumph. The definition is not essentialist, which means it will cite neither necessary nor sufficient conditions. The grand narrative is not historicist, meaning that it does not rest on a view that modernity is an inevitable outcome of necessary laws, forces or tendencies over which humans have no control.

First, I define “modernity” to mean “a process involving a historically unique set of institutions and ideologies of fairly recent provenance (the last four or five centuries)”. This historically unique set includes science, technology, education, increased literacy, urbanization and the secularization of politics, if not necessarily of society. Modernity also leads to intense ideological debates over the meaning of “essentially contestable” terms such as “progress”, “freedom”, “equality” and “human rights” as well as debates concerning the optimal methods of reaching these goals and the relationship and priorities among them. This ideological dimension of modernity is the subject of Chapter 2.

This grand narrative of modernity is partly based on “a stages of history” approach, which has been called “a stadial theory” of history (Desai in Feser 2006: 68). The simplest such theory, as well as the most plausible, is a view

based on the Scottish Enlightenment thinkers. On such a view, humanity has progressed from living in hunter-gatherer societies to pastoral and agricultural societies and then progressed to commercial and finally industrial societies. Belief in such stages is not enough to make this view historicist. Only if one adds that there is an irresistible, inevitable trend, tendency, law (or laws) propelling these processes is the view properly historicist. The grand narrative presented in this chapter is not such a theory.

It is intended, instead, to be similar to the Weberian concept of an ideal history, which is neither pure fiction nor 100 per cent factual. It is also supposed to explain the great progress that the West has ostensibly made in the past four or five centuries, and to express a view that would have been endorsed by most Austrian academics in the heyday of its intellectual hegemony. Hayek says this heyday began with the “great reform in 1867” (Hayek 1984: 49).

The grand narrative of modernity

Sometime in the late Middle Ages, there began a complex historical process consisting of at least three prominent factors: the Italian Renaissance, the Protestant Reformation, and the great “discoveries” of Africa and the Americas. During the century that experienced all three as an intertwined complex, three distinct challenges to the Roman Catholic Church’s authority emerged from three very different people: Machiavelli, Luther and Copernicus (1513–1543). The first challenged its *moral* (and/or political) authority, the second its *religious* authority, the third its right to *scientific* authority.⁴

The third is the most basic for this narrative because of its apparent implications for the other two. Only in the seventeenth century was the problem properly resolved. During this period, men finally decided to stop bowing to the authority of church, Bible, papacy, and other antique authorities such as Aristotle and Ptolemy. They instead began to rest their beliefs, theories and opinions on experience, observation, reason and logic to figure out the truth about the universe. Since then there has been, not coincidentally, a steady and spectacular growth in scientific knowledge about the universe.

There has been a similar improvement and progress in human affairs in two distinct ways. The first is that, after the scientific revolution of the seventeenth century, similar progress was made in applying scientific knowledge, chemistry and physics especially, to social problems. The Industrial Revolution, while not without its problems, eventually enabled most people in advanced industrial economies to enjoy a higher standard of living than the average person in any other previous society in human history had experienced.

The second area of progress meant significant advances in political and social matters. This resulted in the overthrow of aristocracies, monarchies and feudal rulers who were replaced by more enlightened leaders. These leaders instituted the abolition of slavery, judicial torture and religious persecution as well as the beginning of the recognition of rights for all people. This process eventually included minorities, women, children, animals, heretics, political dissenters and

criminals. The spread of education, literacy and scientific knowledge then made modern democracy a possibility.

This grand narrative does not entail a picture of perfection or paradise regained. We have not returned to the Garden of Eden, the Golden Age, or Atlantis. There were many downsides to this process, not only for many in Western societies but also for non-Western societies conquered by the technologically advanced societies. In addition, the rapid growth of technology made possible the production of destructive weapons, pollution and the exploitation of nature with its attendant risk of resource depletion. While this was balanced by the growing recognition that *all humans have rights* (the best way to define “cosmopolitanism”, an important term for both Hayek and Popper), the story gets complicated by the emergence of conflicting claims about the meaning of another key term for both: “progress”, particularly when applied to societal changes in laws and mores.

This problem emerged from the idea that political and moral progress should not be defined by obsolete, old-fashioned ideas such as those found in revelation, tradition, the church, and the Bible, any more than scientific, or historical truth should be validated in this way. Reason, experience and logic should determine our political and moral philosophies as well. Thus were the ABCs of obscurantist authoritarianism banished: Aristotle, the Bible, and the church. Instead, the voices of reason, science, enlightenment, modernity and progress emerged victorious. A book by Frederick Nussbaum in the 1950s captures the idea very well in the title: *The Triumph of Science and Reason: 1660–1685*. It is noteworthy that the two great revolutions of 1687–1688, exemplified in Newton’s *Principia Mathematica* and the Glorious Revolution, as well as John Locke’s *Two Treatises of Government*, appear in the five years after the end of the era in which Nussbaum sees reason and science as triumphant.

One of the major keys to understanding modernity is its optimistic attitude to progress. The main model of progress is *scientific* and *technological* progress. It is the paradigm case of progress and intimately connected with other types of progress, economic, social and political, in at least two ways. It made possible the technological progress that makes the other types possible and provides a method of thought on which to base theories of moral and political progress in terms of ends and means.

There were two significant developments in the era 1688–1848 of great relevance to our grand narrative. First, there were a number of political revolutions. Second, there were numerous attempts to develop a science of society. At that time, such studies were called “the moral sciences”. Most of the political revolutions claimed to be based on reason, science and Enlightenment. The two best known are the American and French Revolutions. While this period in the late eighteenth century has been called “The Age of Democratic Revolution”, it might better be called “The Age of Proto-Democratic Revolution”.⁵

Its main achievement, from the point of view of modernity, was to introduce two secular, yet simultaneously sacred, or at least sacrosanct, trinitities: the American triad of liberty, equality and the *pursuit* of happiness and the French trio of liberty, equality and *fraternity*.

In the early nineteenth century, there occurred numerous revolutions in Latin America and several attempted revolts elsewhere including two more in France, 1830 and 1848. In the year 1848, numerous revolts took place all over Europe. Here is where the grand narrative will end. The year of abortive revolutions, 1848, saw the involuntary retirement of Metternich, the publishing of Marx and Engels' *Communist Manifesto*, and the beginning of the golden age of Austrian culture, which overlapped with its most disastrous era: 1914–1945.

By the late nineteenth century, most European societies were entangled in an age of ideology and industrialization and their major thinkers were involved in intense debates about proper social science methodology, political ideologies and human nature. The same period saw equally intense debates about scientific method itself. The complex interaction of all these areas, epistemology, methodology, political ideology and ethics, forms the main theme for the comparison of Hayek and Popper, well captured by Popper in the quote at the head of this chapter.

This chapter raises key questions that the book attempts to answer: can there be a coherent theory unifying these four areas or are they so logically and epistemologically heterogeneous, that they are hermetically sealed off from each other? Can Popper's critical rationalism, or Hayek's theory of complex phenomena and spontaneous order unify our approaches? Alternatively, do we need a synthesis of the two or something radically different?

Popper and Hayek saw intimate connections between their views on scientific method, ethics and political philosophy. They perceived similar intimate connections between perverse methodologies and epistemologies on the one hand and perverse ethical and political views on the other. Such a view, while common to various ideologies and political theories, conflicts with the ultimate outcome of our grand narrative. Another key to understanding Hayek and Popper on the Open Society concerns the immensely complicated relation and relative priorities of the two concepts common to the first two revolutions of modernity: liberty and equality. The rest of this chapter will work on explaining the three key issues that define the problems of the Enlightenment Project (hereafter EPP). The first is the problem of scientific method. The second is the problem of applying the methods of the natural sciences to the social sciences. The third problem arises when it is argued persuasively, that, making the social sciences rigorously *scientific* undermines the rational justification of moral rules and principles, which then become highly problematic.

The problem of scientific method

Modernity can be said to begin either sometime in the seventeenth century, or at least no later. The precise date is not important since, for purposes of this book, modernity is primarily linked with what I designate "The Bacon–Descartes view of science and technology" (hereafter BDT). It will be used to define the three main problem of this chapter and hence of the rest of the book and thus justify the following claim: everything Popper and Hayek wrote of relevance to this

book is related to the BDT and the many problems, both practical and theoretical, that it has generated in the last four centuries.

Without undue oversimplification the BDT can be described as follows: if we can only rid ourselves of the errors of the past and find the correct method of acquiring valid knowledge about nature, we can not only learn the truth about nature, we can also use that knowledge to improve the condition and welfare of humanity. Thus, if we can learn the causes of diseases we can prevent, or at least mitigate, their disastrous effects and possibly find a cure. If we learn nature's secrets, we can improve both the quantity and quality of our production of food. By obeying nature, we can learn to control it for humanity's benefit. Modern biotechnology is the prime contemporary embodiment of this view. It offers the possibility of improved food production, disease control and ecological sustainability.⁶ It also illustrates the ambiguity of progress since many people of conservative, as well as leftist, persuasion oppose its advance, based largely on Burkean principles such as the "Precautionary Principle".⁷

Interesting as the controversies concerning this topic are, we will return to the three major problems generated by the BDT that determine the structure and argument of the rest of this book. The first problem is an epistemological one. Bacon and Descartes produced incompatible theories of knowledge. Bacon advocated a particular type of *induction* as the method of scientific growth, whereas Descartes advocated his own version of epistemic *rationalism*. The major difference between modern philosophy and pre-modern is often located in the priority accorded to epistemology since Descartes. Prior to him, philosophers seemed to be equally interested in ontology, ethics and epistemology. The standard story of the period of philosophy in the Age of Reason is the contest between empiricism and rationalism leading to the Kantian synthesis. Post-Kantian philosophy has diverged in several directions.

The history of epistemology and philosophy of science since Bacon and Descartes however has been just as much a Tower of Babel as it was before. While there can be little doubt about the amazing success of the Bacon–Descartes *vision*, there has been no definitive version of what correct scientific method is, much less any consensus on the epistemology of ordinary, common-sense knowledge.

The most significant of these theories of scientific knowledge for our main topic is logical positivism. It tried to reduce all knowledge to two basic sources: experience and logic. All natural science, it was argued, is based *solely* on the former and all mathematical knowledge *solely* on the latter. However, just as there have been several competing theories of empirical, scientific knowledge ever since the BDT was first formulated between 1620 and 1650, there are also several competing theories of what mathematical knowledge is based on. In the last two centuries, various distinct philosophies of mathematics emerged: logicism, formalism, Platonism, naturalism, intuitionism, fictionalism and nominalism.

The main competing theories of knowledge since Kant involve efforts to combine experience and reason. The latter, while it includes modern math-

emational logic, is not reducible purely to logic. This is because of the problem of defining valid inferences. This in turn involves answering the following difficult questions: “which rules of inference that are neither purely logical nor probabilistic should we adopt?” and “what justifies inductive inferences of any type?” Some recent trends in contemporary philosophy reject the necessity and/or the possibility of any valid epistemology out of exasperation about the perceived failure to produce any such definitive version.

While some contemporary philosophers, literary theorists and social scientists wish to infer from the foregoing a post-modern, relativistic and sceptical theory of knowledge, this is neither the intention of this chapter, nor the inference I will eventually defend. The crucial argument is instead to show the contestable, problematic nature of knowledge claims and theories of knowledge without drawing pessimistic conclusions about our ability to acquire scientific knowledge. It is also intended to show that what many modernists think of as the least problematic aspect of modernity, scientific knowledge, is not unproblematic, without espousing post-modernist conclusions from this.

Two recent books illustrate the essential contestability of the two most prestigious and respectable of academic enterprises: science and mathematics. The first is Peter Achinstein’s *Science Rules* and the second is Stewart Shapiro’s *The Oxford Handbook of Mathematics and Logic*. The two books discuss various modern and contemporary epistemologies and philosophies of science and mathematics.⁸

Since science is experimental and observational and, since it is well known that sense experience can be illusory, or misinterpreted, it should not be surprising that science is fallible and that its history is filled with debates. It is more surprising that the same is true in mathematics. Not only are there numerous unresolved problems in the foundations of natural science there are several interesting and difficult problems in meta-mathematics. This includes the problem of proof. The main major advantage mathematicians have been able to claim vis-à-vis non-deductive sciences lies in the apodictic nature of their rigorously logical proofs.

Given the above, how can anyone plausibly claim that the preceding grand narrative avoids the morass of post-modern subjectivism, relativism and scepticism, providing grist for the mill of philosophers such as Richard Rorty and Jacques Derrida? For now, the reader will have to be content with two responses before we proceed to the problems in the next two sections. The first is that this grand narrative defines the problem situation Popper faced in 1919 and that we still face today. The history of science and technology shows amazing progress. From Gutenberg and Copernicus to Bill Gates and Craig Venter (the man behind the decoding of the Human Genome Project) there has been unmistakable progress in scientific understanding of nature and of our control of it to produce benefits to humanity, even while it is candidly recognized that such “progress” produces problems as well as benefits. However, epistemology and philosophy of science seem unable to adequately account for this success story.

In the next two sections of this chapter, we examine two major questions that

grow naturally out of the BDT. The first is “can there be a scientific approach to human society and behaviour?” The second is “can there be a rational, scientific approach to the problems of human rights, duties, virtues, values, justice and politics?” While most contemporary social science seems to presuppose a positive answer to the first question, albeit with some qualifications, the majority opinion regarding the second tends to be negative.

Popper’s two major challenges to standard views of scientific method are to the *positivist* view that it rests solely on empirical knowledge and to the concept of *induction*. According to the latter, we generalize from particular cases to an inductive generalization. The two together allow us to justify, verify, or at least confirm, empirically scientific laws and theories, unlike non-scientific theories. Popper argues to the contrary that we can only falsify theories not verify them. Since we will examine Popper’s views on these controversies in Chapters 3 and 4 we offer for now as concise a view of his overall philosophy as can be done in ten words or less. As Popper puts it nicely and concisely, “Rational criticism replaces justification”. I shall call this “the principle of ‘rational criticism’ (hereafter PRC)” to designate this view rather than the more widely used term “critical rationalism”, since this brief four-word summary not only captures the essence of Popper’s philosophy but also its main philosophical motivation. Finally, it also helps avoid the problem mentioned in the next paragraph.

As we shall see in Chapters 3 and 4 his falsifiability criterion has been extensively, and perhaps fatally, criticized by several different persons and from numerous points of view: Kuhn, Feyerabend, Lakatos, and from Bayesian as well as other theories of confirmation. Since the major focus of this book is on moral and political philosophy, this difficulty is avoided by utilizing Popper’s more general theory of criticism found in *Conjectures and Refutations*.

Can there be a Newtonian social science?

It is not surprising that the great achievements of Newton in natural science would lead to demands, hopes or projects promising similar progress in advancing equally valid knowledge claims concerning human behaviour and human society. The project began as an attempt to find a Newton of the “moral sciences”, or at least a Newtonian method for such a science. Various candidates appeared: David Hume’s attempt to introduce what he called the experimental method into the moral sciences and Jeremy Bentham’s immodest claim to be the Newton of the social sciences and to have discovered the human equivalent of the law of gravity or the laws of motion: the principle of utility. Freidrich Engels made such a claim for Karl Marx, who allegedly discovered the economic laws of motion of modern society. August Comte invented and developed the “science” of sociology. Von Ranke tried to turn history into a completely objective scientific study. Some economists would nominate either Adam Smith, the father of modern economics, or Leon Walras, who turned marginal utility into a rigorous mathematical theory. This arguably made economics genuinely Newtonian since Walras’ approach went well beyond Smith’s primarily literary approach to the subject.

The relation between the problem of defining social science and the Bacon–Descartes view is straightforward. Just as Newtonian physics, Maxwell’s laws of electromagnetism, quantum physics, chemistry and contemporary biotechnology were, and still are, used to advance technology and engineering, an adequate knowledge of human psychology and of society would make possible social engineering to improve human behaviour just as natural science has helped improve crop yields, transportation, manufacturing and disease control. The best example of this view is B.F. Skinner’s attempt to reduce psychology to a purely deterministic account of human behaviour modelled on the prediction and control of such behaviour.⁹

The many dissenters from the desirability of such a project of social science and engineering raise three fundamental criticisms. The first is metaphysical, the second is moral, and the third is methodological. The first criticism rests on the claim that humans cannot be studied scientifically because, unlike planets, stars, rocks, trees, plants, animals, atoms and human anatomy, human behaviour cannot be subsumed under universal laws of a deterministic character that allow prediction, control and manipulation. Since humans have this free will, unlike other entities in the universe, their actions cannot be explained deterministically, even if there may be valid statistical generalizations about human societies and their inhabitants.

The second criticism argues that, even if it were possible to engage in human social engineering it would be highly undesirable since humans have either natural, or God-given, rights to freedom, or, at the least, humans have such a strong desire for freedom, they will and should resist efforts of social engineers to control their behaviour. The third criticism regarding the controlled studies of human behaviour argues from the immense difficulties in the way of experiments on human subjects and it is not merely the ethical problems that are stressed, difficult as they are.

The way this links up with our grand narrative and the Hayek–Popper connection is via the convergence of Scottish Enlightenment social theories with the historicism of Comte and Marx during the great Austro-German nineteenth-century *Methodenstreit*. The main contributions of the Scottish sociologists in this development are; first the concept that human institutions are the result of the human actions but not of human design; second the stadial (in this case a four stage) theory of human history; third, the well-known invisible hand of Adam Smith. The third is also a particular example of the first concept.

Nineteenth-century theorists turned the original Scottish four-stage theory into what Popper later called a historicist theory, since it was, he claimed, a theory of historical inevitability based on laws of development. Comte presents an idealist theory, Marx a materialist theory. According to Comte, humanity has gone through three stages, theological, metaphysical and now a positive or scientific stage (hence the term “positivist”). It is obvious that concepts play a key role here. In the traditional interpretation of Marx the key to change is economic, the relations of production and means of production, as humankind moves from primitive society to slavery to feudalism, based on serfdom, to

capitalism, based on formally, legally free labour, and then finally to communism, after a brief interlude for a socialist transition. Marx and Comte seem to provide paradigm cases of firm believers in the historical reality of progress and perhaps of its inevitability.¹⁰

During the 1870s, three different thinkers, Stanley Jevons, Karl Menger and Leon Walras, invented marginal utility theory. One of them, Karl Menger, involved himself in methodological debates about social science, history and theory. This was the beginning of the great debates in Austria about methodology of science, social science and history. As already argued, of these three, Walras has a good claim to be seen as the Newton of the social sciences since he developed the equilibrium equations that turned marginal utility into a quantitative theory.

Not all the changes relevant to this section of the narrative took place in the social sciences. Some exciting developments in mathematics and logic are relevant, especially to Popper's philosophy, while developments in biology are of obvious relevance to Hayek's philosophy and later to Popper's. In the late nineteenth century, Gottlob Frege and C.S. Pierce developed modern mathematical logic. At the same time, Gregor Cantor was inventing both set theory and transfinite arithmetic. Nineteenth-century mathematicians were creating one revolution after another: non-Euclidean geometry, Boolean algebra, as well as non-commutative algebra, and the rigorization of analysis. It was the great interest in mathematical logic and the foundations of mathematics that distinguishes Austrian logical positivism from that of Comte's more empirical, albeit equally, anti-metaphysical positivism.

This is also the period in which the foundations of several twentieth-century social science isms were laid: cultural relativism, behaviourism, functionalism, structuralism and socio-biology. Social Darwinism already existed and the Darwinian Revolution was enthusiastically applied to human affairs in the late nineteenth century.

The topic of cultural relativism provides an appropriate bridge to the third section of this grand narrative. It is the main problem for any theory or proposed definition of "progress". Logically there cannot be an adequate theory or definition of "progress" if one is unable to make claims such as P1: "situation A is better than situation B"; P2: "institution x is preferable to institution y"; P3: "action m is more virtuous than action n"; P4: "society O is more just than society C". However, it is exactly such assertions or claims that are ruled out by cultural relativism.

The factual basis of cultural relativism was laid in the previous two or three centuries as anthropologists, missionaries, travellers and linguists reported on the exotic (and erotic) behaviour of many newly discovered tribes and peoples in Asia, Africa, the Americas and the ocean islands. However, facts by themselves do not and cannot prove cultural relativism. Philosophical arguments are needed to supplement the discovery of factual differences in human moral, legal and political codes in contemporary societies and in those of past societies, if the intent is to justify the essential claim of cultural relativism, the equal legitimacy

of all cultures. This entails that we need an argument to show that there cannot be any proof or argument to support P1–P4 above (or at least that there have not been any yet forthcoming).

As Chapter 9 will show such arguments were provided by numerous social scientists and philosophers. We will cite three of the former, Max Weber, Lionel Robbins and Arnold Brecht. Since these arguments, as well as similar ones made by numerous philosophers all claim to be based on a proper understanding of human knowledge and/or scientific method they create the ultimate theoretical problem for modernity, its great internal contradiction, entailing what many call the failure of the Enlightenment Project. How can we say that there is progress in human history when we cannot even define “progress”? Brecht, in his excellent *Political Theory*, can be given credit for turning cultural relativism into *Scientific Value Relativism* (hereafter SVR) discussed in detail in Chapter 9. We finish with a cursory summary of the main gist of these arguments in order to complete our grand narrative.

Is “moral sciences” an oxymoron?

In the Age of Reason (1637–1789), it was common to speak of *natural philosophy* and the *moral sciences*. The former turned into modern *natural science* while the latter turned into contemporary *social science*. Today the term “moral sciences” is generally treated as an oxymoron. Why is this? The main reason seems to be the Germanic triumph of the relation between facts and values and the consequent semantic triumph of the term “value” over the older term “virtue”. Weber and Nietzsche are generally seen as the main villains or heroes, depending on one’s point of view, in this epic. As we shall see in Part V, Alasdair MacIntyre is the prime critic of this subtle semantic but gargantuan philosophical shift in terminology. He is not alone, however, as there are many other recent critics and responses to the problem that we will examine in Chapters 9 to 11.

This third problem of modernity turns out to the serpent in the Bacon–Descartes paradise, although with an interesting twist on the original story. In the original story, the serpent tempted Eve and Adam with the possibility of the “knowledge of good and evil”. This type of knowledge is, however, exactly what most modern theories of knowledge, especially positivism and empiricism, deny is possible. Traditional theories of ethics and politics, so the story goes, were based on now obsolete theories of knowledge, or of religion, or of the universe, such as the Garden of Eden story.

Some critiques of prior moral codes have argued that traditional values or virtues have been founded on theories undermined by modern scientific and historical discoveries. Other critiques have argued that no matter what is true about the universe, history, human nature or society, it is impossible to deduce validly what is morally right or what ought to be the case from what is the case. There is a logically unbridgeable gap between “is” and “ought”, between facts and values, between prescriptions and descriptions, between positive and normative sentences.

Thus, it is not uncommon to read that traditional values, principles, theories and beliefs have been undermined, refuted, disproven or made obsolete by a combination of Darwin, Marx, Freud and Nietzsche. On the other hand, it is argued that modern arguments that morality cannot be deduced from facts, nor from true scientific theories, and cannot be independently justified on rational, logical or scientific grounds. This entails that morality, whether religious or secular, is arbitrary, subjective, culturally relative or conventional.

Examples may be the best way to begin. Consider the following examples.

- 1 Hitler became German Chancellor in 1933.
- 1b Hitler was the most evil person of the twentieth century.
- 2 All humans have hearts.
- 2b All humans have rights.
- 3 Moses gave Israel the Decalogue.
- 3b God gave Israel the Decalogue.
- 4 Slavery has three main origins – war, debt and birth.
- 4b Slavery is sinful (unjust, evil).

In each case, a is statement is followed by a moral claim, prescription or principle. The former are capable of either empirical proof or evidence in their favour (or against) or of logical proof or disproof but none of the moral judgements or claims can be empirically or logically proven.

It is important to stress that the other main conclusion of the argument is that no moral principle can be validly deduced from factually true, scientifically correct theories or logically proven statements. There is a logically unbridgeable gap between any true statement(s), whether factual, causal or logical and any moral claim(s). So moral judgements cannot be justified on empirical, scientific, or logical grounds. It is equally crucial to emphasize that this gap is a two-way gap, as explicated by Weber, Robbins, Hare, Brecht and others (see Chapter 9). Moral judgements not only cannot be justified, proven or verified they cannot be refuted, falsified or disproved.

There are at least four possible tasks for social science in connection to moral principles, theories and prescriptions. The first possibility is *explanation* of moral codes. According to the orthodox Weberian position social scientists and historians can explain how societies developed the values and moral beliefs they have. The second possibility is that they may offer scientifically valid theories of why people are *motivated* to behave according to society's moral norms, given the numerous temptations to cheat, be non-cooperative, be egoistic (as in standard prisoners' dilemma situations), and to act opportunistically. Nevertheless, social science (and philosophy also) is helpless to provide either a *justification* (the third possibility) of any moral theories or to offer *criticism* (the fourth possible role for social science) since they cannot be disproved or refuted either. They are *ultra vires* (to use the British constitutional tradition terminology).

Now despite the so far unresolved problem of defining proper scientific method, whether for natural or social science, it seems to be generally accepted

that natural science and social science have made great progress in advancing human knowledge despite lack of agreement on just what method or methods have been responsible for this. It may be conceded that the social sciences have not been as spectacularly successful as the natural sciences and debate will occur over why: is it improper method in the social science or the intrinsic nature of the subject? There can be little doubt that there exists much more reliable knowledge of history and contemporary societies than existed in the past. This does not mean the end of debate. It may in fact mean the opposite. We have much better knowledge of human behaviour and human society, especially of how the economy functions, although it is doubtful if we yet have a better theory of human nature.

How do the theories of Popper and Hayek relate to the three intertwined yet analytically distinct problems of modernity? The first major issue that is easy to relate to Popper and Hayek is the BDT. They are both firmly in sympathy with the BDT, despite significant differences they have with the epistemologies that Bacon and Descartes defended. Popper disliked Baconian inductivism and Cartesian rationalism, especially the latter's obsessive search for certainty. Hayek disliked the Cartesian rejection of all tradition in favour of epistemological individualism and its apparent connection with the even more perverse ethical rationalism.

Popper and Hayek saw a connection between methodology and ideology despite their shared Weberian views on the "is-ought" problem. This is clearly indicated by the connections made in two of their best-known arguments: the economic calculation argument, discussed in Chapter 4, and Popper's *The Poverty of Historicism*. These arguments clearly link bad methodologies with bad ideologies.

Given the immense controversy about the three concepts: *justice*, *rationality* and *progress*, including competing visions of natural and social science, it is no wonder many feel that the EPP has not been solved and so vindicated itself. The three emphasized terms in the previous paragraph will be used to define the three problems that I try to solve in this book with some considerable help from Popper and Hayek. I also indicate some problems I will not try to solve. The first one I attempt to solve is that of rationality, but with a rider that I will not try to solve any major issues in Popper's philosophy of science. Instead, I use his theory of criticism as adumbrated in *Conjectures And Refutations* (hereafter CAR). Plato defined the second problem "What is justice?" The third is "how can we define 'progress'". It will be argued that the essentially negative versions of Hayek on justice and Popper on rationality will answer the two questions in the title of MacIntyre's *Whose Justice? Which Rationality?* These answers will also provide a basis for refuting critics of the alleged myth of progress. I will also make use of Hayek and Popper to argue vigorously that progress is not the monopoly of either the so-called "left" or "right" (an arguably anomalous atavism, as I shall attempt to demonstrate in Chapter 2).

2 Ideology, ideals and political philosophy

Contempt for ‘ideology’, or for all general principles or ‘isms’, is a characteristic attitude of disillusioned socialists who . . . forced by the inherent contradictions of their own ideology . . . have concluded that all ideologies must be erroneous.

Hayek: (1973: 58)

The three main arguments of this chapter are, first: the time-honoured left–right dichotomy is no longer useful for classification purposes although it is still highly useful for polemical purposes in contemporary ideological diatribes. Second, a more useful distinction is in terms of attitudes to democracy, as an idea not an ideology. Third, the lingering positivist concept of ideologies being immune to rational argument and refutation will be challenged. *The refutation of this positivist position and the dubious arguments in its favour will lead to its replacement with a more Popperian position and this in turn involves the major meta-theoretical thesis of this book.*

The introduction begins by providing a list of ideologies and then I attempt to define one of the most contentious of all terms in the English language. I outline the interesting etymology and evolution of the term, a process that has influenced many later ideologies. I then provide a historical outline of the evolution of ideological categories and dichotomies (left/right, liberal/conservative) in four stages. Stage three of this historical outline will provide brief, somewhat oversimplified, but not distorted definitions of several prominent ideologies using two or three key ideas.

I then present the main reasons for contesting the standard left–right one-dimensional political spectrum, inherited from the French Revolution. It will be criticized on both logical and historical grounds, and replaced by a Cartesian grid. I finish by examining various theses about the ideological foundations of democracy organized around contentious themes concerning “the end of ideology”, “the end of history” and the distinction between ideals and ideologies.

Introduction

The basic “incontestable” list of ideologies consists of liberalism, conservatism, socialism, communism, anarchism, nationalism and fascism. Andrew Vincent adds to this list feminism and ecologism (Vincent 1995: Chapters 7 and 8). At

the outset, I distinguish between the origin of ideologies and the origin of the term “ideology”. Both owe their genesis to the period of the French Revolution. The term itself originated then. While it was originally meant to define a field of scientific study after the analogy of “biology”, “geology”, “sociology” and “psychology” it started to acquire its modern political and pejorative connotations through a complex process that culminated in Marx and Engels’ *The German Ideology* (1845). The quote at the beginning of the chapter from Hayek’s *Law, Liberty and Legislation* (hereafter LLL) is preceded by an extremely interesting comment: “‘Ideologies’, that is sets of principles, have become generally as unpopular as they have always been with aspiring dictators such as Napoleon I or Karl Marx, the two men who gave the word its modern derogatory meaning” (Hayek 1973: 57–8). In the next section, I shall comment on this definition. For now, it suffices to indicate how it morphed partly, but not exclusively, due to the influence of both a prominent political actor and an equally prominent political theorist of the nineteenth century.

It morphed in two radically distinct ways. First, it was altered from referring to a *psychology* of ideas to meaning a *sociology* of ideas and it also changed from the general study of ideas of any type to one specifically focused on political ideas. This transition from a neutral, putatively scientific to a partly, or even mainly, pejorative use of “ideology” was due to a heterogeneous set of thinkers. This in turn entailed a switch from a primarily empirical to a primarily anti-empirical meaning.¹

Contemporary definitions of “ideology”

John Plamenatz argues for the following four criteria for an “ism” to qualify as an ideology:

- 1 “they must be shared by a group of people”;
- 2 “they must concern matters *important to the group*”;
- 3 they “must be in some way functional to it”;
- 4 they “must serve to hold it together or to justify actions and attitudes characteristic of its members” (Plamenatz 1970: 31)

This has the advantage of distinguishing ideology from both political philosophy and political theory. Thus, if Plato, Hobbes and Machiavelli alone hold their distinct views they are political philosophers, not exponents of an ideology. If they attract a significant number of followers meeting the above criteria, then their ideas become ideological. However, as it stands it would also include most of the world’s religions as well.

Terrence Ball and Richard Dagger also offer four desiderata:

- 1 an ideology “*explains* political phenomena”;
- 2 it provides “standards of *evaluation*”;
- 3 it “*orients* its adherents”;
- 4 it provides “a rudimentary political *program*”.

Point 3 requires some brief elaboration: it means that ideologies provide adherents with both an individual and collective identity (as members of a superior race or nation, or members of a class fighting oppression, or members of a group working for minority rights) (Ball and Dagger 2004: 1).

Gordon Graham offers as a definition: “those sets of belief which have or are meant to have wide implications for the conduct of political life and even for its refashioning” (Graham 1986: 48). He offers four criteria worth comparing with those of Plamenatz:

- 1 it must be “a reasonably consistent and coherent whole”;
- 2 its claims, insofar as they are “factual or conceptual” whether “made, implied, or presupposed . . . must be true”;
- 3 it must be “applicable in at least *some* political context”;
- 4 it must “appeal to political values shared by those who do not yet subscribe to it” (ibid.: 76).

Graham claims that these factors help make rational debate possible challenging the dogma that ideological differences involve “irresolvable conflicts over political principles or fundamental political values” (ibid.: 71). He also claims that there is no definitional essence to various ideologies (ibid.: 70).

Plamenatz’s third criterion fits one of Graham’s. The latter’s definition requires that “the ideology . . . give some political guidance” (ibid.: vii). This arguably desirable desideratum will be incorporated into this chapter’s analysis of ideology and be discussed later in the chapter with the specific examples of Marxism and Stalin’s economic and social policies.

Kenneth Minogue, in his provocative *The Pure Theory of Ideology*, provides a good example of an anti-leftist definition of ideology that makes the left guilty of “anti-empirical” and other sins. He argues that “for all their differences, ideologists . . . share hostility to modernity” (Minogue 1985: 224). This in turn entails hostility to “liberalism in politics, individualism in morals and the market in economics” (ibid.: 224). Therefore, ideology is essentially hostile to modernity. Platonism means a “differential ‘consciousness’” (ibid.: 174) resulting in a self-constituted cognitive elite “whose participation on an equal basis with others would be an intellectual absurdity” (ibid.: 174). The idea of differential consciousness means that the majority of people unfortunately lack the knowledge and expertise to handle complex political questions and it should therefore be an elite, such as Plato’s philosopher-king, the vanguard of the proletariat, scientific experts in progressivism or Comtean positivism, who should use their superior knowledge for the interests of the “vulgar herd”.

Since the term “ideology”, as pointed out already, is used in both pejorative and non-pejorative senses, it raises the crucial question: “is a neutral definition of ‘ideology’ possible?” Before trying to answer this challenging question, let us note two radically differing types of negative definitions: the first type is based on radical anti-conservative arguments and the second on conservative anti-utopian arguments. The former claims that ideologies are mere rationalizations

for the status quo, the latter that they are unrealistic goals to justify future revolutions.

The definition to be used in this book is based on Ball and Dagger: an ideology is “a more or less systematic set of ideas that performs four functions for those who hold it: the explanatory, the evaluative, the orientative, and the programmatic functions” (ibid.: 1). It will be the preferred definition with the rider that their term “set of ideas” should be either altered or interpreted to mean “sets of principles” as in Hayek’s briefer definition. Together this gives us the most neutral and comprehensive, as well as the least question-begging, definition of this term. The reason Hayek’s definition is too general will now be explained.

A good definition must distinguish between ideologies on the one hand and both religious and moral theories on the other even though they may incorporate elements of either or both. Most ideologies contain a putatively scientific, cognitive component, a moral theory, that is, views about the good or just society, a political programme, and a secular or a religious foundation and usually a theory of human nature. The “scientific” component can encompass both natural and social science, whereas biology is more likely to be the natural scientific basis than physics or chemistry. It can even be based on a theory of scientific method as in the positivism of Comte, Marx’s dialectical materialism, and what I label the Popper–Hayek theory of democracy (hereafter PHD).

An advantage of the above definition is that it helps demarcate ideology from political theory, morality and religion while allowing all three to be components of an ideology. How then can we distinguish between an ideology, a political philosophy and a religion? The following will suffice for this chapter. A religion concerns itself either with salvation and redemption in the next world (eternal life, nirvana, reincarnation, immortality), or offers an incentive of some kind for moral and spiritual improvement in this life independent of any social or political change or preservation of the status quo. However, when it offers or advocates a this-worldly redemption, salvation or jihad then it is an ideology as well as a religion. Therefore, Islam can be both, as medieval Catholicism clearly was, to cite only two prominent examples. Religion can concern itself both with saving souls for the next world and with drastically altering political and social conditions in the here and now.

Here it should be mentioned that, from some ideological perspectives, even a solely otherworldly religion has ideological functions insofar as it may deaden appeals for improvement in this world by focusing people’s attention on the after-life. This is how many people take the dictum “religion is the opiate of the people”. It is usually interpreted to mean that, by diverting attention to the next (fictional) world, it distracts people from improving or revolutionizing this, the only real, world. Alternatively, to take the opposite extreme, a Hobbsean or Nietzschean criticizes religion precisely because it encourages civil war, a lower-class revolution, or a slave morality inhibiting the masters from exercising aristocratic, pagan virtues.

It seems obvious enough that Hinduism qualifies as an ideology as much as a religion and so does Confucianism as well as political Islam. The first has an elaborate metaphysics, epistemology and moral theory with striking similarities to Platonism. As in Platonism, some versions of Hinduism (The *Bhagavad Gita*

is the prime document here) justifies a rigid class or caste hierarchy for this life anyway. Social mobility is deferred until the next reincarnation, or allowed in Plato's case at the discretion of the guardians.

Plato can be called the first political philosopher but whether or not he is an ideologist may depend on one's own ideology or definition of "ideology". To some extent, Platonism lives on in modern "progressivism" and positivism where scientific experts or the vanguard rather than the people should make the key decisions. Confucianism strikes many as neither a religion, nor an ideology, nor a philosophy. Confucius said little or nothing about metaphysics and epistemology. However, Confucianism has clearly played the role traditionally played by established religions and by status quo as well as reformist and revolutionary ideologies. It is striking that persons as diverse as Max Weber and Chairman Mao thought Confucian thinking has retarded Chinese society from becoming modern earlier.

Historical background

Whereas many might argue that the history of *modern* ideology begins in 1776 or 1789 rather than sooner, this is contestable. Admittedly the reasons for the rejected opinion is the reasonable argument that what existed prior to modernity in both East and West were various political philosophies, religions and moral theories. There were debates involving arguments about the justice of slavery, serfdom, tolerance, torture, tyranny and monarchy. There certainly were precursors of modern ideologies such as Machiavelli's thoroughly secular and amoral political "science", Thomas More's *Utopia*, sixteenth-century French constitutionalism, antinomianism, peasant revolts, mercantilism and medieval Millennialism. However, for good reasons the claim that the seventeenth century is when modernity commences is arguably correct, due to both the scientific revolution and modern proto-ideologies. It is perhaps no coincidence that 1687, the year of Newton's *Mathematical Principles of Natural Philosophy*, was quickly followed by both the "Glorious Revolution" (1688) and Locke's two treatises on government (1690).

There are three major components in the seventeenth-century invention of modern ideology. First, what I labelled BDT: the Bacon–Descartes view of science and technology. As defined in Chapter 1, this involves the idea that the increase of scientific knowledge can be used to benefit the human race. "Knowledge is power" and so it can be used to improve our control of nature and hence make humankind better off. The second component involves the political philosophies of Hobbes and Locke.

The first component, the BDT, is a vital component of all later theories of progress and ideologies based on them: liberalism, socialism, positivism, progressivism, and almost all "liberation" ideologies. Hobbes and Locke are founders of the social contract and liberal traditions, which overlap somewhat but are not identical. What is significant about these two is not just the content of the views but the method, which eschews, or downplays, theological and reli-

gious arguments in favour of a mainly secular attempt to ground political thought.

The third component comes from the British Civil War and Commonwealth period (1640–1660). Not only the division between Roundheads and Cavaliers, the precursors of Tories and Whigs, but also the agenda of modern egalitarianism begins to emerge. This is exemplified both in the very rough equality of Hobbes and in the more radical version due to the “Levellers” arguing that “every he and she” are equal to any other person.

The origin of modern ideologies

Modern ideologies are arguably the product of three distinct revolutions in the past two and a half centuries. The French Revolution gave us the basic distinction between left and right. As indicated, this will be criticized on logical and historical grounds while recognizing that today’s milder versions (as argued by Edward Tufte) have an influence on politics in democratic societies, a crucial qualification. Others have also questioned the traditional classifications for somewhat different reasons (Samuel Brittan in *Left and Right: The Bogus Dilemma* and Hugh Graham in *The Vestibule of Hell*). The Industrial Revolution produced indirectly the dichotomy between socialism and capitalism and the invention of the corresponding terms. Interestingly, one side of the debate, the left side, invented the two terms. The terms “liberalism” and “conservatism” are mainly due to what I call the Victorian Revolution. Both terms are the heirs of Whig and Tory in eighteenth-century Britain, and hence heirs of the British Civil War terminology.

Modern ideologies

We will begin with short definitions of the ideologies that emerged in the nineteenth and early twentieth centuries. At the same time, we must recognize that ideologies reveal internal dissensions. It is also an open question about whether they are *evaluative* rather than *prescriptive*. The safest claim is that they are both *diagnostic* and *prognostic*. They tell us what is wrong with society and what to do to make it healthier, how to preserve its healthiness, or how to prevent the cure from being worse than the disease.

While most social scientists and philosophers are familiar with the fact/value or positive/normative distinction, the above distinction (prescriptive/evaluative) is not sufficiently noted. An example from ideological positions will illustrate this, then definitions of various ideologies will follow. The sentence “an Open Society is better than any type of Closed Society” is an evaluative claim. It is not identical with, nor does it entail, a prescription such as “we should turn all closed societies into Open Societies”. So one could agree that the world would be better off if all countries were liberal democracies without feeling obligated to do so or without prescribing worldwide regime change, violent or otherwise, towards that goal.

Liberalism and conservatism

“Liberalism” is best defined etymologically since “freedom” and “liberty” are the key underlying principles, as embodied in ideas and arguments for free thought, free speech, freedom of religion, free trade and free association. It has since morphed into a more egalitarian, statist creed in the contemporary USA and elsewhere. In its origins, liberalism began as a reaction against two features of European medieval society: religious conformity and ascribed status. While the Protestant Reformation undermined the former, the commercial and later industrial revolutions undermined the latter, while the ideological challenge probably began with Hobbes, or maybe Machiavelli. The latter was republican in his sympathies, while Hobbes was at least a proto-liberal, as far as liberalism is associated with secularization and modernity.

“Conservatism” is normally seen as defensive of the status quo, of traditional values, and as being both elitist and authoritarian. Today the term “conservatism” is taken in at least two different contradictory manners as an ideology (where it competes with other ideologies) or as a simple status quo philosophy where it is challenged. Thus, people as different as Leonid Brezhnev and the Ayatollahs in Iran are “conservative”, since they do not want radical challenges to their regimes. However, the ideologies of both advocate very radical changes when the wrong people are running the state. The contradictory interpretations are those that take it as similar to fascism or as libertarian (or classically liberal) especially regarding the economy.

Gordon Graham argues that “conservatism” comes in three types: the first is really a version of classical liberalism (or contemporary libertarianism). The second, which he associates with Roger Scruton, is too closely allied to fascism or neo-fascism whereas the third is what he labels “true” conservatism, which turns out to be typically British if we go by his own examples; Halifax, Burke, Hugh Cecil and Michael Oakeshott (Graham 1986: vi–vii, 172).

What Graham calls “True Conservatism”, may be the most appropriate use of the term even if few hold that view. He says that it is really “an anti-ideology” (ibid.: 172). The title of Chapter 10 (his final chapter), is “*TRUE CONSERVATISM – THE REJECTION OF IDEOLOGY*” (ibid.: 172). It is not identical with a libertarian interpretation or with its opposite, fascism, either. Its basic creed is anti-Jacobin (ibid.: 173). This means that it is opposed to any scheme to revolutionize or reform society in accord with some idealistic notion of the good whether this is defined by liberalism, socialism, fascism, Marxism or free-market capitalism. The anti-Jacobin feature is a useful reminder that modern conservatism began as a reaction to the French Revolution. The opposition was manifold and variegated. For purposes of this chapter, we can distinguish two types: the external Burkean and the internal French enemies of the Revolution. Burke, famous for his *Reflections on the French Revolution* (1790) was actually a Whig not a Tory and favoured the American Revolution. He preferred the British system of slow gradual reform rather than rapid and violent revolution. The main French enemies, De Bonald and De Maistre, wanted to

keep the Ancient Regime based on monarchy and the Roman Catholic Church intact.

Socialism and communism

Socialism and communism are related in an asymmetrical manner. This means, “all communists are socialists” but “some socialists are not communists”. Notwithstanding, it is the two points they have in common that concerns us here. First, planning replaces the free market in the arena of production. Second, equality replaces inequality of wealth, income and power in the arena of distribution. The term “planning” usually means *central* planning. However, there are decentralized versions of socialist planning as in anarcho-syndicalism, workers control schemes such as market socialism, and social democracy (discussed below).

There are two main differences between communism and socialism. The latter generally prefers peaceful, piecemeal reforms whereas communism favours violent revolutionary overthrows of the system. The results aimed at differ in the following way: socialists want public ownership of the major means of production such as factories, banks, mines and “the commanding heights of the economy” whereas communism envisions public ownership and bureaucratic control of almost all enterprises big and small, until the transition to the stateless, classless utopia.

Capitalism and nationalism

Capitalist *principles* are a proper subset of liberal principles, just as communism is a proper subset of socialism. The term “capitalism” like “communism” is used to refer to an ideology and to an actually existing system. As an ideology, “capitalism” means a free-market economy, international free trade, free labour, and minimal or no regulation except to prevent harm and fraud. The last point is best exemplified in J.S. Mill’s classical liberal principle that only harm to others can justify societal coercion.

The three main components of a capitalist system, private property, free competition or enterprise, and the profit motive, are often given separate rationales in ideological arguments. Laissez-faire may be the best known and most prominent capitalist ideology but it could hardly be said to be the most exemplified version of capitalism as either an actual system or as an ideology. Franklin Roosevelt and J.M. Keynes both claimed to be saving capitalism but certainly not the laissez-faire version (Keynes, in Sidorsky 1971).

Nationalism is of at least two main types, progressive and reactionary or left and right. It is also essential to distinguish it from patriotism. The latter, originally, was an ideology of liberty. In the nineteenth century, nationalism frequently allied itself with liberalism. The common thread uniting the two creeds is “the right to self-determination”. Liberalism applies this principle to the individual; the nationalist applies it to a collective entity: the nation.

Nationalism more often seems to ally itself with authoritarian creeds, on both the left and the right. In the twentieth century, it was preached and practiced by the “extreme right” for aggressive imperialist purposes (Italy and Germany). It was also used by the left as an anti-imperialist ideology in colonized and conquered nations in Asia, Africa and the Middle East. In each of these cases, it can and has frequently allied itself with both secular and religious ideologies for example Mao in China, Gandhi in India, Islam in Algeria and elsewhere.

Fascism and Nazism

Both of these creeds are post-modern and, while not reactionary, they both advocate radical inequality without the traditionalism of conservatism or of the original French right-wing, which emerged in opposition to the French Revolution. While fascism and Nazism are often conflated, it is important to realize that only the latter was officially racist. The contentious term “racist” is best confined to those who believe both:

- 1 Some races are intrinsically inferior; and so,
- 2 These races have fewer rights than, or can be treated differently from, the “superior” race.

Roger Eatwell defines fascism as having two main components that distinguish it from non-fascist ideologies: a holistic conception of the nation and an alternative *Third Way economic alternative* to both capitalism and socialism (Eatwell 1996: xix).

Anarchism and libertarianism

The main distinction between these two non-identical ideological twins is that the former advocate a society that is *stateless* and the latter a *minimal state*: one that only forbids acts that are harmful or, more precisely, “acts that impose costs on others that are unwanted”, but not all such acts. Anarchism, as well as libertarianism, faces the standard problem in political theory since Hobbes. How can we avoid a Hobbsean state of nature, a war of every man against every man?² Both anarchists and libertarians claim that society can avoid such an admittedly undesirable condition without a state monopoly on force.

Populism and progressivism

The first of these can be defined with reference to the dictum “*vox populi vox dei*”. It is the democratic equivalent to the divine right of kings, but without any theological presuppositions: an agnostic or atheist could be a populist. The second suffers from the familiar problem of defining what “progress” means. As indicated earlier in the origins of modern ideology, this concept was crucial. It meant not only progress in knowledge but in human welfare as well.³

However, this leads to a crucial ambiguity: how is human welfare in a secular sense defined? How can it be best realized? Is it by increasing *freedom* or *equality*? Alternatively, is it to be achieved by increasing some optimal combination of the two principles? While these two ideologies in their original guise are not as influential as they were a century ago their ideas live on in the post-1960 proliferation of ideologies, our next topic.

Post-1960 ideologies

These late twentieth century ideologies include “liberation” philosophies for visible minorities (especially Afro-Americans and South African blacks), women, homosexuals, aboriginals, animals and the environment. What is striking is that each of these creeds label themselves (or are labelled by others) as liberation ideologies but are closer to egalitarianism than they are to libertarianism. What all of these ideologies have in common is the promotion of greater equality especially for the groups mentioned: blacks, women, homosexuals, animals and aboriginals. Here it may be useful to distinguish three different types or sources of inequality that are the targets of liberation ideologies. The three sources are race, class and gender. But what about human chauvinism itself, the idea that only humans have rights or ethical status and that therefore only human interests count when we make difficult moral (including ideological) decisions?

Ecologism

While it can be argued that there are five different ideological perspectives on environmental issues, Andrew Vincent argues that there are two extremes, a “light anthropocentrist” wing, and “Deep ecology” (Vincent 1995: 217–18) with a broad intermediate category further subdivided between “moral extensionism” and “reluctant holism” (ibid.: 217). The first “extreme” holds that, while only humans have rights (speciesism), we should not show gratuitous cruelty to animals and the opposite extreme holds that all of existence should be given moral consideration (deep ecology). The intermediate categories hold that we should extend our moral concern from humans to sentient creatures capable of pain (animals) or perhaps to all life (the bio-centric view), while holism holds that even ecosystems such as rain forests should be sacrosanct as in Aldo Leopold’s *Land Ethic* (Ball and Dagger 2004, 416–26). Since Bentham has been subjected to much criticism, it seems only fair to point out that utilitarianism has traditionally given animals moral standing because they could suffer pain. As we shall see in Chapter 7, Popper’s negative version of utilitarianism has a similar corollary (although it was one he himself never drew a point that fits his world three theory of unintended consequences rather well).

Neo-conservatism and social democracy

It may seem strange to lump these two ideologies together and place them under post-1960 ideologies since both clearly precede the 1960s. Both are compromises with earlier predecessors. Social democrats, especially in Europe, have considerably weakened their hostility to the market, most liberals have abandoned *laissez-faire*, and it is an open question whether neo-conservatism is even a proper subset of traditional conservatism.

The godfather of the latter movement is allegedly Leo Strauss, a German Jewish emigrant from Nazi Germany. The fact that the movement owes a great deal to American Jewish thinkers may explain its difference from traditional conservative and right-wing policies with their anti-Semitism and/or white racism (the Old South) and anti-democratic, elitist tendencies. Why then the rubric *neo-conservative*? While basically pro-market, neo-conservatives are much less so than libertarians mainly due to their pro-family policies and are in general less hostile to state intervention, wanting to reform the welfare state not abolish it.

Social democracy has kept a weaker version of the egalitarian redistributionism of nineteenth-century socialism while surrendering the more radical idea of public ownership, planning and control for the milder idea of regulation and intervention. It is an attempt to abolish poverty and reduce inequality to a lower level rather than eliminate it altogether. The emphasis is more on “social justice”, a controversial term that is the main target of Hayek’s criticisms of contemporary politics.

Who’s left? What’s right?

My basic objection to this time-honoured system of nomenclature is a combination of historical and logical. The only reasons for its continued use seem to be convenience as well as an ideological motivation on all sides of the alleged spectrum. The stages of the argument are historical then logical. We have seen briefly how the three dichotomies above evolved, but not how they were subsequently conflated and confused. That is another long, convoluted story. Since we cannot thoroughly explore it, we will instead jump to the second, more crucial logical argument. This rests on two key premises: first, that it is *prima facie* absurd to lump together the following three groups: defenders of the eighteenth-century French *ancien régime* (the old regime right), post-modern fascists, and free market defenders. The one and only principle they have in common is anti-egalitarianism. Second, it similarly unites anarchists, Leninists and social democrats on the same side with only the opposite principle, egalitarianism, in common.

The main problem with this is that it gives us a one-dimensional political man forced to choose between ideologies solely based on equality versus inequality. The main advantage of the Cartesian grid substitute that I propose is that it introduces the dimension of liberty. On the traditional spectrum, both communism and anarchism are on the left side whereas fascism and libertarianism are on the right side, a transparent logical absurdity.

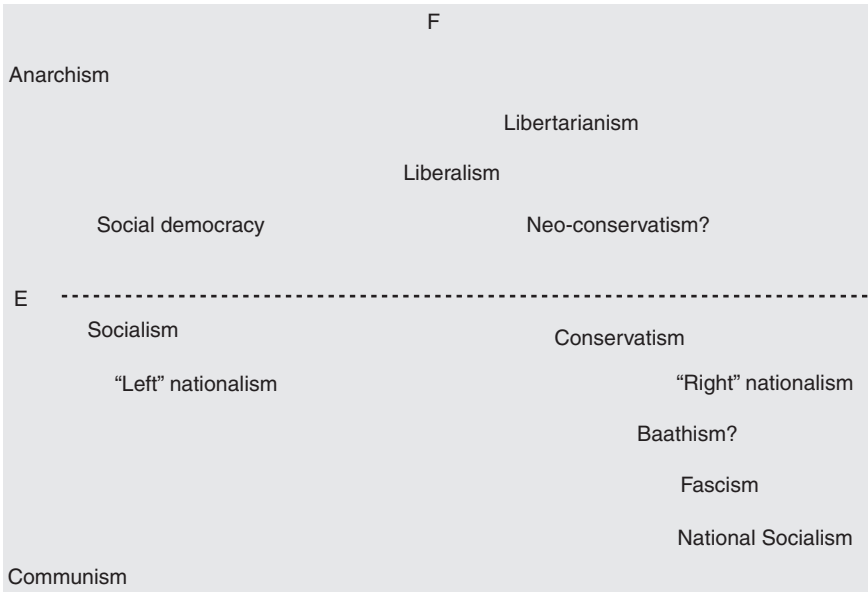


Figure 2.1 The conventional left–right political spectrum.

Notes

F=Freedom and E=Equality so we have a vertical and horizontal aspect. (I have put question marks beside a couple of difficult to classify ideologies.) The conflict between liberty and equality creates a huge internal problem within modernity itself. Should “progress” be defined with reference to increased liberty or increased equality, or to both or in some other way?

Finally, it seems clear that there is a difference between the old regime right and twentieth-century creeds classified as “right wing”. The old regime right did want to turn back the clock and was “reactionary”, cleaving to “throne and altar”. Fascism, as Mussolini emphasized, was not reactionary but revolutionary. This is why it can reasonably claim to be the first post-modern ideology not a pre-modern nostalgic desire to return to the good old days. Unlike the Marxism he once espoused, Mussolini saw an anti-egalitarian future. The same is true of libertarianism: whereas the old regime right preached “throne and altar”, the twentieth-century “extreme” right preached “nation and race” and the so-called new right preaches “market and family”. However, a libertarian, unlike the old regime right, or the twentieth-century extreme right, will not force inequality on people but will permit it under free market conditions. Neither libertarians nor neo-conservatives resemble the old right except for opposing radical egalitarianism.

An alternative system of classification would be based on the difference between open and closed societies. This would put authoritarianism and totalitarianism on the same side with democrats and cosmopolitans on the other side. This approach harmonizes well with Ball and Dagger’s distinction between democracy as an ideal and ideologies, which can then be defined by their attitudes towards

democracy. Before examining their distinction, I will concede two points in favour of a limited continued use of the terms “left” and “right”. The first concerns societies going through the wrenching experience of modernization, the second concerns use of a milder version in already industrialized, modernized societies.⁴

Ideals and ideologies: Ball and Dagger on democracy

Ball and Dagger define democracy as an ideal not an ideology but immediately add that democracy is “an *ideal* that different ideologies interpret in different ways” (2004: 2). They say that both ancient Greeks and modern Marxists mean by democracy “rule by, and in the interest of the common people” (ibid.: 2) as in so-called “people’s democracy”. Liberals mean majority rule limited by protection of minority rights, while Greens mean decentralized, participatory, grass-roots democracy (ibid.: 2).

They conclude correctly that “democracy” is “an *essentially contested concept*” as is “freedom”. It means something different for liberals than it does for fascists (their example, although the same is true of a Marxist). They use an interesting triad to illustrate how freedom differs from one ideology to another. Their diagram has A, an agent trying to reach C, a goal with B, an obstacle in the way (ibid.: 2). They conclude this introduction with a very appropriate comment relevant to the rest of this book: “Understanding how they conceive of freedom is, in fact, one of the best ways to understand the differences that separate an political ideology from its . . . rivals” (ibid.: 2). The only point I would add to that is that they should have added the concept of equality to the list of *essentially contested concepts* since that would have completed the major ideas of interest to this book and to modern ideologies. We will finish this section by examining authoritarian-cum-totalitarian alternatives to democracy and then look at the egalitarian/libertarian tensions in the ideology of the Open Society.

Mussolini invented the term “totalitarianism” in 1925. Both political scientists and defenders of democracy subsequently developed the former in ways incorporating both descriptive and evaluative connotations. It is doubly ironic then that it was Mussolini’s invention since he clearly did not mean it in a pejorative sense. The basic idea, as it evolved, is “total control of society’s major institutions”. It does not mean total control of every aspect or facet of society much less controlling everyone’s life but it does mean control of independent organizations or institutions such as the economy, education, organized labour, religion, the press and culture. Ideology is also seen as intrinsic to totalitarianism. The term itself does not designate an ideology but a political system motivated by ideology to exert total control.

Similarly, authoritarianism is a system of government, often without any official ideology, aiming at less than total control but with sweeping restrictions on individual liberty. These can be imposed in the interests of modernizing a traditional society, or preserving the status quo or at least the power and privileges of its rulers.

Two interesting questions about totalitarianism arise. The first question is:

was Marxism always a totalitarian ideology or was it a political philosophy misused to justify the most purely totalitarian society of the last century? There are reasons to agree with both sides of this debate. Marx saw the “dictatorship of the proletariat” as a temporary but necessary step to the eventual withering away of the state so the free development of all would result from a classless and (therefore) stateless society. On the other hand, if one looks closely at the ten-point programme in the Communist Manifesto, one can easily discern the seeds of Stalin’s policies of the 1930s especially points 1, 2, 5, 6 and 7 regarding collectivization and nationalization of land, banks, commerce and industry. What follows next is the Marxist Decalogue.

- 1 Abolition of property in land and application of all rents of land to public purposes.
- 2 A heavy progressive or graduated income tax.
- 3 Abolition of all rights of inheritance.
- 4 Confiscation of property of emigrants and rebels.
- 5 Centralization of credit in the hands of the State, by means of a national bank with state capital and an exclusive monopoly.
- 6 Centralization of the means of communication and transport in the hands of the State.
- 7 Extension of factories and instruments of production owned by the State ... cultivation of wastelands and ... improvement of the soil in accordance with a common plan.
- 8 Equal liability of all to labour. Establishment of industrial armies, especially for agriculture.
- 9 Gradual abolition of distinction between town and country.
- 10 Free education for all children in public schools.... Combination of education with industrial production (Marx and Engels 1848: 11).

Curiously (or ironically) the major fascist leaders, Mussolini, Hitler and Oswald Mosley all saw themselves as borrowing from both left and right. The original Nazi 25-point programme did contain genuine elements from both nationalism and socialism. As Eatwell effectively argues about fascism, it was a “coherent body of thought” (1996: xix) whose origins lay in the late nineteenth and early twentieth century. It “drew from both the right and left, seeking to create a radical ‘Third Way’ which was neither capitalist nor communist” (ibid.: xix). Vincent cites British and German Greens’ use of “Neither Right nor Left” as an ecological slogan (1995: 215).

What many people, who may be sceptical about the sincerity of far right ideologies like fascism and Nazism to combine both left and right components may not realize, is how much Stalinism also accomplished this. While Stalin was engineering the greatest economic revolution in history, he was also introducing a very conservative “counter-revolution” in the areas of family and sexuality. Whereas the Bolsheviks of the 1920s were “permissive” in policy areas such as extra-marital sex, marriage, abortion, equal rights for women and

educational experiments, the 1930s saw a set of policies that could be seen as outright reactionary. Homosexuality was made illegal in 1934. Every communist society has followed suit and only East Germany ever altered this policy. To this day, it is illegal in Castro's Cuba. Pre-marital sex was, and still is, prohibited in all communist societies.

Egalitarianism also turns out to have several definitions. Both Kant's respect for persons and utilitarianism are egalitarian but in very different ways just as liberalism and socialism are egalitarian but in strikingly different ways. Bentham's utility principle treated all pain and pleasure as equal (if judged so by the recipient) and he included animals in his felicific calculus. Kant's "respect for persons" however only extended to humans.

Perhaps the key tension in modern progressive ideologies is the trade-off between the twin pillars of the late eighteenth-century political revolutions: liberty and equality. Consider contentious issues heatedly debated the past few decades: pornography, affirmative action, pay equity, free speech and positive rights. These all involve conflicts between libertarian and egalitarian principles. A feminist may oppose pornography and advocate restriction on grounds of promoting equality whereas a libertarian will object to censorship. As will be argued in Parts III, IV and V, positive rights, unlike negative rights, require action to benefit others rather than merely refraining from inflicting harm. They are usually seen as requiring government interference including increased taxes, which are seldom paid voluntarily.

The end of history and the rationality of ideology

In the 1950s, Daniel Bell wrote a controversial book entitled *The End of Ideology*. In 1989 with (European) communism on the verge of collapse, Francis Fukuyama wrote an equally contentious article called "The End of History", later turned into a book. In between the two events occurred the outburst of new ideologies in the 1960s usually associated with the new left. Then the 1970s saw significant creative work in political philosophy by John Rawls, Robert Nozick, Alan Gewirth and Hayek.

What Bell and Fukuyama seem to have in common is the following claim: we have reached the end of significant ideological debate. This can be summarized in Fukuyama's own words: "There exists no systematic, viable alternative to liberal individualism" (Fukuyama 1989: 3). This is a claim that seems to be both empirical and normative at the same time. Fukuyama's definition of liberal individualism consists of two principles and two (or three?) institutions. The former are liberty and equality. The latter are democracy and a (relatively) free market tempered by a moderately redistributive welfare state.

This opens up the possibility of rational debate in two different ways. First: anarchism, utopian socialism, Marxism and fascism can be seen as systematic but as either never viable or no longer so. Islamic fundamentalism as a political creed may well turn out to be viable but not systematic *as an ideology* rather than as a *religion*. On the other hand if someone produced a systematic viable

alternative then the theory will be refuted. Some thinkers such as Alasdair MacIntyre concede the point that at the moment there is no tolerable alternative to liberal individualism albeit he concedes this without enthusiasm and seems to hope someone will carry out such a task. MacIntyre, the great gadfly of both liberal individualism and of the Enlightenment Project allegedly underlying it, will be the prime focus of Part V.

The final reason for arguing that ideologies can be rationally evaluated is that they include explanatory and descriptive as well as prescriptive or evaluative components. Explanatory theories are supposed to be subject to rational evaluation if any theories are. The argument that ideologies are intrinsically not rational due to the evaluative and/or prescriptive component usually rests on logical positivist dogmas about empirical verifiability and logical proof. However, positivism is one of the most thoroughly refuted theories in twentieth-century philosophy of science.

While a long detour into this contentious topic is not necessary now (Parts II and IV will do this in considerable detail), the following short summary⁵ will suffice. The original logical positivist programme of verificationism quickly gave way to two alternatives, logical empiricism (watering down verification to confirmation), and Popper's falsificationism. Both of these however have run into formidable if not insuperable problems and have been replaced or altered by "growth of knowledge" theories (Thomas Kuhn, Imre Lakatos, Paul Feyerabend and Popper also). Hilary Putnam recently claimed that the fact/value dichotomy (but not the distinction itself) has collapsed. This claim will be evaluated, partly defended, and then criticized in Chapter 9. There I re-state the basic theses of my *Fallibilism, Democracy and the Market* (hereafter FDM) and re-argue my solution to this problem. A cursory summary of the main components follow in the next paragraph.

This argument already made the main points that Putnam later made (2002), arguing that the alleged radical epistemological difference between positive and normative in its original Weber/Robbins view is no longer defensible. Since ideologies include components, which are found in political science theories, especially explanatory theories, they are as refutable or confirmable as scientific theories are or they face problems not greater than scientific theories do. Further, I shall argue that normative theories can be subject to the same types of rational debate found elsewhere: normative claims have existential, factual, logical, and theoretical implications that make them as criticizable, refutable and confirmable as other theories. Any claim that humans have rights entails logically that others have duties and since "ought implies can" these claims imply is-statements which are, in principle, refutable or verifiable (even if philosophers of science cannot give a precise account of how). The problems here concern the positive or factual side of the dichotomy. They are not due to the almost sacrosanct Weber/Robbins dichotomy

Conclusion: liberty, equality, modernity

This is a conclusion both to this chapter and to Part I. The three major points argued in this chapter are the keys to the rest of the book: the first is the obsolete character of the traditional (post-French Revolution) political spectrum; the second concerns the possibility of rational argument about the validity of the various ideologies and isms mentioned. Hayek's arguments will be used for the first claim, and Popper's theory of criticism for the second. The third relates the claim that ideologies are responses to modernity and its novel problems. They can be usefully classified (as Samuel Huntington does in *The Clash of Civilizations*) in terms of the three basic policies that citizens and subjects of non-Western societies can adopt towards modernity: Kemalism, reformism and rejectionism. They re-appear in Part V. A final point of significance for my overall argument is more historical and related to Chapter 1. It is found in Gertrude Himmelfarb's *The Roads to Modernity*. She distinguishes between the British Enlightenment (rather than the Scottish Enlightenment), the French Enlightenment and the American Enlightenment. The first is based on virtue, the second on reason, and the third on liberty. Those three concepts will not only permeate the ideas debated in this book, they will also be the major topic of Part V, but this is a good place to introduce them. However, I will not yet define them. I do that as I explain and critically discuss the major ideas about the Open Society defended by Popper and Hayek.

Part II

The epistemology/ethics enigma

Introduction to Part II

The title chosen for Part II implies a problem, or at least a paradox. The enigma concerns the link between epistemology and ethics in Popper and Hayek. This link provides coherence to their overall philosophies but it is also the most problematic aspect, hence the paradox. I briefly explain both parts of the paradox. First, the link provides coherence because the key ideas in the theories of knowledge of Popper and Hayek are negative. By this, I mean that the emphasis is on what humans do *not and cannot know*. The role of ignorance is crucial to the political philosophies of both men although they differ on the type of knowledge that is unknowable. They also differ concerning who it is that does not have access to the relevant knowledge. The second part of the paradox arises because both Popper and Hayek expressed 100 per cent agreement with the standard Hume–Weber view on meta-ethics. The emphasis in Part II is on the link itself and the crucial role it plays in their ethical and political philosophy. Part IV will discuss problems arising from their shared commitment to the Hume–Weber position.

In Chapter 3, I raise and answer a question that could be misunderstood: “did Popper plagiarize Einstein and Bergson?”¹ While it is intended to be provocative, it is neither rhetorical nor insulting in its intent. While I do not intend to deal with the numerous scholarly questions raised, especially by Malachi Hacohen, about Popper’s intellectual development, I will make use of his excellent book on Popper’s “formative years”. The main point is philosophical although related to an interesting interpretive issue. There are two questions implied or presupposed in the key question. The first is, “how similar are Popper’s views to Bergson?” The second is, “can Popper dispense with intuition in either his epistemology or his ethical theory?” The second much more significant question is the one providing an otherwise missing link between Einstein and Bergson. The argument that one term, “intuition” links Einstein and Bergson emerges only in footnotes, not mine, but those of Popper and Hacohen. Popper compares his views to Bergson primarily in footnotes to *The Open*

Society and its Enemies (OSE). I have added an appendix on his comments about Bergson. Hacoheh mentions Einstein's views on falsification and intuition in an extremely interesting footnote. As we shall see, Hacoheh's footnote poses the epistemology–ethics link in a strikingly interesting manner.

There are three key concepts emphasized in Part II of this book, one for each chapter. In Chapter 3, the key term is “*intuition*”. In Chapter 4, the key concept is “*refutation*” while in Chapter 5 the key idea is “*liberalism*”. I will argue that they are closely interrelated in a highly complex, albeit “essentially contestable” manner. Chapter 4 compares two books, one by Popper, the other by Hayek, that deal with ostensibly different topics, scientific method and socialist planning. They are interrelated for our purposes in raising the question of the possibility of the applicability of refutability not solely at the empirical level but at the meta-theoretical level as well. The books are *The Logic of Scientific Discovery* (LSD) and *Collectivist Economic Planning* (CEP). The key ideas introduced in Chapter 4 remain relevant to the political philosophies of both men the rest of their lives. Chapter 5 compares the two best known and most political of the authors' books: *The Road to Serfdom* and *The Open Society and its Enemies*. The references in the latter to LSD will help to link up the three key concepts of the three chapters: intuition, refutation and liberalism. While the intent of Part II is mostly expository rather than critical, I change course when examining the last few chapters of OSE. I start the process of critically assessing them in order to start to argue the problematic or enigmatic character of such a link.

3 Popper in the Weimar era (1919–1933)

Did Popper plagiarize Einstein and Bergson?

The bases for the eristic suggestion of plagiarism of Popper's two best-known and prominent ideas: that of falsifiability and the Open Society is more obvious for the latter, but after the publication of Hacohen's intellectual biography of Popper the basis for the former is clear for the first time. What is perhaps most surprising is that there is one idea that links the two and the major philosophical problems they generate and that Popper claims to solve (at least with regard to induction).

In this chapter, we introduce the two ideas that made Popper both a well-known and very controversial philosopher, the one and only philosopher of the past century who could plausibly be simultaneously regarded as both the most influential philosopher of science and the major proponent of the century's most valid political philosophy.² The main point is not whether Popper is (or is not) the most interesting or greatest philosopher of the past century. The point concerns the two controversial ideas that Popper is best known for propagating and arguing for vigorously and, usually if not always, rigorously. The first is his claim that falsifiability is the keystone to genuine scientific method as a criterion of demarcation and as the optimal solution to Hume's quandaries about induction. The second is his highly polemical defence of the Open Society against the Closed Society.

I shall not completely exclude Hayek from this chapter since it is primarily concerned with the major precursors or "influences" on Popper. Hayek clearly is important here even if the exact relation is very complex, controversial and indeterminate.³ While it is clear that Einstein was a major influence, it is less clear what contribution Bergson made other than the terminological brilliance of the idea of the "Open Society". While Hayek is clearly relevant in many ways, so was Max Weber⁴ it appears, who also seems to have influenced Hayek as well.

In order to give this chapter a broader context, I will provide a concise biographical summary of the lives and careers of Hayek and Popper. Then we return to the transitional Weimar period 1919–1933. The latter date was the beginning of the crucial Hitler/Roosevelt era. We will use this chapter to provide a very broad, albeit vastly simplified, biographical context for both authors and

then specifically zero in on the key period of 1919 and after. More will be said about Bergson's ideas than Einstein's, for reasons that should be obvious from the title of the book. The biographical section will necessarily use the writings of both on their own development (CAR, Chapter One, LLP and HOH).

After our biographical overview, we will turn to Hacoheh's revisionist accounts both of Popper's own account of 1919 and of the origins of his version of the "Open Society". There is only one reference to Bergson in Hacoheh.⁵ The main point of this section is philosophical rather than historiographical. This chapter is primarily concerned with what the major ideas, falsifiability and the Open Society have in common and, thanks to Hacoheh, there is an interesting link. After very cursorily examining Henri Bergson's own concept of the Open Society, and its intuitive basis, we finish with what may seem tangential to the main issues of this book, a cursory discussion of a much-neglected theme in the secondary literature, the religious or perhaps non-religious views of both men. We begin with a more down-to-earth task: situating the two in their social context via a brief biographical overview.

Brief biographical overview

The lives and careers of both Popper and Hayek can be divided into distinct periods. Popper's is the easiest to divide. While there are several different ways to compartmentalize his life, I will divide it, somewhat arbitrarily, into three distinct periods by geographical locations. First was the Austrian period, the first 35 years of his life, 1902–1937. The second is the critical New Zealand period, 1937–1945, the shortest of these geographically defined periods, and arguably the most horrific period in twentieth-century history. The longest, least hectic, and perhaps least interesting period followed. This is the British period of his life and career (1945–1994). It would be difficult to write a post-1945 biography of Popper that would be half as interesting as Hacoheh's magisterial biography up to that date. However, this final period, while lacking the dramatic backgrounds of the first two eras, is definitely not without intellectual interest.

Hayek's life and career is more complicated and interesting, especially the post-1950 period. Popper himself lost interest in his own autobiography after that date. That was a crucial year, although, for our purposes I shall give different reasons than Popper gives in LLP. In that year, Popper first visited the USA to lecture at Harvard and Princeton, while Hayek left LSE to take a position at the University of Chicago. His life and career are perhaps best divided as follows: first, 1899–1923, the Austrian period; second, 1923–1931, the Wilderness Years, wandering from Austria to the USA and back to Austria and then to Great Britain; third, 1931–1950, the LSE days; fourth, 1950–1962, the University of Chicago years; fifth, 1962–1992, the Freiburg years, with an apparently unpleasant Salzburg interlude. During this period, Hayek won one of the two Nobel prizes awarded in economics in 1974.

The strange death of liberal Europe 1899–1919

Friedrich August von Hayek was born in Vienna on 8 May 1899, and Karl Raimund Popper was born in Vienna on 28 July 1902. On 28 July 1914, Popper's twelfth birthday, the Austro-Hungarian Empire rashly declared war on Serbia. This was exactly one month after the equally foolish and rash amateurish assassination attempt on Austria's Archduke and his wife that first failed and then succeeded by a devilishly serendipitous turn of events. This triggered a deadly series of events, which, in the words of Paul Johnson, produced the major tragedy of the last century: "The Great War of 1914–18 was the primal tragedy of the modern world civilization, the main reason why the 20th century turned into such a disastrous epoch for mankind" (Johnson 1997: 656). The sentence just quoted occurs as a throwaway line in Johnson's history of the United States. It is a statement for which there is abundant corroboration and neither are there factual or other reasons incompatible with it that need to be explained away. There are no Kuhnian "anomalies" for it of which I am aware.

Popper expresses some melancholy thoughts about the effect of the war on Eastern Europe especially. He says, "in those days before 1914 there was an atmosphere of liberalism in Europe west of Czarist Russia, an atmosphere which also pervaded Austria and which was destroyed, forever it now seems, by the First World War" (Popper in Schillp 1974: 5). I would add to this two points: first, the one possible socially redeeming feature of the First World War could have been the transition of Czarist Russia into an Open Society instead of the first "totalitarian" closed society [I mean the *first totalitarian*, not the first closed society of course]. A recent book review of Robert Gellately's *Lenin, Stalin, and Hitler: The Age of Social Catastrophe* in *The Economist* makes a point in corroboration of Paul Johnson's point just cited. "Before 1914, they [Lenin, Stalin, and Hitler] were marginal figures . . . without the slightest hope of entering political life" (cited in *The Economist*, 8 August 2007: 75). The war opened up the possibility (*The Economist* adds in summary) "of turning their fantasies of racial purity and class dictatorship into reality, killing people on a scale unknown in human history" (ibid.: 75). The second point is that this is one of the rare examples of Popperian pessimism. On this he appears to be at least partly refuted. In at least some parts of Europe west of Russia, liberalism may be reviving, and may still do so even in ex-Czarist Russia and ex-communist Russia.

The "Great War" seemed to affect Popper and Hayek in similar, yet strikingly different ways. Popper says, "the war years, and their aftermath, were in every respect decisive for my intellectual development. They made me critical of accepted opinion, especially political opinions" (Popper in Schillp 1974: 8). Initially he naïvely assumed the righteousness of the Austrian cause. After a discussion of this opinion with his father, he was surprised to find that his father demurred. Later the young Popper also became unsure of his country's rightness and then became convinced of the contrary opinion. Popper writes, "I realized that the Austrian attack on Serbia and the German attack on Belgium were terrible things" (ibid.: 9).⁶

Hayek, three years older than Popper, was sent to the Italian front with the Austrian army. Only after the war was over did he experience “cognitive dissonance” about his country’s role when, in America, he heard a different version of the origins and purpose of the war (Kresge and Weiner 1984: 7). Kresge says “We can date Hayek’s skepticism towards the actions and motives of governments from this point” (ibid.: 7). If true this means that the war did have a strikingly similar effect on Hayek as it did on Popper but was delayed until after it was over. Kresge also points out Hayek’s first impression of John Maynard Keynes was favourable since the latter had become well-known for his acid criticism of the alleged severity of the Versailles Treaty, and the ancillary treaties following the “Great War”, with their “punitive” economic penalties against both Germany and Austria (ibid.: 11). Kresge also suggests that it is better to refer to the past century as “the Austrian century” rather than “the American century” (ibid.: 11).

The year 1919, Popper later said, constituted the turning point in his thinking about science, politics and philosophy. Popper’s version of this key period in his intellectual autobiography as found in CAR will be the focus of our examination of Hacohen’s revisionist treatment of those days. Interestingly, there are two interrelated but different types of revisionist historiography relevant to these decisive days. In addition to Hacohen’s revision of Popper’s account of 1919 the other revisionist issue concerns the accuracy of the “orthodox” Popperian view about the *scientific* aspect of those events.⁷ Before turning to them, I shall complete our summary of Popper’s own reflections on this key period.

According to Popper’s wonderfully dramatic, if not completely accurate, reconstruction of his 1919 worries, he was bothered by the theoretical bases provided by three prominent theories at the time for movements of social reform and/or revolution. The worries were both theoretical and pragmatic, since Popper was sympathetic to the great Austrian reform movements of that time but bothered by two distinct albeit related issues. He mentions only the theoretical (or perhaps meta-theoretical) issue in CAR. It is Popper in LLP and Hacohen in KPFY, who provide the evidence for his *life long propensity* to favour social reform.⁸

The first issue (the meta-theoretical) concerned what he says he perceived as a striking difference between a genuine scientific theory and the prominent theories in his milieu: those of Marx, Freud and Adler. The second, more pragmatic worry concerned the difficult problem: if these theories could not rationally justify social reform what could? Since Hacohen, not Popper, introduces this second worry, we will return to the meta-theoretical issue for now.

For Popper in the orthodox CAR version, mostly repeated in LLP, this entailed that he had already formulated both the problems he later claimed to have solved in LSD. The one emphasized in CAR was that of demarcation not that of induction. Popper was already unhappy with the prominent answer to the former problem, the positivist answer that what demarcated meaningful, positive, scientific theories from meaningless, unscientific nonsense is that the former were empirically verifiable or at least highly probable and confirmable. Popper

disliked this, for two reasons: the positivist theory of meaning was wrong and induction involved the use of logically invalid arguments. What then occurred was his Pauline road to Damascus. In Popper's case, however, the flash from heaven was both literal and purely naturalistic. It occurred due to the results of the Eddington eclipse experiment that made "Einstein" a household name and inspired Popper to conclude that the positivists were wrong. He also concluded that those who emphasized confirmation, verification, and proof were wrong.

Popper, Einstein and Bergson

Hacohen not only argues that Popper misremembered his 1919 introspective and retrospective account, he also claims that he owes more to Red Vienna than to Bergson for his ideas of the Open Society. This means that the answer to the deliberately provocative question in the title will be "no, but". This qualified defence of Popper consists in the following theses. If there was any plagiarism, then it was either not intentional or it was subconscious. Human memory is notoriously fallible, like sense experience, common sense and intuition. This is a point of great relevance not only for Popper's autobiography but also for the epistemology of fallibilism and will be the major focus of Chapter 10.

Hacohen discusses three key episodes in Popper's life during the crucial year of 1919, all of them involving Einstein. The first was a speech he gave in Vienna, the second was a book on relativity written by Einstein that Popper read and the third was an article he (Einstein) wrote late in December. We will compare this account with Popper's autobiography in LLP and link the two together by comparing the role of intuition in both Einstein and Bergson. This will motivate the development of the main problem posed in Part II: the connection between Popper's epistemology and theory of methodology and his ethical and political philosophy. The same problem will emerge for Hayek in Chapter 11 where we examine the problems with his evolutionary ethics and the Weberian meta-ethical theory that simultaneously underlies his own meta-theory and ultimately undermines the major moral arguments of Hayek and Popper that they use to defend the Open Society.

Hacohen's argument starts with a different narrative for events in 1919 than CAR provides, without completely rejecting it. He adds some interesting details that Popper omitted for whatever reason. One of these includes the claim that Popper "grasped at existentialism for a while accepting a leap of faith to reform politics" (Hacohen 2000: 94). This is not merely interesting as a biographical aside. The main legitimate criticism of Popper made by his numerous critics is that his acceptance of the Weberian meta-ethics necessitates such a Pacalian/Kierkegaardian "leap of faith" as both the original OSE and the appendix added in 1961 abundantly prove. This key argument will emerge starting in Chapter 5 (on OSE) and be developed in Part III and argued in detail in Chapter 10 based largely on his OSE 1961 appendix.

Hacohen says, "Einstein came to Vienna to give a lecture. Popper went to hear him but did not understand a thing" (ibid.: 95). Hacohen follows Popper's

LLP here (1974: 28). Popper says not only that it “was quite beyond my understanding” but also that he had been brought up, as were all well-educated persons in Austria and the rest of Europe to accept both Newton’s mechanics and Maxwell’s electrodynamics “as unquestionable truths” (ibid.: 28). However, by 1919 they were no longer such self-evident “unquestionable truths” (ibid.: 28).

To solve his puzzlement about relativity Popper read Einstein’s own popularization *Relativity*, as well as two similar books. Einstein opens his book by giving a basic exposition of geometrical physics and then questioning the classical Euclidean geometry all students including Popper had been taught. Einstein challenged this arguing: “by reason of your past experience you would certainly regard everyone with disdain who should pronounce [a] proposition of this science to be untrue” (Hacohen 2001: 95). He added an interesting point that “this feeling of proud certainty would leave you if someone were to ask... ‘What ... do you mean by the assertion that these propositions are true?’” (ibid.: 95) The problem of competing geometries caught Popper’s attention and was the focus of his 1929 PhD dissertation. The nature of that dissertation provides the main evidence Hacohen uses to refute Popper and corroborate his own claims. Hacohen cites the extremely appropriate and provocative comment of Otto Neurath that “Popper turned Eddington’s experiment into a scientific model” (ibid.: 95). Popper’s critics can (and some do) plausibly argue that there are two problems with this at least. First, even if one accepts the “orthodox” account as incorporated into Popper’s CAR, why should this very untypical event in the history of science become a model of scientific method?

In addition, the received opinions about the scientific experiments of 1919 have been subject to revision as pointed out earlier. While this points to possible weaknesses in Popper’s *philosophy of science*, it does not undermine his *theory of criticism*. One key to understanding the basic arguments in this book consists in recognizing that they rest on the following contentious claim: even if the two most prominent critics of Hayek and Popper are correct (Keynes and Kuhn), their political philosophies can still survive their criticisms (and those of others) for two reasons. The first is due to the strength of Hayek’s economic calculation argument (henceforth ECA) and Popper’s theory of criticism in *Conjectures and Refutations*, which I treat as a generalization of critical thinking. The second reason is that their most provocative ideas, especially their “against the grain arguments” resisting the need for induction and social justice, are independently defensible. Since the next chapter deals with these problems, we will move to issues that are more relevant now.

The most important section in this part of the Hacohen biography is found in a footnote (ibid.: 96, fn. 62). In an article published on 25 December 1919, Einstein, according to Hacohen, anticipated the asymmetry thesis that Popper said he discovered, or invented, by his own reaction to Eddington’s eclipse experiment in the spring prior to this published paper (ibid.: 95). In that paper

Einstein stated that a theory’s truth can never be proved, as future experience may contradict it. A theory can only be shown incorrect, through

logical failure or contradiction by a fact. *Intuition alone* can decide between two competing theories agreeing with the facts.

(*ibid.*: 95, author's emphasis)

Since the first two theses mooted here are obviously strikingly similar to his own, Popper wrote to the Einstein archivist in 1984, "that he had never seen the article" (*ibid.*: 96). Hacothen adds the following crucial sentence: "After 1919, it took him at least another decade, I believe, to reach the first two of Einstein's conclusions and find a way to reject the third" (*ibid.*: 96).

It is the third claim that I primarily wish to put into question, not as a historical claim but as a philosophical claim. As can be shown on both philosophical and exegetical grounds (by which I mean Popper's own words) he could not completely dispense with intuition (or something very similar such as common sense or tradition) in either his philosophy of science or his political philosophy.⁹ Two final points from Hacothen will complete our survey of his summary of Popper in 1919. Because of his experiences in the 1919–1920 period, Popper "developed a lifelong suspicion of the political avant-garde, of intellectuals' claims to leadership" (*ibid.*: 97). and "Science and politics were joined in his life from the start" (*ibid.*: 97). This is a claim similar to Stokes (1998), as we shall see in Chapter 10 in examining the later developments of Popper's epistemology to incorporate evolutionary epistemology.

Popper's LLP provides plenty of evidence in support of Hacothen's claim that Popper was enthusiastic for social reform. He says that the sight of abject poverty in Vienna prior to the war agitated him as a very small child and later he was willing to listen to arguments for socialist ideas because "nothing, I felt, could be more important than to end poverty" (Popper in Schillp 1974: 7). He was a Marxist very briefly in 1919 but soon became disillusioned by their dogmatism and willingness to sacrifice people's lives for the allegedly inevitable communist revolution. One of the more interesting and, perhaps for many, surprising similarities with Hayek arises here. Hayek himself was briefly sympathetic to socialism although it was of the Fabian variety. During the early 1920s, he encountered Ludwig von Mises' comprehensive attack on the possibility of rational economic planning and became convinced by that to give up his previous socialist inclinations.

Popper and Hayek were both at the University of Vienna during the 1920s. Hayek acquired two degrees there and Popper finished his PhD in 1929 but they did not meet until the 1930s, and became good lifelong friends. Hayek assisted Popper in getting OSE published and in finding him a position at the London School of Economics.

Bergson, Popper and the Open Society

The key ideas and institutions of the Open Society are, in both theory and practice, cosmopolitanism, freedom, equality, the rule of law, individual rights, democracy, the free market and the welfare state. That they may not constitute a

consistent set of principles and institutions may occur to the reader and it has certainly occurred to the many critics of liberal democracy, of the market and of the welfare state. In particular, there is a widely recognized and much discussed tension between the *egalitarian* and the *libertarian* component in the above definition. As Chapter 2 explained, both of the above components have been turned into ideologies by adding the suffix “ism” to the two italicized terms.

There are at least two main differences between the libertarian and the egalitarian theorist. The first concerns institutions, the second claims about human rights. Concerning the former, the libertarian wishes to abolish (or at least radically reform) the “welfare” state, whereas the egalitarian wishes to abolish (or at least severely restrict) the “unrestrained” free market. The egalitarian alternatives can range from anarchism, to social democracy to a stronger welfare state to Marxist communism. The libertarian can be a defender of the minimal state or a radical anarchist, or, if one wishes to include Hayek in this category, one willing to defend a minimal welfare state. Anarchism can be seen as an ideology reconciling the two components but only by making extremely contentious claims.

When we turn to Bergson, it is obvious that Popper adopted and adapted his terminology. There are both overlaps and differences between them but for now I will focus on two key points: the meaning of “open” and the key term linking Bergson and Einstein i.e. “intuition”. Concerning the first idea, it seems that there are at least three possible meanings of the term “open” in “Open Society”. It can mean “open to change”; it can mean, “open to all humans”, which seems logically to entail “cosmopolitanism”; and it can mean “open to geographical and social mobility”. In Chapter 5 we look at this comparison in more detail and argue that, at the very least, Bergson has a more realistic appraisal of the problematic character of cosmopolitanism than Popper does.¹⁰

In Chapter 4, when I examine LSD I will argue that, despite Hacoheh’s apparent claim to the contrary, Popper must rely on intuition, or else he must use an epistemic equivalent to intuition for comparison of *unrefuted theories*. When we move to Chapter 5, the same reasons will show that Popper cannot, based on *his own arguments*, use reason instead of intuition for his moral and political theories. Finally the problem of *induction by elimination* comes back to haunt him, since it is exactly parallel to the problem he emphasizes repeatedly. This is the point that induction by enumeration works if and only if we can enumerate an infinite number of examples, which we cannot do. However much a Popperian fundamentalist might want to insist that the method of LSD is not inductive, not even induction by elimination; it is easy to argue that the same problem faces both views. Popperian refutation and induction by elimination work if and only if there are a finite and definite number of alternatives.

Malachi Hacoheh’s KPFY is a magnificent tome from a purely scholarly perspective. If it has any faults in that area they are not obvious, even though some minor reservations are expressed here. Nevertheless, it does have some philosophical weaknesses. In Part V some of these will be discussed, but for now, I point out two from his introduction and the book blurb: the latter says:

This intellectual biography recovers the legacy of the young Popper, the progressive, cosmopolitan, Viennese socialist who combated fascism, revolutionized the philosophy of science and envisioned the Open Society.... Seeking to rescue Popper from his postwar conservative and anticommunist reputation, Hacoheh restores his works to their original Central European context and, at the same time, shows that they have urgent message for contemporary politics and philosophy. Popper and his colleagues [demonstrated] that nonfoundationalist philosophy ... is compatible with the Enlightenment's legacy and the pursuit of human emancipation. They formed cosmopolitan visions that may now provide guidelines for moving beyond the nation state.

(Hacoheh 2000: i)

An interesting question to pose for these claims is: “why does Popper need ‘to be rescued from his postwar conservative and anti-communist reputation’?” The most obvious and plausible answers to this deliberately provocative question are that it is unfair and inaccurate to attribute conservative and anti-communist positions to Popper and that conservative and/or anti-communist positions are bad, wrong, perverse and unjustified.

The counter-theses argued here are that:

- 1 Popper never was a card-carrying conservative, but;
- 2 he always was, or was at least after his 1919 enlightenment, consistently anti-communist and;
- 3 he was correct to be anti-communist as well as anti-fascist and was completely justified (to use non-Popperian language) in both cases for *exactly the same reasons*.

We will in this chapter focus solely on the first insinuation and save the discussion of anti-communism for later (Chapters 5 and 15).

The main response to the accusation of conservatism (apart from stating that it obviously begs several questions) is that one of the major points of Chapter 2 was to show, historically and logically, that the traditional categories of nineteenth-century political thought are extremely misleading when applied to the late twentieth and early twenty-first centuries. The point about “moving beyond the nation state” is interesting and provocative although it is equally interesting that the blurb says nothing about “moving beyond the welfare state”. Every successful welfare state has been a nation state. The only successful socialist societies have been nation states with the one possible exception of the Israeli kibbutzim. The only successful cosmopolitan movements of an economic nature have been exemplified by cosmopolitan capitalism, in the form of free trade and globalization.

The “Enlightenment’s legacy” is another term that needs to be clarified and, if not deconstructed, at least critically examined since there is more than one “Enlightenment” and more than one road to modernity. As argued at the end of Chapter 2, there are at least three roads to modernity according to Gertrude

Himmelfarb, as well as three ways for pre-modern societies to cope with modernity, according to Samuel Huntington. The latter will be the climax of our argument in Chapter 15.

There are two final points from Bergson that are at least indirectly relevant to Popper's views, especially the cosmopolitanism of the Open Society, as he understands it. The first relates to the title of Bergson's 1932 book, *The Two Sources of Religion and Morality*. For Bergson, the two sources are highly correlated with a dogmatic, inflexible attitude to one's moral and religious ideas. This represents the closed morality. In opposition to this is a flexible, less rigid adherence to one's religious beliefs and moral values, a position not difficult to correlate with Popper's views. This creates an opportunity to make some bold conjectures about a topic not much discussed by Hayek and Popper scholars, their religious views. Since it is a topic only peripherally relevant, I will confine it to an appendix.

The final point that makes Bergson relevant is his ideas on evolution (one of Bergson's books is *Creative Evolution*). Popper and Hayek later in their careers turned to that interesting, contentious field, developing ideas about the relevance of evolution to the two main themes in this chapter: ethics and epistemology. These topics will recur in Chapters 10 and 11. We will finish this chapter by discussing another topic common to Hayek, Popper and Bergson. Not just Bergson's terminology is crucial to the final stages of this chapter's argument. His thoughts in *Creative Evolution* and about intuition are relevant also. This is because, as already indicated, the next two chapters will argue that Popper himself admitted two points frequently made by his numerous critics but made by him long before his critics did so. They concern his advocacy of *the epistemological superiority* of his falsifiability criterion over positivism, induction and probabilistic confirmation; and *the ethical superiority* of the values of the Open versus the Closed Society.

What he conceded reluctantly but with logical rigour combined with intellectual integrity is that the rationalism he vociferously defended in both LSD and OSE rests on a leap of faith, which cannot be justified. Unfortunately, he called this "irrationalism". I frequently reject Popper's advice "Never argue about words", and do so here, since the connotations of "irrationalism" are misleading. Logically we need to distinguish between the following three positions. The first is that based on the principle of sufficient reason (hereafter PSR), what Popper calls comprehensive rationalism. The second position is what he calls "irrationalism" and the third is what he later labelled "critical rationalism". In this book I call it the principle of rational criticism (hereafter PRC): "Rational criticism replaces justification", as expressed later by Popper in SBW (Popper 1992: 54). This entails the proposition that rationalism occasionally needs non-rational choices and beliefs but *it never needs to make irrational choices and beliefs or engage in logically invalid reasoning*, contrary to the second option as well as to the claims of inductivist logic and epistemology.

PRC differs from irrationalism in the following respect, the latter permits or even requires a belief that is self-contradictory or absurd, whereas the former merely permits sets of beliefs that are mutually consistent and compatible with all the relevant evidence available but which are not provable on purely empiri-

cal grounds. This will be extremely crucial to the epistemological and meta-ethical theories developed in Chapters 10 and 11.

Appendix I

Although they were both thoroughly secular thinkers, who adopted a position of agnosticism toward belief in God, they did so without the hostility or bitterness of many anti-clerical thinkers of the past three centuries. This hostility seems especially characteristic of predominantly Catholic societies such as eighteenth-century France, and nineteenth-century Austria and Latin America (although exhibited today best in Richard Dawkins' recent screed, *The God Delusion*).

It may seem that there may not seem to be much to say about this topic. Both very briefly mention their parents' religious, or rather non-religious, views and practices and leave it at that. However, they both have curious comments that should leave readers puzzled, especially those of Popper. His is the more curious one, since he attributes his father's decision to go through a perfunctory conversion to the Lutheran faith to his purely pragmatic insight that living in a Christian country made it prudent to pay lip service to the dominant faith. However, Lutheranism was not the major religion in Austria. That faith was the Roman Catholic religion. Why did his father not decide to convert to Roman Catholicism instead of Lutheranism? My bold conjecture is that it sent a twofold message. Yes, we will convert to a nominal Christianity but we will choose the one that first ruptured Roman Catholic religious hegemony in most of Europe. Popper, I conjecture, was a secular Lutheran, whose relation to the dominant positivism of his Vienna friends parallels that of Lutherans to the Roman Catholic Church. It was the least radical of all the Protestant reformed churches. Popper was the Luther of positivism.

Hayek's family was nominally Catholic but non-practicing and lukewarm when it came to any faith. Hayek gives as a reason for his non-belief, a quasi-positivist claim that since no one can define the word "God", it would be inappropriate to believe in such an entity (HOH). He also said that, if one were to believe, then the only faith that would be tenable would be that of the Roman Catholic Church. Hayek's strong defence of tradition also makes it appropriate to label him a secular Catholic. He also added that he thought it best not to be offensive to those who did believe, a remarkably different attitude than those of Dawkins, Christopher Hitchens and the French Enlightenment thinkers he classifies as "constructive rationalists". The major relevance of this will emerge in the final chapter: Liberty, equality and modernity.

Appendix II

Popper mentions Bergson three times in OSE, I and more often in OSE, II. In OSE, I he discusses the common terminology and differences between them (Popper 1945, I: 202). The next quotation is less about Bergson (he is mentioned only once), but it is very relevant to Chapter 8 on utopianism. Popper admits that his "characterization of the closed society as magical and of the open society as

rational and critical of course makes it impossible to apply these terms without idealizing the society in question” (ibid.: 294). This is obviously meant in the sense of an ideal type, not idealizing them as good. In the final quotation from volume I, Popper says that his interpretation of mysticism as a reaction against the Open Society “is in direct conflict with that of Bergson . . . for [he] asserts that it is mysticism that which makes the leap from the closed to the open society” (ibid.: 314).

In comments on Bergson in OSE, II Popper treats him as a (Hegelian) prophet of “the religion of creative evolution” (Popper 1945, II: 62). He erroneously associated both with what he calls “this new religion of racialism”, and links Bergson with “an oracular irrationalism” (ibid.: 229). This occurs in the context of Popper’s discussion of introducing his distinction between “critical rationalism” and “uncritical rationalism”. He later argues:

Concerning Bergson’s two sources, I fully agree that there is an irrational or intuitive element in every creative thought; but this element can be found in rational scientific thought. . . . Rational thought is not non-intuitive; it is, rather, intuition *submitted to tests and checks* (as opposed to intuition run wild).

(ibid.: 361)

Here is another time when Popper comes close to formulating the two key ideas in this book, the need for default principles (to avoid scepticism) and a theory of criticism to prevent them from degenerating into dogmas, i.e. the two major alternative to avoid the infinite regress problem.

I do not think Popper is fair to Bergson, over-emphasizing their differences and de-emphasizing the similarities. I start with two examples of the latter; cosmopolitanism and the role of reason. The latter also ties in the former. Bergson says, “the essence of obligation is a different thing than a requirement of reason” (Bergson 1935: 24). But of course Popper is forced into the same position in Chapter 5 and again in Chapters 22 to 25 when he argues on highly emotive, but weakly rational grounds in favour of liberty and equality but candidly admits the limits of reason (as of course Hayek was to do).

On cosmopolitanism Bergson says explicitly that the Open Society is open to all mankind (ibid.: 30) and defines the distinction between open and closed morality in a way strikingly similar to Popper’s distinction between the tribal and humanitarian views. The closed morality “is suppose to be immutable. . . . But the second [open morality] is a forward thrust, a demand for movement; it is the essence of mobility” (ibid.: 58). He also defines progress pretty much as Popper does “We are fond of defining the progress of justice as a forward movement towards liberty and equality. The definition is unimpeachable but what are we to derive from it?” (ibid.: 79) The question following the definition is an excellent example of Bergson’s recognition of the ambiguity of both key concepts but also shows the recognition of the need for reason in deriving the moral implications of the definitions.

4 The refutation of positivism and socialism

Rational criticism replaces justification. Criticism curbs the imagination but does not put it in chains.

Popper (1992: 54)

Introduction

In this chapter, we explore two of the most controversial writings of Popper and Hayek, produced in 1934–1935: *The Logic of Scientific Discovery* (hereafter LSD) and *Collectivist Economic Planning* (hereafter CEP). I begin by explaining the significance of the title by exploring its presuppositions and then make some key distinctions. Next, I summarize several key theses in LSD and then summarize the major arguments in CEP. One difference between the two books is that CEP is an edited collection while LSD is a single-author work. This chapter will include discussions of two important papers by Hayek on knowledge and the ECA written in 1937 and 1945 that supplement his argument in CEP (both are reprinted in *Individualism and Economic Order*, hereafter IEO).

Since the major topic of this book is political philosophy, why devote time and effort to LSD? While it is clear why Hayek's early writings on the ECA are crucial to understanding his political philosophy, it is not clear how LSD contributes to understanding OSE. I therefore indicate how several ideas in LSD turn out to be crucial for Popper's writings on political philosophy. They are relevant for the revised PRC view of critical thinking developed here.

Falsifiability, refutation and criticism

The title of this chapter was chosen for the following reasons. The main idea argued is that the terms "refutation" and "criticism" are not confined to empirical claims but apply to facts, arguments, theories, meta-theories and non-cognitive sentences. This entails that the distinction between those two concepts and "falsification" will become increasingly significant. This is particularly important concerning the applicability of the three terms to, first, theories and arguments; second, statements and sentences. Just as Chapter 3 provided a

preliminary definition of “Open Society”, so this chapter provides a preliminary definition of *the rationality of refutation*, as well as arguing for an expansion of its scope well beyond its empirical applications. I start with falsifiability.

It is generally assumed, for good reasons, that the key to Popper’s *The Logic of Scientific Discovery* is found in the idea of “falsifiability”. Popper sees it serving two major roles in his philosophy of science. First, it the key to demarcating science from pseudo-science, metaphysics, and non-empirical, but perfectly legitimate, claims, such as mathematics and logic. Second, it also provides the best solution to the notorious problem of induction. Popper argues plausibly, if not irrefutably, that he has solved both problems in one fell swoop thus killing two philosophical birds with one logical stone, as it were. Whatever the truth about such a claim, it is a good place to start an exposition of Popper’s views.

Falsifiability, by definition, applies *only to sentences and to sets of sentences that can be true or false*. Two comments are necessary. The term, “sets of sentences” refers to systems of propositions that constitute a scientific theory and is arguably the most difficult problem Popper’s original theory faces. The Duhem–Quine Thesis (hereafter DQT) holds that it is not individual propositions that face the tribunal of experience but a set of sentences. So *p* alone is not refuted. It is rather a set, *T*, of statements, such as *p*, *q*, *r*, *s* and *t* that are empirically tested. If such a set *T*, entails *e* (any empirical claim) but not-*e* is verified empirically, then it is not necessarily *p* that is falsified.

The second comment concerns what is not said above about falsifiability. It is not said to “apply to *all and only* sentences that can be true or false”. It is important to recognize the following point: from “sentence *p* cannot be falsified”, it does not follow that “sentence *p* cannot be false or true”. It is crucial, Popper argues, to distinguish “statement *p* is (can be) false” from “Statement *p* is demonstrably false”. Metaphysical statements are the prime examples here: “God exists” (and its negation), “humans have free will” (and its negation) and “all humans are mortal” (and probably its negation: when would we know if either had been refuted?). Although Popper avoided introducing the concept of truth in LSD, since he had not yet encountered Alfred Tarski’s semantic definition of “truth”, this did not prevent him from emphasizing falsifiability as a criterion for the scientific acceptability of theories.

The term “falsifiability” applies to both existential and universal assertions: “it is snowing at this moment in Tokyo”, “all swans are black”, “dark matter permeates the universe”, “snow is not white”: the list goes on literally ad infinitum. However, it is trivially true that sentences that cannot be *false* cannot be *falsified*. By contrast, refutation and criticism apply to arguments and to sentences that cannot be true or false as well as those that can be true or false.

Since the key term “criticism” is well defined by Popper in CAR, I will use his own words: “Criticism invariably consists in pointing out some contradiction; either within the theory criticized, or a contradiction between the theory and another theory which we have some reason to accept, or a contradiction between the theory and certain facts” (Popper 1963: 316). He adds later in the

same paragraph “without criticism, there would be no rational motive for changing our theories: there would be no intellectual progress” (ibid.: 316).

This definition provides us with three distinct types of criticism; logical, factual and theoretical. As indicated above however, we also need to distinguish between criticizing a *theory or statement* and criticizing an *argument*. If someone successfully criticizes the following argument: “murder is wrong because the Bible says ‘Thou shalt not kill’ and the Bible is the word of God”, it does not mean we have disproved the claim “murder is wrong”. Similarly, Pasteur did not disprove the existence of spontaneous generation when he disproved experimentally claims that it was exhibited in certain contemporary phenomena. He refuted the claims that these were examples of spontaneous generation but not claims that it could occur at other places or had occurred at other times. It is difficult to see how you could refute that: it is at least as difficult as showing that there are no green crows somewhere in the universe.

As some of Popper’s critics have pointed out, “refutation” is a “success” word. This makes it stronger than criticism but not necessarily weaker than falsification. It is, arguably, broader in that it applies to both arguments and statements. The latter include both universal theories and existential statements. In *Fallibilism, Democracy and the Market*, I argued that it is demonstrably applicable to prescriptions and other sentences that cannot be true or false, and this claim is the major component in my meta-ethical solution to the Weberian problem examined in Chapter 9.

Refutation consists of providing counter-examples, showing inconsistency, or proving invalidity. The second of these, “inconsistency” applies to theories or statements, whereas the third, “invalidity”, applies to arguments only, since showing that an argument is invalid does not show that its conclusion is wrong. A typical “inductive” argument such as, “all crows ever observed up to 2008_{CE} have been black”, so therefore, “all crows are black”, is a non sequitur but not, for that reason, a false or incorrect conclusion.

Nothing so far shows that refutation is applicable to meta-theories or normative theories and yet that is what the title of this chapter presupposes or implies. We start on this project in the next two sections. First, we will outline the key ideas in LSD, simultaneously indicating which are most relevant to the meta-theory developed in FDM and defended here in more detail. Then we will examine Hayek’s CEP indicating how it relates to the main theses of this book. What both books have in common is a sustained argument against two of the most prominent ideas of the interwar period; positivism and socialism. So both authors are at least tacitly committed to the position that meta-theories and normative theories are subject to refutation and criticism even if “falsifiability” is an inappropriate term to apply to them.

The logic of scientific discovery

In the 1960s, Popper outlines what he called evolutionary epistemology based on his model of the growth of knowledge involving the triad of problems,

theories and arguments (hereafter PTA) In a not too oversimplified nutshell, this amounts to the idea that theories are meant to solve problems and should be judged on their ability or inability to do so, compared to their competitors. Whatever its merits as such a theory (this will be a major focus of Chapter 10 on “Evolutionary epistemology”) it can be useful in both pedagogical and expository contexts. It is used for both purposes in this chapter. Popper defined the key term “problems”, in almost identical terms as those he used to define “criticism”. Problems occur “when our theories involve us in difficulties, in contradiction; and these may arise either within a theory, or between two different theories, or as the result of a clash between our theories and our observations” (Popper 1963: 222). The meanings of the other two terms (“theories” and “arguments”) are defined in our exposition of LSD.

The two main problems that Popper claimed to be trying to solve in LSD (and later claimed to have solved) are the problems of *induction* and of *demarkation*. The former can be traced at least as far back as Leibniz (as I argue in an appendix to Chapter 9). The latter is more modern, depending on whether one sees it as a problem in epistemology or in methodology. Under the methodological interpretation, it is “How can we distinguish between genuine scientific assertions and non-scientific assertions?” The latter includes not only standard examples of allegedly pseudo-scientific assertions, but also legitimate, yet non-empirical, claims (mathematical and logical propositions, definitions, theorems, axioms and rules of inference) as well as those of borderline legitimacy such as metaphysical and, especially for logical positivism, religious and theological claims. Such a demarcation would also exclude for somewhat different reasons, moral principles and value judgements, treated in the positivist period as primarily emotive and/or prescriptive but definitely as non-cognitive.

The second interpretation, the epistemic, poses the problem of demarcation as “how can we distinguish between knowledge and opinion?” This question goes back at least as far as Plato. He can be credited (or blamed) for the first adumbration of the standard dogma of analytical philosophy: “knowledge” means a “true, justified belief”, where “justified” turns out to be the key contestable issue. Since Popper is often classified as either an analytical philosopher or a positivist, it may be worthwhile here to comment on the appropriateness of this, despite Popper’s own injunctions against arguing about words. Popper rejects the major claim that the two schools have in common: that the analysis and clarification of language, meaning and concepts is the fundamental task of philosophy and, in the case of logical positivism, that unverifiable statements, theories and beliefs are meaningless.

The problem of induction can be defined in a large number of ways. The key terms in most versions involve *universality*, *necessity* and *probability*. The way Popper defines it is “how to establish the truth of universal statements which are based on experience, such as the hypotheses and theoretical systems of the empirical sciences” (Popper 1959: 27). Since experience only provides particulars, it cannot ground a universal. In CAR, Popper cites Max Born’s definition of the problem in terms of three principles that generate an apparent contradiction:

(a) ... it is impossible to justify a law by observation or experiment; (b) ... science proposes and uses laws “everywhere and all the time”... (c) *the principle of empiricism* ... asserts that in science, only observation and experience may decide upon the *acceptance or rejection* of scientific statements, including laws and theories.

(Popper 1963: 54)

Therefore, according to the view Popper is opposing, we must resort to a “principle of induction” (Popper 1959: 27). Such a principle (Popper cites Hans Reichenbach as an advocate of this type of principle) is not a tautology, so it must be either an a priori truth or justified probabilistically. This leads then to an infinite regress. Popper claims that such a principle of induction or any kind of inductive logic is neither necessary nor justified. He overlooks the possibility that it is a first principle and/or self-evident truth, although one could claim that both of these would be the same as a non-tautological a priori truth: what Kant labelled as “synthetic a priori” truths.

Popper’s solution to both problems involves denials that struck many at the time (and still seems so to many philosophers today) as absurd, wrongheaded, counter-intuitive, and obviously incorrect and easily criticized.¹ Popper’s arguments entailed the denial of two dogmas of both logical positivism and modern analytical philosophy. The first is the denial that there is such a process as induction and that the only genuine problem is how to justify it. The second is the denial of the definition of “knowledge” given above. According to Popper, it is not a necessary or sufficient condition for a knowledge claim (in the sense of scientific knowledge) to be true. Such claims cannot be justified. Popper also argues that scientific knowledge primarily involves *propositions not beliefs*.

The patient yet sceptical reader may be prepared to wait for Part IV to see the relevance of some of the concepts introduced but still reasonably ask: “why introduce so many in a book focused on comparative political philosophy?” There are two reasons. The first is that many are relevant to *defining the Hume–Weber meta-ethical theory* and the second is that some of them are relevant to *overcoming it*. This is especially true of numbers 1, 2, 3, 9 and 10. They will re-appear in the next chapter as part of Popper’s definition of the fundamental problem of meta-ethics. It is best to define them before indicating their relevance.

The main theories proposed in LSD of relevance to our major topic are the following:

- 1 The asymmetry thesis, i.e. the claim that scientific theories are falsifiable but not verifiable (Popper 1959: 41–2). This principle is used to undercut, i.e. *refute* the positivist theory of meaning and to solve the problem of induction. I will use it later (Chapters 9 to 11) to define and solve the fact/value and is–ought problems that constitute the Achilles’ heel of both Popper and Hayek’s political theories.
- 2 Scientific explanation proceeds by use of universal laws and initial

conditions (ibid.: 59). This view of scientific explanation is called by some the “covering law” model and by others “Deductive–nomological”. I will use both terms interchangeably. I argue in Chapter 10, that the same type of logic underlies moral reasoning (as it clearly does in R.M. Hare).²

- 3 The empirical basis of science (and of ordinary everyday knowledge) is not rock solid or certain. Even simple empirical claims such as “grass is green”, “this is a glass of water” (ibid.: 95) and “snow is white” contain theoretical terms not completely reducible to observational terms.³
- 4 Science uses neither the method of induction nor probability to replace certainty (ibid.: 27–30, 254–65).
- 5 Testability is measured by falsifiability and there are degrees of testability (ibid.: Ch. VI) which in turn can be used to define “simplicity”, instead of dubiously invoking Occam’s razor.

Popper nonetheless provides his own substitute for Occam’s razor when he asserts that “the number of our axioms – of our most fundamental hypotheses – should be kept down” (ibid.: 273). I have never read a rationale for this but it seems easy to provide. Almost by definition “rationality” requires the minimization of arbitrary, that is unjustified, assumptions. It seems to be a reasonable assumption, which, however, Popper questions in OSE, as we shall see in Chapter 5.

- 6 The previous principle eliminates the need for either pragmatic or aesthetic concepts of testability (ibid.: 137).
- 7 Probability does play a role in science but not the epistemic role inductivism, positivism and empiricism have traditionally assigned it (ibid.: 146ff.). Popper has more to say about probability in LSD, than about any other subject, yet some of his recent critics write as if he ignores the topic!⁴
- 8 Popper rejects the “subjective” approach in favour of a more objective theory (ibid.: 148–50) but neither the frequency nor the logical view is endorsed. Later he developed a propensity interpretation.
- 9 Corroboration replaces confirmation and falsification replaces verification (ibid.: Ch. X). In FDM, I used the following formula to illustrate this: Tuc > Tun > Trc > Trn. In this formula, T designates “theory”, > means “is preferable to”, u means “unrefuted”, c means “corroborated”, n means “not corroborated”, and r means “refuted”. I also argued in FDM that it can be applied to rational choice in both epistemic and ethical contexts and that it should be acceptable to any one, including believers in inductive confirmation, who wish to interpret c to mean “confirmed”.
- 10 The dogma of the uniformity of nature is replaced by the following: “From the methodological point of view one sees that the principle of the uniformity of nature is here replaced by the postulate of the invariance of natural laws, with respect to both space and time” (ibid.: 253). He also says that “it is part of our definition of natural laws that we postulate that they are to be invariant with respect to space and time; and also that they are to have no exceptions” (ibid.: 253). Such a definition cannot guarantee that there are such laws. This concept of law will be crucial in Chapter 5 where Popper

explains his fact–standard distinction. It will be crucial to the meta-ethical theory used to replace the standard positivist Hume–Weber meta-ethical theories uncritically accepted by both Popper and Hayek, as will the definition of asymmetry, and other principles such as 2, 3 and 9.

Another major problem discussed for which Popper provides a solution, is Fries' trilemma (hereafter FT). It relates to the problem of the empirical basis (hereafter EB), but is much broader in scope. Fries' trilemma, since it involves the *infinite regress problem* is as relevant to ethics as it is to epistemology. The two problems (FT and EB) are closely tied together. They constitute the two major problems that undermine classical empiricism as well as all other justificationist theories. Fries' trilemma is arguably the most fundamental problem in epistemology and the theory of rationality posing major difficulties for any philosophy whether justificationist and foundationalist or anti-justificationist and anti-foundationalist.

Fries' trilemma arises out of the fundamental principle of foundationalism: the *principle of sufficient reason* (PSR). It has both a metaphysical and epistemological version. The two versions can be attributed respectively to Leibniz and Hume. The first one is "there must be a sufficient reason for any event that occurs", which entails that "every event has a cause or explanation". The second is that "there must be a sufficient reason for any *belief or proposition* that anyone proposes as true".⁵

How do these two principles generate Fries' trilemma? Popper argues that, since justification is a logical concept so that "statements can only be justified by statements" (ibid.: 93), all justification must be propositional. This inference involves huge assumptions. It could be counter-argued that it is an implausible and arbitrary principle, but it is harmless for now since FT covers this alternative. If any proposition *p* is said, believed, asserted, or argued, to be true then it has to be justified by another proposition, or by some non-propositional means. Start with the first case and suppose someone argues that "q is both true and q implies p". Then how do we know q is true? We waive for now the other obvious question: "how do we know q implies p?"

If person A replies by saying, "r is true and r implies q", then we are clearly on the way to an infinite regress. FT arises by introducing two ways to stop the regress. The first is to posit an ultimate proposition, PI, which neither can be, nor needs to be, justified. It is a first principle, which is the basis for all the others. The second method is to posit a psychological experience that can be the foundation of others: sense experience is the most obvious, but intuition, common sense and mystical insight are also examples. Jacob Fries (an early nineteenth-century post-Kantian philosopher) labelled the three parts of the trilemma: infinite regress, dogmatism and psychologism (ibid.: 93–4, 105). "Self-evident truths" are a prominent example. Popper labels most of these psychologistic methods of preventing the regress and founding epistemic claims on a solid rock as "sources of knowledge". This leads directly to problem two: the empirical basis of propositions.

The problem of the empirical basis consists of two components not just one component. According to Popper, no experience by itself can justify a proposition (as Popper puts it so forcefully “no more than by thumping the table” (ibid.: 105)). Now it could be countered (as I did in FDM) that this unduly confines logic. However, even if such counter-arguments succeed, they do not eliminate the problem of the fallibility of experience nor its theoretical character.

Since the fact/value problem is basic to the fundamental problem of meta-ethics and normative political theory, it is interesting that it was the home of ethical positivism, the Vienna Circle, that discovered and developed the fallibilism that would completely undermine the naïve common sense view of sense-experience and thus its own radical empiricism. This occurred long before the contemporary trend towards anti-foundationalism and predates by decades the similar recent attempt involved in the argument recently mooted by Hilary Putnam in *The Collapse of the Fact/Value Dichotomy* (see Chapter 9).

However, like many of Popper’s arguments, this one can boomerang on him. It is this type of argument that is the “foundation” of his fallibilism. It is the principles of fallibilism that decisively undermines his falsificationism, as numerous critics have tirelessly pointed out. It also leads him, according to some, into an irrationalist direction in epistemology as well as ethics.

For now, I will merely dogmatically assert that it is a “creative tension” we have to live with. In order to avoid a detour and irrelevant digressions it is parallel (perhaps) to Kuhn’s *The Essential Tension* and it is just as compromising for a falsificationist as it is for a verificationist. A more important point for us now is that Popper’s argument for his asymmetry principle works if and only if he confines our arguments to empirically based propositions and logical deduction. A critic can ask, “why not adopt a Lutheran theory of refutation instead?” As Luther expressed the point at the Diet of Worms, “Unless I am convinced by Scripture and Right Reason, I will not, and cannot recant”.

To reply to this by arguing that claims were then accepted as valid if taught in the Bible, the putative word of God, but today we know, or at least most educated people agree, that the Bible can no longer be seen as an infallible authority, it suffices to reply that we “know” the same about sense experience today. Paul Feyerabend’s most interesting argument was his *Classical Empiricism* article (Feyerabend 1966) a brilliant comparison of the Protestant view of the Bible and classical empiricist epistemologies: a comparison Popper himself comes close to endorsing in CAR, the OSE 1961 appendix, and LLP. The point of this is not to get into a critique of Popper’s epistemology but to prepare the ground for a critical discussion of the meta-theory underlying his (and Hayek’s) meta-ethical theory and political philosophy. Both have grounded their political views on very specific theories of knowledge and of critical thinking.

The deductivist theory of explanation Popper uses is formally identical to similar models of moral reasoning. As I have argued earlier in FDM, Popper’s asymmetry principle applies as much to moral principles as it does to laws and theories in science. What he says about universal laws in LSD is remarkably

parallel to R.M. Hare's arguments about universalizability in ethics (Hare 1952, 1963, see fn. 2) a Kantian principle that Popper and Hayek both espouse.

I argued in Chapter 3 that Hacothen's summary about Popper and Einstein's strikingly similar views on falsification is relevant to the justificationist problem in ethics and epistemology. This is due to at least two issues Popper still faces. One is the unsolved problem of Fries' trilemma. The second issue involves Popper's concessions on the problems that probability presents to his theory. His solution, the introduction of rules of methodology to make his falsificationist strategy work, weakens the significance of his asymmetry thesis and thus require a substitute such as Einstein's intuition.

Popper says that he can eliminate the need for this type of ersatz foundation, but it is difficult to see why his later appeals to common sense and rules of method forbidding ad hoc evasions are much different. In his zeal to avoid irrationalism and dogmatism, as well as global scepticism, he surreptitiously introduces the same type of appeals to unjustified or unmotivated concepts that he disallows when inductivists, positivists, metaphysicians and moralists introduce them. He does require intuition, or a reasonable epistemic facsimile, to make his methodology work.

Finally, while the arguments of this book do not require his falsificationist philosophy of science and therefore are not vulnerable to the numerous criticisms already made of it, they do rest on his theory of criticism and his method of conjectures and refutations. The term "fallibilism" is in many ways preferable to "falsificationism" as a pigeonhole for Popper's philosophy but, as will be argued, it simultaneously includes and subverts his falsificationism, as he himself first showed in LSD, ironically.

As is well "known", Popper's philosophy of science was superseded by that of Thomas Kuhn; just as it is well "known" that Keynes' views superseded Hayek's theories. Recently Steven Fuller wrote an interesting account of the Kuhn-Popper debate (Fuller 2003) but his primary goal was to produce a left-wing diatribe against Kuhn, rather than Popper, a more usual target for such diatribes. The main criticism I would make of Popper's claims to have solved the problem of induction is that it totally overlooks Newton's rules. In LSD Newton is mentioned 13 times but not one refers to his rules of reasoning in philosophy. Newton's rules read as if they were written with David Hume's critique of induction in mind (see the Appendix to this chapter for those rules). Of course, that cannot be true, but the major point here is that since Popper himself relies on rules to avoid problems in applying falsification to scientific theories, it is difficult to see how he can deny other scientists and philosophers the same right. Otherwise, he is claiming special epistemic privileges for his own view.

Hayek, "knowledge" and the ECA

The two major differences between the concepts of knowledge in Popper and Hayek are, first, the differences between subjective, objective and inter-subjective concepts of knowledge, and second, the focus. The most appropriate

way of pointing out the key difference with the first is by use of language not available to either of them in the 1930s: Popperian knowledge can be stored on a computer database but that of concern to Hayek cannot, or at least there is a significant residue that cannot be. That is because such knowledge is potentially available to everyone even to those who do not own or use computers. Popperian knowledge is (or can be) reported in books, journals, magazines, the Internet and other media sources, but much of the knowledge Hayek is discussing is tacit, so it is non-verbal and radically decentralized, localized and particular to a unique context. It is specific information available only to some people not everyone and it presents opportunities to someone prepared to seize and act on it. This is why his 1937 and 1945 articles on knowledge and its role in society are so crucial to understanding his political philosophy and it why I discuss it here prior to the next chapter where *The Open Society and its Enemies* (hereafter OSE) and *The Road to Serfdom* (hereafter RTS) are compared. Despite this difference, Popper's own arguments clearly justify the need for tacit rules for understanding knowledge claims, since the infinite regress argument applies as much to definitions as it does to demonstrations (as I argue in Chapter 10, citing Popper's interesting table in CAR, p. 19).

The ECA is usually seen as having been initiated by Ludwig von Mises in 1920 but Hayek includes earlier writings by Enrico Barone as well as articles by N.G. Pierson and George Halm. He provides both an introduction and conclusion himself. We will summarize some of the key points in the debate and indicate how the debate developed and what Hayek contributed to it over and above Mises' argument. During the same time, Trygve J.B. Hoff in his *Economic Calculation in the Socialist Society* produced an even more thorough and excellent study.

The main issue is the following: is it correct to claim that only private ownership could determine the economic rationality of production, with the corollary that therefore a socialist society could not have a rational system of production? In addition, it is interesting, as Terence Hutchison points out, that Friedrich Engels developed an argument showing the impossibility of calculation under socialism! As the co-founder (or perhaps real founder) of Marxism argued "To make a monopolist charge the price that would rule under competition, or a price that is equal to the necessary cost, is impossible, because the competitive or necessary cost cannot be known unless there is competition" (Hutchison 1981: 229). Engels also argued that a similar problem exists in public utility regulation (*ibid.*: 228).

In CEP, Hayek thoroughly covered all the key points: the nature and history of the problem: the distinction between economic and technological problem and the attitude of Marxism. Ironically, as Desai points out (in his excellent article *Hayek and Marx* in CCH) Hayek said little about Marx, possibly because Marx refused to say much about the future socialist paradise. Popper said a great deal more about Marx in OSE than Hayek ever did anywhere.

Hayek discusses various types of socialism, planning and capitalism, a study of the USSR by Boris Brutzkus, and recent continental European discussions.

He used the study by Brutzkus to discuss the lessons of the Russian experiment, the possibilities of a mathematical solution, the extreme measure of abrogation of consumer sovereignty, the use of pseudo-competition, the use of competing monopolies, economies of rationalization, and the criterion of marginal costs. Hayek then concludes with a discussion of the possibility of real competition under socialism, and the general significance for socialism of the competitive solution.

Since the main point of this chapter concerns refutation, it is significant that Hayek makes the point about methods and goals that he and Popper both emphasize repeatedly. This is the principle that only methods can be rationally evaluated, not goals. This is an argument earlier found in Max Weber, Lionel Robbins and numerous others. It will be argued later (Part V) that, if Hayek is correct in *The Fatal Conceit*, then socialist theory is just as refutable as its argument are (which is not the same as saying that it is definitively refuted).

Rather than go into the details of the 1935 text (most of it written by persons other than Hayek), I move to the two papers that grew out of the concerns of CEP. The continuing relevance of these is evident from the recent publication of Theodore Burzcek's *Socialism after Hayek*. Although he concedes the validity of Hayek's arguments about planning, he argues it produces only a definitive refutation of one component of one type of socialism. As argued in Chapter 2, socialism has emphasized both planning for production instead of profit and egalitarianism in distribution, instead of by the vagaries of the free market.

There are three major issues left unresolved by the ECA that will concern us in our later exposition and evaluation of Hayek's arguments in Chapters 14 and 15. The first issue involves the following questions: "if Hayek's refutation of socialism is apodictic against socialist *arguments* for planning, is it equally cogent against socialist *theories*? Even if it is conclusive against the case for *planning*, is it equally convincing against the egalitarian component of the socialist creed? Can a theory of social justice be salvaged while admitting that central planning cannot rationally solve the fundamental economic problem of society (as contemporary social democrats or democratic socialists try to argue)?"

The second issue involves comparing the ECA to the more standard critique of socialism, which is the incentive problem. Many would argue that this is the main problem socialism could not solve and so it explains why it has not worked anywhere. From Owen's New Harmony to the Israeli kibbutzim, the evidence is uniformly negative; socialism has failed to solve the free-rider problem.

Since socialists, especially in the USSR, were promising a new man under a socialist regime different from the greedy, purely rational self-interested utility maximizer found under capitalism it could not be assumed that socialism would not work due to human nature being less than altruistic most of the time. Nevertheless, even perfectly altruistic and rational people could not make economic calculations under socialism without a price system to guide them. However, it is interesting that the main obstacle to the realization of Hayek's own utopia may be the same devil tempting us to follow self-interest rather than the

common good! This will be argued in Part V, when we examine his argument that, under genuine free market conditions of constantly changing supply and demand, we are obligated to accept a decline in our relative and/or absolute well-being.

The third issue is that, after 1935 Hayek had a new, much more sophisticated, and ambiguous enemy: Keynesian theory. He could not refute it with the same or similar arguments. One could argue that if the ECA is conclusive against socialism, then it should be equally conclusive against any other anti-free market theory. The immediate answer is that Keynesianism is both pro-market and anti-laissez-faire. However, so is Hayek's argument! The main question, to mix metaphors is "does the Invisible Hand needs a kick start, at least occasionally or perhaps often?" For reasons still debated, Hayek never wrote a critique of Keynes' *General Theory* (1936).⁶ Instead he started to focus more specifically on knowledge as a problem (1937). Hayek wrote his final book on "pure" economic theory in (1941) then *The Road to Serfdom* (1944) and another paper on the problems of knowledge in 1945.

It would be a mistake to see Hayek's interests, as well as his views on knowledge, as radically different from Popper, as much a mistake as to see them as essentially identical. The relation may have a parallel with the similarities and differences in their political philosophies. While Popper is concerned above all with the normative problem of epistemology and with what he later called "*objective knowledge*", Hayek seems clearly to be concerned with *subjective knowledge* and how it affects economic actors. Popper's three worlds ontology includes subjective knowledge as one of its three main components and, like Hayek's, is radically fallibilist but not post-modern or relativistic (see Chapters 14 and 15). In addition, his focus is different, definable by reference to the Popperian model of explanation. While Popper's interest is in general laws and scientific theories, Hayek's arguments about the knowledge of economic actors focuses more on initial conditions or more prosaically, facts. Both use the term "knowledge" of propositions or beliefs that can be mistaken.

After the ECA

Hayek starts his 1937 paper *Economics and Knowledge* with the comment that the "ambiguity of the title ... is not accidental" (Hayek 1948: 33) since it could mean "the role of knowledge in the functioning of an economy" or "the knowledge that economics, as an academic discipline, give us". He shows a sophisticated grasp of the standard Kantian (and positivist) distinction between analytical or tautological knowledge and empirical claims (ibid.: 34–5, 56), discusses whether putative economic knowledge claims are a priori, the nature of the "data" available to such actors (ibid.: 38) and argues there is a fallacy of equivocation. This is a logicians' term not his: he calls it an "insidious change of meaning" (ibid.: 39).

He divides data and knowledge into two categories "objective" and "subjective" (ibid.: 39) as Popper was to do much later in *Objective Knowledge* (here-

after OK), but Hayek has a different emphasis. The former are “objective real facts” known to the economist trying to explain economic behaviour, whereas the latter are “things known to the persons whose behaviour we try to explain” (ibid.: 39). He also argues that equilibrium assumptions in economics can be justified only if they are interpreted as claiming, “there exists a tendency towards equilibrium” (ibid.: 45) rather than assuming such an actually existing state, which almost no one believes in.

His major claim and the key to his version of the ECA is that “the really central problem of economics as a social science is” what he calls the “*division of knowledge*”, strictly analogous (so Hayek argues) to the much discussed “division of labour” (ibid.: 50). He later asserts that “the central question of all social science” is “How can ... fragments of knowledge existing in different minds bring about results that which, if they were to be brought about deliberately, would require a knowledge ... which no single person can possess?” (ibid.: 54) In the final paragraph he accuses (some) economists of being guilty of a confusion of the a priori and the empirical (ibid.: 56). This article contained his first reference to Popper (ibid.: 33, fn. 1) a reference to his argument in LSD concerning the logical superiority of falsification over verification. Hayek also mentions the law of large numbers in Pareto, ideal types, and says interestingly “all knowledge is capacity to predict” (ibid.: 51, fn. 17).

In his 1945 article on knowledge Hayek raised several question about knowledge and planning including the interesting question, “*who* is to do the planning?” (ibid.: 79) This is remarkably similar to the same question Popper discusses critically in OSE: “Who is to Rule?” Since we will examine this in the next chapter, we will merely introduce it for now.

Hayek also distinguishes different kinds of knowledge and proposes the heresy that “scientific knowledge is not the sum of all knowledge” (ibid.: 80). He makes points about commerce and production, money, induction, communism and cites Trotsky, Lange, Lerner and Schumpeter on the indispensability of market pricing (ibid.: 89) and emphasizes a very crucial point; that the kind of knowledge he is discussing cannot be conveyed by statistics (ibid.: 83). Hayek also clearly emphasized the “imperfection of all human knowledge” (ibid.: 89) the most significant of all fallibilist conclusions in epistemology and moral philosophy.

There is one further extremely crucial point about Hayekian knowledge. While the most important parts of it are not available to everyone, this is strikingly different to similar claims about knowledge made by Plato, Marx, Comte, and numerous others. Hayek is not talking about the knowledge of experts, whether professionals, doctors, lawyers, engineers, professors or the philosopher-king, the vanguard of the proletariat, or Comtean experts on positive knowledge. These types of knowledge are available only to well-educated elites. Hayekian knowledge is potentially available to any persons of insight in a particular situation who perceives a need or opportunity to serve persons she does not know. It is knowledge of the entrepreneur not the expert.

Conclusion

Why use “refutation” in connection with Popper and positivism? It is mainly because Popper’s two main arguments are directed against induction and the naïve empiricist fact–theory distinction. Popper’s argument on theories leads to his asymmetry thesis, which replaces inductivism with deductivism, verification with falsification and proof with disproof. This combination of empirical and logical arguments, if successful, refutes logical positivism as an adequate meta-theory of science. It is important, especially in a book comparing Popper and Hayek, to distinguish clearly and carefully *logical* positivism from *Comtean* positivism. There are similarities and differences but the more important reason is that Popper’s anti-positivism is directed against that of the Vienna Circle in his native land, whereas Hayek’s is directed against Comte, whom he treats as all too typical of the perverse influence of French rationalism. While this highlights a significant difference, it is related to a major similarity, their very sophisticated recognition of the limits of reason despite the clear commitment of both to modern science and reason as *the prime components* in creating conditions for progress towards a better world. Nevertheless, they both recognize, albeit for different reasons, the inability of reason alone to ground and found the principles needed for a free society.

There is a persistent ambiguity, if not outright inconsistency, in Popper’s attitude toward criticism in meta-science. While he frequently uses the (putative) facts of the history of science and of contemporary science in his refutation of other theories and corroboration of his own,⁸ he also argues that the (perhaps) obvious question concerning his own theory “can your theory of falsifiability be itself falsified?”, is an inappropriate question since it is a meta-theory not a scientific theory. In the November 1992 *Scientific American* interview of Popper, the writer posed that question, when he should have asked instead, “can your theory of *falsifiability* be *refuted* or *at least criticized*?” This is an appropriate question since it can easily be answered “yes”, although a much trickier and more difficult question is: “has it been successfully refuted?” Fortunately, for my purposes, I can avoid this major issue by shifting the focus to Popperian fallibilism and his general theory of criticism found in CAR (quoted on p. 4).

In the next chapter, I carry this story forward by focusing on the two books most closely associated with the political philosophies of Popper and Hayek. As we have just seen, Hayek particularly started developing the significance of the problem of knowledge in the practical sphere where it is of economic and therefore social significance. Popper, meanwhile, started to turn his attention to both philosophy of social science and political philosophy. He said that he was inspired or provoked to write the *Open Society* the day the Nazis took over Austria.

Appendix I

It is striking that, while Popper frequently mentions Isaac Newton's laws (of both motion and gravity), he seldom mentions Newton's rules of reasoning in philosophy. Since they read as if they were deliberately constructed to counter Humean scepticism, and this cannot possibly be true, it is Leibniz, I boldly conjecture that Newton had in mind (see appendix to Chapter 9).

Newton's rules of method

Rule 1 *"No more causes of natural things should be admitted than are both true and sufficient to explain their phenomena"*.

Rule 2 *"Therefore, the causes assigned to natural effects of the same kind must be, so far as possible, the same"*.

Rule 3 *"Those qualities of bodies that cannot be intended or remitted [i.e. qualities that cannot be increased and diminished] and that belong to all bodies on which experiments can be made should be taken as qualities of all bodies universally"*.

Rule 4 *"In experimental philosophy, propositions gathered from phenomena by induction should be considered either exactly or very nearly true notwithstanding any contrary hypotheses, until yet other phenomena make such propositions either more exact or liable to exceptions"*.

(Achinstein, 2004: 78–80)

5 The Open Society and the road to *The Road to Serfdom*

This chapter takes the story forward to 1944–1945, the end of the Hitler era. It will be mostly comparative rather than critical trying to identify similarities and differences. Their views on the key issue of freedom and equality will be emphasized along with the meta-theory underpinning it. I begin by comparing the structure of the two books. Next, I summarize several key theses, arguments and problems in Popper’s *The Open Society and its Enemies*. I then summarize the major arguments in Hayek’s *The Road to Serfdom*. I briefly discuss the one major ostensible difference between the two books. Popper seems more egalitarian and therefore more sympathetic to socialism, while Hayek is very anti-egalitarian by contrast. I finish by commenting on Bruce Caldwell’s discussions of four major criticisms of Hayek’s book and his interesting test for the validity of such critiques.

While Popper has a very coherent structure to his argument, Hayek’s book is much less organized on either a chronological or a thematic manner. Popper proceeds in a primarily chronological manner, beginning with the ancient Greeks, examining Heraclitus, and then spending most of volume 1 on Plato. He begins volume 2 with a chapter on Aristotle and then makes a huge leap from 322 BCE to 1800 CE and Hegel. For reasons never explained, Popper prefers to “credit” Hegel, rather than Nietzsche, with being the godfather of national socialism.

It is instead more reasonable, as well as more relevant, to ask “why Plato and Marx?” This will be answered later after our exposition when the reasons will be easier to comprehend. It is arguable that he should have focused more on Comte, as Hayek did, but this does not detract from the significance and validity (or invalidity in some cases) of his arguments.

The Open Society and its enemies

We will focus on the following chapters from OSE: from volume 1 Chapters 5 to 7, and, from volume 2, Chapters 13 to 17 and 22 to 25. Chapter 5 deals with the major meta-theoretical problem for political philosophy (and for this book) while Chapter 6 deals with the number one normative problem. The former involves a problem that has several labels: is–ought, fact–value, positive–normative, and prescriptive–descriptive dichotomy. Popper refers to it as the

fact–standard problem. We will use his words to define it. In Chapter 6 Popper discusses the problem of “justice”, and we examine his definition of this extremely contentious term. Chapter 7 is entitled “The Principles of Leadership” but it is the paradoxes he introduces in that chapter that are more relevant for both normative and meta-theoretical reasons. The reason for adding the latter is that his criticism of political theories in that chapter starts the process of either undermining the fact–standard problem or undermining its relevance as argued in Chapter 5.

Popper introduces the distinction by contrasting

(a) *natural laws* or laws of nature, such as the laws describing the movements of the sun, the moon and the planets, the succession of the season, etc. or the law of gravity ... the laws of thermodynamics, and ... (b) *normative laws*, or norms, prohibitions and commandments, i.e. such rules as forbid or demand certain modes of conduct; ... the Ten Commandments or ... legal rules ... or the laws [of] the Athenian Constitution.

(Popper 1945: 57)

The laws under (a) are exactly what we looked at in Chapter 4 and Popper’s use here is exactly the same as it is in LSD: “a natural law [describes] a strict unvarying regularity which either in fact holds in nature ... or does not hold.... A law of nature is unalterable; there are no exceptions to it” (ibid.: 57–8). If it holds, it is true, otherwise not. If we do not know, “we ... call it an ‘hypothesis.’” (ibid.: 58).

The situation is very different with regard to (b). Normative laws, whether legal or moral, “can be enforced” (ibid.: 58) and they “are alterable” (ibid.: 58). We can repeal laws against miscegenation, homosexuality and the use of drugs, alcohol, tobacco, or whatever. However, we cannot repeal the law of gravity, the second law of thermodynamics or Newton’s laws of motion. We may discover that they are incorrect but that means that they were never completely true. This means, Popper claims of normative laws, that “only in a metaphorical sense can they be called ‘true’ or ‘false’” (ibid.: 58). Popper expresses his agreement with the numerous philosophers and social scientists who have argued that the distinction is a fundamental one and that “these two kinds of laws have hardly more in common than a name” (ibid.: 58). Later, in Chapters 9 to 11, when R.M. Hare’s very influential theory of ethics is discussed, his (Hare’s) striking use of comparisons between the two types of laws will be used to criticize this view (as well as Hare’s which is logically and epistemologically similar to Popper’s, in most respects, as is Hare’s normative theory).

Popper calls this theory “*critical dualism*” (ibid.: 60). Popper is correct to call it “critical” but it is insufficiently critical, as will be argued later in this chapter and elsewhere (Chapters 10 and 11). He makes two major claims for this theory that are very contentious but which distinguish his theory from that of Friedrich Nietzsche and Jean-Paul Sartre. “First, we must not think that critical dualism implies a theory of the historical origins of norms” (ibid.: 61). This entails that it

implies neither of the following claims: “norms originate with man, and not with God” nor “has it anything to do with the assertion that norms, since they are conventional, i.e. man-made, are therefore ‘merely arbitrary’” (ibid.: 61).

Here we will take a brief but major detour. What does Popper mean by “arbitrary” here? Since he does not say, and may dismiss the question as “essentialist”¹ the term will be defined as “an arbitrary decision or statement is one without any reason, *positive or negative*, for making it or accepting it”. Thus one may have what she thinks are good reasons, or adequate evidence or proof for accepting theory T, believing in proposition P or for making decision D. Conversely one may decide for T, P or D because they have good reasons, counter-evidence or disproof for all (or maybe only most) alternatives to T, P or D. However, if she cannot give good reasons *for and/or* against a decision, theory or proposition then the choice is arbitrary.

Now the argument just presented may be flawed but, if it is, then it is very puzzling why so much been made about the absence of sufficient reason, evidence, proof, disproof and counter-examples in the areas of metaphysics, theology, ethics and political philosophy in the past three or four centuries.

In Chapter 6 Popper offers a definition of “justice” as an alternative to what he labels “Platonic Justice”. It involves the following five points.

(a) an equal distribution of the burden of citizenship, i.e. of those limitations of *freedom* that are necessary in social life...; (b) *equal* treatment of the citizens before the law provided, of course, that (c) the laws show neither favour nor disfavour towards individual citizens or groups or classes; (d) impartiality of the courts of justice; and (e) an *equal* share in the advantages (and not only in the burden) which membership in the state may offer to its citizens.

(Popper 1945: 89, emphases are the author’s)

The emphasis on equality and freedom is striking. This is, to put it in non-Popperian language, the essence of the problem of justice in liberal theory. This problem involves the relation between freedom and equality. In the final chapter of this book, it will be argued that they constitute two-thirds of the major trilemma facing the so-called post-modern world; that of liberty, equality and modernity.

It constitutes a pre-Rawlsian liberal theory of justice. It does not have Rawls’ carefully worked out arguments based on the veil of ignorance, the social contract, the thin theory of the good and much else. Indeed Popper does not offer any argument in its favour. This is mainly due, one might reasonably conjecture, to his Weberian meta-theory in Chapter 5. Later in this chapter, I argue that the two concepts of Chapters 5 and 6, critical dualism and Popperian justice, lead to Popper necessarily using some very convoluted, highly emotive arguments in Chapters 22–25. In these chapters Popper’s strong commitments to liberty and equality, combined with his meta-theory, which rules out rational arguments of any kind for and/or against moral principles, norms, rules and theories, leads him to argue in an existentialist manner strikingly similar to Jean-Paul Sartre’s

“argument” in *Existentialism is a Humanism*, which appeared in 1945, the same year as OSE. This comparison will re-appear in Chapters 6 and 9.

Popper also does not have Hayek’s carefully worked out argument and detailed exposition. While the focus of this chapter is on comparing OSE and RTS, it is not inappropriate to make a minor detour to one of Hayek’s later books, *Studies in Politics, Philosophy and Economics*, which he dedicated to Popper, and where he gave this four-point definition:

(a) that justice can be meaningfully attributed only to human action and not to any state of affairs as such ... (b) that the rules of justice have essentially the nature of prohibitions... injustice is really the primary concept and the aims of rules of just conduct is to prevent unjust action; (c) that the injustice to be prevented is the infringement of the protected domain of one’s fellow men... (d) that these rules of just conduct ... in themselves negative can be developed by consistently applying to whatever such rules a society has ... the equally negative test of universal applicability – a test which, in the last resort, is nothing else but the self-consistency of the actions which these rules allow if applied to the circumstances of the real world.

(Hayek 1967: 166)

There is, in this summary, not only a clear normative theory but also a tacit meta-ethical theory, especially in (d), while (a) has an important logical presupposition. The theory is also very Kantian. I examine it in more detail in Chapter 8. I will however try to show that it is already tacit or explicit in RTS. For now, we return to OSE.

In Chapter 7 of OSE, Popper introduces three paradoxes: of sovereignty, democracy and freedom, and adds a fourth in a footnote. He begins by rejecting the question “*Who shall rule the state?*” (Popper 1945: 120), a position he maintained until his death. In addition, Popper once indicated that is was his key contribution to political theory. This chapter contains what may be the best arguments in the entire book and the question he rejects (along with the major answers to it) explains the relevance of Plato and Marx. For they are best known for their answers: the philosopher-king should rule or the proletariat should rule. Instead, Popper counters, we should be solving the real problem: “*How can we so organize political institutions so that bad and incompetent rulers can be prevented from doing too much damage?*” (ibid.: 121).

He then criticizes the assumption that he believes underlies it, found in Bodin, Rousseau and Hegel (so Popper claims) the *theory of unchecked sovereignty*. Popper then criticizes it on both empirical and logical grounds. Popper rejects all theories of sovereignty including those embodying his own principles of freedom, tolerance and democracy. Popper credits Plato with discovering the paradoxes of freedom and democracy. What if the people freely choose to transfer power to a dictator or tyrant? Popper, in one of his typically long footnotes (ibid.: 265, fn. 4), adds the second, third and fourth paradoxes. The fourth is even more relevant in today’s allegedly post-modern world. This is because in

the early twentieth century, the main threat to an open society is arguably neither modern secular authoritarian ideologies (socialism, communism) nor post-modern secular authoritarian ideologies (fascism, national socialism) but a very pre-modern non-secular one.

The three paradoxes in his footnote are those of freedom, tolerance and democracy. We define them in order. The first is *freedom*. As Plato and numerous others (including the great contractarian theorists, Hobbes and Locke) have pointed out, too much freedom will lead from anarchy to tyranny. “It makes the bully free to enslave the meek” (ibid.: 265). It is important to emphasize that slavery can exist without a state to sanction and support it. It continues to exist today in countries where it is technically illegal but not adequately prevented.²

The second paradox is that of *tolerance*. This is the paradox most relevant to the early twenty-first century. Unlike many champions of multiculturalism, diversity and tolerance, Popper did not base his arguments on cultural relativism, which he tried to refute (unsuccessfully in his own opinion and mine – see Chapter 10). He never defended a self-contradictory omni-tolerant attitude. “Unlimited tolerance must lead to the disappearance of tolerance” (ibid.: 265). This means that unlimited tolerance by those who wish to preserve tolerance but without fighting for it, will lead to the triumph of the intolerant over the tolerant.³ Here Popper departed notably from J.S. Mill, while still defending his basic insight that argument should not be suppressed. However, if necessary, “we should consider incitement to intolerance and persecution as criminal, in the same way as we should consider incitement to murder, or kidnapping, or to the revival of the slave trade, as criminal” (ibid.: 265).

The third paradox is that of *democracy*. Just as principles of unrestricted freedom and tolerance lead to paradoxes, so does unrestricted, or “blank check” democracy (BCD). This is relevant to certain criticisms made against Hayek for his alleged anti-democratic, elitist, views. What BCD means, is the view best captured in the populist slogan from Chapter 2: “Vox Populi, Vox Dei”. If the voice of the people is the voice of God then it must be infallible by definition and so correct no matter what. If the people vote in someone like Hitler, the Ayatollahs, or Attila the Hun, then they should rule even if they have promised to eliminate democracy and build a totalitarian or a mildly authoritarian society.

In volume 2, Chapters 13 to 17, Popper discusses what he calls Marx’s method, under which are included discussions of sociological determinism, the autonomy of sociology, economic historicism, classes, and the “system”. Chapters 18 to 21 are entitled “Marx’s Prophecy” and Chapter 22 is “Marx’s Ethics”, which Popper labelled “The moral theory of historicism”. Chapters 23 to 25 cover diverse topics such as the sociology of knowledge, the revolt against reason, and “does history have any meaning”? This is his link showing how certain philosophies and ideologies move from metaphysics and methodology to meta-ethics and morality. Since this is mainly what I label the Popper–Hayek theory of democracy, discussion of its major ideas will be postponed until Chapter 6 except for the final three: “The Aftermath” and Popper’s conclusion, which deals with post-Marxist issues. The reason for this focus is not merely the

desire to avoid scholastic debates about Marxist exegesis but because the focus of this chapter is on meta-theory and normative political theory in Popper and Hayek. Popper's fact/standard distinction argued in Chapter 5 comes back to haunt him in Chapters 22–25 where he resorts to embarrassingly emotive and rhetorical language of the kind he eschews and despises when it occurs elsewhere.

The best example of this is the chapter "The Defense of Rationalism",⁴ that typically combines very strong logical arguments with very blatant non sequiturs. Popper rejects the principle of sufficient reason (PSR) do not "accept anything that cannot be defended by means of argument or experience" (ibid.: 34) but also more dubiously rejects "the weaker demand that we should start with a very small set of assumptions" (ibid.: 34). He does not say that this was Euclid's method and was endorsed by none other than Einstein, neither of which of course would justify it. Popper's argument is not as strong as it is with the sufficient reason principle since all he says is that it rests "upon the truly colossal assumption that it is possible to start ... with only a few assumptions, and still to obtain results that are worth while" (ibid.: 35). Not only is this precisely what Euclid did (or tried to do), it is also arguably what Newton and Einstein did as well. Finally, it is what Popper himself argued for in LSD!⁵ Popper next concedes that the rationalist position is in effect "a leap of faith" or "reasons that reason knows not of". Now, while Popper does not use either Kierkegaard or Pascal's language, the result is the same, since he says, "we may describe it as an irrational faith in reason" (ibid.: 35). He presents his own view as an alternative to both irrationalism and uncritical rationalism. He uses for the first time "critical rationalism" to describe his view. While he admits that, it is a view which cannot be proven (without re-opening the path to Fries' trilemma and the infinite regress problem), he does try to provide arguments, but these are among the most incoherent ever offered by him. He claims that rationalism is connected with the belief in the unity of human kind and thus with egalitarianism in the purely political sense. Therefore, the choice of rationalism and irrationalism is not just a theoretical (or meta-theoretical perhaps) choice but a moral choice. However, these are not decided by argument either. As he argued in Chapter 5, "arguments cannot *determine* such a fundamental moral decision" (ibid.: 36). They can be helped, nonetheless, by an imaginative and rational analysis of the consequences of such decisions.

Popper draws an analogy here with his own philosophy of science, especially with the theory of testability, as R.M. Hare was later to do (in FAR). The main difference, also emphasized by Hare, is that in science the:

decision depends upon the results of experiments. If these confirm the theory, we may accept it until we find a better one. If they contradict the theory, we reject it. However, in the case of a moral theory, we can only confront its consequences with our conscience. And while the verdict of experiments does not depend on ourselves, the verdict of our conscience does.

(ibid.: 38)

A passage such as this might convince an English speaking reader who knew nothing about LSD, but who did know the reputation of the Vienna Circle, or had read A.J. Ayer that Popper was also a positivist. That opinion of hers would be further confirmed by his later comment that “it is impossible to prove the rightness of any ethical principle, or even to argue in its favour in just the same manner in which *we argue in favor of a scientific statement*” (ibid.: 43, author’s emphasis).

Despite these alleged differences: “reason, supported by imagination, enables us to understand that men who are far away, whom we shall never see are like ourselves” (ibid.: 45). So even though “A direct emotional attitude towards the abstract whole of mankind seems to me to be hardly possible” (ibid.: 45) we can still adopt an attitude of willingness to help. He also claims that rationalism “implies the recognition of the claim to tolerance, at least of all those who are not intolerant themselves” (ibid.: 45). While ethically commendable, meta-ethically this is an incoherent claim, given his fact/standard dichotomy.

The Road to Serfdom

Any attempt to summarize Hayek’s best-known (and notorious) book is bound to be superficial and misleading. Therefore, it may be best to begin with what it is *not*. It is not a historicist prediction that we are inevitably headed towards an authoritarian or totalitarian dictatorship. It is neither a conservative nor a libertarian manifesto. Traditional conservatives and radical libertarians (Michael Oakeshote and Ayn Rand), as well as most left-wingers, had and have good reasons to be dissatisfied with it (assuming that they have good reasons for what they believe – a point not being conceded here). It is not a diatribe against the welfare state per se but it certainly is opposed to many of the trends associated with its development. It is not a defence of laissez-faire, a term Hayek eschews. It is not a right-wing tract and very definitely not a precursor of the “religious right”. It is not a “slippery slope” argument in the usual sense of that over-used term. It is a “slippery slope” argument in the *logical* sense, that is, in arguing that policies favoured by most “progressives” either logically entail, or at least do not rule out, more authoritarian or even totalitarian measures that many, but definitely not all, of them profess to eschew.

Hayek admitted later that some of his critics had a valid point in arguing that, while he is clear about what he is against, it is not as clear about what he favours. He was at least partly incorrect in making this concession, a rather bold assertion, but authors are not always the best commentators on what they have written. (Jeremy Shearmur makes a similar claim about Hayek). It did however result in his writing COL and later books such as LLL and TFC.

At the simultaneous risks of both oversimplification and of sins of omission, I will propose ten theses that adequately summarize the main gist of RTS. The first is not very risky since Hayek himself says it is the central argument of the book in his introduction to the 1956 edition (Hayek 2007: 39), first enunciated in *Freedom and the Economic System*, that economic freedom is inseparable from

a free society so that destroying or undermining it will destroy or undermine a free society. The second and third are connected, relating collectivism and communism and then fascism and communism. The second argues that, while communism is a proper subset of socialism, both fascism and communism are proper subsets of collectivism. The significance of this comes out in the next several points. The first, under point three, concerns the similarities of fascism and communism. While seen at that time and ever since as polar opposites (as discussed in Chapter 2), in Hayek they are related differently. They are related as mirror images are, and have a common source. The mirror image metaphor may be particularly appropriate since in a mirror left is right and right is left! The common source of both is anti-liberalism, which in its traditional meaning logically, semantically entails anti-capitalism, in the specific sense of anti-free market economics.

The fourth and fifth points express Hayek's "moderate" claims about democracy and the welfare state. He rejects elitist-cum-authoritarian opposition to democracy as well as libertarian opposition to state welfare, while eschewing BCD and government monopolies of welfare services. Moderate redistribution for welfare purposes only, not for social justice, is legitimate as long as it is done *outside the market mechanism* so that the price mechanism inside the market is sacrosanct.

Points six and seven also go together. In addition to the sacrosanct nature of the price mechanism, Hayek advocates that the rule of law should also be sacrosanct especially for government. The fundamental principle is that the laws are the same for everyone, *including the government*. This leads to point seven, his key arguments about the contentious issues of freedom and equality. "Liberty" as defined in traditional liberalism logically entails equality of liberty and therefore that the laws are the same for everybody. However, it also implies that liberty is incompatible with economic equality.

Point eight is that truth is deconstructed to mean whatever the authorities or the would-be future ruling classes define it as being. It is definitely not the truth of Aristotle, Kant, Tarski or Popper. His ninth point is why the worse get on top when anti-liberals get into power to try to create their anti-capitalist utopias. The basic problem, abundantly illustrated by welfare state bureaucracies as well as communist and socialist bureaucracies, involves the classic problem that even Lenin finally recognized; that of *idealistic ideologues versus bureaucrats and opportunists*.

Finally, point ten takes us back to comparison with Popper. As Popper did, Hayek rejected all arguments about the "inevitability of planning" (a view Popper attributed to Mannheim). He points out the embarrassing evidence for the socialist roots of Nazism. This point has been strengthened recently by George Watson's very provocative and interesting *The Lost Literature of Socialism*. While Watson may go too far in implicating the left, his point about the similarities of socialism and fascism, as well as the recent unholy alliance of Marx and Mohammed is rather disturbing. As Hayek points out, what the far right and far left have in common is opposition to liberalism in the old-fashioned sense.

Chapter 2 is entitled “The Great Utopia”, where he argued that socialism, in its beginnings, was frankly authoritarian (a point Popper is oblivious to in his discussion of Marx) so that “Where freedom was concerned, the founders of socialism made no bones about their intentions” (ibid.: 76). This included freedom of thought [St Simon and Comte and Marx as well who did not favour freedom of religion but freedom from religion]. On this issue, Hayek was much less naïve than Popper was about the original libertarian and humanitarian goals of socialism.

Since Theodore Burczak asserts rather cavalierly that Hayek is an enemy of democracy (Burczak 2006: 89), we should note what Hayek says about this in Chapter 2. He cites De Toqueville’s words: democracy and socialism have only one thing in common, the concept of “equality” but they differ crucially in what type: democracy entails “equality in liberty”, whereas socialism seeks “equality in restraint and servitude” (Hayek 2007: 77). Where Burczak is partly correct is that Hayek does make a fetish of democracy but who does other than populists? Both liberal democracy and social democracy have to limit democracy to make their policies effective and legitimate. It is strange that Burczak would repeat one of the worst arguments made by the worst critic of Hayek’s RTS, Herman Finer, since Burczak, unlike Finer, understands the general gist of Hayek’s argument.

Hayek could have argued that the economic democracy of the marketplace is vastly superior to the political democracy of the ballot box. It is very infrequently that people get to vote, once a year (the Swiss are the notable exception) in local elections, every three, four or five years in general elections in the USA and parliamentary regimes and roughly the same at provincial or state levels. It is every two years for senators in the US and never for senators in Canada, where they are appointed for life by the party in power. However, in the marketplace, as well as in the informal politics of both democracies and authoritarian regimes, *people vote every day with both their wallets and their feet*.

Hayek also objects to the semantic change of “freedom” to mean “power” or “wealth”, a forerunner of the contemporary appeal to “empowerment”. In conformity with what MacIntyre later argued (but without approving of it) Hayek asserted that in a planned society “the variety of ends must give way to uniformity” (ibid.: 78). This means the left-wing agenda is hardly a precursor of the modern obsession with “diversity”. Part of the motive for this (and many similar quotes from Hayek) is to corroborate my point that, while many proponents of the sacred trinity of “multiculturalism, diversity and tolerance” often speak as if they were its inventors or discoverers, it is found in the great tradition of the Austro-Hungarian cultural empire of 1867–1918. It was ironically an empire in decline politically but at its zenith culturally (see endnote 7, Chapter 3).

Another of Hayek’s most basic theses is the following: “democratic socialism, the great utopia of the last few generations is not only unachievable, but that to strive for it produces something so utterly different that few of those how now wish it would be prepared to accept the consequences” (ibid.: 82). He presents one of his first critiques of “social justice” and a link between the methods

needed for it and favours for “some racial elite, the Nordic men, or the members of a party or an aristocracy, the methods which we shall have to employ are those which could insure an egalitarian distribution” (ibid.: 84). He argued that liberal arguments against planning are not arguments for “laissez faire” or for the “status quo” (ibid.: 85). He explains the superiority of competition, “it is the only method by which our activities can be adjusted to each other without coercive or arbitrary intervention of authority” (ibid.: 86).

However, this does not entail that there should be no limits whatever. It entails instead no limits on *who can buy and sell*, contrary not only to policies under communism but also contrary to South African apartheid, Jim Crow laws, and national socialist restrictions. Hayek argues, “anybody should be free to produce, sell, and buy anything that may be produced and sold at all” (ibid.: 86). Yet, there may be reasonable restrictions on *what may be bought and sold* (poisonous substances and, one would assume today, materials that could be used by terrorists) as well as laws to limit working hours and sanitary laws. He adds that “Nor is the preservation of competition incompatible with an extensive system of social services” (ibid.: 87), adding the qualifier that this should not “make competition ineffective over wide fields” (ibid.: 87). Thus, he would approve of government provision of daycare but not of a government monopoly, and accept governments subsidizing healthcare but not a government monopoly prohibiting private care (ibid.: 77–8). Hayek points out that property rights have to be carefully defined and recognizes that there is such a phenomena as market failure. He says that the state has to prevent fraud and deception “including the exploitation of ignorance” (ibid.: 88). The key conflict for Hayek is between planning and competition (ibid.: 90).

Chapter 3 is entitled “Individualism versus Collectivism”. This topic is the one on which there appears to be the most agreement between Popper and Hayek. Yet, even here, there is a significant difference (mainly concerning which was original: the fascist or socialist model). We begin with a definition of the difference between individualism and collectivism. Individualism as an *ethical creed* holds to two fundamental theses: first, “only individuals have rights”; and second; “only individuals have duties”.⁶ By contrast, collectivism holds the opposite: “People have duties to some collective group, tribe, clan, nation, class, race, ethnic group, religion or society itself” and/or “groups can have rights which society is obligated to enforce and implement”. This is why “social justice” for Hayek is the paradigm case of such collectivism since it entails that society itself should be just and is responsible to create a more equal and therefore more just society. The two theses of individualism in turn rest upon a more fundamental claim that “only *persons* have duties”.

Popper relates individualism to collectivism in a somewhat different manner than Hayek does. He claims that the problem concerning individualism and collectivism “is closely related to that of equality and inequality”. He cites the *Oxford English Dictionary*, which says “individualism” can be employed either “(1) in opposition to collectivism, or (2) in opposition to altruism”. Popper uses the term solely in sense (1) and creates an interesting table:

- 1 *Individualism* is opposed to (1') *Collectivism*
- 2 *Egoism* is opposed to (2') *Altruism*.

(Popper 1945: 100)

Hayek starts Chapter 3 by discussing terminological issues, the meaning of socialism, and its relation to collectivism. While one meaning is “merely *the ideals* of social justice, greater equality, and security” (author’s emphasis), it can also include the *means* to realize this end and for many these can only be achieved by “abolition of private enterprise, of private ownership of the means of production, and the creation of a system of a ‘planned economy’” entailing that profit driven entrepreneurship “is replaced by a central planning body” (Hayek 2007: 83).

As Hayek points out, the methods used for socialist goals can also be used for favouring a racial elite or aristocracy. Therefore, he distinguishes collectivism as the genus and socialism as a species of it, or to use the terminology of modern mathematical logic: “Socialism is a proper subset of collectivism”. By doing this he can then argue that socialism has persuaded many liberals to accept the regimentation of economic life, and counters this with Adam Smith’s argument that such regimentation of economic life forces governments “to be oppressive and tyrannical” (ibid.: 84).

Hayek then makes a point repeated over and over again that he is not defending a “dogmatic laissez-faire attitude” (ibid.: 85). In 1926, J.M. Keynes wrote a tract entitled *The End of Laissez-Faire*. Hayek could have written an article with the same title but with a different emphasis and better arguments than Keynes presented. Hayek finishes this chapter with an interesting critique of some aspects of property laws including intellectual property rights (hereafter IPR). Such property rights mainly consist of patent and copyright law. These are topics very relevant and contentious today and it is rather interesting that, beginning here, Hayek was consistently critical of such rights, since they unnecessarily restrict competition. They are usually justified by a combination of utilitarian arguments (concerning incentives) and deontological grounds (they involve theft). In the end, they too may be subject to Nozick’s criticism of socialism that it “has to forbid capitalist acts between consenting adults” (Nozick 1974: 163). Laws protecting IPR also “forbid capitalist acts between consenting adults”.

Chapter 4 is very much in line with Popper’s arguments against historical inevitability, with the usual casual assumption that, once convinced of such “inevitability”, one would give up one’s “reactionary” opposition to its obvious desirability. Of course if its “obvious desirability” was that apparent there would be less need to harp on about its alleged inevitability. In Chapters 5 and 6, Hayek discusses planning in connection with both democracy and the rule of law, arguing essentially that it is incompatible with both. He uses not only logical and factual arguments but also interesting quotations from many representatives of (and opponents of) such policies and their candid admission that planning may need to overrule both the *vox populi* and *isonomia*.

Chapter 7 is about economic control and totalitarianism. Rather than plough

through every chapter, a policy not adopted with Popper either, it would be better to summarize the key arguments from the perspective of this book. The most enduring legacy of RTS is (perhaps) found in his introduction to the original and later edition(s). In the 1956 edition, Hayek says, “the central argument of this book is found in the article “Freedom and the Economic System”. There are other theses defended that are not yet refuted. There are five such claims.

- 1 There are striking parallels between socialism and communism on the one (left) hand and fascism and national socialism on the other (right) hand.
- 2 Planning is incompatible with democracy.
- 3 Planning is incompatible with the rule of law.
- 4 The growth of government in the 50 years from 1944 to 1994, despite the “conservative” 1950s, the “radicalism” of the 1960s, Thatcher, Reagan and the alleged “dismantling of the welfare state”, corroborates Hayek’s views.
- 5 The approval by numerous “fellow travellers” of many brutally authoritarian experiments especially by communists but not confined to them also corroborates Hayek’s view that sympathy with socialist goals reduces an intellectual’s commitment to liberal values and principles.

Hayek and the “Caldwell test”

Bruce Caldwell discusses four basic types of criticism to Hayek’s book. One concerns its historical accuracy (*ibid.*: 23) especially concerning German history. The second is one found in both Keynes’ enthusiastically positive response and in Alvin Hansen’s unenthusiastic negative response: that Hayek is “long on criticism but short on or vague concerning proposed alternatives” (*ibid.*: 23). Hansen asked how to draw the line between good and bad planning. Keynes made the same point about where one is to draw the line. A third complaint concerns his failure to address “market socialism” which seemed to be attractive at the time (and has been revived since the colossal failure of Soviet communism became apparent after 1989) since it claims to combine the efficiency of the market with the equity of the socialist ideal by combining social justice with democratic polity. Caldwell offers both pragmatic and theoretical arguments countering this superficial attack: the economics of information, incentive problems, public choice analysis, and finally Hayek’s own response to a critic: “until a real-world example of such an ‘ingenious scheme’ is forthcoming, it is best considered a theoretical construct of interest only to specialists ... that has no relevance to the world in which we ... live” (*ibid.*: 27–8).

Finally, the slippery slope argument regarding inevitability is blatant nonsense. Hayek did not argue that, “unless we change our ways we are headed down the road to serfdom” or to Nazi or Soviet-style totalitarianism. To be fair, some critics have recognized the absurdity of such a charge. This includes Paul Samuelson. After Hayek wrote a letter to Samuelson, he admitted his mistake and said he would correct it in future editions.⁷

The final point of relevance is the Caldwell test:

The proper way to evaluate Hayek's logical thesis is to ask, How many actually existing, real-world political systems have fully nationalized their means of production and preserved some measure of economic efficiency and freedom of choice over goods and occupations? Count them up. Then compare the number with those that nationalized their means of production and turned to extensive planning and control, and with it the curtailment of individual liberties. If one agrees that this is the right test, Hayek's position is fully vindicated: full socialism can only be put into practice by using methods of which most socialists would disapprove.

(ibid.: 31)

Two or three comments are appropriate here. Since it is sometimes important to point out the obvious, I will stipulate that the result of doing the first part of the test, counting them up, leads to the dismal result that the answer is zero. The number for the second test is very much higher but this of course could be a pure coincidence. However if anyone wants to refute the zero or null hypothesis in this case by pointing to successful socialist societies such as Sweden's welfare state (and a few others) Caldwell correctly counter-argues that "a welfare state is not socialism" (ibid.: 31).

It is also not a pure free market libertarian society either but, as Hayek put it very well,

I think that what is needed is a clear set of principles which enables us to distinguish between the legitimate fields of government activities and the illegitimate fields of government activities. You must cease to argue for and against government activity as such.

(ibid.: 20)

One can add to the Caldwell test, the excellent history of socialism by Joshua Muravchik *Heaven on Earth* which documents clearly the failure of socialism of all types starting with Babeuf's conspiracy of equals in 1796 to the ultimate collapse of even the Israeli kibbutzim founded by Zionists, one of whom was Muravchik's grandfather. He takes the story from Babeuf to Owen and then from Marx and Engels to Lenin, the British Labour party of Clement Atlee, the failure of African socialism and finally the Israeli kibbutzim, where even its major defenders recognized that it did not and could not solve the free-rider problem.

One can add the following points to the Caldwell test, concerning those countries that followed the opposite, Open Society policies. Back in 1986, before the fall of the Berlin Wall and the USSR, *The Economist* argued a very concise, clear and convincing case for the basic principles underlying the open society as follows: "The overwhelming weight of human experience is that societies organized around these principles [democracy, human rights and free markets] are

freer and wealthier” (*The Economist*, 8 March 1986: 14–15). In addition, it is of considerable interest (and relevance to my main theses) to emphasize that the critics of Popper and Hayek are not confined to the traditional left but include both neo-conservatives as well as libertarian critics.⁸

One such critic is a former pro-market philosopher highly sympathetic to both: John Gray. In his brilliant *The Road from Serfdom*, Robert Skidelsky discusses Hayek’s views on inflation and employment (Skidelsky 1996: 128–30). In a footnote he adds an excellent refutation of Gray’s critique of Hayek in 1990. In his critique of Hayek Gray claimed that “very extensive State intervention in the economy has nowhere resulted in the extinction of basic personal and political liberties” (1996: 129); Skidelsky’s devastating refutation is:

First of all, personal and political liberties were extinguished over a quarter of the world where central planning was dominant. Second, they have been severely curtailed for long periods in many countries in Latin America and sub-Saharan Africa run by dictators dedicated to central planning. Thirdly, for Hayek economic liberty, including guarantees of private property rights and free movement of capital and labour, was a central part of his concept of liberty, and they have been extensively interfered with the world over in the service of state aims. Finally ... Hayek was talking about the logics of two incompatible systems ... that ... could co-exist up to a point and for a time, but ... this coexistence was unstable.... On this point he has been vindicated.

(*ibid.*: 129)

The more difficult arguments to refute that could be made by the die-hard left are twofold: a legitimate *ad hominem* argument against Popper and a normative claim versus Hayek. The former would be the argument to the effect that just because Stalin, Mao, Tito, Ho Chi Minh, Fidel Castro, Pol Pot, Kim Il Sung and so on, inappropriately applied socialism does not imply that it will always fail. That this is not a purely hypothetical possibility, it is pertinent to stress that this is the gist of Alasdair MacIntyre’s argument in Part V against what he calls “capitalist apologists”.

This would in fact involve the fallacy of inductivism if Popper and Hayek use this argument so they are hoist to their own petard! The obvious rejoinder to this is that the same argument is available to the die-hard fascist, the traditionalist Catholic defender of medieval Catholicism, and the defender of *ancien régime* France. Just because Hitler and Mussolini got things wrong does not mean that genuine fascism would not work. In addition to allowing fascists and old-fashioned right-wingers, it permits Islamo-fundamentalists to make similar claims.⁹

The normative counter is more valid as Shearmur and other recognize. Since socialism survives solely as social justice today and Hayek rejects pure *laissez-faire* then market-wise interventionism to promote anti-poverty and similar egalitarian legislation is still possible. This argument is more likely from those

who are more sympathetic to Popper than they are to Hayek (Magee, Hacothen, Fuller and Raphael Sassowar) but Andrew Gamble, Burzacak and Chandran Kukathas use it very well. This problem will be postponed until Part V when I simultaneously fight a two-front war against both libertarian and egalitarian critics. I will concede one point however, made by O’Hear claiming that Popper’s view lends itself more to use by the left than Hayek’s (O’Hear in Feser 2007: 143–6) and can be interpreted as permitting more social democratic legislation. In the same book, Caldwell also asserts that Popper is “considerably to the left of Hayek” (Caldwell in Feser 2006: 29).

The last few chapters of OSE read like a very radical libertarian and egalitarian screed against elitism and authoritarianism, but it is very incoherent. Only later did Popper seem to see the tension between liberty and equality. The libertarian, neo-conservative and communitarian critiques will be examined in Part V. While some of Hayek’s critics that are more superficial dismissed RTS as propaganda for big business or the Chamber of Commerce, Caldwell points out that, while some businesspersons claim to be eager to get “government off our backs”, they are not as eager to give up government protection against foreign imports. When Hayek told an audience in Washington, DC, “you must know that one thing I stand for above all else is free trade throughout the world” (Hayek 2007: 20) he lost the sympathy of many in the audience. This is arguably genuine cosmopolitanism and the best way to abolish poverty, although of course neither the “left”, nor the “right” embrace this simple but easily defensible principle. The alternatives to cosmopolitanism are racism, nationalism and xenophobia. This logical consequence is particularly interesting since the Left likes to see itself as very cosmopolitan and anti-xenophobic. Only nasty right-wingers are xenophobic and racist. Yet labour unions and others with good left-wing credentials do not hesitate to defend restrictions on imports and immigration in order “to save jobs” and achieve other worthy goals.¹⁰

When asked about the kind of society he would envisage “that could evolve from the present starting point” (Hayek 1984: 148) Hayek replied:

I would still aim at completely eliminating all direct interference with the market – that all government services be clearly done outside the market, including all provision of a minimum floor for people who cannot make an adequate income in the market. All other services of a welfare state are more a matter of degree, I do object to the government having any monopoly.... As long as only the government can provide them, all right, but there should be a possibility of others trying to do so.

(*ibid.*: 148–9)

When questioned about healthcare Hayek responded that, while the British National Health Services provides beneficial services in the short run, “it impedes the progress of medical services” which depends on competition which is ruled out when there is any government monopoly. Here “as much as anywhere else, competition is an essential condition of progress” (*ibid.*: 149). By

the time of this interview, Hayek had extended this principle even to the provision of *money*. Both this latter very radical proposal, as well as his continually repeated defence of welfare if and only if provided outside the market, prove again (as if it should be necessary) that he was neither a libertarian nor a conservative much less a right-wing extremist, guru or ideologue. The editor of CCH, Edward Feser, in an otherwise excellent introduction, starts it by saying that “Hayek . . . was almost certainly the most consequential thinker of the mainstream political right in the twentieth century” (Feser 2006: 1). He does not explain why we should put Hayek in the same category as the old regime French right-wing, the twentieth-century Nazi and fascist camps or the contemporary religious right, whether Christian or Islamic fundamentalist.

Hayek’s argument here would rule out affirmative action, pay equity, employment equity, rent control laws, tariffs, subsidies and quotas, payments to farmers not to grow or produce certain commodities and government monopolies (but not necessarily government provision of services) in health, education, daycare and welfare as well as provision of currency. When queried by his interrogator concerning his complaints about “the development of democratic government into omnipotent government” and the possibility that this is “a process of social evolution” (Hayek 1984: 150), Hayek responded with a poorly worded factual claim and an argument of principle. He asserted that the emergence of “omnipotent government”, was not spontaneous development but “an inevitable consequence of *giving* a government unlimited powers” (ibid.: 154, my emphasis). He could have conceded instead that we have been *letting* government assume unlimited powers but a better explanation may be the numerous paradoxes of democracy, including Popper’s from OSE, and those associated with the Arrow theorem.

However, the point of principle is more relevant for now. Hayek agreed that not every product of evolution is beneficial and so the interrogator started to ask him about “rationalist intervention” to correct the mistakes of evolution and tried to anticipate Hayek’s response: “you would answer by saying . . . there are certain developments where the course of actual development had been dictated by” only to be interrupted by Hayek’s (possibly predictable) answer “the use of force to exclude others” (ibid.: 152). To the follow-up query, “whether that would be the only instance that warrants interference with spontaneous social changes?” he replied with both a semantic point: “what is meant by ‘interference?’” as well as by the more interesting principle: “my objection is that government assumes a monopoly and the right to exclude other possibilities” (ibid.: 152). The final question and answer in this chapter is introduced to qualify an earlier claim that one of the major differences between Popper and Hayek concerns optimism versus pessimism. This question was “are you optimistic about the future of freedom?” To this, Hayek replied “Yes. A qualified optimism. I am more optimistic than I was twenty years ago when nearly all the leaders of opinion wanted to move in the socialist direction” (ibid.: 154). By “socialist” Hayek clearly means “increased state control”, not doctrinaire socialism. It is also crucial to emphasize that Popper’s optimism was qualified also.

His optimism is historical not historicist.¹¹ This is due to his methodological views regarding social science to which we now turn. In Part III, we compare the development of the views of Popper and Hayek in the post-Second World War world on the proper methodology of social science, the role of negative thinking (especially regarding negative utility and negative rights), in their political theories and finally we examine the apparent differences over the possibility of a liberal utopia.

Part III

From epistemology and methodology to ethics and meta-ethics

Introduction

In Chapter 6 I look at the very complex relation between historicism, scientism and collectivism: this is the key link tying everything together: the bridge from philosophy of natural science to social science and from there to moral and political philosophy. The major topics are Popper's critique of historicism, the debate about methodological individualism, situational logic, unintended consequences, and the autonomy of sociology, Hayek's theory of complex phenomena and pattern prediction, and his critique of scientism (a term equivalent to "positivism" in Popper).

Finally, there is a link (according to Popper) between philosophy of natural science and his philosophy of social science and history (especially with his critique of historicism) which, in turn, is linked to his defense of the Open Society and critique of Platonism and Marxism in his political and moral philosophy. Similarly, Hayek sees a link between his theory of knowledge and his critique of socialism and defense of capitalism. Certainly the major "enemies" of the Open Society that they focus on, Plato, Marx and Comte, seem to base their critiques of democracy on epistemic elitism, for which there are plausible arguments. Since Plato has the best of all such arguments, I will briefly summarize them. At the end of Chapter 6 they can be contrasted with Hayek's argument in his 1974 Nobel Prize-winning lecture "The Pretense of Knowledge".

6 Historicism, scientism and collectivism

This chapter discusses one of the key links tying everything together. It provides the bridge from philosophy of *natural* science to social science and political philosophy. The major topics are Popper's critique of historicism, the meaning of key terms such as methodological individualism, situational logic, unintended consequences, and the autonomy of sociology. In addition, I contrast Hayek's theory of complex phenomena, pattern prediction and anti-scientism with Popper's anti-positivism and his "covering law" (or "deductive–nomological) model of explanation. We will examine the three -isms in the order listed in the title of the chapter. Before that, I shall outline the views held in common by Popper and Hayek. Only then will we look at their criticisms of rival views on social science methodology.

After beginning with their own views, we will move to Popper's contentious critique of historicism then to Hayek's critique of both historicism and scientism. Then we finish with collectivism in both its two major meanings: methodological and moral. Both Popper and Hayek see all three "isms" as perverse methodologies, which, in turn, have perverse ethical and political implications. This means that they advance perverse political agendas and undermine alternative moral and political viewpoints; particularly those that Popper and Hayek argue underlie the Open Society.

The PHD theory of social science methodology

Overall, there is remarkable agreement between Popper and Hayek on social science methodology, even if there is more agreement on what they disagree with. There is more agreement in this area of thought than there is on political philosophy, except for their common opposition to totalitarian and authoritarian ideologies. I will make use of three sources from Popper that are often overlooked in these discussions. The first is Popper's comments in his autobiography about "situational analysis" and marginal utility. The second is his 1967 paper: "The Rationality Principle", a very puzzling but interesting paper on situational logic. The third is Popper's 1950 William James lectures at Harvard (hereafter HUL). The final one is particularly interesting since it links natural science to social science and both to moral philosophy, including interesting comments on Jean-Paul Sartre's "Existentialism is a Humanism".

Before looking at the three sources, I outline the five points that constitute the heart of the PHD philosophy of social science. One of the main reasons for doing this is that it sometimes seems (especially to critics) that the common PHD approach to problems in politics and philosophy is primarily negative. They are willing to tell you what and who they do not like, and why (something critics do not always do) but not what positive alternative they favour. The next chapter partially concedes this point; since it is entitled “Accentuating the Negative”, but this chapter will emphasize the positive content of their philosophy.

This chapter’s emphasis is on what Popper and Hayek favour in social science methodology. While they have propounded not only strong, even devastating, criticisms of some isms they do not like, they have also propounded extremely plausible and (mostly) well-argued views about proper social science methodology. This includes one of the most dangerous of all minefields, that of explanation, prediction and control. It is in this area where the shared-views thesis just propounded may seem most vulnerable since Hayek’s emphases are strikingly different in this area. I argue that the similarities are equally striking and will offer an explanation why they approach the philosophy of science from such different perspectives, an explanation that will be more thoroughly vindicated in the chapters on evolutionary epistemology and ethics (10 and 11). We begin with the five fundamental principles of proper methodology they both advocate.

The deductive–nomological model of explanation (DN)

The first principle also called “the covering law model”, is perhaps a more elegant term than “deductive–nomological”, but is also less precise. According to this model of prediction and explanation, scientific explanation consists of deducing a prediction from universal laws and initial conditions, in a logically valid way, those satisfying the axioms, rules (and other relevant desiderata) of modern mathematical logic (as explained in my cursory summary of LSD in Chapter 5). Ideally, the prediction will be empirically testable. This is the one principle of the five, which students of both Popper and Hayek can plausibly argue that they differ on the most, so I shall deal with the most important issue growing out of the BDT: the scope and limits of our ability to predict and control either mother nature or “society”, i.e. our fellow citizens.

First, however, I will answer the question; “what is the most likely explanation of the basic difference in the approach of Popper and Hayek to philosophy of science?” My answer is that it is due to what they take to be the appropriate model of natural science for social scientists to follow. For Popper it is clearly physics, at least for Popper until 1960. For Hayek it is biology. This may seem to explain their differences on explanation and prediction. Popper himself emphasized the limits on prediction, in PH, HUL, CAR and in OK he developed what he called evolutionary epistemology.

The main point of PH is to reject historical determinism in any of its many

versions but especially that which involves laws of history that allow us to predict the future history of humanity. He has three major arguments concerning the limits of the predictability in history and social science. The first is the best known possibly because it is in the introduction, although the second is much more relevant, pertinent and valid. Popper repeats the same point in *CAR*, Chapter 16, regarding the distinction between prediction and prophecy. It involves if-then predictions which are therefore hypothetical not categorical. This distinction appears in the best of many recent books on democracy, that by Charles Tilley. In *CAR*, Popper argues, “scientific conditional predictions only ... apply to systems which can be described as well-isolated, stationary, and recurrent. These systems are very rare in nature and modern society is surely not one of them” (Popper 1963: 339). There are two components to this argument, which are closely related albeit not identical. This is why I say there are three arguments.

The first argument involves the impossibility of predicting future scientific discoveries. It is highly ingenious, based on the plausible assumption that future scientific discoveries are going to influence the future of humankind. However, these cannot be predicted for purely logical reasons! One cannot predict what great scientific discovery will be made in 2030 this year because that would mean someone would be making the discovery now not in 2030. The same applies to artistic creativity. Only if one can write the music of Mozart, the plays of Shakespeare, or the poetry of T.S. Eliot could you predict what they would have written beforehand. The same is true of predicting what Newton would publish in 1687, Dalton in 1802, Darwin in 1859, Maxwell in 1864 and Einstein in 1905.

The second problem is the prediction–prophecy distinction based on the logical principles that the DN model of prediction and explanation requires not just knowledge of the laws, but also of all of the relevant facts that constitute the initial conditions. Perfect knowledge of Newton’s laws of motion or gravity will not allow anyone to predict the movement of planets, apples, projectiles or cannon balls. This is the distinction between conditional prediction and unconditional prophecy. The third problem, related to this is that cited above about the three conditions necessary for making successful conditional predictions: the systems have to be “well-isolated, stationary, and recurrent”. In Popper’s *HUL*, we see a clear emphasis not only on the practical limits of control in society but also of nature as well, based largely on the just cited principle. Here is where it is possible to unite Popper and Hayek creatively by arguing that Popper could have presented an argument based on principles stronger than “These systems are very rare in nature and modern society is surely not one of them”. Why is modern society not such a system? The best answer is “this is primarily for Hayekian reasons. Our knowledge of what occurs before us means that humans almost never face exactly the same initial conditions”.

Methodological individualism (MI)

This is not an easy theory to define in one paragraph or even in less than a few pages. MI holds that the prime movers in history and in the social, economic and political arenas of the contemporary world are individual human beings, not *categorical or collective* entities such as groups, races, nations, classes and “society”. This must not be confused with the so-called atomistic conception of persons allegedly underlying liberal individualism a “thoroughly untraditional and rootless Kantian cosmopolitan citizen of OS” (O’Hear in Feser 2006: 146).

It is easier to deny this apparent corollary than it is to explain why it is not a valid inference. It relates to the egregious error made by Popper’s successor at LSE, John Watkins, who, one cannot help suspecting, should have known better. Perhaps Watkins, like O’Hear, either had not read Chapter 14 of OSE (or CAR, see Chapter 8 re: liberal utopia) or had not read it carefully enough (see his articles in O’Neill 1973: 143–84). Whatever the reason he confused MI with psychologism (to be explained under AS). The individuals of MI are neither Hobbes’ nor Rousseau’s individualists immune to societal influences. They are more like Burkean individuals thoroughly influenced by the traditions and institutions of their societies but not totally brainwashed, conditioned or socialized into uncritically accepting all of its norms and beliefs. Neither are they Platonic/Cartesian rationalists intent on somehow totally wiping the canvas clear to reconstruct knowledge and society from scratch. In Part V, this concept is of crucial significance when we examine Alasdair MacIntyre’s critique of liberal individualism, which largely rests on the assumption that liberal individualism necessarily presupposes an atomistic, rootless individual, rather than the one presupposed in the Austrian MI tradition. It has been dismissed as “social atomist truism”,¹ but the fact that is a truism does not make it irrelevant or merely trivial. For Popper institutions are just as real as individuals are even though there would be no institutions without individuals.

Situational logic (SL)

This topic requires special treatment since it involves deconstructing one of Popper’s most difficult arguments, one that seems to subvert several principles in LSD, and other writings. If combined, however, with the points from MI concerning institutions and traditions, it is defensible. In addition, one needs to understand the reasons why we need different types of explanations even if we adopt his purely deductivist model as explained in DN. The main point is that explanation of *individual* behaviour must assume that the individual behaves appropriately given her knowledge, values, beliefs, attitudes, and other factors in the *situation* in which she finds herself. This situation however also requires explanation and the purely psychological factors just cited in defining the appropriateness of her response cannot help explain this key factor. This leads to point four.

The autonomy of sociology (AS)

This is based on the rejection of psychologism in a very different sense than the term has in either Fries' trilemma or Husserl's original philosophy of mathematics and logic (repudiated after Frege's criticism). It is based on the argument (in OSE, Chapter 14) that sociological explanations cannot be reduced to psychological categories based on human nature or psychology. Popper attributes this view to J.S. Mill, who felt (if Popper is correct) that we had to reduce all explanations of societal phenomena to psychological laws. Therefore, on the view of psychologism, wars are due to human aggression or desire for power or whatever relevant psychological category we can find. Economic depressions are due to human greed and the outcomes of political power struggles are explicable by the will to power or some other psychological factor. Popper argues on the contrary that, while actions of humans are due to the intentions, beliefs, values and psychological impulses of individuals and groups of individuals, the outcome of these combined acts are not solely explicable by the intentions, beliefs, values and psychological impulses of individuals and groups of individuals. A traffic jam is not the result of any individual willing it, although it is no doubt due to the combined desires of several individuals in a particular situation resulting in another situation no one wanted. This leads to the final key point, especially for Hayek.

Unintended consequences (UC)

As both Hayek and Popper recognize, the UC of human actions can be both desirable and undesirable. Recessions, depressions, inflation and unemployment are normally seen as undesirable and many other results of government policy and business decisions, and charitable actions, can lead to results that are the opposite of those intended or not intended at all. The classic positive example is Adam Smith's invisible hand, which leads purely self-interested economic actors, the buyer, the butcher, the baker and the brewer to contribute unintentionally to making society better off. J.S. Mill provides the classic negative example in *The Subjection of Women*, criticizing the role of women in allegedly altruistic activities, such as religious proselytism and charity (Mill 2006: 229).

These two examples are worth expanding on for several reasons. The most relevant is that they permit the critics of PHD to claim their methodology has perverse consequences. The first example shows that humans, motivated solely by self-interest, promote unintentionally the greater good for society. Therefore, it provides an excuse for selfishness and for claiming, "greed is good". The second is striking because, while most modern liberals and other "progressive" thinkers applaud Mill's eloquent defence of complete equality for women and his disapproval of religious proselytism, they will in general look askance at his disapproval of eleemosynary activities. This is one of several contentious examples of how altruism or good intentions can pave the road to hell. If the previous statement overstates the claim it can be modified to "good intentions

sometimes lead to acts or policies that either make things worse, or at least prevent better ways of achieving the worthy goal of a better world". Since we will thoroughly examine the debates about liberal individualism in Part V, I will say no more for now. The main point is to explain the overall theories of Popper and Hayek and to indicate how they apparently impinge on political and ethical issues.

Anthony O'Hear has an excellent summary of Popper's philosophy of social science:

Popper's social science is an attempt to avoid several extremes. It is individualistic without being psychologistic. It admits the autonomy of sociology, in saying that men are formed by traditions and institutions, but attempts to avoid holism by explaining events as the consequence of individual action. It attempts to unify the methods of natural science and social science and so avoid the incursion of the mystical . . . but admits that the agent's perception of his situation as an essential part of any explanation.

(O'Hear 1980: 162)

At this point, O'Hear, like Stokes, begins to question the Popperian unity of method thesis, suggesting that it begins to break down here and that his MI may not be completely anti-holistic. On this, he is no doubt just as correct as those who make similar comments about Hayek's methodological individualism. Both believe institutions are real and so is society, even if it is not a person. The free market is clearly real for Hayek as is group selection in evolution, so their views are not as dogmatically and radically individualistic as those of Prime Minister Thatcher.

The poverty of historicism: methodology and morality

What is "historicism"?

The term "historicism" could be exhibit number one for Popper's argument against essentialism. It has so many meanings, many inconsistent with the others, that it may seem to be meaningless, albeit for different reasons than the traditional logical positivist criterion. I cope with this problem by starting with Ian Hacking's definition of "historicism" in his chapter "Two Kinds of New Historicism" in his recent book *Historical Ontology*. Then I outline Popper's list of characteristics divided into his basic categories: pro-naturalistic and anti-naturalistic doctrines.

Hacking's definition of "historicism" possesses two advantages for this discussion. It shows how the "new" historicism is not that much different from that which Popper attacked and ties together the methodological points and the moral relativism subtext. Hacking defines it as

the theory that social and cultural phenomena are historically determined, and that each period in history has its own values that are not directly

applicable to other epochs. In philosophy that implies that philosophical issues find their place, importance, and definition in a specific cultural milieu.

(Hacking 2002: 53)

This clearly covers the same issues and controversies Popper dealt with in OSE and PH.

Popper's sub-division of historicism into pro-naturalistic and anti-naturalistic doctrines ties historicism into scientism and allows a comparison and contrast with the positions of Hayek and Popper. In this area, they seem to be in 100 per cent agreement. Both are strongly anti-historicist, Hayek's anti-scientism is mostly in harmony with Popper's anti-positivism and both are very individualistic and anti-collectivist. Historicism comes in a variety of types: historical inevitability with or without laws of history, a stadial theory of history approach combined with historical inevitability, the view that everything needs to be understood in historical perspective so that any ahistorical approach is inappropriate, and thus often with overtones of relativism, as in Hacking's definition above. Just as we should not judge other contemporary cultures and societies by our standards, so we should not judge societies in the past by our standards. Popper connects historicism with relativism in OSE, and with holism in PH, a term similar enough to Hayek's preferred term "collectivism".

The difference between naturalistic and anti-naturalistic doctrines of historicism is that the former favour what Hayek would call "scientism", the latter favour anti-scientism. As Popper explains them, they fit together more coherently than it might sound. We proceed in the order Popper followed in PH.

Anti-naturalistic doctrines

What Popper labels as the anti-naturalistic doctrines of historicism primarily involve the contention that many of the most fundamental methods and principles of natural science are either not appropriate or not possible in the social sciences and in the study of history. These include the methods of generalization (as in the laws of physics and chemistry), the use of experiment, quantitative methods and precise exact predictions. The study of human societies, whether such societies are contemporary (sociology, anthropology, economics) or existed in the past (history or the study of pre-historical societies) involve distinct phenomena which show a novelty and complexity that require a holistic approach and restricts prediction and explanation requiring inexact, qualitative and essentialist methods. The major areas where science and history differ concern the possibility of valid generalizations, the role of experiment, novelty, complexity, inexact prediction, holism, the role of quantitative methods, and essentialism versus nominalism. From this list of methods and concepts, we can reasonably expect from natural science, generalizations, and the use of experiment to test theories, exact predictions, nominalism and precise quantitative methods. However, history and the social sciences deal with novelty and complexity with

no possibility of experiment (see the next section on pro-naturalistic doctrines for its perfectly respectable scientific substitute) and so must apply qualitative, essentialist methods with inexact predictions.

Hayek advocates some significant items on this list. He argued for the major role of complexity and in favour of inexact prediction or “pattern prediction” rather than excessive reliance on quantitative methods. Hayek was not, however, against *mathematical methods*, which he ingeniously disassociates from quantitative methods, as we shall see in later in this chapter.

The three main points in Popper’s critique of anti-naturalism in social science concern, first, piecemeal instead of utopian engineering, second a criticism of Holism and third, the significance of the variability of experimental conditions. Popper raised a very crucial issue: “are generalizations confined to periods?” a question discussed and answered by Hayek (see section on scientism, pp. 96–9).

Pro-naturalistic doctrines

Under this heading, Popper pointed out that defenders of historicism could claim that history has the same observational basis as the oldest and one of the most respectable of “hard” sciences: astronomy. They can also argue that there is a possible social dynamic, parallel to the most respectable of all hard sciences, physics, in the discovery of historical laws. He also discussed the difference between prophecy and social engineering, the stadial theory of historical development and interpreting versus planning in social science. This section of course also suggests a strongly pro-scientific connection between social *science* and social *engineering*.

In his criticism of these pro-naturalistic doctrines, Popper makes three arguments that will be key foci of this chapter, the first is the distinction between prediction and prophecy, the second is situational logic in history, and the third is the institutional theory of progress.

Scientism

After RTS, Hayek never returned to technical economic issues. In the late 1940s, he wrote a very important book, IEO, which included his two key papers of 1937 and 1945, as well as the paper “The Intellectuals and Socialism” (discussed in Chapter 8). In the former, he distinguished between what he regarded as true individualism from false individualism. The latter paper was where he first adumbrated the idea of a liberal utopia just shortly after he helped found the Mount Perelin Society in 1947 (as perhaps the prime mover). The 1950s saw him turn his attention to completing his abuse of reason project. This is when he carefully defined his philosophy of social science indicating both what he was against (primarily scientism, objectivism, behaviourism, collectivism and historicism) as well as what methodology he favoured as the correct one. Only after doing this did he return to constructing his liberal utopia in COL, LLL and TFC.

Hayek's book *The Counter-Revolution of Science* is subtitled *Studies on the Abuse of Reason*. This is a very appropriate title since Hayek distinguished between true rationalism and false rationalism (as had Popper in OSE). There is a connection between this distinction and that just mentioned in connection with individualism.

While it may seem appropriate to define both now it is not necessary to define the term "individualism" since it will be the most important topic in Part V when I compare Hayek's defence of tradition with that of Alasdair MacIntyre. The latter uses it to reject liberal individualism. The distinction in IEO between true and false individualism is as relevant to the problem of political individualism as it is to methodological individualism. In order to avoid a premature discussion of the connection between the two, I put it aside for now.

The one question that will not be postponed until then concerns rationalism. This topic is also relevant to the Hayek–MacIntyre comparison in Part V and will re-appear then. It was introduced as a problem in Chapter 5. Since one cannot do everything at once and the first part of this book focuses almost completely on comparing Popper and Hayek (as the title implies the entire book is intended to be a comparison and contrast) it is more appropriate to focus on this now. After this, we can turn to the Hayek–MacIntyre problem defined in the introduction. The main justification for postponing one, but not the other, is that Hayek and MacIntyre mostly *agree on rationalism* but mostly *disagree on individualism*. The topic of rationalism is also the one in which all three of the philosophers discussed in Part V (Popper, Hayek and MacIntyre) express ideas that:

- 1 they almost completely agree on; and,
- 2 are the easiest to defend, insofar as they all emphasize the limits of reason.

It is on topics concerning what they infer from (2) that they diverge.

The main difference between the two types of rationalism is that true rationalism recognizes its limits. It recognizes that one of the most important principles *easily defended on grounds of pure logic alone*, that reason can prove is that "we cannot prove everything" and so the principle of sufficient reason is refuted logically. It is too often inferred from this that "we cannot prove anything". Hayek, like Popper and MacIntyre, rejects both extreme views about the role of reason.

Hayek's book is divided into three parts: the first on scientism and the study of society, the second on the counter-revolution of science, which he primarily associates with post-1789 France, and part 3 where the two main villains are Hegel and Comte.

For this chapter, part 1 is most relevant. In it, Hayek links together three methodological evils with scientism: objectivism, collectivism and historicism. Hayek defends as alternatives, individualism, the compositive method, and what he calls the "subjective" character of the data of social science. This is his most striking difference with Popper, a difference that is *prima facie* much more significant than their differences about prediction, politics, and physiological

explanations of human thoughts (as in *The Sensory Order* (hereafter TSO), which Popper criticizes fairly strongly). Yet there is a way to reconcile the two, albeit with some compromise somewhere. This will occupy our attention in Chapter 10 where we discuss Popper's theory of the three worlds. The third world of objective knowledge seems the direct opposite of what Hayek is emphasizing. Popperian ontology however also includes consciousness and Popper is just as much an enemy of behaviourism, a typically positivist, dogmatically empiricist, epistemology, as Hayek was. He believed in the reality of mind and consciousness and its interaction with the real world of matter and of his objective world three but that story can wait until Chapter 10.

Hayek is, as already noted, in Popper's corner when it comes to opposing both collectivism and historicism, but does he have the same conception of "subjectivism" and "historicism"? In Chapter 7, he says of the latter term that it is "used in two different and in some respects opposite and yet frequently confused senses" (Hayek 1952a: 64). This distinction corresponds well with Popper's but has a different emphasis. What he calls "the older view", contrasts (correctly according to Hayek) the task of the historian with that of the scientist and denied the possibility of a theoretical science of history, an anti-naturalistic doctrine in Popper. The latter view "affirms that history is the only road which can lead to a theoretical science of social phenomena" (ibid.: 64). The distinction between history and science is not, according to Hayek, due to "differences between the objects of the natural and social sciences" (ibid.: 65).

Hayek never uses, as Popper does, the difference between "pro-naturalistic or anti-naturalistic", or natural and social science. It is *complex phenomena* in general, whether natural or human that is the key difference. He tacitly (or maybe explicitly) uses Popper's model of explanation when he argues that, in the study of both nature and society, "we need generalizations in order to explain concrete and unique events the explanation of the particular phenomena presupposes the existence of general rules" (ibid.: 65). This is exactly what Popper's covering law model entails. Hayek also makes an argument about the theoretical character of observation terms that is strikingly similar to Popper's argument regarding facts and theories (ibid.: 68). As emphasized in Chapter 5, Popper argues in LSD that an apparently simple statement such as "this is a glass of water" is covertly theoretical.

Similarly, Hayek argues that all perceptions of reality, including the simplest sensations, involve classification of the object according to some property or properties (ibid.: 70). Hayek also develops what appears to be a theory of social construction and concedes that there is a kernel of truth in the thesis of the relativity of historical knowledge (ibid.: 70). This is one of many Hayekian arguments that may have misled Burczak to classify Hayek as post-modernist in his epistemology. He argued that the name "historical school" has been usurped by a mongrel view better described as "historicism" which is neither history nor theory. This leads to "holism", the thesis that "given holes" implies a scientific history and therefore "an empirical basis for a theory of history" which would also "establish *necessary* successions of definite 'stages' or 'phases', 'systems'

or ‘styles’, following each other in historical development” (ibid.: 73). The term “*necessary*” was emphasized in order to make a point Hayek should have appreciated. This is the point made by Desai (in Feser 2006: 68) that the stages of history approach, which Desai calls “stadial”, can be traced to the Scottish school, including Adam Smith himself. However, the Scottish school approach was not committed to the idea of necessary stages whether conceived of as materialist (Marx) or idealist (as in Comte).

As indicated earlier, Hayek agrees with Popper that theoretical explanation requires general rules or laws (ibid.: 75). He discusses the issue of whether the laws of supply and demand are universal laws, or merely specific to the “capitalist” era. Are prices in Ancient Egypt, 400 BCE, and the twelfth century CE the same or something different as historicism claims? Hayek argues for the former view. Later he asserts that “To recognize the existence of mind always implies that we add something to what we perceive with our senses” (ibid.: 77). This is a very Popperian, or rather Austrian, theme. Yet he also endorsed a belief, derived from von Mises, that we know the human mind on an a priori basis and thus can understand other humans because of this. He cites approvingly the dictum of Democritus “anthropos estin ho pantos idmen”. It is translated as “man is what is known to all” (ibid.: 79).

Another area in which it is easy to misunderstand Hayek’s views concern the role of mathematics in economics. Since this is the area in which postwar economics developed so powerfully it seems easy to argue that it has finally turned into a genuine science such as physics. Popper says of economics in PH that it is the only real social *science*, mainly for this reason but he said this well before the postwar exponential growth of mathematical economics.

When asked later “do you feel that math has an important role to play in economic theory?” Hayek produced the following ingenious reply with an equally important follow up point later. “Yes, but algebraic mathematics, not quantitative mathematics. Algebra and mathematics are a beautiful way of describing certain patterns, irrespective of magnitudes”. Hayek then cited a great mathematician who said, “The essence of math is the making of patterns” (Hayek 1984: 148). He was equally negative about game theory which he acknowledged was wonderful mathematics but wrongheaded about economics. When queried if there was a “Hayek’s problem” he responded: “The formation of complex orders. And recognition”. These phenomena cannot be adequately explained by aggregates as in modern macroeconomic theory or handled by probabilities where the sample is not large enough (Hayek 1984: 154).

Here is another significant difference between Hayek and Popper who expressed great enthusiasm for mathematical economics in PH. Since Popper specifically mentioned mathematical equations, he did not have Hayek’s algebraic patterns in mind. Another interesting difference is that Hayek could (and did) say, “My temperament was more like that of the British than that of the Americans” (ibid.: 100) whereas I suspect that Popper’s temperament was more American. The British until recently have never been obsessed with the ideologies of liberty and equality. They merely assumed uncritically certain attitudes

towards them, whereas Americans since 1776 and the French since, and even before, 1789 have built political parties and debates around their sacred, albeit simultaneously secular, trinitities of liberty, equality and fraternity or (the pursuit of) happiness.

Collectivism

Of the three isms discussed in this chapter, this one seems easiest to correlate with political and moral implications. Methodological individualism seems to correlate with political individualism while methodological collectivism seems to correlate with political collectivism, since it presupposes the reality of collectives.

For Popper, as for Hayek, theoretical science aims to provide an explanation that must make use of universal laws or rules that enable us to make predictions. Nevertheless, Hayek insists that the use of the type of predictions that gave physics and astronomy its great prestige with many intellectuals is not appropriate in social science (or any *natural science* of significant complexity) and neither is its objective methodology. In social science, we know the subjective data on which it rests better than we can know any objective data that ultimately rests on uncertain inferences. This is an argument that needs to be carefully analysed. This is where his earlier Misesian a priorism is combined with his later partly qualified acceptance of Popperian falsificationism. Hayek and Popper would agree that while “all predictions are equally falsifiable, some predictions are more (easily) falsifiable than others”.

Hayek’s position is both quasi-Cartesian and simultaneously anti-Cartesian. He is much too superficially critical of Descartes (as is Popper) but he does recognize the value of subjectivity. However what do we actually know of other minds from knowledge of our own minds? Hayek, like Popper, “solves” the (possibly) pseudo-problem of other minds by assuming a common-sense theory without, unlike Popper, explicitly saying this but without resorting to dubious semantic “arguments” such as those used by “analytic” philosophers from Ludwig Wittgenstein to Donald Davidson. Descartes started from his own subjectivity to build up knowledge of the natural world. Both von Mises and Hayek tried to do the same for the social world. However, they had to bring in very contentious assumptions to make this work, assumptions that are just as contentious as any ampliative inference that philosophers have tried to justify. Yet there was one advantage for the psychological inference. We do seem to know our own minds. We have thoughts, emotions, opinions, feelings, experiences, fears. However, the same unresolved issue remains: is the content of these psychic phenomena the same, or similar enough, for everyone else?

Popper on individualism and collectivism

We will begin with Popper’s autobiography in LLP where he explained the origins of his OSE and PH. It is directly linked to his emerging friendship with

Hayek who had asked him to do a paper in his seminar. It was intended, Popper says, to show the link between historicism and “both Marxism and fascism” (Popper in Schillp 1974: 90). While Popper and Hayek differed on the relation between collectivism and these two anti-democratic creeds, they agreed on the historicist connection to both as well on their strikingly similar threats to Open Society and its values. Popper says that both books grew out his theory of knowledge as found in LSD. This gives some substance to Stokes’ claim that political ideals inspired his epistemology, although anyone reading LSD would have a hard time discerning the author’s political views.

In this section of LLP, after a detour to discuss moral relativism (which will reappear in Chapters 9–11), Popper returns to difficult and contentious epistemological and methodological issues such as the nature of historical explanation. He mentions his much-argued covering law model and then zeros on what he thinks is the real key which was “the problem of rationality” (or the “rationality principle”) or the “zero method” or the “logic of the situation” (ibid.: 93). He then asserts that the much more important point was lost sight of, although he added this point both to PH and to OSE, Chapter 14. What he meant by the “zero method” was the attempt “to generalize the method of economic theory (*marginal utility theory*) so as to become applicable to the other theoretical social sciences” (ibid.: 93). He added that “this method consists of constructing a model of the social situation, including especially the institutional situation” (ibid.: 93). Popper had explained this in his 1967 paper “The Rationality Principle” but it has an anomalous status in Popper’s thought.

On the one hand, he defends a principle that is either not empirically testable or, if it is testable; then it is easily falsifiable, yet it plays a role in explanation of human behaviour. He begins by distinguishing two problems of explanation. The first is explaining singular events (Popper in Miller 1985: 357); the second is explaining types of events. The latter is best solved “with the help of constructing a model” (ibid.: 357). He relates this to Hayek’s idea of “explanation in principle” or pattern prediction. The model incorporates typical initial conditions and only one universal law, the rationality principle, which is, according to Popper, “almost empty” (ibid.: 359). It is the assumption that “persons or agents involved act adequately, or appropriately; that is to say, in accordance with the situation” (ibid.: 359). What does the situation include? According to Popper’s model, it includes the aims, and “relevant knowledge, especially of the possible means for realizing these aims” (ibid.: 359).

He emphasizes that this model is not identical with the “empirical or psychological assertion that man always, or in the main, or in most cases, acts rationally” (ibid.: 359). He then admits that “the rationality principle seems to me to be clearly false even in its weakest zero formulation” (ibid.: 360). This zero formulation is “Agents always act in a manner appropriate to the situation in which they find themselves” (ibid.: 361). How can an assumption admittedly false in any version be useful for explanatory purposes? Popper’s answer is that even though it is false, “it is as a rule sufficiently near to the truth” (ibid.: 362). His view is perhaps a vague forerunner of later bounded rationality and rational

expectations theories. It certainly incorporates Hayek's subjectivism since we have to see how individuals saw their situation "with their limited experience, their limited or overblown aims, their limited or over excited imaginations" (ibid.: 363). These emphases of Popper certainly refute the misinterpretation implied in PEM regarding its alleged "privileging of introspection" and assumption of purely rational economic actors.²

In his Harvard University lectures, Popper presented a set of ten lectures entitled "The Study of Nature and [of] Society".³ The two most interesting from the standpoint of the topic in this book may be numbers six and ten. The former was entitled "Do We Control Nature and Can We Control Society?" The latter was "The Ethics of Despair and the Ethics of Reason". The first five were on the topic of control of nature. In them, he presented many of the major themes of his earlier philosophy of science as found in LSD. The last five were on the philosophy of social science and social philosophy. Lecture nine was entitled "Social Science and Social Philosophy". His last lecture discussed Sartre's well-known and much discussed 1945 article "Existentialism is a Humanism". These lectures were never published and Popper says little about them in his LLP. He says much more about his lectures at Princeton, perhaps because there he had interesting encounters with Einstein and Bohr. There is a great deal of fascinating material here. This means that it is necessary to rely solely on notes from those lectures, which are found in the archives of the Hoover Institute.

Popper's answers to these questions imply severe restrictions on the human ability to control nature and are sceptical about the desirability of controlling society. Popper contrasts his own view with that of the existentialists under the striking title "The Ethics of Despair and the Ethics of Reason". I discuss this issue in an appendix so that, rather than exploring his critique of a radically libertarian psychology of human nature (Sartre), I can focus on the very opposite, a radically determinist view.

It is interesting that Harvard University was where B.F. Skinner, the dean of deterministic behaviourism taught for many years. Popper's lectures were given between Skinner's *Walden Two* (1948) and *Science and Human Behavior* (1953). Skinner is the epitome of a certain type of non-collectivist utopian version of the BDT. If we could only properly apply the correct scientific understanding of human behaviour to solving our problems, then we can solve the problems of war, hunger, crime and so on. Later in 1971 Skinner wrote *Beyond Freedom and Dignity*, arguing the typical positivist-cum-progressivist line from Comte and Marx onwards, that *Scientific Method Precludes Freedom*. His book earned him an appearance on the front page of *Time* magazine with the inscription roughly to the effect that B.F. Skinner warns us we cannot afford freedom.

In the period between the other two books of Skinner just mentioned, the fall of 1952, Hayek led an interesting seminar at the University of Chicago called "Scientific Method and the Study of Society". The introductory seminar is entitled "Why is Methodology Important" and his outline includes the problem of induction, the positivist tradition, the role of measurement in physical science, causal and statistical explanation, character of theories in biology and finally

behaviourism. His bibliography included Popper's LSD, as well as books by Carnap, Reichenbach, Eddington, Herman Weyl, Percy Bridgman, J.O. Wisdom, and J.B. Watson's (pre-Skinnerian) behaviourist manifesto of 1913, "Psychology as the Behaviorist Views it". It also has an awesomely thorough taxonomy of the sciences, both natural and human.

At the end of Chapter 21 of OSE, Popper says the following about a theory of the trade cycle:

Its main task would be to explain why the institution of the free market ... a very efficient instrument for equalizing supply and demand, does not suffice to prevent depressions, i.e. overproduction or under-consumption ... we should have to show that the buying and selling on the market produces, as one the unwanted social repercussions of our actions, the trade cycle.

(Popper 1945: 196)

While this seems contrary to the beneficial outcomes of market processes emphasized by Smith and Hayek, Popper's main point concerns methodology, not ideology. Popper argues that Marx was successful in analysing the capitalist economy of his day insofar as he followed the "*the methods of institutional analysis*", not that of historicism (ibid.: 197). This is an argument that seems to meet Stokes' objection that MI is an a priori methodology violating Popper's basic fallibilist methodology. Popper argues that even the theory of class struggle is institutional (ibid.: 197).

However, he then dogmatizes himself, and in a strikingly inconsistent manner. He argues that Marx, like the progressive bourgeoisie of his day (probably correctly in this case), believed in a law of progress. However, according to Popper, "it is necessary to recognize as one of the principles of any unprejudiced view of politics that everything is possible in human affairs" (ibid.: 197). This statement is possibly the easiest principle in OSE to criticize. However, that will await Chapter 8, when I show that Popper himself (as well as Hayek) uses the opposite principle to refute utopianism.

He finishes the chapter with a plausible counter-factual account of what might have happened that illustrates one of his main differences with Hayek. According to Popper what could have happened in the period 1864–1930 was the development of "a socialism of a non-collectivist type" (ibid.: 198). Instead, Marxist historicism prevented this since "The prophetic element in Marx's creed was dominant in the mind of his followers" (ibid.: 198). Since Popper has been criticized for his allegedly questionable interpretations of Marx (and Plato of course), it is worth noticing that he seems to be largely correct about what *Marxist disciples* thought.

The revisionist debate in European Marxism from 1898–1917 pitted the Marxist fundamentalists against the heretics who thought Marxist predictions had been falsified and so required a new theory (see Josh Muravchik, *Heaven On Earth*, Ch. xx). In OSE Chapter 22, Popper attributes two views to Marx about ethics both of which are at least plausible. "The principles of humanity

and decency were for him matters that needed no discussion, matters to be taken for granted" (ibid.: 199–200).

Nevertheless, he also attributes to Marx a historicist theory of ethics. This means adopting "the facts of the coming period as the standards of my morality", and while critical of it he does state as strong an argument in its favour as could be imagined, a better one than most moral futurists or moral modernists use. As Popper points out correctly this entails, or presupposes, the principle "Adopt the moral system of the future!" (ibid.: 205). Popper cites a Marxist of his day who praised Marx and Engels for basing socialist aspirations "on a rational law of social development, *instead of justifying them on moral grounds*" (ibid.: 205). The most cogent part of Popper's critique of historicist morality of any kind is "*In their theoretical structure there is no difference between moral conservatism, moral modernism, and moral futurism*" (ibid.: 206).

Two final points will finish this summary of historicist moral theory: Popper's critique of Marx's (alleged) acceptance of "sociological determinism", and his anti-Hayekian thesis that "Marx showed that a social system can as such be unjust": with the implication that "our responsibility extends to the system, to the institutions which we allow to persist" (ibid.: 211). The second is one on which Popper agrees with MacIntyre versus Hayek, but in Part V, I will defend Hayek against both Popper and MacIntyre. On the first point Hayek and Popper seem to agree.

Whether the first actually is Marx's view or not does not matter to the overall argument of this book, but is it crucial to the arguments of both Popper and Hayek, since they represent the opinions of many from that day to now including many who criticize the "naïve" views of Popper and Hayek about freedom of choice in the "so-called" Open Society. The first, sociological determinism, is the "All our opinions ... including our moral opinions depend upon society and its historical state. They are the products of society or of a certain class situation" (ibid.: 208). In the rest of Chapter 22, Popper criticizes this view strongly and in Chapter 23 rejects a corollary of it, the claim that even our allegedly scientifically justified knowledge claims are subject to this generalization.

Since this argument is so obviously similar to what is now argued by social constructionist, deconstructionist and post-modernist theories and incorporated in Richard Rorty's relativism it is remarkable how little has changed since then. Popper attributes these views to Max Scheler and Karl Mannheim, best described as "a theory of the social determination of scientific knowledge" (ibid.: 213). Since this is the problem now labelled as "the Enlightenment Project(s)" (usually singular but it really should be pluralized) and is discussed in Chapter 10 and it permeates Part V, I will leave discussion of the problems from Chapters 22 and 23 until then.

Instead, for now I restate the fundamental principle of Popperian criticism. It was originally made in the context of a criticism of Hegel's views that supposedly permit contradictions. This is objectionable according to Popper since, "criticism always consists in pointing out contradictions either within the theory to be criticized, or between it and some facts of experience" (ibid.: 215). Later in CAR, he adds another type of criticism involving a contradiction between two

theories, one of “which we have some reason to accept” (Popper 1963: 316). While it may seem obvious that this latter type raises difficulties with Popper’s rejection of the possibility of inductive confirmation of theories we will not detour there. Instead, I re-assert that *the main argument of this book is that the amended theory of rational criticism in CAR provides the only basis upon which to answer the sceptical, relativist, post-modernist challenges to the EPP, whether from Nietzsche, Rorty, MacIntyre or Derrida.*

However, Popper himself gives the anti-rationalist many of her best arguments, while simultaneously refuting some of her least valid arguments. In the latter category are all arguments about the subjective biases and interests of scientists. As Popper argues, scientific objectivity does not rest on *psychological* but on *institutional factors*. He claims, “all progress, scientific, technological, and political, ultimately depends” on the proper functioning of institutions that promote public control but without political suppression of any idea. It is part of the rational attitude that, “Any assumption can, in principle, be criticized. And that anybody may criticize constitutes scientific objectivity” (Popper 1945: 221). However, we can prove neither our scientific theories, nor our moral theories, nor the validity of rationalism. The former is due to the fact (argued in LSD) “that most scientific results [are] hypotheses ... statements for which the evidence is inconclusive” (ibid.: 221). The latter however involves an irrational decision in favour of reason. The latter requires us to distinguish what he first labelled “critical rationalism” here from uncritical or comprehensive rationalism, one based on the principles of sufficient reason.

He does try to link rationalism with egalitarianism here and, despite appearances, Popper has much in common with Hayek, albeit for somewhat different reasons. It ties in with the reason why his choice of Plato as the prime target in his book was inspired. It is not due to Plato’s (alleged) proto-fascism but because of the intellectual elitism he shares with many academics then and now but especially with the main nineteenth century targets of himself and Hayek (in *The Counter-Revolution of Science*), Marx and Comte. What Plato and Comte share in common is primarily intellectual elitism leading to authoritarian anti-liberal polity in striking contrast to Hayek’s *radically egalitarian emphasis on knowledge ordinary people* have access to that is inaccessible to the intellectual elites, as well as Popper’s emphasis on criticism being available to anyone. There are however problems with the latter argument, strikingly similar to those facing Putnam’s similar attempts to collapse the fact–value dichotomy *fallibilistically* without simultaneously sacrificing rational criticism of scientific, factual and moral knowledge claims. Both emphasize approaching rationality from the standpoint of cooperation, democracy and fallibilism, but fail to come to grips with how problematic all three are in these contexts.

Hayek’s *The Pretense of Knowledge*

In his 1974 Nobel Prize-winner speech, Hayek reiterated and simultaneously defended his views on scientism, pattern prediction, complex phenomena, the

limits of prediction and control, and the significance of what we do not know. He relates these epistemological errors with policy mistakes: “some of the gravest errors of recent economic policy are a direct consequence of this scientific error” (Hayek 1978: 23). These major errors include an exclusive reliance on mathematically measurable magnitudes. Since “correlation between aggregate demand and total employment ... may only be approximate, but ... is the *only* one on which we have quantitative data, it is ... the only causal connection that counts” (ibid.: 25). Hayek offers a different, more qualitative, explanation and argues that while we cannot provide quantitative evidence, it does rest “on facts of everyday experience” (ibid.: 25) and he argues that this explanation still fits in with Popper’s criterion of empirical testability.

This is an excellent example to illustrate how his pattern prediction differs radically from the more precise predictions of mathematical physics and mathematical macroeconomics. As Hayek concedes, while “we never know what the particular prices or wages are which would exist if the market were to bring about ... equilibrium” (ibid.: 25) pattern prediction is still empirical in Popper’s sense.

this account of the causes of unemployment is an empirical theory ... it might be proved false ... if, with a constant money supply, a general increase in wages did not lead to unemployment ... it is certainly not the kind of theory that which we could use to obtain specific numerical predictions concerning the relations of wages, or the distribution of labour.

(ibid.: 26)

Since it lacks the numerical precision of physics, astronomy and chemistry economics is more like biology, another science characterized by “phenomena of organized complexity” (ibid.: 26). This was an idea he found in Warren Weaver (ibid.: 26).

He goes on to explain what he means by “pattern predictions”. They are “predictions of some of the general attributes of the structure that will form themselves, but not containing specific statements about the individual elements of which the structure will be made up” (ibid.: 27). Hayek then explains why his views are not opposed to the use of mathematics in economics. In stressing the limits of numerical knowledge, Hayek emphasizes that he wants to avoid

the impression that I generally reject the mathematical method in economics ... the great advantage of the mathematical technique [is] is that it allows us to describe, by means of algebraic equations, the general character of a pattern even where we are ignorant of the numerical values which will determine its particular manifestation.

(ibid.: 27–8)

He also (like Popper in his HUL), rejects the Skinnerian view of those “who have hoped that our increasing power of prediction and control, generally

regarded as the characteristic result of scientific advance, applied to the processes of society, would soon enable us to mould society entirely to our liking” (ibid.: 30). Such an erroneous view can have disastrous consequences since if we act as if “we possess the knowledge and the power which enable us to shape the processes of society entirely to our liking, knowledge which in fact we do not possess, is likely to make us do much harm” (ibid.: 33). Hayek finishes with what he sees as a more appropriate metaphor concerning our application of knowledge to society. It is probably a more appropriate metaphor than Popper’s piecemeal engineer. If we want a better world, than we should use our knowledge “not to shape the results as a craftsman shapes his handiwork, but rather to cultivate a growth by providing the appropriate environment, in the manner in which the gardener does this for his plants” (ibid.: 34).

Popper and economic methodology

There have been numerous criticisms of Popper’s methodology of social science and most of them re-appear in *Popper and Economic Methodology* (hereafter PEM). Here is a typical problem, “the Newtonian method of explaining and predicting singular events by universal laws and initial conditions is hardly ever applicable in the theoretical social sciences” (Boylan and O’Gorman 2007: 27). This is a point Hayek could have made as well as many of Popper’s numerous critics. However, the words cited are those of Popper himself. It is his reason for insisting on the need for models in social science. Models by themselves are not sufficient. They require an “animating principle” (ibid.: 28). In physics, these animating principles are provided by the theories of Newton, Einstein and quantum theory. For the social sciences, it is Popper’s “rationality principle” (ibid.: 28).

As Boylan and O’Gorman point out, Popper qualifies his account of situational analysis in a very Aristotelian fashion. While SL requires “two indispensable elements ... models and the rationality principle” (ibid.: 28), it also is severely qualified by Popper’s use of what I termed in FDM “the Aristotelian proviso”. This is a principle with two versions, mentioned by MacIntyre also. The two versions argue that in many areas of intellectual investigation we should not expect the same precision we get in mathematics, and often we must use principles or generalizations that are not universally true but are “true for the most part”. Clearly, Hayek’s pattern predictions correspond to the first version and Popper’s Rationality principle corresponds to the second.

Popper is more impressed by the theory of perfect competition than Hayek is.

the theory of perfect competition ... may be developed as the situational logic of an idealised or over-simplified social situation – the situation of people acting within the institutional framework of a perfectly free market in which buyers and sellers are equally informed of the physical qualities of the goods that are bought and sold.

(ibid.: 28)

The best way to defend Popper's "zero method" is by treating it either as a default principle parallel to Newton's first law of motion or as one of Newton's rules of method. On this interpretation, Newton's first law describes a default position for bodies. They are in rest or uniform motion unless something acts to alter this situation. Newton's rules tell us to treat the properties of bodies we experiment with as typical of all bodies unless we have some reason to question this. Similarly, we assume people act rationally unless we have some reason to doubt this. Then we have another interesting problem. Why are they not acting appropriately? As Popper argues in *OK*, this is how intellectual progress occurs: we solve one problem and that solution leads to another. In the next chapter we move on to one of the most difficult of all philosophical problems: the philosophical conflict between utilitarian and deontological ethical theories.

Appendix I

Epistemic elitism and "The Pretense of Knowledge"

Both Hayek and Popper reject the claims of the social engineers, who claim to know enough about social processes to be able to shape society to move in a more desirable condition than its present state. There are some ostensibly strong arguments for this position. It seems a natural corollary of the BDT. After all if we can learn the laws of physics and chemistry and build a technology and engineering around them why not for society? There are several ordinary examples that reinforce this point. We after all trust the doctors and nurses who have expertise on diagnosis and prognosis, not on democratic choice. On a ship or airplane or train we rely on the captain, pilot and engineer, not the will of the people. If the average person cannot claim to know the causes of cancer, AIDs, malaria or other plagues and diseases, much less how to cure them (or better yet prevent them) how can they be trusted to know the causes of poverty, crime, war, terrorism, and the causes of economic growth that might help mitigate or eliminate such problems? Such an argument is rejected by both whether made in the name of rule by a philosopher-king, economic experts, Skinnerian conditioners assuming to know the laws of human behaviour or social engineers relying on knowledge of the laws or inevitable stages of development in history or economic laws.

Appendix II

I mention in the text the interesting set of lecture titles at Popper's 1950 Harvard University lectures especially lecture ten. In it he discusses Sartre's 1945 "Existentialism is a Humanism".

Popper's lecture is entitled "The Ethics of Reason versus the Ethics of Despair". The first paper I ever had published was on this and in it I made the same argument that Popper made. Unfortunately there are only notes surviving from it, not the complete text in it, but there are two points of interest that

emerge. I agree with one implication of the title, that Sartre's existential ethic does seem to be an ethic of despair. But, as I argue in Chapter 10, Popper's is only weakly rational.

The more interesting point concerns Popper's comment on Sartre's example of the young man who came to him with a dilemma during The Second World War. He wanted advice on whether he should stay at home to care for his mother, a woman under great stress during the Nazi occupation of France, or should he leave to join the resistance. Sartre argues that there was no definitive answer to this in any ethical system, including his own. Neither Kant nor the Christian nor the utilitarian can give an answer based on their universalizability, love thy neighbour or utilitarian principles. You simply choose and assume responsibility for your choice.

Popper's criticism of Sartre points out (as mine did) that he only discusses two possibilities. What if the man had also suggested defecting to the Nazis? Would Sartre had been indifferent about that or argued that such a choice would be wrong?

7 Accentuating the negative

Utility and rights

Ask not “What is the cause that the former days were better than these”? For thou dost not inquire diligently concerning this.

Eccl. 7:10 (King James Version)

The chapter will examine and compare the views of Hayek and Popper on negative rights and negative utility and begin the task of defending philosophically the idea that, for a cosmopolitan outlook, they are *the only rationally defensible types* of rights or utility. We start by examining the concepts of utility in philosophy, economics and politics. Then we will move to human rights including *positive* rights and their relation to questions of welfare, equity and “social” justice. We finish with the logic of rights and duties. The comparison of various contemporary ethical philosophies also helps to prepare the way for Part V.

Utility in philosophy, economics and politics

Just as epistemology in the last four centuries has divided over the role of experience and reason in confirming, justifying, proving or refuting, criticizing and disproving knowledge claims so ethical theory has had a similar division. Some philosophers have argued that duties are based on reason, others that they are based on experience and still others that it is some combination of both. There have been moral sceptics just as there have been epistemic sceptics. Since it is easy to show that an epistemology relying *solely* on reason and/or experience quickly collapses into scepticism, for elementary reasons of pure logic, many philosophers have posited a third source of knowledge to avoid this cul-de-sac. Such sources include common sense (Thomas Reid, G.E. Moore), intuition (Albert Einstein, Max Scheler), tradition (Edmund Burke), revelation (Thomas Aquinas), self-evident truths (Thomas Jefferson), categories of the mind that are necessary to even think (Immanuel Kant), the heart (Blaise Pascal), conscience (Bishop Butler), a moral sense (Adam Smith and David Hume) and, in the twentieth century, feelings and emotions (Stevenson and A.J. Ayer), as well as language (R.M. Hare, John Searle and Hilary Putnam).

The two prime examples of the empiricist and rationalist schools in ethics

and meta-ethics are utilitarianism and deontology. The latter is usually either a human rights theory and/or Kantian. J.S. Mill is a prime example of the former as is Jeremy Bentham. Hume is also a consistent empiricist in ethics as well as epistemology, but he preferred a moral sense theory, which was at least proto-utilitarian without the explicit formula “greatest happiness of the greatest number”. That formula has been revised over the past two centuries without its putative empirical basis changing much. While the meaning of “happiness” was originally “pleasure minus pain”, today it is “benefits minus costs”.

Bentham intended the original formula (he was not its originator) to serve as a criterion for law and ethics. This means that every individual should contribute to maximizing utility and the law should do the same in all of its injunctions, prohibitions and penalties. He intended utility to be a rigorous, quantitative concept even though it was ultimately subjective (see note 6 for citations from Bentham). Each individual determines his or her own preferences with the well-known corollary that “pushpin is as good as poetry” if the utilities are the same for any particular person. Of more interest is Bentham’s ambitious, but ultimately doomed, project of creating a felicific or hedonic calculus. This is a striking illustration or corroboration of the point made in Chapter 1 on the grand narrative of modernity concerning attempts to revolutionize the moral sciences on the Newtonian model of rigorous, quantitative, exact science.

Had Bentham been able to make this work, he would have justified his otherwise megalomaniacal claim to be the “Newton of the moral sciences”. It would also have justified the claim that “moral sciences” is not an oxymoron as now widely thought. Of his seven categories or vectors as he termed them (intensity, duration, certainty, propinquity, fecundity, purity and extent), some live on in the idea of expected utility. The main problem raised against the idea of such a calculus is that of the interpersonal comparisons of utility (ICU). This is the point raised by Lionel Robbins¹ who argues that we cannot find a common scale on which to measure and compare the utility of Jack with that of Jill. For the moment, the problem will only be raised, and not discussed until Chapter 12 where it plays an extremely prominent role. For now, we will focus on post-Benthamite theories of utility.

The first to be defined is that cited above: expected utility. It is captured in a simple formula $EU = (P \times U)$. In this equation, EU is “expected utility”, P is the “probability of an event, situation, or occurrence if one chooses act a” and U is “the utility that the individual or group will have”. Whatever the resolution of debates about ICU, the concept of expected utility certainly plays an intuitive role in decisions of grave importance such as launching nuclear weapons, having mandatory seatbelt laws, and fire insurance decisions. Since the likelihood of disastrous events can be very low while the expected disutility would be extremely high, the avoidance of such acts or non-actions (not buying fire insurance or not putting on seatbelts) make it very unwise to increase the risk of (or not decrease the risk of) the unlikely outcomes.

A better-known modern utilitarian theory is cost benefit analysis. It shares some of the same problems as Bentham’s original felicific calculus. It is frequently stereotyped as a view that tries to place a money value on everything,

including human life. It definitely can be misused, as it certainly was in notorious cases such as the Ford Pinto and the World Bank discussion under Larry Summers' supervision to export pollution to Africa in the 1990s.²

The two most plausible remaining types of utilitarianism are the Pareto and the Popper versions. Since the main point of introducing these theories at this point is meta-theoretical, and since Popper's negative utility will be one of the two major foci of this chapter, I postpone comparing and contrasting these theories in order to return to the original epistemology and ethics parallel. The point of the argument is the rather interesting congruence between the epistemology and ethics of most major philosophers prior to the twentieth century. The reason for the implicit suggestion of a change in the past century at the end of the previous sentence is that there does seem to be a disconnection between ethics and epistemology that has permeated modern moral philosophy. This seems to be primarily due to the perverse lingering influence of positivist assumptions on ethical theory, despite the fact that many who write on these topics do not accept, and often specifically reject, such assumptions. This includes Popper and Hayek and it, incidentally, explains the title of Chapter 9.

Kant's *reductio ad absurdum* approach to ethics

Kantian deontology rests on the claim that it is self-contradictory not to will certain maxims as universal principles. Both Popper and Hayek praise the philosophies of Hume and Kant. While there is reason to be critical of their failure to recognize (or at least mention and discuss) the incompatibility of their meta-theories, that will not be treated as a major problem here. There are other, more serious, problems for us to deal with. The most important may be the basic incompatibility of Kantian respect for persons, utilized by both Hayek and Popper with utilitarianism, whether positive or negative. The latter, if meant seriously, clearly entail that in some circumstances it is permissible to use persons as means to an end.³

Kant's theory seems to harmonize better with rights theories than utilitarianism does. For good reasons Bentham, from his point of view, dismissed rights as nonsense and he parodied imprescriptible rights as "nonsense on stilts".⁴ Although supportive of the American Revolution, he deplored its natural rights basis in the Declaration of Independence, which stated there were "self-evident truths", that all men are created equal and have inalienable rights, three of which were mentioned: life, liberty and the *pursuit* of happiness. The term "pursuit" is emphasized to illustrate the key difference between an alleged right to happiness and a right to pursue it freely in our own way and at our own risk.

The meaning of rights in the eighteenth century was almost exclusively negative. The above-cited rights from the 1776 American Revolution were all negative: they entail that we all have the right *not* to be killed, enslaved or forbidden to pursue our own happiness in our own way. The original basis for these claims is in John Locke, who espoused the three major rights of life, liberty and property, all of which eventually found their way into the later US constitution.

Locke is recognized as the major founder of modern empiricism who tried to justify his arguments on empirical grounds, as Bentham and Mill later did. His best-known successor among empiricist philosophers, David Hume, advocated an ethical empiricism of the moral sense type. Subjective experience is the basis of morality rather than the voice of reason. Hume has two distinct types of arguments for this conclusion: one concerns motivation, the other, justification. Reason is allegedly impotent in both areas.

In the twentieth century, there has been a strong push to supplement negative rights with positive rights for all humans. The United Nations' declaration of universal human rights is a prime example. Since one major point of this book is to re-integrate the normative and meta-theoretical in a coherent fashion and since this requires going back and forth between both, we will pose the major challenge to rights-claims. This challenge applies to both negative and positive rights. It consists of asking: what good reasons, if any, can be given for accepting any claim asserting, "All humans have rights X, Y, and Z?"

Different writers have given different reasons or none at all. The most ambitious and cogent of all such arguments is that of Alan Gewirth, an intricately complex, but logically rigorous *reductio ad absurdum*. Robert Nozick begins his preface with the following sentence: "Individuals have rights, and there are things no person or group may do to them (without violating their rights)" (Nozick 1974: ix). He then argues with a very rigorous logic from that premise as a basic axiom but never produced an argument to demonstrate the basic axiom. Michael Ignatieff's *The Rights Revolution* is an interesting, well-written summary of the development of the alleged revolution of rights in the twentieth century and its problems but is extremely weak on philosophical arguments, or arguments of any other kind for why we should believe there are such rights. He does not even worry about conflicting rights and the problems that they raise.⁵

Are rights claims then self-evident truths? Are *any truths* self-evident? Since the main point of this book involves the interconnection of norms and theories, and since this entails going back and forth between the normative and meta-theoretical, we will pose two fundamental questions, one for each type: (F1) "How can rights claims be rationally evaluated and/or justified?" (F2) "What are the consequences, logical and pragmatic of such claims?" The first of these is a variant of the question about justifying rights claims above and will be addressed in Parts IV and V. The second more normative and pragmatic question will be partly answered the final section of this chapter.

It may seem that the different bases for rights conflicts with the point about the ethics-epistemology connection. However, all my examples are twentieth-century examples. In the past defenders of rights have based them on metaphysical claims that they are God-given or founded on natural law and are hence natural rights or they are based on human nature. Defenders of the welfare state and its associated positive rights and/or duties have offered both a priori and empirical arguments. The latter are based on *empirical facts about human needs* for food, water, protection from the elements, natural disasters, famines and diseases as well as the need for health and education. This merely empirical

argument however leaves a logical gap between the facts and “we ought to do something to benefit the less well off” unlike an a priori theory of rights which logically implies duties. The a priori argument will be examined in Part V.

Accentuating the negative

What is striking in comparing Popper and Hayek on these issues is that Popper preferred a negative version of *utilitarianism* while Hayek preferred a negative view of *rights*. Popper, unlike Hayek, never developed a systematic coherent case for his position and dogmatically asserted that we should “Hurt no-one and help whom you can” (Popper 1994: 108, 189). By making this comparison of the two philosophers, I am also countering two claims in O’Hear’s otherwise excellent comparison and contrast of them. The first claim questioned is O’Hear’s comment regarding Hayek’s alleged failure to give reasons for his choice of moral principles. The second concerns negative utility but that will be postponed until later after we discuss it and other Popperian arguments related to negative utility and social engineering. I agree with O’Hear’s linking of negative utilitarianism and piecemeal social engineering and agree that, while O’Hear raises problems for negative utilitarianism, they are not necessarily insuperable.

What he asserts about Hayek is that, while Popper thought we could argue rationally about moral disputes, problems and principles (even though O’Hear thinks Popper’s views are misguided) he says “In his own later reflections on morality [particularly in *The Fatal Conceit...*], Hayek does not offer justifications, *even of a negative sort*, of moral principles” (O’Hear in Feser 2006: 145, author’s emphasis). The appropriate reaction to this is that O’Hear has not read LLL and the first part of TFC very carefully. As will be demonstrated with abundant evidence in Part V, both LLL and TFC are filled with negative arguments against the moral principles he disagrees with. The process started with CEP as argued in Chapter 4. O’Hear has a very accurate summary of the main gist of TFC, particularly regarding the need for traditional virtues. He then asserts “this is not because he is able to argue that some values are more rational (or less criticizable) than others” (*ibid.*: 145). That this is exactly Hayek’s strategy as will be demonstrated in Part V with abundant documentation.

My own major criticism of Popper and Hayek is that their commitment to the Hume–Weber position (see Part IV) kept them from seeing the implications of their own arguments, not on the normative level but on the meta-theoretical level. Both have powerful logical and empirical arguments against certain positions such as collectivist economics, paradoxical theories of sovereignty, social justice theories, and racist arguments based on IQ, but completely fail to see the incompatibility of these arguments with their meta-theories.

Negative utilitarianism

The basic principle behind negative utilitarianism is the claim (argued on a more logically rigorous basis in Chapters 12 to 15) that we have no duty to make

people happy or to add to their pleasure but we do have *imperfect duties to minimize their pain or suffering*. This has two (logically possible) corollaries. (C1) We should try to prevent avoidable pain and suffering, and; (C2) We should assist in reducing or mitigating pain and suffering. These plausible corollaries will re-appear later in two roles. The first role is as an improvement on Hayek's negative rights theory and the second is an answer to a plausible objection by Theodore Burczak. The main point of negative utility is that *humanitarianism*, one of Popper's frequently used terms in OSE, not *hedonism* is the fundamental moral imperative. As emphasized above he twice cited Schopenhaur's "Hurt no-one and help whom you can". While I agree that these two principles are excellent ethical guides it is still a problem that Popper never gave any reason ("*even of a negative sort*") why we should follow Schopenhaur's prescriptions instead of those given by Moses, Mohammad, Machiavelli, Marx, Mao and Mill. The last named returns us to the subject of utility and in his case he did attempt an empirical argument.

There are at least two fundamental problems with the empirical basis of utilitarianism as traditionally argued by its two most distinguished "godfathers" Bentham and J.S. Mill. The fundamental empirical generalization upon which it rests is "All humans always seek to avoid pain and pursue pleasure" implying then that they seek happiness. Happiness is essentially pleasure minus pain.

All utilitarians use an Aristotelian strategy in defining "the good". Aristotle argued that the good is "that at which all men aim". Since the good for which all humans aim is maximization of happiness or utility then the good of society as a whole is the maximization of its utility. Mill famously argued in a soundly empirical manner that, just as we know that something is visible because we can see it then something is desirable because we desire it (Denise *et al.* 1999: 169). This was one of G.E. Moore's prime examples later of the naturalistic fallacy (more on it in Chapter 11). If there is a fallacy in Mill's argument, it is more reasonable to claim that it is the classic fallacy of equivocation while the obvious fallacy in Bentham's case is that of composition.⁶

It no more follows from: "the good for each individual in society is to maximize utility" that therefore "the good of society it to maximize utility" than it follows from "each individual in society will not exist some time in the future" that "society will cease to exist sometime in the future".

Some advantages of the Pareto criterion and Popperian negative utility over traditional utility are that they solve the problems of utilitarian calculation of the utility of gang rape, animal rights, torture and sadism. In the case of negative utility, it can be argued that it introduces another type of asymmetry, between pleasure and pain, analogous to the asymmetry of verification and falsification. This factor avoids the problem just cited for traditional utilitarianism.

On a negative utility basis, certain pleasures and dissatisfactions never come into the utility scales to be weighed to see if they outweigh the pain and suffering caused by acting on them. Resentment, envy, sadism and displeasure at the religious views, sexual habits and weird dress of people never receive any weight in the moral scales of justice.

Similarly, the strength of the thief's desire for someone's property (one of Mill's examples in *On Liberty*) never receives any weight in the moral scales of justice. In his use of the example just cited, Mill momentarily forgot his utilitarian principles and stated very dogmatically that there is no parity of feeling in the case of the thief, the religious believer, and those whose property and opinions are potentially violated (Mill 2006: 88). However, he used no felicific calculus to justify this claim, and can hardly have meant "no moral parity" as Kant could have in such cases. That is because that claim could only be a deontological claim with no underlying hedonic and/or felicific calculus to support it. Since property rights are very significant for Hayek, as they were for Mill, it can be pointed out that, for many utilitarians from Hume to Hayek, the justification of such rights is based on rule rather than act utilitarianism. Therefore, while the poor may benefit in the short term from Robin Hood policies, in the long run, we are better off with well-protected property rights.

The contrast with Hayek's theory can be illustrated by reference to the Pareto-improvement criterion (hereafter PI). It is a criterion that avoids many of the most difficult problems with a traditional utilitarian point of view, especially the problem of interpersonal comparison of utility. Interestingly, it was not intended to be an ethical or political criterion although it arguably would serve as one. It holds that PI occurs "if and only if at least one person is better off and no one else is worse off". It has as a clear corollary that "if in a voluntary exchange between two or more persons or groups both or all sides are better off and no third party is worse than PI takes place". If there is no such thing as market failure, and if some other conditions are met, all market exchanges would exemplify the PI principle. That is not our main concern right now. It is meant to illustrate Hayek's idea of negative rights. The difference between positive and negative rights is very straightforward and only confused thinking on the side of its critics or some of them can obscure this.

It is possible to give the Pareto criterion a deontological deconstruction so to speak, as indicated in FDM. Instead of the proviso "no-one is worse off", we could substitute "no-one is wronged". This would then cover cases where someone was wronged without being harmed. The difference is at least as clear as that between Popper's negative utility and traditional hedonistic utility. Just as negative utility primarily tells us what not to do, so do negative rights and duties. The latter, negative duties, may be a better place to start. We will consider perhaps the best-known example in Western history, the Mosaic Decalogue.

The second half of the Decalogue contains a list of commandments expressed in almost exclusively negative terms: thou shalt not kill, do not commit adultery, and do not steal, lie and covet. While it is far from clear if these commands were supposed to entail or presuppose rights in the modern sense it is clear what the corresponding rights would be: the right not to be killed, the right not to have one's property violated, and so forth. Negative rights tell others what they should not and ought not to do to other people. They can be exercised and honoured by doing nothing. However, positive rights require people to do something to benefit other people.

The best way to illustrate the difference is by asking and then trying to answer the two questions: [R] “who has rights?” and [D] “who has the corresponding duties?” The first question, [R], can then be broken down into: [NR] “who has negative rights?” and [PR] “who has positive rights?” Then [D] can be similarly divided into [ND] “who has the corresponding duties for [NR]?” and [PD] “who has the corresponding duties for [PR]?” If the answer to [NR] is “all humans have negative rights” (leaving aside for now the contentious issue of animal rights) then the answer to the third question [ND] logically must have the answer “all persons have the corresponding duties” for reasons to be given in Chapter 10. However, if the answer to [PR] is similar then the answer to [PD] is much less clear with at least three possibilities. While the state is the favoured answer for many, there exists the possibility of arguing that it is charitable institutions, the rich, the family, or all of the above.

In his *Socialism after Hayek*, Burzcak engages in the standard critique of the negative/positive distinction regarding rights (Burzcak 2006: 90–1). The main point is that the state has to enforce either right, or they are not rights. However, all such critiques of negative rights completely fail to recognize the crucial distinction between the *enforcement and exercise* of rights. It is too often ignored that the point of having the protection of rights is twofold. The first is to protect citizens from fellow citizens and the second is to protect citizens from the government. Therefore, the purpose of government on any plausible theory of rights is to protect those rights without violating them. Burzcak does have a stronger point independently of this.

Before looking at it, I offer another critique of his weaker argument by using slavery as an example. This has a very strong *ad hominem* character since no one defends it today (many still practice it but few would defend it). However, slavery does provide positive benefits, as does a prison system, while violating negative rights. So what is, or was, wrong with slavery? It did provide positive rights while violating negative rights. The slave owner had to provide for the material well being of the slave but could of course physically harm, sell and kill the slave. After the US Civil War abolished slavery, violation of the ex-slaves rights still occurred. What was the fundamental crime of the whites against the liberated slaves? It was primarily violation of the Lockean rights, life liberty and property. The Ku Klux Klan not only lynched and beat blacks; they destroyed their property, farms, houses, churches and families. The KKK may have been good right-wingers but they were definitely not good conservatives when it came to property rights, law and order, or family values.

A person’s fellow citizens do not have to anything to respect her negative rights. Similarly, in order to respect the purely negative rights of the six billion plus persons in the world, any randomly selected person need do nothing. A couch potato sitting on her chair all evening can do this. However, to provide for positive rights someone has to do something. If people have the right to health-care, education and welfare a couch potato is of no help. This precisely is the point. It will not do to say that the state has to enforce these rights in both cases. Yes, that is true, but one would hope that even the most die-hard statist enthusiast

would see that it is much better if the state does not have to spend much time and effort in doing this because most citizens will do it voluntarily and not out of either the fear of Leviathan or the fear of God.

Therefore, the point that the state has to do something to protect negative rights, just as it must in order to promote and protect positive rights, is trivially true but irrelevant. First, this is just as true of traffic laws, family law and criminal law. However, it hardly follows from this truism that there is no difference between the duties created by these types of law. In addition, it is not obvious that it is the state that has to be the prime or only provider and protector of positive rights. It is very easy to argue that it is not and cannot be. If it were not for the existence of NGOs, the family, and both religious and secular eleemosynary organizations, the state would face an impossible burden in providing for the positive rights of most people, especially in the economically least developed societies.

Burzacak's apparently stronger point emerges (Burzacak 2006: 55), when he argues that on Hayek's view "Soviet starvation of kulaks during collectivization is a gross injustice but famines due to market induced income shifts would not be". Now aside from this being a purely *ad hominem* argument, he did not mention any of the numerous other *socialist inspired famines*, Mao's Great Leap Forward, Pol Pot's brutal regime, North Korea nor the numerous pre-capitalist, pre-industrial famines. In addition, he gives no examples of market-induced famines, not even Amartya Sen's well-known 1943 Indian famine or the Irish potato famine of the 1840s. Even if he had done so, his post-modernist epistemology prevents him from being able to ascribe them to the market rather than some other source or even from being able to argue that they really occurred rather than being social constructions. Finally, he fails to recognize that the evil of famine is not due to its inequality but to its extremely negative utility and/or its violation of negative rights. If everyone in a particular district dies in a famine that is very egalitarian but one can ask the question "is that situation better than a situation where no one dies but a small minority have plenty of food and the rest have barely enough but at least enough to survive?" This is not a rhetorical question, but serves as a *tu quoque* argument or as a legitimate *ad hominem* question. Do most egalitarians, such as Burzacak, realize the logic of their position? (See next section for an answer to this non-rhetorical question.)

What he overlooks, but cannot possibly be unaware of, is that Hayek has consistently said repeatedly from RTS to TFC that he does not object to state support *outside the market* for those unfortunate enough to be unable to participate in the capitalist rat-race he favours. This makes his position unlike his libertarian critics from Ayn Rand to Walter Block and more like that of Amartya Sen whose theories Burzacak uses as a counter to Hayek's rejection of social justice theories. Yet Burzacak does have a point in saying it is not deducible for any (set of) principles in his argument. Here is where Popper's negative utility can come to the rescue. The final response to Burzacak's argument regarding Hayek's support of welfare, if not the welfare state, can rest on Popper's negative utility and will do what Hayek's negative rights approach cannot do.

The logic of rights and duties

Both negative utility and negative rights are united in being opposed to traditional utilitarianism in both its hedonistic and eudaemonistic versions. We have no duties to make anyone happy, much less to maximize the overall utility either of society, or of the greatest number, or of any proper subset of society. It is also anti-utopian for reasons explained in the next chapter with one crucial qualification. Above all, it is anti-egalitarian except in a purely formal and minimal sense although this minimal sense goes beyond what the vast majority of pre-modern as well as the majority of modern societies have reached in this area.

There are three possible logical relations between two different concepts, theories, or statements. One is logical *independence*: p does not imply q and vice versa (q does not imply p). The second is *mutual implication* (or correlativity): p implies q and q implies p . The third is that p implies q but q does not imply p (*logical asymmetry*). In the case of our topic, it might seem that there are only two possible logical relations between rights and duties. One is the *correlativity* thesis that rights imply duties ($R \rightarrow D$) and vice versa ($D \rightarrow R$). Another is the *asymmetry* principle that, while $R \rightarrow D$, it is not the case that $D \rightarrow R$. This corresponds to the distinction due to Kant between perfect and imperfect duties. It is possible to introduce a third position, that the two are logically independent. However, this robs rights claims of any moral or logical force. What would the point of my claiming I have the right to life, liberty and the pursuit of happiness if no one has duties to respect these rights?

In addition, there are important corollaries of claims to equal rights, the most obvious of which is that equal rights entail equal duties. If A has equal rights with B to set p but does not have equal duties, then there must be at least one act, a , which either A or B is obligated to perform (or not perform if it is a negative duty) but not the other. Otherwise, there are not unequal duties. If A and B have equal rights to welfare and A has the duty to work but B does not, then they are not equal. Now while there could be some good *moral* reason why A has, and B does not have this duty (B may be disabled and unable to work) this point does not nullify the logical claim that they do not have equal rights.

Popper and Hayek both accentuate the negative. For Hayek the three great negatives are *peace, justice and liberty*. This is because “peace” means “no war”, “justice” means “no undeserved harms” while “liberty” means “no coercion that does not apply to everyone”. Certainly if all the people in today’s world could experience these three, it would be a better place. For Popper the three great negatives are *refutation, utility and freedom*. At the end of RTS, Hayek argues both for a federation of states to prevent war (unlike the League of Nations and the United Nations, which we eventually got) and argued against economic sovereignty. In his conclusion, he reiterated his main point: that we need to “to create conditions favorable to progress rather than to ‘plan progress’” (Hayek 1944: 237). This means a return to the *ideals* of nineteenth-century European liberalism rather than a return to the reality of the nineteenth century. He finished RTS by stating “The guiding principle that a policy of *freedom for*

the individual is the only truly progressive policy remains as true today as it was in the nineteenth century” (ibid.: 237, my emphasis).

Popper is also a believer in progress and his tacit definition of the term Popper is largely but not exclusively negative. When he argues for the historical reality of progress (CAR, Chapters 16 to 20) he uses both the negative utility principle and a long list of concrete examples (poverty, penal cruelty *inter alia*). The argument begins near the end of Chapter 16 when he asserts the following about liberty, equality and negative utility in two magnificent paragraphs that require complete citation and considerable comment.

I believe that philosophers should continue to discuss the proper aim of social policy in the light of the experience of the past fifty years. Instead of confining themselves to discussing the “nature” of ethics, of the greatest good, etc. they should think about such fundamental and difficult ethical and political questions as are raised by the fact that political freedom is impossible without some principle of equality before the law; that since absolute freedom is impossible, we must, with Kant, demand in its stead equality with respect to those limitation of freedom which are unavoidable consequences of social life and that on the other hand the pursuit of equality especially in its economic sense, much as it desirable in itself may become a threat to freedom.

(Popper 1963: 345)

He then adds that:

And similarly, they should consider the fact that the greatest happiness principle of the Utilitarians can easily be made an excuse for a benevolent dictatorship, and the proposal that we should replace it by a more modest and realistic principles – the principle that the fight against avoidable misery should be a recognized aim of public policy while the increase of happiness should be left in the main to private initiative.

(ibid.: 345)

He then repeats the argument (used in both OSE and PH) that this “modified Utilitarianism” leads “more easily to agreement on social reform”. Later he repeats essentially the same point in *Utopia and Violence* (Popper 1963: 361). In the next chapter *The History Of Our Times* he gives several concrete examples: poverty, unemployment and social insecurity, sickness and pain, penal cruelty, slavery and serfdom, religious and racial discrimination, lack of educational opportunities, rigid class differences and war. The only person of whom I am aware who was more optimistic than Popper was Julian Simon.⁷

Popper was definitely more optimistic than Hayek ever was although Hayek admitted late in life that he was “cautiously optimistic”. Despite, or in addition to, their differences over optimism they also differed over utopianism strangely enough. If Hacohen and O’Hear are correct one might expect that is would be

Popper who was utopian and Hayek anti-utopian as Chris Sciabbara argues.⁸ The next chapter explores this seemingly strange story.

One of Popper's main arguments for negative utility over utopianism is found in his contrast, introduced in Chapter 6, between utopian and piecemeal engineering yet some critical questions have been raised with this (as with Hayek's distinction between negative and positive rights). Can we really distinguish social engineering in this fashion? Anthony O'Hear raises this point in his comparison of Hayek and Popper in CCH. Skildesky had argued in the same volume (Feser 2006: 102f.) that Hayek's too-flexible position on state provision of social security opened up his position to the same slippery slope he was supposedly urging us to avoid. O'Hear brings the same charge against Hayek's rejection of the "extreme positions" (his term not mine) of laissez-faire and anarchism as well as "Popper's espousal of negative utilitarianism and piecemeal social engineering" (O'Hear in Feser 2006: 134–5). The former is "vulnerable to the criticism that his own position is contrary to appearances, consistent with quite a high degree of state control and interference" (ibid.: 135), and so is that of Popper.

O'Hear asserts that there is a close connection between "piecemeal social engineering" and "negative utilitarianism", a point I see no reason to contest. We are not trying to construct a utopian blueprint but to deal with concrete evils. However, O'Hear raises the difficult question whether there really is a significant difference between piecemeal *social engineering* and piecemeal *socialist engineering*. He acknowledges that Popper became more opposed to state activity in his later years but argues that there is nothing in OSE "which is inconsistent with the sort of social democracy of the socialist parties of Western Europe" (ibid.: 143). He then asserts that "one could argue that the open society itself might require a degree of state activity quite repellent to Hayek in order to bring disadvantaged and marginalized groups up to the level at which they could effectively participate in its deliberations and discussions" (ibid.: 143). This is exactly what Burczak argues against Hayek and it is similar to what Hacohen argues (Hacohen 2000) and what Stephen Fuller apparently wants to do: turn Popperian liberalism into a new left-wing manifesto. It is possibly for this reason that O'Hear (as Nozick once did), argues that what those who value liberty and distrust politicians and bureaucrats should consider rejecting the mantra of equal opportunity and speak merely of opportunity (ibid.: 136).⁹

I have only introduced the arguments of Popper and Hayek for the priority of negative thinking about rights and utility. There are legitimate problems concerning both. In the final part of this book, I discuss in detail the conflicting principles of the Open Society, as well as problems concerning conflicting principles especially regarding liberty and equality in the present condition of democracy in the world. I also discuss other interesting problems raised in three recent books about the contemporary world by Samuel Huntington, Thomas Friedman and Alasdair MacIntyre. For now, I complete my survey of the major theses in their political philosophies, by turning to their views on the possibility of a liberal utopia.

Appendix

In LaRue Tone Hosmer's textbook *The Ethics of Management* (Hosmer 2006: 52–4) he has an interesting outline of the World Bank position advocated by Larry Summers on exporting industrial waste to Africa. Summers served under the Clinton administration and was President of Harvard University where he ran into trouble for some of his comments about women in academia. In my opinion this is an argument not based on scientific or logical reasoning at all, but a harsh utilitarianism. If Jack and Jill differ on the desirability of sex tonight and Jack rapes her is this the same as Jack “wanting woodland at the expense of Jill's parking space?” Or if Jack wants her burned to death if she becomes his widow? If Summers and his defenders would have thought of these questions, it may have convinced them to re-think their arguments in favour of imposing such costs on innocent Africans.

8 Is “liberal utopia” an oxymoron?

In this chapter, we explore one apparent difference between Hayek and Popper. While Popper rejects utopian schemes of any kind, Hayek advocated the need for a liberal utopia, as an ideal to counter both standard left-wing utopian schemes and as an alternative to a merely conservative resistance to radical change. On this issue Popper seems to have a clear advantage, based mainly on the distinction between ideals and obligations. To assert that the society described in John Lennon’s *Imagine*, would be *better* than the present world we live in, does not logically imply that anyone *ought* to act to create such a society. However this is only the start of the argument, not the endpoint.

I begin by explaining the problem of utopianism as a general problem and as a problem in Hayekian scholarship. I then summarize several arguments made by Hayek both for and against utopia. I move next to the problems raised against utopianism by Popper’s anti-utopian and evolutionary liberalism. Then, I summarize the major arguments in Hayek’s COL. Finally, the chapter will conclude with a discussion of Jeremy Shearmur’s comments on Hayek’s political thought.

What is utopianism?

“Utopia”, etymologically, means “a good place” and has come to have connotations of a “perfect” society. How can anyone object to perfection? A perfect society, by definition, would clearly be better than what now exists unless one implausibly argues that we already live in such a society. Surely, a society without poverty, hunger, war, crime, disease, and extreme social stratification would be preferable to every existing society in today’s world, including those Popper and Hayek would recognize as open societies.

Popper and the Hayek of 1933 have three main arguments against such claims. The first is that, as Popper puts in OSE “We cannot make heaven on earth”. What he does not indicate is that this argument is enthymematic, that is it uses at least one tacit unstated premise, in this case Kant’s “ought implies can” principle. From it, we can deduce that we do not have an obligation to make heaven on earth. This leads however to the need for another argument, based on the distinction between ideals and obligations.

The second and third arguments against utopianism deal with the question

based on this distinction: “what, if anything, is wrong with utopianism as an ideal?” The response to this question is that, since it implies a utopian blueprint for perfection, rather than the elimination of specific evils, it will require more agreement than is possible with a minimal set of easily recognizable desirable desiderata for a better society. Both Popper and Hayek use this. The third argument is that it overlooks the unintended consequences of public policy. Even if our intention is to create heaven on earth, our preferred policies for achieving such goals may be counter-productive, but if anyone points this out they will be perceived as enemies of heaven and the people and therefore as friends of the devil and the forces of reaction, evil and injustice.

It is perhaps ironic that in CAR, the book Popper dedicated to Hayek, he denied that there could be a liberal utopia, whereas in *Studies in Philosophy Politics and Economics* (hereafter PPE), dedicated to Popper, Hayek expressed the need for a liberal utopian vision. The relevant chapter in the latter book initially appeared in 1949. Anyone who read Hayek’s RTS, LLL, TFC, and his 1933 “The Trend of Economic Thinking” would treat Hayek as a thoroughgoing anti-utopian.¹ What accounts for the change in Hayek’s thought? There are at least two interesting suggestions, one from Bruce Caldwell, the other from Jeremy Shearmur.

In his excellent comments on Hayek’s collected works *Socialism and War*, Caldwell says of the article “The Intellectuals and Socialism” that it was ten years “later he presented his first comprehensive statement of the principles underlying a liberal Utopia in *The Constitution of Liberty*” (Caldwell 1997: 47). A point I would want to add to this is that COL was also Hayek’s answer to the critics who said that RTS was merely negative.

Shearmur gives a more complicated analysis. He distinguishes four main building blocks in Hayek’s political thought. The first we examined in Chapter 4, the debate over the ECA (Shearmur in Feser 2006: 148). The second was emphasized in our discussion of the Nazi–communist parallels in RTS. The significance of this is that the former related to “the role of the price system in . . . any society like our own (ibid.: 148) whereas the second dealt with what occurred “if one attempted to introduce social planning into a market-based society” (ibid.: 149). The Nazis, like the communists, did introduce four- or five-year plans for economic growth and development. The third strand relates to the criticisms of RTS briefly mentioned in Chapter 5. Shearmur argues that the book does have a positive agenda for government but that Hayek did face a legitimate criticism from Keynes’ letter indicating that Hayek may be paving his own “road to serfdom” by making the kind of concessions he made. In fact, if Shearmur is correct it may explain the ten-year gap between his preaching the need for a liberal utopia (in 1949) and his finally producing COL in 1960. He argues that Hayek’s COL is his response to “the problem of just what kinds of government action are and are not problematic” (ibid.: 149). This preoccupied him between RTS and COL.

Shearmur makes a subsidiary point that there probably should be a separate fifth building block. This is his Kantian, rather than Anglo-American, under-

standing of the rule of law (ibid.: 149–50). This raises an interesting problem concerning the fourth building block: Hayek’s anti-rationalism. Kant’s theory of law is *prima facie* puritanically rational. However, the *Rechtsstaat* tradition, as recently defended by many, does harmonize with a “Republican theory of liberty” (ibid.: 150), which in turn presupposes traditional “Republican virtue”.² Since the contentious relationship between virtue, reason, and tradition will preoccupy us in Part V, we will place it on the backburner for now. In Part V, I will argue that, while anti-rationalism may be appropriate for traditional morality, it is cold-blooded Kantian rationality that is needed for the rule of law.

This chapter will focus mainly on three books from the 1960s, Popper’s CAR and Hayek’s COL and PPE. Popper’s CAR is a collection of articles covering everything from epistemology and cosmology to ethics and political philosophy, whereas Hayek’s COL is completely focused on the latter two categories. However, Chapters 16 to 20 in CAR discuss major issues in ethics and political philosophy beginning with a chapter that links up epistemological and methodological issues about prediction and prophecy (see Chapter 6 on historicism). Hayek’s PPE also covers everything from epistemology and cosmology to ethics and political philosophy, as the title suggests.

Finally, this chapter’s focus is more on Hayek than on Popper, since trying to summarize COL is an even more daunting task than summarizing RTS. Hayek wrote it in three sections. The first is on the value of freedom, the second is on freedom and the rule of law, and the third relates to freedom and the welfare state. However, we begin with a comment on the title of his appendix: “Why I Am Not a Conservative.”

The comment involves answering a rather non-Popperian question: why is arguing about the meaning of words more useful or necessary than Popper was willing to concede? It is primarily due to the distinction between “denotation” and “connotation”. As *The Webster Collegiate Dictionary* puts it: “the denotation of a word is its actual meaning; its connotation that which it suggests or implies in addition to its actual meaning.”³ While I agree with Popper that there are better things to do than argue about the former, arguing about the latter is worthwhile. This is why Popper rejected the label “positivist” for himself and why Hayek wrote, “Why I Am Not a Conservative”.⁴ It is the negative connotations of these terms that cause confusion.

It is especially inappropriate to label Hayek as a right-wing guru (or even as a mainstream right-wing political thinker as Ed Feser has) or an extreme right ideologist. A huge rhetorical advantage Hayek’s critics gain with such facile arguments is to put him in the same category as Hitler, Mussolini and today’s “religious right”. This tactic is not just inappropriate, but grossly unfair. Hayek, like Popper, grew up in the society that produced the most extreme and destructive version of right-wing ideology in human history. Like Popper (and unlike all too many other “intellectuals”) both of them repudiated and criticized fascism and Nazism. One of Hayek’s most devastating criticisms of socialism is that it comes from the same sources as that which produced these two ideologies. Of course, some terms are ambiguous when it comes to connotations,

most particularly for our purposes the term “liberalism”. Hayek objected to its appropriation by his ideological opposites. Whether the term today has positive or negative connotations mostly depends on the audience and the speaker.⁵ Both Popper and Hayek use the term for themselves.

The exposition of Hayek here offered will go a long way to refute some of Burczak’s less cogent critiques of Hayek, especially concerning his alleged rejection of democracy and the welfare state. In discussing “individual liberty under the law”, Hayek’s most conspicuous difference with anarchism and libertarianism, he unites Voltaire, Rousseau and Condorcet, one of the first male defenders of equal female rights (Hayek 1967: 160). Popper cites Voltaire much more favourably and speaks more favourably of Rousseau, at least in OSE (pp. 22–5).

Hayek argued that liberalism and democracy are compatible but not identical and that “the opposite of liberalism is totalitarianism, while the opposite of democracy is authoritarianism” (ibid.: 161), a very interesting comparison, one that give us more of a choice than Popper, who only juxtaposes democracy and tyranny. Hayek argues that there are two types of rationalism: the first is evolutionary, recognizing the limits of the powers of human reason; the second is “constructivist” rationalism [distinct from Popper’s critical rationalism]. What Hayek opposed was not democracy but what he calls “democratism” (what I label “blank check democracy”). This involves the wrong type of liberalism which, in contrast to the evolutionary type, demands “*unlimited* power of the majority” thus making it “essentially anti-liberal” (ibid.: 161).

Hayek is not a defender of either the status quo or the myth of the “good old days”. There is no nostalgia for “the world we have lost”, for either the *ancient régime* of France or the pre-industrial society of England. Rather, as he puts it, “in their efforts to make explicit the principles of an order already existing but only in an imperfect form ... Adam Smith and his followers developed the basic principles of liberalism in order to demonstrate the desirability of their general application” (ibid.: 162). He defines a free society as *nomocratic* rather than *telocratic* (much less *theocratic*). The former is law governed, whereas the second is purpose-governed (ibid.: 163).

Another crucial point is Hayek’s attempt to exhibit how the spontaneously generated market order makes cosmopolitanism possible. It is an order, which has grown beyond “the family, the horde, the clan, the tribe, principalities and even ... empire or nation state” (ibid.: 163). It is what Paul Seabright calls the Great Experiment in his *The Company of Strangers*. For a person who grew up in a society that was both multicultural and acutely intoxicated with a sense of its own superiority (the heyday of Western imperialism) Hayek is amazingly lacking in chauvinism of any kind: national, racial, even cultural and he was cosmopolitan in the best sense of that much abused and contested term. This is what he means by the “*Great or Open Society*”, terms he introduced on this page. The latter comes, of course, from Popper, via Bergson, the former from Graham Wallas and Walter Lippman.

An important point for any free market apologist is that “Liberalism is inseparable from the institution of private property” (ibid.: 165). This means an

emphasis on confining the coercive powers of government to the enforcement of uniform rules of just conduct. This principle does not preclude state provision of desirable goods and services that the market does not provide, or which it does not provide, in sufficient quantities. Hayek does not treat this as a right, a principle of justice, or as an entitlement. He does however call it “a *positive duty*” (ibid.: 165, my emphasis). This is why it is better to treat it as an “imperfect duty” rather than a “perfect duty”, as argued in Chapter 7. Hayek, like Popper, is a critic of legal positivism as much as he is of logical positivism. However, this creates problems for them since legal positivism (especially that of Hans Kelsen), rests on the meta-ethical positivism of Weber and Hume. We do not need to detour into this topic now, since it is the major issue in Part IV.

He says that the concept of a liberal order arose only in countries with traditions of natural law theory although he does not use that term. Rather he says of this tradition that “justice was conceived as something to be discovered by the efforts of judges or scholars and not as determined by the arbitrary will of any authority” (ibid.: 166). It was undermined, he claims plausibly, by legal positivism, and the dogmatic distortion of democratic doctrine. He does not comment on Hume’s empiricist critique of natural law theory. This is highly relevant to one of Burzcak’s more plausible comments on Hayek’s concept of the rule of law. This concerns the way law was interpreted in nineteenth-century America. This clearly ties in with Shearmur’s comment on the difference between Hayek’s German-based *Rechtsstaat* theory and the British common law tradition. Since the meaning of “the rule of law” will be one of the major problems in part V, as well as positivism in meta-ethics, it too can be postponed in order to concentrate on liberal utopianism.

In Chapter 5 we compared Popper’s five-point summary of “justice” with Hayek’s as found in PPE. Hayek discusses the four principles in detail. The first is that there is no test or criteria for “social justice”. One of Shearmur’s comments on Hayek’s critique of social justice is that he “expressed himself poorly and ... should be understood as claiming ... that the ideal of social justice – understood as people being rewarded on the basis of what they merit – cannot be realized within a commercial society” (Shearmur in Feser 2006: 153–4). Hayek does say what Shearmur correctly interprets him as meaning on more than one occasion. Here he is arguing that the apparently meaningful term “social justice” has no clear criterion for its use. This certainly sounds like an old-fashioned positivist criterion of meaning when expressed that way. Hayek’s main point is that there is no *principle* of social justice, that can be stated as opposed to vague, intuitive feelings that one group of people get paid too much and others too little in the marketplace.

His second point concerns the generally negative character of rules of justice, which, while often noticed, has “scarcely ever been thought through to its logical consequences” (Hayek, 1967: 167). This is an extremely important point for several reasons. Despite his fierce oppositions to “false, constructivist rationalism”, Hayek was as much a critical rationalist as Popper and in some ways more consistently rational. He believed strongly in the deductive development of

theories, whether explanatory or evaluative, in contrast to Popper who curiously downplayed the rationality of purely deductive reasoning (as in mathematical proofs or philosophical arguments) unless they were aimed at criticism and dis-proof.

Hayek's third principle concerns John Locke's triad of rights: "life liberty and property", which underlay Robert Nozick's libertarian philosophy at least in the 1970s. Hayek's fourth principle is an extension of Kant's test of universalizability. This is certainly a highly rationalist criterion of political thought, not in the "constructivist" sense but in the sense of "compossibility", as explained in Hillel Steiner's interesting argument.⁶ Hayek cites, by way of contrast to the good German Kant (Hayek 1967: 169), a bad German, Carl Schmitt, who was Hitler's "crown jurist", and who rejected such a principle.

As a follow up to his argument against social justice, he argues "not a single rule has been discovered which would allow us to determine what is in this sense just in a market order" (ibid.: 170). He then cites the schoolmen of the late medieval and early modern period who defined "just price" and "just wage" as "that price or wage which would form itself on a market in the absence of fraud, violence, and coercion" (ibid.: 170). Notice that, in accordance with the principles of critical (as opposed to "constructivist"), rationalism, this is a claim that can be refuted by producing such a rule. Hayek reiterates similar points made earlier and later that the attempt to achieve this indefinable and unrealizable goal is dangerous even though it cannot succeed. This is because trying to achieve the ideal of "social or distributive" justice leads "not only ... to the destruction of individual freedom, which some might not think too high a price, but it also proves on examination a mirage or an illusion which cannot be achieved in any circumstances" (ibid.: 171). This has not only important normative consequences but as will be demonstrated in Part IV, when we examine volume 2 of LLL (appropriately titled "The Mirage of Social Justice") it has equally crucial meta-theoretical implications.

Another important argument is that there is, in a market economy (ibid.: 172), no correlation between subjective merit or needs and rewards. There is no fairness of *results* but there can be and should be (according to the rule of law) *fairness of rules*. This entails that the rules are the same but not the results since the free market combines the results of games that involve both skill and chance. This is very Kantian. In his theory of justice, Kant argued that there could legitimately be vast differences in material rewards in a *Rechtsstaat* due to difference in "talent, his industry and his good fortune" (in Phelps 1973: 158). Hayek then makes (1967: 173) a very anti-conservative (in sense of defense of the status quo) and typically Hayekian argument that "relative position cannot give any one claim to maintain it".

He adds the interesting point that "An optimal policy ... may aim, and ought to aim, at increasing the chances of any member of society taken at random" (ibid: 173, my emphasis since this may meet Burzacak's objection based on Sen's capacities and Nussbaum). Such a principle however does not presuppose "perfect competition" (ibid.: 174). Rather it requires only that "no obstacles to

the entry into each trade and that the market functions adequately in spreading information”. Hayek adds that:

this modest and achievable goal has never yet been fully achieved *because at all times and everywhere governments have both restricted access to some occupations and tolerated persons and organizations deterring others from entering occupations when this would have been to the advantage of the latter.*

(ibid.: 174)

This has been emphasized by the author to show Hayek’s radical egalitarianism in contrast to the stereotypes of those on the left, especially those dedicated to statist solutions to problems when often the state is the problem and not the solution. Insofar as there has ever been a society close to the model described above or that of *laissez-faire*, it would be Great Britain in the nineteenth century and definitely not the USA in that period. (Alexander Hamilton and Henry Clay were not disciples of Smith and Ricardo in their economic policies).

The previous paragraph raises a serious problem for Hayek’s political philosophy from an opposite source. A libertarian or anarchist might ask, “If the state is the problem, why not abolish it, or at least eliminate the welfare functions of the state, and permit it only to enforce *negative* rights: prevention of harm and injury, fraud, deception, coercion and costs imposed on one without their consent?” Hayek sees no reason why an affluent society (to use one of his arch-opponent’s phrases) “which, thanks to the market, is as rich as modern society should not provide *outside the market* a minimum security for all who in the market fall below a certain standard” (ibid.: 175). As argued in Chapter 7, this principle is better supported by Popper’s negative utility (or Schopenhauer’s second principle) than by Hayek. While it is *consistent* with his principles, it is *not easily derivable* from any of these principles. The problem of simultaneously defending PHD against both egalitarian and libertarian objections is a major topic in Chapters 13 to 15.

For now, we return to Hayek’s claim that the only justice is individual, not social, justice. After he discusses difficult issues such as what to do about monopoly and competition and union restraint of competition, he provides the following conclusion to this chapter in which he summarizes some major points. He says that:

the basic principles of a liberal society may be summed up by saying that in such a society all coercive functions of government must be guided by the overruling prime importance of what I like to call the three great negatives: Peace, Justice and Liberty.

(ibid.: 177)

This entails that government coercion is confined to enforcing only prohibitions that “can be equally applied to all” and this same equality of laws applies to its

positive functions, that is, they can exact “under the same uniform rules ... a share of the costs of the ... non-coercive services it may decide to render to the citizens with the material and personal means thereby placed at its disposal” (ibid.: 177).

While this should satisfy some critics on the soft “left”, it will raise the hackles of the libertarian who would deny there are non-coercive services if they are based on exacting (or “extorting” as they may put it) money from citizens. Part of the difference between Hayek and his libertarian critics lies in a factual disagreement over the reality or existence of “market failure”. An opposite problem arises from his discussion of monopolies and what the government should do or not do to restore competition.

Hayek earlier defined “utopian” as “proposals for the improvement of undesirable effects of the existing system, based upon a complete disregard of those forces which actually enabled it to work” (Hayek in Bartley and Kresge 1991: 19). If we delete the second part of this definition, we can define a liberal/libertarian utopia as one that defines the key problem as “the improvement of undesirable effects of the existing system, which are primarily due to the *unintended consequences* of government policies, rather than being intrinsic to free market capitalism”.

Popper’s anti-utopian evolutionary liberalism

Popper laid out eight liberal theses in CAR.

- 1 “The state is a *necessary evil*: its powers are not to be multiplied beyond what is necessary”. This thesis is deliberately analogous to Occam’s razor. The emphasis is mine because both words need to be emphasized. The state is evil because it is essentially coercive and the state is necessary because without it, the bullies will have free reign.
- 2 The difference between democracy and tyranny is about how to remove the government. One is peaceful, the other violent.
- 3 “Democracy as such cannot confer any benefits upon the citizen ... only the citizens ... can act”. This is an excellent example of the relevance of methodological individualism to political philosophy.
- 4 “We are democrats, not because the majority is always right, but because democratic traditions are the least evil ones ... we know”.
- 5 “Institutions alone are never sufficient unless tempered by tradition”.
- 6 “A liberal utopia ... is an impossibility”. The missing words, crucial to understanding this, the most important thesis for this topic, will be discussed below.
- 7 “Liberalism is an evolutionary rather than a revolutionary creed (unless ... confronted by a tyrannical regime)”.
- 8 The final thesis concerns liberalism’s needs of a “moral framework”, which “incorporates the society’s traditional sense of justice or fairness, [and] its “moral sensitivity”.

(Popper 1963: 350–1)

The three that require most comment are one, four and six. Popper recognizes the paradox in “necessary evil”. We need the state not for Hobbsean reasons, original sin or to suppress innate selfishness, aggression and greed, but because we need a guarantee of legal rights. However, the state can misuse, abuse and use its powers inappropriately. It must somehow have sufficient power to protect our rights but not so much that it violates them. Popper could have made an even stronger argument here. In a Hobbsean state of nature there is no reason why there would not be slavery.

Popper begins this article with a discussion of two myths about “public opinion”. The first is *vox populi vox dei*; the second is that *truth is manifest* (ibid.: 347–8). This is why we do not want pure democracy but liberal democracy. This term “pure democracy” is what I label “blank check democracy”. While this looks like the most striking difference with Hayek, when the words left out are inserted the difference almost completely disappears. By “liberal utopia” Popper means, “a state rationally designed on a traditionless *tabula rasa*” (ibid.: 351). He then adds an important statement comparable to Hayek’s Kantian arguments: “All laws being universal principles, have to be interpreted in order to be applied; and an interpretation need some principles of concrete practice ... supplied by a living tradition” (ibid.: 351).

Here is where it is appropriate to comment on one of Hayek’s more perceptive and cogent critics, Roland Kley. He discusses Hayek’s argument regarding tacit rules (Kley 1994: 194) and finds them wanting. It must be conceded that there are weaknesses in Hayek’s arguments, as there are with Popper’s as well. Popper points out in this chapter on liberal theses regarding conflicting interests that tacit rules must come into play either in interpreting the principles or in stopping the infinite regress. Either the interpretation is understood in terms of tacit rules or we use a verbal formula that in turn needs to be interpreted and then we are back onto the infinite regress.

Point eight is that the most important tradition is the moral framework. It incorporates the society’s sense of fairness or justice. This includes the degree of its moral sensitivity. It makes possible a fair and equitable compromise, he argues. While a great deal more could and must be said about this thesis, it can be used to refute O’Hear’s contention in CCH regarding an earlier chapter in CAR. In Chapter 4, “Towards a Rational Theory of Tradition”, Popper wrote a response to Michael Oakshotte’s *Rationalism in Politics*. Of that chapter, O’Hear says:

in rather Burkean terms Popper castigates rationalists – even I surmise of a critical sort – for disparaging tradition and thinking that they can do soon the basis of pure reason.... It seems to me that there is a tension here with the thoroughly untraditional and rootless Kantian cosmopolitan citizen of OS ... but unfortunately I cannot see where Popper was able to resolve or even explore this apparent tension. No more than Hayek of *The Fatal Conceit* ... is Popper able to explain just which traditions and values we need as the framework for our liberal society.

(O’Hear in Feser 2006: 146)

I begin by emphasizing that I agree with everything O’Hear says up until “but unfortunately”. I also agree that he raises a legitimate problem after those two words but I would argue that in Chapter 17 of CAR, Popper at least tries to “explore this apparent tension”. In addition, I argue that in TFC Hayek finally gives some content to the traditional values he supports, as well as those he does not, as well as why. Hayek started on this in COL especially in his magnificent appendix “Why I Am Not a Conservative”.

There is a statement in CAR, Chapter 17, with which I profoundly disagree. Popper asserts quite dogmatically⁷ that “Freedom of thought, and free discussion, are ultimate Liberal values which do not really need any further justification. Nevertheless they can be justified pragmatically in terms of the part they play in the search for truth” (Popper 1963: 352). Strawson and Ayer used similar arguments in favour of induction which Popper rejected as invalid, so why should he be able to make a similar dogmatic assertion about an equally contentious claim?

Summary of COL

In part one of COL Hayek defines “liberty” and “freedom” in terms of coercion and the rule of law and then relates them to key terms in the vocabulary of modernity. He relates liberty to tradition, progress, reason, equality, democracy, responsibility, and the relation between employment and independence. The most controversial of these may be his link between liberty and tradition, a connection most responsible for his being labelled a conservative thinker.

In Chapter 1 Hayek also distinguished his concept of liberty from political freedom and Martin Luther’s inner freedom. The former applies to collective freedom not individual liberty. At the time Hayek wrote COL, some countries of Asia and Africa had become (and many more were about to become) “free” from the control of the wicked imperialist powers of the West but that certainly did not mean the *individuals* in those societies become more free. He also rejects the semantic moves already existing in the pre-1960 era that would culminate in the ideas of empowerment, the transition of “liberty” meaning “absence of coercion” to “absence of restraint or constraint” to “effective power to do whatever we want (Hayek 1960: 17). These are principles which cannot be universalized, Hayek argues.

Hayek also deals with the standard objection that his concept of liberty is negative. He concedes the point by stipulating that liberty “describes the absence of a particular obstacle – coercion by other men” (ibid.: 19). He then made two extremely crucial points relating to the distinction between liberty and liberties. The first is that the latter, “liberties”, are special privileges, which only some have. The second is that the default principles guiding them are different. Under liberty “all is permitted which is not prohibited by general rules” and under liberties “all is prohibited which is not explicitly permitted” (ibid.: 19).

He further develops the argument for negative liberty by outlining the four rights of manumission for a slave. The first was legal status “as a protected

member of the community". The second was "Immunity from arbitrary arrest". The third was the right to work at "whatever he desires to do" (ibid.: 20). The fourth was mobility rights according to free choice (ibid.: 20). Hayek therefore concludes that "if he is subject only to the same laws as all his fellow citizens, if he is immune from arbitrary confinement and free to choose his work, and if he is able to own and acquire property no other men or group of men can coerce him to do their bidding" (ibid.: 20).

Hayek then defines "coercion" as "such control of the environment or circumstances of a person by another that, in order to avoid a greater evil, he is forced to act not according to a coherent plan of his own to serve the ends of another" (ibid.: 20–1). Such coercion therefore violates Kant's dictum, "Do not treat persons solely as means to an end but always as an end in themselves". Now, while coercion is undoubtedly evil, it is sometimes unavoidable, "because the only way to prevent it is by the threat of coercion" (ibid.: 21).

Chapter 2 is about the benefits of a free civilization and why the growth of knowledge and freedom of thought is of value even to citizens who may not themselves value either and may seldom, if ever, feel the need to exercise such rights. Joseph Raz once gave a talk at the University of Guelph about freedom of expression (May 1990) by beginning with what he called a puzzle. Since rights are meant to protect interests, which interests of people does free expression protect? Hayek's answer was that we all benefit from the scientific, artistic, literary, cultural, and other intellectual creations of others even if we personally do not contribute or even much appreciate such activities. Clearly many have benefited from the great scientific, technological and medical discoveries of the past three centuries even if there is a clear downside. We live longer and healthier lives than our grandparents and their grandparents back to the nth generation. We also have access to more of the cultural and literary achievements of the past as well.

Chapter 3, "The Common Sense of Progress", relates the contentious term "progress" to the equally contentious term "equality". Hayek begins the chapter with the admission that faith in progress was no longer intellectually respectable (ibid.: 39). This was yet another faith he shared with Popper despite numerous differences in other areas. He does not however offer a particularly clear or satisfactory definition of "progress". It is, he claimed, "movement for the sake of movement's sake" (ibid.: 41).

It does seem to possess two connotations that are similar to Popper's progressivism. They are "rapid economic advance" and the "growth of knowledge" (ibid.: 42–3). He has two crucial points about each one. The former would not have been possible without inequality since it cannot come on a uniform front. That point will recur later in this book but, for now, we will focus on his interesting thoughts on the latter. This is a point frequently ignored or rejected by many today who see themselves as defenders of free market economics. It deserves to be quoted mostly in its entirety:

while the material resources of society will always remain scarce and will have to be reserved for limited purposes, the uses of new knowledge ... are

unrestricted. Knowledge, once achieved, becomes gratuitously available for the benefit of all. It is through this free gift of knowledge acquired by the experiments of some members of society that general progress is made possible.

(ibid.: 43)

As with thesis six in Popper's list of eight liberal theses, I omitted some key words. What was omitted above is the following: "(where we do not make them artificially scarce by patents of monopoly)". This is a recurring theme in Hayek found as early as RTS and as late as TFC. Hayek was a very strong critic of monopoly including the *temporary monopolies* granted to people for artistic creations, medical advances, music and movies. On this point, I will defend Hayek in the last two chapters.

Chapter 4, "Freedom, Reason, and Tradition", is the one that seems most curious to the modern "progressive intellectual". For her (especially if she is a feminist) the progress of humanity is due to the partly successful triumph of freedom, equality and reason over tradition. This was Popper's view also until both Michael Oakshott and Hayek helped convince him of the opposite: that there cannot be either freedom or reason without tradition. It is also the position of that contemporary gadfly of liberal individualism, Alasdair MacIntyre. MacIntyre is best known for his attempt to revive virtue ethics, without simultaneously reviving its least appealing aspects. He is a strong critic of liberal individualism, arguing that modern ethical theory has failed to solve its fundamental problem, which he termed "the Enlightenment Project", the attempt to find rational foundations for ethics given the (alleged) breakdown in its previous metaphysical, epistemological and religious foundations.

Jeremy Shearmur's comments on Hayek's political thought

Shearmur raises three distinct yet interrelated themes (under the Popperian subtitle "Some Problems"). The first concerns the "problems of reason, reform, and the kind of institutional design that Hayek favors" (Shearmur 1996: 162). The second is "the problem of reason" (ibid.: 164). The third is not defined as concisely and will be stated in his own words: "a further and somewhat vexed issue: that of the more specific character of Hayek's politics, in the sense of the political views to which *Hayek's thought should leave us*" (ibid.: 166). The emphasis is mine since I wish to highlight what is the key point. It is not obvious that there is only one true ideology that can be associated with Hayek, just as it has been argued about Popper's political philosophy (by Anthony O'Hear). Just as Hayek is neither a pure libertarian, much less a conservative or neo-conservative, so Popper is neither an egalitarian nor libertarian. Yet if we opt for radical underdetermination than both Popper and Hayek could be whatever one wants, as the Bible has been since Luther.

The three themes of Shearmur are introduced only schematically, since the

problem of reason that two of them specifically address will be the focus of Parts IV and V. There are genuine problems for both the utopian Hayek and the anti-utopian Popper. While both use mostly rational arguments, even when arguing against comprehensive and/or constructivist rationalism, they failed to develop an adequate, systematic and coherent theory of moral reasoning. This is why their theories are more vulnerable to their critics than they should be. A final point from Shearmur will be used to tie everything together, since the topic of this chapter is the issue of utopianism. In it he expresses a prima facie incongruent or paradoxical conclusion from unpromising premises: “Hayek’s more *conservative* themes lead us in the direction of some quite *radical* arrangements, and indeed here suggest a point of similarity with the unjustly neglected ‘*utopia*’ sections of Nozick’s *Anarchy, State, and Utopia*” (ibid.: 166, all emphases are author’s).

What is the difference between a liberal utopia and a libertarian utopia? The main distinction is that liberalism is meliorist but anti-utopian, while libertarianism, like its mirror image egalitarianism, is utopian. These controversial topics are the ideal context in which to discuss the next level of argument in Popper and Hayek; their Weberian meta-ethical theory.

Part IV

The Achilles heel of the Popper–Hayek meta-theory

In Part IV, we critically examine the Weberian position on the fact–value dichotomy in order to indicate why this problem is a major component in undermining “the Enlightenment Project”. I also indicate why this is a serious problem for both Popper and for Hayek. In Chapter 9, I define the key problem mostly through the words of three prominent spokespersons for scientific value relativism (hereafter SVR) from the social sciences. This is the major meta-theoretical problem in ethical theory and political philosophy, the fact–value or is–ought problem. While I argue that they are not the same, they do overlap. In Chapters 10 and 11 I examine the problems with evolutionary ethics and evolutionary epistemology. In Chapter 10, I critically examine Popper’s attempted refutation of relativism (in both areas of the twin enlightenment projects of rational justification), arguing that his solution fails. I restate a revised version of my solution as originally argued in FDM. In Chapter 11, we examine the problems with evolutionary ethics and the accusation that Hayek was guilty of committing the “naturalistic fallacy”.

9 The Achilles heel

Max Weber's quasi-positivism

Virtue, value and verification

We first define and distinguish the four basic versions of the underlying problems discussed in Part V. In this chapter, we examine three major spokespersons for the fundamental dichotomies, which create logical and epistemological gulfs allegedly undermining the possibility of a rational justification of any moral code or political ideology. Then we look at some possible solutions of the problem via criticisms of the arguments mentioned, those of Alasdair MacIntyre and Hilary Putnam. I add an appendix, an extremely interesting letter by Leibniz that has been strangely ignored, which foreshadows the “correct” way to solve this very difficult and persistent problem.

I begin with the following examples to illustrate the four types of dichotomies.

- Factual statement: the British Empire abolished slavery in 1833.
- Value judgement: slavery was an evil, unjust institution.
- Is-statements: water is composed of hydrogen and oxygen. God is love.
- Ought sentence: all governments ought to abolish judicial torture.
- Normative: the war in Iraq is an unjust war.
- Positive: Winston Churchill died in 1965.
- Prescriptive: keep off the grass. Keep all of your promises.
- Descriptive: grass is green.

The key point is that these differences are not just distinctions; they constitute dichotomies that cannot be bridged logically, scientifically or rationally. The second member of each pair, according to the regnant orthodoxy, is not capable of empirical verification, logical proof or rational justification. The claim is supported by the combined weight of some very formidable theorists, both first-rate social scientists (Max Weber, Lionel Robbins and Arnold Brecht) and a long philosophical tradition stretching from David Hume to R.M. Hare. We shall let the social scientists speak for themselves after beginning with a brief summary of the argument and of its significance. The basic claim is that “is” statements or factual propositions have a different logical and epistemological status from “ought” statements or moral judgements.

The former are descriptive and hence capable of referring to an objective state of affairs. They can be true or false. They are capable, in principle, of either empirical verification or of logical proof, in the case of mathematical assertions or logical truths. The latter are prescriptive or positive rather than descriptive or normative and do not have an objective referent. Therefore, they cannot be either true or false. If it is claimed, as has been done in several classical theories of ethics such as Platonism, theism and natural law theory, that objective values or standards exist then this is countered by the argument that we have no way of verifying or refuting this claim hence it is unscientific, not capable of empirical inter-subjective evidence, rational justification or logical proof.

It is equally important to emphasize that there is an unbridgeable logical gap between the two types of judgements, which cannot be overcome. One cannot deduce validly an “ought” from an “is” or a value judgement from a fact or a prescription from a description. We thus have no way of rationally proving directly or indirectly our moral judgements or ethical prescriptions. It is the last implication that makes the problem serious, formidable and interesting. The clear upshot of it is that moral and ethical principles are at best second-class (maybe even third-class) citizens in the Republic of Reason or (if we prefer) the Empire of Science.

The triumph of a specific concept of scientific method is responsible for this situation. It is therefore not surprising that it is sociologists, economists and political scientists, anxious to raise their disciplines to the same level of respectability as the hard, exact sciences, physics, chemistry and biology, by purging them of superfluous elements, who have articulated this problem. We will turn then to three of the best and most eloquent spokespersons for this position: Max Weber, Lionel Robbins and Arnold Brecht.

It will not do to label this position as “positivist” and then pretend that this exempts us from the need to criticize it. Nor will it do to point out some of the unconvincing arguments used and some inconsistencies in exposition. These exist but by themselves do not invalidate the conclusion. Nor will it do to use arguments that were anticipated and answered by Weber and others. If someone argues that the Weberian position is untenable because we make value judgements in deciding which facts to select or what truths to utter, this can be conceded. While it may be true, it still presupposes rather than undermines the distinction between fact and value. A simple illustration will suffice. The statement “ $2 \times 2 = 4$ ” is as true as (maybe truer than) “ $e = mc^2$ ” but it is much less interesting or worth uttering. The truths claimed by them differ significantly from the value judgement “Einstein’s equation is more interesting than trivial mathematical truisms”. However, this presupposes the difference between values and facts, rather than undermines it.

Max Weber’s fact–value dichotomy

For Weber value judgements are scientifically indemonstrable and moral disputes unresolvable on a scientific basis. Disputes about facts and scientific laws and theories are not. He grants that the distinction is difficult (but not impos-

ible) to make. Value judgements and scientific facts are entirely heterogeneous and “logically different” (Weber 1949: 11). The validity of a norm is scientifically undemonstrable” (ibid.: 6). He later adds that, if an “absolute value” ethic is internally consistent it “cannot be refuted by external ‘facts’” (ibid.: 24).

“Moral conflicts cannot be definitively answered and moral principles are neither demonstrable nor ‘refutable’ with the means afforded by any science” (ibid.: 17). Given moral conflicts which require urgent decisions there exists “no (rational or empirical) scientific procedure of any kind whatsoever which can provide us with a decision” (ibid.: 19). It is at this point that Weber commits one of those logical fallacies or at least inconsistencies, which so frequently mar the exposition of this problem and leave readers unconvinced. In the very next sentence Weber commits the mortal sin (from his perspective) of deducing an ought from an is. “The social sciences, which *are* strictly empirical sciences, are the least fitted to presume so to save the individual the difficulty of making a choice, and they *should therefore* not create the impression that they can do so” (ibid.: 19, author’s emphasis). I deliberately emphasized three words to show that Weber does indeed deduce an ought (“*should*”) from an is (“*are*”) and this intended deduction is indicated by “*therefore*”.

It is of some interest that the whole point of Weber’s exposition was not the goal of the disinterested advancement of social science. He was trying to make a point in philosophy of education and, on a few occasions, he deduced pedagogical prescriptions from methodological, epistemological descriptions. This by itself does not annul the distinction. It merely shows that he was not a consistent practitioner of his own preaching. That sentence could be deleted without subtracting anything from the argument and would improve it.

Moral conflicts are simply not answerable by empirical science, and any deduction of a value judgement from a statement of fact is an inadmissible deduction (ibid.: 22). This is due to the logical situation that a norm refers to what should be the case while an existential assertion describes what the case is.

Suppose our problems are the following: what causes poverty? Why do nations go to war? Why are some people criminals? Are free markets more efficient than socialist economies? Let us call this set of problems S. Suppose we also ask: is poverty a good thing? Is nuclear war ever morally justifiable? Should we reform criminal law? Is a free market economy less just than a socialist economy? Let us call this set of problems V. Weber would say that we could treat the set S scientifically where we cannot do so with set V. The “treatment of one of these types of problems with the means afforded by empirical science or by logic is meaningful, but ... the same procedure is impossible in the case of the other” (ibid.: 33). This does not mean that logical, empirical analysis can do nothing with value judgements. Analysis and criticism to a limited degree are possible.

The scientific discussion of values can perform three functions:

- a The elaboration and explication of the ultimate, internally “consistent” value-axiom, from which the divergent attitudes are derived.

- b The deduction of “implications” (for those accepting certain value judgements) which follow from certain irreducible value-axioms, when the practical evaluation of factual situations is based on these axioms alone....
- c The determination of the factual consequences that the realization of a certain practical evaluation must have.

(ibid.: 20–1)

The sole function of the criticism of value judgements is dialectical. While it is not completely clear what Weber means by this, he does say that “an empirical science cannot tell anyone what he should do – but rather what he can” (ibid.: 21) and, one would reasonably infer (although Weber does not explicitly say this), what cannot be done. How would Weber respond to the interesting quotation from Hayek at the beginning? It is part of Hayek’s strategy, as Roland Kley recognizes and tries to undermine, to use what Kley labels “instrumental justification” (see Kley 1994: Chapter 8 for his critique of this type of justification). Hayek is quite willing to concede to his left-wing critics that their values are quite acceptable as part of the argument about socialism and capitalism. To use this type of argument Weber says is to “treat a number of presuppositions as self-evident when they really are not... Without [a] leap from the ‘is’ category to the ‘ought’ category, any such argument is invalid” (ibid.: 36). This shows fairly clearly that Weber does not distinguish between his fact/value distinction and the is/ought dichotomy.

It is this illogical leap that makes value judgements, including moral judgements, second or even third-class, citizens in the Empire of Science (or the Republic of Reason). While it does not follow (and Weber does not say that it does) that one value system or set of moral rules is as good as another, it does follow that one *cannot argue rationally in favour of or against any moral rules*. This is the key premise in moral scepticism: that we *cannot know* that one set of values is superior to another and therefore we can only accept such an assertion on faith. That it would include arguments based on refuting alternative ethical views is equally clear. In discussing the Buddhist ethic he says that “to ‘refute’ it in the way one refutes an incorrect solution in arithmetic is impossible” (ibid.: 38). Any beliefs or claims that can be neither justified nor refuted do seem to require an act of faith, which, while not necessarily irrational, is not rational either. The same ineluctable conclusion seems to follow from Lionel Robbins’ concept of scientific method in economics.

Lionel Robbins on ethics and economics

Lionel Robbins, who admitted being influenced by Weber, has a very clearcut definition of the differences between ethics and economic science since “Economics deals with ascertainable facts; ethics with valuations and obligations” (Robbins 1932: 148). One is positive, the other normative (a distinction due to Alfred Marshall) and while both make generalizations they differ significantly. A bridge exists between them as great as that separating Lazarus and the rich

man in the gospel of Luke. "Between the generalizations of positive and normative studies there is a logical gulf fixed which no ingenuity can disguise and no juxtaposition in space or time [can] bridge over" (ibid.: 148).

Propositions with "is" differ in kind from propositions with "ought" (ibid.: 149). While the validity of assumptions relating to existence is a matter of scientific verification the validity of assumptions relating to the value of what exists is not (ibid.: 149). He states emphatically that "there is no logical connection between the two types of generalisation" (ibid.: 150). This clearly entails that a factual or theoretical generalization not only cannot be used to *deduce* an ethical generalization it also cannot be used to *refute* an ethical generalization. The logical gulf is two-way as in Weber and Brecht. That is the major flaw or fallacy in the entire argument.

Robbins uses an interesting example to illustrate his theses. If we dispute the morality of interest, there is no way of arguing scientifically but if we disagree about the objective results of fluctuations in the rate of interest then we can settle the dispute scientifically (ibid.: 151). Imagine a room filled with the Buddha, Bentham, Lenin, and the head of US Steel. It would be possible to determine the results of state regulations of the discount rate and achieve unanimity (Lenin may dissent, Robbins admits, in an interesting throwaway line) but they of course will not agree on the ethics of interest. The upshot of this is that "it is worthwhile delimiting the neutral area of science from the more disputable area of moral and political philosophy" (ibid.: 151).

Up to now, we have simply let the spokespersons speak for them with minimal comment. Before pausing to consider Brecht, I will make two crucial points. There are two basic flaws in the argument so far. First, neither writer demonstrated or even attempted to demonstrate that the logical gulf is unbridgeable. They argue that we cannot deduce an "ought" from an "is" or a prescription from a description, a norm from a positive assertion or a "should" from an existential proposition. Let us assume (as seems reasonable) that this is true. Does it follow that we cannot deduce an "is" from an "ought"? Neither writer even considers the possibility. However, until someone *argues for this*, then he or she has not yet demonstrated the existence of a *two-way* logical gulf. The significance of this will become clear in Chapter 10 but part of its significance emerges when we move to the next flaw in the argument.

This is the naïve assumption that science is empiricist and that disputes are resolvable by straightforward empirical investigation. This is hardly a realistic analysis either of the epistemological situation or of the history of science. Whether we are talking about natural or social science, history reveals numerous disputes every bit as passionate as those in moral and political philosophy are.

One reason for this is the existence of another logical gulf completely and totally ignored by the authors: that between facts or is-statements on the one hand and explanatory theories and/or universal laws on the other. What this amounts to is the claim that no number of *finite* facts suffice to prove, verify or justify an *unlimited* scientific generalization, law or theory. Yet it does not follow that there is an unbridgeable logical gulf between facts and theories. The

great virtue of Popper’s philosophy is that it has found a way to circumvent this problem. The main thrust of this book is that the same solution (or a reasonable facsimile) can also solve the Humean is–ought problem in all its reincarnations, including that of G.E. Moore’s “Naturalistic Fallacy” (see Chapter 10).

Arnold Brecht’s scientific value relativism

By far the most thorough exposition (of which I am aware) of the is–ought problem is that of the political theorist, Arnold Brecht. Unlike Weber and Robbins (and as we shall see Popper) Brecht faces up to the obvious relativistic implications of the dualism he espouses. He has an interesting subtitle in section III [itself titled “Theory of Scientific Value Relativism”]. The subtitle is “Value Relativism, the Seamy Side of Scientific Method”.

He defines scientific value relativism as the claim that “‘ultimate’, ‘highest’, or ‘absolute’ values or ‘standards of values’ are ‘chosen’ by mind or will, or possibly ... ‘grasped’ by faith, intuition, or instinct but they are not ‘proven’ by ‘science’” (Brecht 1959: 118). Although science can help clarify the meaning, consequences and risks involved, science approaches values indirectly not directly. He claims such relativism is the “logical implication of Scientific Method” (ibid.: 118).

Science can point out conflicts between values, can reason about means and ends, can point out probabilities, possibilities, improbabilities and impossibilities; it can examine origins, ulterior motives, meanings, consequences, risks, the influence and function of values and whether the qualities desired are or are not possessed by a person or thing. Given conflicting purposes, however, science cannot state which is better “except in relation to some presupposed goal or idea” (ibid.: 125), by which it is reasonable to take Brecht to mean some moral goal, or idea not a logical, empirical or theoretical ideal.

He reiterates this repeatedly and over again almost ad nauseum for a number of reasons. He wants to be perfectly clear in order to forestall the standard objections, which he correctly points out miss the point. He offers an extremely thorough exposition, historical account and defence of the position we have met in Weber and Robbins, including various attempts to circumvent relativism. He is very cautious in his statements eschewing a careless dogmatism such as relativists that are more naïve assert, namely that all values are equally good. Rather, scientific value relativism (hereafter SVR) does not say that there is nothing of absolute value; it merely says that it cannot be proven intersubjectively that there is or is not (ibid.: 125).

Moral judgements then are like metaphysical assertions, for instances that “God exists”, that “there exist indivisible entities”, that “the mind is incorporeal”, that “Time had a beginning”, “the Absolute is perfect” and numerous others. Such putative assertions can be neither scientifically proven nor refuted logically, empirically or mathematically. Not surprisingly the basis for SVR is the is–ought gulf since the “chief technical reason for the withdrawal of science from moral value judgements has been the logical difference (“gulf”) between Is and ought” (ibid.: 125).

Notice that Brecht here uses “moral” to qualify “value judgement”. The relativist view of value does apply to aesthetic judgements but must rest on a different logical point than the unbridgeable gulf between “is” and “ought”. Consider the following judgements. “Mozart lived from 1756 to 1791”, “Rembrandt was a seventeenth century Dutch painter” and “Shakespeare wrote all the plays attributed to him”. Let us call this set H. All of them are historical, factual claims and each one is, or is not, objectively true. Further, we either know or do not know that they are true.

This is not the case with the following, which we designate A. “The second movement of Mozart’s Clarinet Concerto is the most beautiful piece of music ever written”, “Rembrandt was a better painter than Van Gogh” and “Shakespeare was the greatest British playwright”. These are value judgements but they are not ethical value judgements. They involve valuations but not obligations or prescriptions. They are not scientific or historical factual judgements. Rather they refer to an attitude or subjective feeling one takes or does not take to certain aesthetic works. They are not necessarily valid for all truth-seekers and are definitely not provable on a scientific or logical basis. The set H, however, contains assertions either true or false and if so are valid for all seekers of truth.

It was one of the great merits of Brecht’s approach that he was a logical rigorist. In criticizing one particular effort to circumvent the is–ought dichotomy he points out correctly that one can deduce the conclusion via another argument but then adds:

But, he who prefers another deduction must again be requested to make his premises explicit. To compel us to do so is one of the merits of formal logic and no accusation of pedantry should be permitted to prevail when we insist on compliance with it or logic rigor in scientific method.

(*ibid.*: 130)

Brecht here recognizes that scientific theories are tentative and concedes (as Popper argued repeatedly): “Scientific method never leads to full empirical proof” (*ibid.*: 131). This is one of numerous points on which he is more thorough and accurate than Weber and Robbins. It is this point that leads to the problem of induction. Although Brecht rather uncritically accepts the classic mythology of induction, this does not affect the validity of the substantial point he makes. This point is intended to counteract the following possible objections: “Scientific Method ... is compelled ultimately to rely on tentative ‘acceptance’ on the side of the scientist ... of the results of observations ... and of explanations in causal terms... Why should we not deal in the same tentative manner with moral values?” (*ibid.*: 131–2).

His answer is that, whereas in science “we can generalize in line with scientific principles of induction” (*ibid.*: 132) we cannot do so in ethics. What this means is that we have observations of objective facts as tests for our scientific theories whereas we do not have such in ethics. Rather “in matters of value judgments we are faced ... with contradictory observations about opinions,

feelings and intuition” (ibid.: 132), not about objective facts in the external world. Therefore, this entails clearly that the type of empirical refutation Popper built his theory of scientific method on is not available in ethics any more than inductive support is. Since the same point is made by Popper the fact that Brecht uses the inductive terminology Popper eschews does not affect the point.

Brecht offered a concise summary of his results worth quoting:

the validity of the ultimate standards that underlies value judgments cannot be established through Scientific Method.... This is due, in part, to the logical gulf between what Is and what Ought to be. Formal logic remains an important tool in the scientific discussion of values, but is unable to bridge the gulf ... neither can any other method close the gap scientifically.

(ibid.: 135)

He offered a very thorough survey of the history of the discovery of the is–ought problem. He downplays correctly the role of Hume who is usually given credit (or blame) for discovering it. He credits instead nineteenth-century German writers. If anyone does deserve credit, a German writer antedates Hume but as far as I know never received credit for being the first (or at least prior to Hume – (see the appendix at the end of this chapter). This person is Leibniz who also zeroed in on the problematic status of induction before Hume. In short, Leibniz is neither the hero nor the anti-hero in this saga but the most influential or at least best-known exponent of the view, but definitely is not seen as its inventor or discover.

As Brecht also points out correctly, SVR depends on more than the is–ought gulf. It also depends on assertions such as the validity of ultimate standards is both logically undemonstrable and cannot be proven in any other scientific manner. He restates his position very carefully at the end of Section III. The “rainbow of party ideologies” (ibid.: 157), explored in Chapter 2, is therefore “the logical consequence of the fact that science is unable to decide which of the several views is correct” (ibid.: 157).

Brecht is careful to distinguish SVR from certain hyperbolic assertions made by its proponents that go beyond the logic of it. For example, the assertion that value “is nothing objective” is not warranted by SVR. Nor does an emotivist theory follow either, the thesis that values are merely emotional consequences of certain ideas. The main point of SVR is not subjectivism, emotivism, or the crude cultural relativism that dogmatizes that all values are equally good or bad. “Scientific Method cannot and does not deny that there may be absolute standard of justice, but only insists they cannot be scientifically verified” (ibid.: 161). Just as the existence of God “cannot be scientifically proved or disproved, the absolute standard of justice, too, cannot be scientifically proved or disproved, only believed and taken for granted, or disbelieved and not so taken” (ibid.: 158).

If such claims are correct then I will concede that, since it cannot be shown that what I argue for is possible, the rational refutation of moral judgement, then

SVR is irrefutable. From this, it is a reasonable corollary that our choice of morality is arbitrary, non-rational and fideist, with the result that neither applied ethics, nor political philosophy, including the ideology of the open society, possess any rational foundation.

Brecht presents a thorough survey of alternative attempts to provide a basis for values. Some of these, such as intuition, religious revelation, consensus omnia, are recognized as possibilities but they rest on faith not reason and science. A massive survey of twentieth century attempts to identify highest values is made. These include equality, liberty, nature, evolution, democracy, happiness, the nation, power, culture, the golden rule, and universal postulates of justice (*ibid.*: 302–60).

He also discusses the relevance of considerations of impossibilities. Brecht endorsed and offers reasons to accept the principle that duty presupposes possibility or “ought implies can” (*ibid.*: 419). He also draws the following interesting conclusion: “impossibility does not limit only moral duties. It furnishes a relevant objection to any proposal, intention, plan, or project irrespective of moral values” (*ibid.*: 423).

This is because of “the semantic principle that the meaning of any proposal, if seriously made, implies the meaning that the proposed action is possible” (*ibid.*: 424). This is precisely the point behind Kant’s well-known dictum “ought implies can”. However, Brecht failed to capitalize on this and did not attempt to reconcile this point with his claim that science can neither demonstrate *nor refute* a value judgement. I have used this in FDM and shall use it with convincing examples to show that such is indeed possible.

If, as Brecht claims, there are an infinite number of “logical, physical, biological, psychological and legal impossibilities” (*ibid.*: 425) then it would seem to follow that there must be an infinite number of moral, political and legal prescriptions they could logically be incompatible with. However, as Brecht points out, “It is, alas, not impossible to arrest and detain innocent people and to flog, torture, and execute them for no cause, or even to cook one’s enemies and eat them” (*ibid.*: 425).

This is important to bear in mind since it indicates the limit of using the “ought implies can” principle. We shall nonetheless attempt to show how moral reasoning can be applied in such cases of possible action and that it is more logical and rational than Brecht allows. This goes contrary to the claim of Einstein, whom Brecht quotes approvingly as saying: “if someone approves, as a goal, the extirpation of the human race from the earth, one cannot refute such a viewpoint on rational grounds” (*ibid.*: 430). Such quotes bring into sharp relief just what is involved here. It makes the choice between the ideals of a Nazi exterminating Jews, an inquisitor torturing Jews, a contemporary anti-Semitic fanatic finishing both tasks, state-engineered mass starvation as in the 1930s Ukraine, Apartheid, and genocide just as rational (or irrational) as the ideals of Mother Theresa, the Society for the Prevention of Cruelty to Animals, Amnesty International or the anti-slavery society.

Therefore, the problem is hardly one of merely arcane academic interest. It

shows how issues of apparently abstract, purely theoretical interest in the area of epistemology have unexpected relevance outside their original domain. In addition to his interesting historical survey of how the problem emerged Brecht offers some reflections on why, if this logical gulf is so obvious, it was not discovered until the nineteenth century. After all, to deduce ought from is was “obviously incompatible with even old Aristotelian logic” (ibid.: 199). The answer is interesting for two reasons. First, he claims that it was due to a source in inductive, not deductive, logic (ibid.: 199). Second, his analysis is strikingly similar to that of Alasdair MacIntyre in his *After Virtue*. According to Brecht “As long as major premises of Ought-form were held to be readily available in science on the basis of religious revelation... Natural law, reason, or intuition separation of Is and Ought in deductive logic was not disturbing” to academics in morals and politics and the need for it was not noticed “as a handicap” (ibid.: 200). The rise of modern science changed all this (as argued in Chapter 1), since it meant the separation of science and religion, the collapse of the scientific capabilities of intuition and the consequent petering out of first principles with the result that “scholars could only turn to inductive reasoning” (ibid.: 200).

MacIntyre could make two points about this and I shall add a third, partly in correction to MacIntyre. The first is that, unlike Brecht, MacIntyre does not see this decline of the traditional concept of virtue in the name of scientific imperialism as progress. Rather he sees it as both a moral and intellectual disaster. The contrast in terminology itself is rather illuminating. Whereas Brecht, like Weber and Nietzsche, talked about *values*, MacIntyre talks about *virtues*. The semantic shift is gargantuan. While virtue is an objective concept deriving its meaning from an objective state of affairs (such as justice and injustice, sin and vice, right and wrong) and so it entails an “objective” goodness, value is not an objective concept but a subjective one. Talk about “objective values” is an oxymoron. Statements such as “values are subjective” are tautologies. One could go on to argue that we should not even talk about traditional values. If they are traditional, they are virtues not values. Conservatives as well as anti-conservatives are caught in the same terminological trap. It is to MacIntyre’s credit that he challenged this orthodoxy (whether he does so successfully however is another matter to be thoroughly explored in Part V).

The second point MacIntyre could make also challenges Brecht’s logic: incorrectly in one area, and correctly in another. When discussing Hume, he pointed out that the is–ought gulf theorem rests on the following principle: an argument is either deductive or defective. He then he argues (correctly) that this is the same principle under-girding Hume’s scepticism about induction (MacIntyre 1966: 244).

Regrettably, MacIntyre goes on to endorse Strawson’s obscurantist argument that induction needs no defence (ibid.: 245). On this, he is wrong. It both needs and is incapable of any rational defence. This is one of the basic messages of Popper’s PRC. Before we turn to it, however, let us try to elaborate the striking similarities between the is–ought problem and that of inductive generalization. While Brecht unquestionably accepts the need for deductive logic, he, like most

modern thinkers, uncritically accepts the mythology of inductive logic. It is part of his definition of scientific method (1959: 200). Yet it encounters exactly the same problem allegedly facing the descriptive/normative distinction. This is rather striking given the stress by all three writers we have explored so far on the logical heterogeneity of the two types of generalization. There are two features of the universal laws of science and ethics that they share in common. One is the apparently trivial one of universality itself. As we shall see this is not as trivial or unimportant as it seems, but, for now, I wish to draw attention to the other more important feature they share in common.

Scientific generalizations go beyond all possible observational evidence. Therefore, we cannot validly deduce a law, theory or generalization from any finite number of examples. In addition, there is a logical gulf between facts and scientific theories every bit as formidable and apparently unbridgeable as that between facts and values. As argued earlier (Chapter 4), according to Popper, we can bridge the gap at least in science. He claimed to have a theory of scientific method that:

- 1 bridges the apparently unbridgeable gap;
- 2 maintains the empirical, rational character of science;
- 3 explains its immense progress in the last few centuries.

He claims it solves the problem of scepticism, shows the difference between science and pseudo-science, and is just as applicable to social science and historical knowledge as well as having important implications for morality and politics. On the last claim, he is not convincing (see Chapter 11). He does have strong arguments in favour of the other claims just cited. The main lacuna is the conspicuous failure to apply the theory to the vexing problem just explored to overcome SVR. Consequently, there is considerable merit in the claims of the critics that liberal democracy needs firmer intellectual and moral foundations than Open Society theory is capable of providing.¹

While there are other problems in Popper's ideology, this is the most serious, as it also is for Hayek's similar (but not identical) ideology. We shall return to Popper in Chapter 10, where we shall critically examine his meta-ethical and ethical theory. Our major problem will be to show how a revisionist Popperian theory of criticism can overcome SVR, thus preserving the rationality and objectivity of morality.

Hilary Putnam on “the collapse of the fact–value dichotomy”

Hilary Putnam has an ingenious and (mostly) well-argued critique of the traditional fact–value dichotomy that shares many of the same points made in FDM and reiterated in this book, but it also departs from it in significant ways. He starts with what is not a transparently obvious way to begin but it quickly emerges why he chose this path. He begins by explaining and defending Quine's well-known attack on the analytic–synthetic distinction. He also makes an

important distinction between a “dichotomy” and “distinction”.² The point of this is that there is a difference between two things without this creating a significant philosophical problem.

His main point is an attack on positivism for its oversimplified approaches to both types of sentences for the way in which they are interpreted semantically and evaluated epistemically. He objects to treating the alleged dichotomy as being exhaustive and not just mutually exclusive. There are hard to classify sentences as well as sentences that do not fit either and that overlap. After dismissing Hume and Kant, he discusses the inadequacies of logical positivism in the rest of Chapter 1, bashing it with arguments that those familiar with Popperian arguments against positivism will recognize.

He starts Chapter 2 by linking the emotivism of A.J. Ayer and Stevenson with the error theory of John Mackie and the prescriptivism of R.M. Hare. He rejects all of the above, mainly since they commit two epistemological sins. They fail to recognize the entanglement of facts and values, with the result that “values are put outside the realm of rational argument” (Putnam 2002: 44). He finishes Chapter 2 by saying “the solution is neither to give up the possibility of rational discussion nor to seek an Archimedean point ... but ... to investigate and discuss and try things out cooperatively, democratically and above all *fallibistically*” (ibid.: 45, Putnam’s emphasis). The words omitted after “but” are interesting since he attributes this view to John Dewey. He could have added that it was Popper’s view also but he does not. In fact, in his discussion of this problem, Popper is conspicuously absent until the final chapter despite his playing a major role in the disputes he discusses and despite the fact that Putnam is well aware of this.

There are both striking similarities and differences between the way in which Putnam handles these problems and Popper, which we will examine in Chapter 10. The main similarity is that what Putnam calls the fact–value entanglement is virtually identical with what Popper calls the fact–theory or theory–observation entanglement. Putnam does mention the latter but erroneously implies that it was only discovered in the 1960s. The entanglement of fact and value is very similar to Popper’s entanglement of fact and theory and is just as irrelevant.

He is very superficial in his critique of R.M. Hare’s prescriptivism. He treats him as one who denies, as Ayer does, the possibility of giving reasons (ibid.: 67). He seriously misrepresents Hare on universalizability when he says that “*No matter what reasons may be given for against doing it*” it should be done (ibid.: 67). This is definitely not Hare’s view. Hare regards himself as a rationalist in ethics unlike the existentialists (as he says in a letter to Popper).³ Now, while it would be unfair to criticize Putnam for not knowing that, he has (apparently) read Hare’s 1963 book FAR. In it, Hare compares his views on ethics to Popper’s views on scientific method but Putnam completely omits this and finishes this chapter with the following sentence “No convincing logical reason can be given for the *logical* irrelevance of facts to value judgements, even if we accept the positivist conception of what a ‘fact’ is” (ibid.: 76): While I agree with this, and would also agree that, if it is directed at Ayer’s extremely superfi-

cial, positivist/emotivist concept of ethics, it is valid but that view is held by few if any proponents of the fact–value dichotomy and Putnam never quotes anyone who says this. Hare explicitly rejects it (Hare 1963: 195–6).

Putnam argues that Hume’s alleged discovery of the is–ought distinction “does not solve any philosophical problem” (ibid.: 16). This is similar to arguing that Descartes’ mind–body distinction does not solve any problems or that Hume’s problem of induction does not solve any philosophical problem. The point is that Descartes and Hume created two of the most difficult problems in modern philosophy (or are credited with this or blamed for it). Now they may both have created what the positivists (and many linguistic philosophers) call pseudo-problems, although that means conceding that the positivists were correct.

He dismisses Kant on the extremely contentious and unargued premise that his ethics is based on his metaphysics. He never mentioned his categorical imperative(s) and the *reductio ad absurdum* argument on which Kant based it. Hume’s moral sentiments theory is also missing in action. Since he later expresses sympathy with Amartya Sen’s alleged rediscovery of Adam Smith’s moral philosophy (ibid.: 24), it is rather interesting that Smith’s view is remarkably similar to Hume’s for reasons that are far from coincidental.

He says that the observation–theory dichotomy came under sharp attack beginning in the 1960s (ibid.: 25). This is an incredible assertion from a philosopher who knows both Popper and the positivists so well. As Alberto Coffa has documented so well in his excellent book, *To the Vienna Station*, this took place in the 1930s when the Vienna Circle engaged in a unique form of philosophical hara-kiri, undermining their own positivism by creating fallibilism, which is ultimately based on the fallibility of all sources of knowledge including sense-experience. This entails that I am not merely complaining that Putnam failed to acknowledge Popper’s role in undermining positivism. I am also tacitly criticizing Popper as well for often posing as voice crying in the wilderness calling for philosophers to repent of their positivist sins. Fallibilism was created in the 1930s at the latest.⁴

In addition, the values and theories entangled with facts are not relevant to the fact–theory or fact–value dichotomies. Putnam makes many quasi-positivist criticisms of intuition and metaphysics. He has superficial dismissals of both Kant and G.E. Moore. For someone whose purpose is obviously to bring ethics, economics and epistemology into a harmonious integrated whole (a purpose that is one of the motivating concerns of this book) there are strange omissions. The omissions include Keynes and Kuhn to start with, as well as Gewirth, MacIntyre (especially strange given Putnam’s approval of Aristotle), and John Searle’s argument about promises.⁵

It is also not clear how citing Quine’s attack on the analytic synthetic distinction helps his case. The main point here that Putnam is 100 per cent correct on is his insistence that it is wrong to treat these two as if they are not only mutually exclusive *but also exhaustive in defining meaning or knowledge*. This is the real Achilles heel of positivism and therefore of the Weberian and hence of the PHD

approach to ethics. This was a dogma of empiricism and positivism from which Popper only partly freed himself. The same is true of Hayek.

However, it is not that clear how much Putnam (or Quine) liberated themselves from what I earlier termed the positivist–inductivist–empiricist (or PIE) tradition. One plausible way of reading Quine’s well-known article is to see him replacing epistemic dualism with an epistemic monism. While this is an interesting issue, it would be too much of a distraction except for an endnote.⁶ Instead, I return to focus on the main problems in Chapters 10 and eleven. These I define as follows: does the collapse of the fact–value dichotomy or SVR solve the is–ought problem? Does it not add another problem, cognitive scepticism, along with the spectre of post-modernism, deconstructionism, and Richard Rorty’s relativism (which Putnam dislikes for good reasons)?

Another area in which Putnam makes extremely crucial points concerns the existence of values that are not moral values. However, he then exposes himself to problematic claims when he indulges in the worst feature of modern philosophy, arguing about words. He discusses the use of “cruelty” and “rudeness” and shows how they demonstrate the entanglement of facts and values but this turns out to be as irrelevant to the serious problems of ethics as the fact–observation or fact–theory entanglement is to the problem of induction. The facts and values that are entangled are either not the values relevant to ethics (or not the relevant facts) nor is the theory involved in observation–theory entanglements always relevant to rational preferences in science.

The factual and simultaneously evaluative statements that torture is cruel, the Inquisition was cruel, the Holocaust was cruel, and the acts of terrorists are cruel do not by themselves solve the problem of their moral justifiability or lack thereof. “Of course this is cruel” the Inquisitor, terrorist, torturer, or Holocaust defender can argue, “That is the point. We must be cruel to these people since they are [heretics, enemies of the people, criminals, vermin] and so on”.

Finally, his conclusion to Chapter 2 is “the solution is neither to give up the possibility of rational discussion nor to seek an Archimedean point . . . but . . . to investigate and discuss and try things out cooperatively, democratically and above all *fallibistically*” (ibid.: 45). This is open to numerous objections and creates problems exactly parallel to the equally dubious claims made by Popper about the need for dialogue and discussion rather than violence. Both beg several questions. As Anthony O’Hear argues (O’Hear 1980: 145), this “solution” fails to solve the problem.⁷ MacIntyre makes the same point for different reasons, as we shall see in Part V, Chapters 12 and 13.

Appendix

The mother of modern philosophy

Everyone who has studied the origins of modern philosophy in the seventeenth century knows that Descartes is the “official” father of modern philosophy. However, who could possibly be the mother of modern philosophy, since in

those benighted days all males were hopelessly sexist, patriarchal chauvinists? However, there was one woman who must have been a remarkable woman, Queen Charlotte of Prussia, who inspired Leibniz to formulate the two major problems that have bedevilled modern philosophy ever since the epistemological turn. In 1702, Leibniz wrote a letter to Queen Charlotte of Prussia. Since he was one of the foremost mathematicians of his age (if not the greatest genius of the second millennium CE), he points out that mathematics is demonstrative, not relying on “simple induction or observation, which would never assure us of the perfect generality of the truths there found” (Weiner 1951: 358). In addition the axioms of mathematics and of “the other demonstrative sciences” (ibid.: 361) are based on the “*natural light*” (ibid.: 360). This leads to a key passage:

to return to necessary truths, it is generally true that we know them by this natural light, and not at all by the experience of the senses. For the senses can very well make known . . . what is, but they could not make known what *ought to be* or could not, be otherwise.

(ibid.: 361)

In the next few pages he provides examples similar to those much belaboured by Hume several decades later. (The letter was written almost a decade before Hume’s birth in 1711.)

The geometers have always considered that “what is only proved by induction or by examples . . . is never perfectly proved” (ibid.: 361). He adds that even if we find 100,000 times that an iron put alone on the water’s surface will sink to the bottom, we cannot be sure that this will always happen. Leibniz argues that:

since the senses and induction could never teach us truths which are thoroughly universal, nor that which is absolutely necessary, but only that which is, and that which is found in particular examples; and since we nevertheless know necessary and universal truths of the sciences . . . it follows that we have derived these truths in part from what is within us.

(ibid.: 363–4)

He grants that the senses furnish us with matter for reasoning, “but reasoning requires something else in addition to what is from the senses” (ibid.: 364).

Anyone who reads this letter carefully can hardly resist the conclusion that Leibniz certainly anticipated Hume on the problem of induction and quite possibly on the is–ought problem as well. One philosophical reply to this would be “so what? Why does it matter who discovered either problem? Why link them together in an argument about moral (and political) philosophy?”

A good answer to these questions can be found in two very different types of philosophers: Alasdair MacIntyre and William Bartley III. In his discussion of Hume’s is–ought passage, MacIntyre argues against the usual interpretation of Hume’s argument, that he is arguing that there is a blatant logical fallacy

involved in moving from “is” to “ought”. This is because of a key missing premise: “arguments are either deductive or defective”. MacIntyre immediately, and correctly, points out that this is the essence of Hume’s scepticism about induction. Then MacIntyre argues that this is a misconceived demand citing Strawson’s argument that induction does not need to be justified.

10 Relativism, scepticism and “the Enlightenment Project”

For who knows what is good for man while he lives the few days of his vain life. . . . For who can tell him what will be after him under the sun?

Eccl. 6:12

No other philosopher, living or dead, has had so much public recognition yet such professional neglect.

Colin Simkin (re: Popper)

This chapter contains the most important (meta-theoretical) arguments in the entire book. They are the following: Popper fails in his efforts to solve either aspect of the Enlightenment Project. Nonetheless he does enunciate explicitly, or tacitly uses, all the principles necessary for an adequate solution. The most important normative (i.e. ethical and political) arguments in the book occur in Part V.

I begin by reminding the reader what EPP means. Next, I summarize several key theses and arguments in Popper’s LLP, Appendix on Relativism in OSE (added in 1961), OK and CAR. These contain mostly theses on epistemology which are relevant to meta-ethics, but they also include arguments about moral relativism. I subject some of them to criticism before offering my own solution to the meta-ethical problem underlying SVR. The re-integration of the epistemological and ethical begins here but is not completed until Part V.

What is “the Enlightenment Project problem?” (EPP)

There are two distinct questions involved here and, although Popper had a visceral dislike of “What is ‘X’” questions, this is one he cannot object to since his entire philosophical career was primarily involved in answering both of the two key questions by challenging their justificationist presuppositions. The first is a general one “What is meant by the term ‘the Enlightenment Project’?”¹ This question regarding EPP was introduced in Chapter 1. There I outlined the problem generated by the BDT for traditional ethics and political philosophy. In its broadest sense, it means the project of justifying our beliefs and theories

about the universe and our moral values and principles on rational grounds. This in turn has two distinct meanings; the first is providing rational foundations for morality, including personal ethics and political philosophy; the second is providing rational foundations for cognitive claims. While logical positivism took it for granted that the latter was possible, it denied this could be true of morality.

However, as MacIntyre and many other critics have argued, this project failed to replace traditional ethics, whether Aristotelian virtue or Christian morality with a *rationaly justifiable* code of ethics and a *universally valid* political ideology. Instead, it produced a profusion of conflicting theories of ethics along with numerous ethical disagreements and with no demonstrably rational consensus on how to adjudicate disputes about personal ethics or political philosophy. In Chapter 1, I also introduced the second component of the EPP, the failure to provide an uncontroversial theory of knowledge, an uncontroversial philosophy of science or even an uncontroversial philosophy of mathematics, the paradigm case of logically apodictic knowledge. While MacIntyre mostly focuses on the meta-ethical failure of the EPP, Popper tries to solve both at once. I will argue that he failed, but not completely. He does provide *all the principles necessary* for a valid solution although he does not produce a coherent *set of such principles*, which could provide a comprehensive, coherent solution to both problems.

Popper's attempted refutation of relativism

In LLP Popper refers to his OSE appendix in his reply to Lord Boyle. He makes several philosophically crucial points in these five pages of great relevance to this book. Popper says that the OSE was not directed at authoritarians but at “the freedom-loving citizen” (Popper in Schillp 1974: 1154). He agrees with Boyle’s claim that “authoritarians are afraid of the consequences of freedom”, a point made clear “throughout my discussion of Plato” (ibid.: 1155). This point will be the major issue in Part V, where I discuss both egalitarian and libertarian alternatives to the welfare state, which, in somewhat different ways and with different degrees of enthusiasm, Popper and Hayek both defended.²

Popper says “I regard this *Addendum* to Volume II (entitled ‘Facts, Standards, and Truth: A Further Criticism of Relativism’) as a very important, though surely not completely successful, clarification of my ‘dualism of facts and decisions’” (ibid.: 1156). He adds that the appendix “is an essay not on morality but on metaethics” (ibid.: 1156). He is correct about all three points: it is very important; it is an essay on meta-ethics; and it is not completely successful. Neither is it completely wrong however. I argue for the third point mainly and later try to show how it could have been better. For now, we focus on a significant point that still bedevils, quite unnecessarily, modern discussions and debates on race and racism.

It is a point also made by MacIntyre (*later* it should be noted). As an example of the unbridgeable gap between norms and standards on the one hand and facts on the other, Popper repeats claims from OSE that could have been made by

Hayek: “Men are not equal; but we can decide to fight for equal rights” (ibid.: 1156). He uses the (still) very topical example of IQ differences between *groups* (not individuals who obviously do differ in intelligence however defined and measured).

If ... it could be established that some “races” have statistically a lower average I.Q. than other “races”, then this ... in my opinion ... should, be taken as establishing their claim, or their right to special consideration and help, rather than the right of those with a statistically higher I.Q. to a privileged position.

(ibid.: 1156)

He immediately concedes, in the next sentence, that this is not the only possible view, given the facts.

At this stage, our focus is still on the meta-ethical level. In this section of LLP, Popper repeats a point from OSE (cited in Chapter 5) to the effect that, “Nearly all misunderstandings” of his view are due to “one fundamental misapprehension”, which is “the belief that ‘convention’ implies ‘arbitrariness’; that if we are free to choose any system of norms we like, then one system is *just as good* as any other” (ibid.: 1157).

Popper adds the significant corollary that “Relativism in morals is, very largely, the result of the true insight that there cannot be any normative science of morals” (ibid.: 1157). This is exactly the point emphasized in Chapter 9 regarding Brecht’s SVR. Popper adds the very crucial rider; “lately, historical and sociological relativism has even attacked science” (ibid.: 1157). Since LLP appeared in 1974, one might infer that Popper has primarily Kuhn’s theory in mind but he refers to this problem in connection with his 1961 addendum.

Popper concedes two kernels of truth to relativism of both kinds. First, relativistic morality rests on a true premise and so do the claims of scientific relativism: “science is man-made” (ibid.: 1157), which is the truism underlying “social construction” theories that its proponents tediously insist upon. Thus, both morality and science are “social constructions” but Popper does not allow this triviality to degenerate into a dogma as it has in social constructionist, post-modernist, and deconstructionist theories as well as in Burczak’s discussion of Hayek. Popper himself is possibly to blame for this, or so some reputable authors argue.³

The main reason for claiming this is that Popper does have the annoying habit of encouraging such claims by letting his left hand take away what his right hand gave. He concedes, “Nothing can be proved here” (ibid.: 1157), yet somehow “we all know that our moral decisions and ... judgements are fallible” (ibid.: 1158) and nobody “in practice accepts moral or even aesthetic relativism” (ibid.: 1158). He finishes by admitting that, “No doubt, I was not very successful” (ibid.: 1158). On this point, he is correct, as we will now argue. Then we will try to show how default principles can avoid the problems of cognitive and ethical relativism and scepticism. Popper says, “fallibilism was the main point of

my *Addendum*, and the point of comparing moral values with truth values” (ibid.: 1158), and concludes with what looks suspiciously like a non sequitur: “If we can fall short in our moral decisions it must be that we *fall short* of some man-made and insecure yet objective standard” (ibid.: 1158). Here he clearly compares the search for objective truth in science, society and history with the search for objective standards in ethics indicating a clear continuity with the two major aspects of the twin eighteenth-century Enlightenment projects.

Popper begins the addenda by defining “relativism” (or “scepticism”) as “the theory that the choice between competing theories is arbitrary” (Popper 1961: 369). This will serve as a good definition since it includes any kind of theory: scientific, economic, historical, metaphysical, religious, social scientific, political, moral or psychological. He cites three grounds for the refutation of such “scepticism”, all of which support my contention that by “arbitrary”, Popper means “a belief, theory, claim, or principle for which one can give no reason, either positive or negative” (see Chapter 5). Popper attempts to use three principles, theories or definitions to refute these arguments.

The first is Alfred Tarski’s theory of truth, the second is his own theory of verisimilitude, and the third is his “non-authoritarian theory of knowledge” (ibid.: 369). Popper’s argument here requires a clear distinction between truth-seeking and truth-finding, as well as between epistemic and semantic questions (ibid.: 371). As was his wont, he rejected “criteria philosophy”, especially regarding meanings, definitions and therefore any valid criterion of “truth”. He insisted that there is no general criterion of truth. This is crucial to his fallibilism, which leads him to concede that there is a “kernel of truth in relativism and skepticism” (ibid.: 374). A major problem his philosophy faced then, and still faces, is whether there really is a significant difference between relativism, scepticism, and fallibilism despite his disclaimer that “the fallibility of our knowledge claims must not be cited in support of skepticism or relativism” (ibid.: 375).

He does have a strong logical point in Section 5, “Fallibilism and the Growth of Knowledge”, that “the idea of error implies that of truth as the standard of which we fall short” (ibid.: 375). It certainly does not make logical sense to say, “Columbus and Copernicus showed that contemporary views were mistaken about the earth’s flatness and centrality in the universe”, if truth is an illusion or an ill-defined term. In his appendix, Popper associated his fallibilism with “Getting nearer to the truth” (ibid.: 376). It may still be possible to defend the idea of verisimilitude but not with the original formal definition that he proposed, one refuted, as he admitted, on purely logical grounds. It ironically lends credence to his fallibilism to show that he was *mistaken* in this particular idea, but a better argument is that it demonstrates the wisdom of his anti-essentialism, since it was an attempt to provide an essentialist definition of the term.

As a defender of Tarski’s theory of truth, he feels compelled to defend absolutism. The key point is that are two types of absolutism, a dogmatic, authoritarian type usually claiming to be in *possession* of the truth, as well as a “fallibilistic absolutism”. The difference between them is that the latter may

claim, "the truth is out there", yet eschew any dogmatic claim to have that truth. This is because of the basic axiom of fallibilism: "the principle that *nothing is exempt from criticism*" (ibid.: 375). Since Popper adds, "from which this principle is not exempt" (ibid.: 375) this comment has led to two difficult questions. The first is "how can it be effectively criticized?" The second is "what if it is effectively criticized?"

Section 8 "Sources of Knowledge" is arguably one of the two most important sections in the appendix, from the point of view of this book. While I would argue that Popper does not always support his arguments as well as he should, if these principles could be better articulated and better defended, then it would help resolve a large number of crucial issues involving the Open Society as understood and defended by Hayek as well as Popper. This is the major contribution I claim to make to their theories and arguments. If it succeeds then it will remove much incoherence in their arguments, especially at the meta-ethical level, where it is the weakest. Both are strong at the meta-theoretical level, except for their Weberian meta-ethics. In arguing on the normative level however they often tacitly utilize an unarticulated meta-theory such as that proposed in FDM, re-asserted, and defended in this chapter.

Popper is broadly tolerant in epistemology, at least in theory. As pointed out numerous times, the ultimate source of scepticism is the positivist dogma that knowledge claims can be justified solely on two *and only two* sources: experience and logic. Popper is not as epistemically puritanical as the positivists are, but neither is he epistemically promiscuous. In fact, Popper is *logically puritanical* (only deductively valid arguments are permitted) but *epistemologically permissive* (we are encouraged to make bold conjectures on very insufficient evidence). This entails that, while "every source is admissible" there is no statement immune from criticism no matter the alleged source. Sources such as tradition, rejected by the godfathers of modernity, Descartes and Bacon, are permitted, as is the use of intellectual intuition, reason, imagination, observation, and "experience" and even "intuition" (Popper 1961: 388–90). Popper failed to develop a coherent, systematic account of how this would operate in a non-ad hoc fashion.

He attempts to develop such a theory in his introduction to CAR. There he lays down nine theses on epistemology, which not only have an obvious relevance to this discussion, but also overlap significantly with it and play a major role in my solution to the PHD's ultimate meta-theoretical problem.

He starts by asserting that "1. There are no ultimate sources of knowledge", and that "2 The proper epistemological question is ... whether the assertion is true" which is best done by testing an assertion or its consequences. In this task "3 ... all kinds of arguments may be relevant" including observation but we can also ask of historical documents questions such as "Are the historical sources mutually and internally consistent?". He asserts that "4 ... by far the most important source of our knowledge ... is tradition", which entails then that "5 ... anti-traditionalism is futile", but traditionalism is wrong also since "every bit of our traditional knowledge ... is open to critical examination and may be

overthrown” as may happen even to our inborn knowledge. We cannot start with either a blank slate or incorrigible foundations, since “6. Knowledge cannot start from nothing”. The most important thesis for our purposes is “8 ... observation and reason are not authorities”, and, while intuition and imagination are important “they are not reliable”. While they are indispensable as sources “most of our theories are false anyway”. The final point is crucial to his later theory of objective knowledge. “Every solution of a problem raise new unsolved problems” (Popper 1963: 27–8).

He preceded this discussion with an extremely interesting and important table illustrating the infinite regress problem as it arises in both epistemology and semantics.

	IDEAS	
	that is	
CONCEPTS		STATEMENTS
	may be formulated in	
WORDS		ASSERTIONS
	which may be	
MEANINGFUL		TRUE
	and their	
MEANING		TRUTH
	may be reduced by way of	
DEFINITIONS		DERIVATIONS
	to that of	
UNDEFINED CONCEPTS		PRIMITIVE PROPOSITIONS
	the attempt ... to establish rather than	
	to reduce their	
MEANING		TRUTH
	by these means leads to an Infinite Regress	
	(ibid.: 19, reproduced in Popper 1972: 124)	

In FDM, I replaced Popper’s unsystematic, vague and eclectic approach with *default principles* (which are parallel to what some philosophers call defeasible principles). It is primarily useful in solving the most fundamental problem besetting any rationalist philosophy: the infinite regress problem. It is strangely missing from his appendix, although Popper mentions and discusses it elsewhere, including in the above table. It arises from the principle of sufficient reason (PSR) “Accept a theory or principle or factual claim or hypothesis *if and only if* there is a sufficient reason to accept it”. It needs to be replaced by “Reject a theory or principle or factual claim or hypothesis based on Default Principles (hereafter DP) *if and only if* there is a sufficient reason to reject it” where “sufficient reason” refers to a contradiction deduced from the theory or principle or factual claim or hypothesis based on DP. This entails two desiderata: first, we need to identify valid or plausible default principles, and second, we need to have an adequate theory of valid criticism. In regard to the first desiderata: Since these have evolved over the centuries, it is not too difficult. In fact, Popper has

named almost all of them although he omitted his own favourite: common sense. They include sense experience, intuition, tradition, common sense, and perhaps a moral sense, conscience and the natural light of reason (Descartes and Leibniz). This means as well that the main problem is the second desideratum.

In response to his own question: “Is a critical method possible?” (Popper 1961: 378), Popper, rather than outlining his standard theory found in the articles later published in CAR, mentions only one criterion: problem-solving ability. It is a valid criticism if a theory fails to solve the problem it was supposed to solve, which is the main problem with Popper’s argument in this appendix. He goes on to repeat his standard “Dualism of facts and standards”. After some rather irrelevant semantic points, he concludes that the important point is the irreducibility, in the purely logical sense of facts and standards, so that we can “see clearly why standards cannot be reduced to facts” (ibid.: 384). Now what he never recognized explicitly is that *this same purely logical irreducibility also existed*, as he argued strenuously from LSD to the end of his life, *between scientific theories and facts*.

The next sentence after this, points out the “decisive asymmetry between standards and facts” (ibid.: 384). Since the crucial term, “asymmetry”, is the same term used to differentiate empirical verification from falsification, it is striking that Popper never seemed to have considered the possibility that same asymmetry principle might apply in moral reasoning. He did say (ibid.: 385), that proposals and propositions can be discussed and criticized and we can decide between them but he never developed an adequate theory of such criticism and his meta-ethical theory rules this out since it was totally Weberian. The logical gap for SVR is a two-way logical gap, as documented in Chapter 9.

Yet the solution was almost staring him in the face. When he discussed “experience” and “intuition” as sources of knowledge, he drew an analogy between *fallible experiential knowledge* and similar putative *sources of moral knowledge* such as a moral sense, intuition, practical sense (ibid.: 391), that in effect completely anticipates the collapse of the fact/value distinction that Putnam has recently propounded. Popper acknowledges that his views may be criticized as being relativist and subjectivist since “they do not establish any absolute moral standards” but he responds with a totally irrelevant argument. A moral relativist can respond that “I am not in the least interested in your ‘ought’, or in your moral rules – no more than in your logical proofs, or, say, in your higher math” (ibid.: 391). However, this is not what the genuine moral sceptic or relativist is asking for. She or he is asking for a convincing logically valid argument for and/or against moral rules.

The section on sources of knowledge is as crucial as Section 8, since it is a follow up to it. It takes us back to Chapter 3 where I deliberately drew a parallel between the use of intuition by Einstein and Bergson. Here the parallel is between experience as a source of our knowledge of facts and intuition as a source of our knowledge of right and wrong. Popper repeats his standard critique of naïve empiricism. He then introduces the possible parallel of similar alternative sources of knowledge of right and wrong different from intuition

(experience of pain and pleasure, the moral sense, practical reason and intellectual intuition). He comes very close to formulating a default principle⁴ here as he did for common sense in OK, saying that “we should trust our intuition only if it has been arrived at as a result of many attempts to use our imagination of many mistakes, many tests, and of searching criticism” (ibid.: 391).

He never faces up to the problem that his Weberian meta-theory rules out the possibility of criticism of moral principles, arguments and rules despite the fact that he and Hayek, who also accepted uncritically the Weber and Robbins view, did make use of such arguments.

In his conclusion, Popper argues that, “since Western civilization is an essentially pluralistic one ... monolithic social ends would mean the death of freedom: of the freedom of thought, of the free search for truth, and with it, of the rationality and dignity of man” (ibid.: 396). These are ideas that Hayek and Popper shared in common. It should be noted this was written in 1961 long before the modern theory of multiculturalism, tolerance, pluralism, “diversity” and “equity” sanctimoniously preached by today’s “politically correct” academics and their followers. It is interesting that the year before, Hayek argued in COL for the decriminalization of homosexuality, as did R.M. Hare two years later in FAR. Old-fashioned liberals were way ahead of the Left in their progressivism.

However, these are mostly *ad hominem* arguments in favour of taking them seriously. They still leave unanswered: Do either of them have an adequate answer to MacIntyre’s critique of the Enlightenment Project? Since Popper and Hayek reject the idea that moral principles can be proven, rationally justified, or verified, then the only possible source of their rationality is critical evaluation. If we could disprove, refute or validly criticize the moral theories, arguments, principles and standards of one political philosophy, ideology, or moral theory, while our own theories (or those of someone else) were not vulnerable then we would have grounds for non-arbitrary choice. This is what Hayek attempted to do (especially in LLL, TFC and the ECA). Popper also frequently does in his polemical arguments but it never changed his (or Hayek’s) meta-theory. In the next section, that defect is what we will try to repair.

In SBW, Popper provides a nice, concise summary of his entire philosophy in four words: “*Rational criticism replaces justification*” (Popper 1992: 54). However, as I have just argued, his fallibilism is defective in at least two major areas. First, it needs *default principles* to make his fallibilism avoid the abyss of scepticism and relativism. He also needs a much better articulated theory of moral criticism. I first present an argument for the first claim regarding DP. Then I outline his PTA theory based on OK and use it to argue the second point, that he needs a more explicit, and clear, theory of moral criticism. In LLP Popper presents a clear description of his idea of “good but inconclusive reasons” (Popper in Schillp 1974: 1114), his epistemological equivalent of “inductive logic”. It contains a significant clarification as well as advance on his cryptic comments in LSD regarding the role of experience in “justifying” our factual statements. He says that our observation and experiences “are not only

motives for accepting or rejecting an observational statement, but they may even be described as inconclusive reasons. They are reasons because of the generally reliable character of our observations; they are inconclusive because of our fallibility” (ibid.: 1114).

Normally Popper would object to the idea of “good but inconclusive reasons”, as inductive. However, for his critical rationalism, arguments must be logically conclusive but not epistemologically conclusive. That is why PRC is more basic than fallibilism, and deductivism is therefore more basic than PRC, although he never saw it that way. DP serves three functions in Popperian fallibilism. First, they help solve the infinite regress problem and therefore solve the problem of Fries’ trilemma. Second, they reinforce his deductivism and thereby provide a theory of corroboration that is not inductive. Finally, they solve the so far unmentioned problem of background knowledge that makes rational discussion of problems possible.⁵

Popper’s world three, objective knowledge and evolutionary epistemology

Popper’s most important ideas on evolutionary epistemology are in OK Chapters 3, 4, and 7. Chapter 3 is “Epistemology without a Knowing Subject”; Chapter 4 is “On the Theory of the Objective Mind” and Chapter 7 is “Evolution and the Tree of Knowledge”. Chapter 3 outlines his *metaphysical* alternative to both monism and dualism. It helps resolve the problem of apparent conflict between *Popper’s objectivism* and *Hayek’s subjectivism*. For a theory that is very empirically oriented, it is very metaphysical as well. For Popper there are three worlds: a physical world (contra idealism), “secondly, the world of states of consciousness, or of mental states (contra materialism) and thirdly, the world of objective contents of thought, especially of scientific and poetic thought and or works of art” (Popper 1972: 106).

Critics, both hostile and sympathetic, have argued that his theory has several difficulties. O’Hear objects to it on grounds that its foundation is shaky (O’Hear 1980: 207). Popper offered an interesting thought experiment for it. He asks us to imagine two devastating occurrences to the present world. First, all machines are destroyed, but not the knowledge on which they rest. Second, all the knowledge in libraries and elsewhere is destroyed but not the machines. Which scenario would it be most difficult to recover from and restore our original status? The answer he takes to be obvious. It would take a while but we would recover sooner from the former than from the latter disaster.

The knowledge stored in libraries above is what he means by “objective knowledge”. He offers a very controversial theory of “epistemology”, namely that “Epistemology I take to be the theory of scientific knowledge” (Popper 1972: 108). He then develops what I called in FDM the PTA theory of rationality: “problems, theories, and arguments as such”. Knowledge in this sense is completely independent of anybody’s claim to know (ibid.: 109). His first thesis is the extremely provocative one that “traditional epistemology ... is irrelevant

to the study of scientific knowledge” (ibid.: 111). His second thesis is an alternative to this tradition: “what is relevant . . . is the study of scientific problems and scientific conjectures, scientific discussions, critical arguments, and . . . the role played by evidence in arguments” (ibid.: 111). If one wanted to jump into a criticism of his theory at this point then the main critique might be that one should have added “and principles and rules” between “evidence” and “in arguments” in the last sentence quoted. Another possible criticism of what I referred to as his first thesis is that it contradicts what he says about the epistemology of the Age of Reason in his introduction to *LSD* when it first appeared in English in 1959.⁶

In Chapter 4 Popper makes the following points: he starts by pointing out some respectable precursors of his own view concerning “the existence of a *third world*” (ibid.: 153). These include Plato, the Stoics, Leibniz, Bolzano and Frege. In this chapter of *OK*, the occupants of world three multiply, so that they include “possible objects of thought” and “theories in themselves” as well as “their logical relations” and both “arguments in themselves” and “problem situations in themselves” (ibid.: 154).

The Stoics are the prime movers in discovering this world (not, it should be noted, inventing it). They formulated two key theories relevant to Popper’s theory, one of which will be accepted as one accepts a gift horse, but the other one will have its rationale thoroughly examined. The first claim is that “*theories, or propositions, or statements are the most important third-world linguistic entities*” (ibid.: 157). The second is the claim that “the Stoics . . . first made the important distinction between the (third-world) objective logical *content* of what we are saying, and the *objects* about which we are speaking” (ibid.: 157). The distinction here is an elementary one, yet many intelligent people have problems with it. It is the difference between a cat and the word “cat”, or between numbers and numerals. The following different symbols all refer to the *same number* {4, IV, 100, “four” and “quatre”}. This second claim is the gift horse accepted without any examination of its teeth.

Popper’s theory easily accommodates the social constructivist view that all our theories, concepts, ideas, and so forth are constructed and reduces it to a very boring truism. It only becomes interesting and controversial when it either dogmatically claims that society, the universe, or the world is “just or merely a social construction”, for this does not follow from the trivial claim that “All our ideas are socially constructed”. Popper then applies his ideas to the field where such socially constructed theories have become predominant; history and social science. He admits, as he always had (despite Stokes’ suggestions to the contrary), that interpretation is always necessary in both science and history. Interpretation is always a theory, but, like all theories, is open to both criticism and revision. It can be “a historical explanation, supported by a chain of arguments and, perhaps, by documentary evidence” (ibid.: 163).

Stokes begins his chapter on evolutionary epistemology by describing what he sees as “a shift of emphasis from a formalist rationality derived from the methods of physics to a problem-solving rationality based on theories based

upon evolutionary biology” (Stokes 1998: 124). He describes three main stages (ibid.: 125–6). The first is openness to criticism, the second is rational metaphysics, and the third stage focuses on parallels between growth of knowledge and biological evolution. Stokes raises two main difficulties, the first is that evolution is only an analogy (ibid.: 133) and the second is that Popper’s theory is anti-Darwinian (ibid.: 134).

Three final points will complete our summary of Popper’s evolutionary epistemology. First the apparent shift from the *logic* of scientific knowledge to the *growth* of scientific knowledge has its own evolutionary development. The link is supplied by CAR and its subtitle, which is *The Growth of Scientific Knowledge*. That subtitle is incorporated into the title of Chapter 10, which is “Truth, Rationality, and the Growth of Scientific Knowledge”. It is based on a lecture Popper gave in August 1960 at Stanford University. It contains many of the major themes he later developed in OK. It repeats the general theory of criticism found in Chapter 15 of CAR that, with his theory of objective knowledge, and his devastating critique of positivism (PIE) in LSD, I shall use to eliminate the lingering remnant of positivist dogma in his meta-ethical theory.

Second the logical schematism Popper introduces to illustrate this indicates how he can still combine the rigid logicism of Frege and Plato with Darwinian development and anti-essentialism. The schematism is as follows: $P1 \rightarrow TT \rightarrow EE \rightarrow P2$ ($P1$ = problem 1, TT = tentative theory, EE = error elimination and $P2$ = problem 2). The third is his theory of the mind, which has both similarities and differences with an interesting paper by Hayek, called “Two Types of Mind”. Popper’s theory has the colourful title “The Bucket and the Searchlight: Two Theories of Knowledge” (appendix to OK). While this is a very interesting topic, it would be too much of a distraction and is at best peripheral to my major points.

Four triads of concepts to solve the problem

The three basic theories of Popper used in my solution to the EPP are first his “World 3 theory of objectivity” (PTA). The second is the Popperian definition of “criticism” (as found in CAR, p. 316) and the third is the *asymmetry thesis*, from LSD

1 Objectivity and rationality

The project of solving the EPP starts with Popper’s world three theory of objective knowledge. I start with Popper’s example of inventing numbers. The key idea, found in philosophy of mathematics as well⁷ concerns the objectivity of *epistemic reasons* for mathematical truth not the *ontological reality* of mathematical objects (transfinite numbers, sets, circles, imaginary numbers). On Popper’s view, we invent the natural numbers, which then take on a life of their own producing unexpected and unintended results. We get irrational numbers, transcendental numbers, complex numbers, transfinite numbers and various

paradoxes plus non-Euclidean geometries, non-commutative algebra, paradoxical results in probability and so on. Can we make the same claims for our moral reasoning as just made for mathematical reasoning? Can we argue that we invent our morality; we do not discover it yet, as with mathematics, our inventions escape our control and produce unintended and unexpected logical consequences?

The first point to be made is that this analogy will only work if we have an *adequate theory of ethical criticism*. Popper gave us a plausible, completely general theory of criticism in CAR (Popper 1963: 222, 316) that can be applied to ethical reasoning. I shall now show how exactly the same principles from CAR apply to ethical reasoning as well. As with mathematics, our inventions escape our control and produce unintended and unexpected logical consequences. This allows us to neatly circumvent, not avoid, dismiss, collapse or ignore the Hume–Weber is–ought, fact–value dichotomy by exploiting the parallel with those problems and that of induction, *in particular the aspects of both sets of problems that relate to the asymmetry principle*.

2 Three types of criticism

An answer to the question “how is moral criticism possible?” can start with the three types of criticism Popper provides (Popper 1963: 316), where he says we can criticize a theory on grounds of internal logical inconsistency, contradiction by facts and conflict with theories that we have good reasons to accept. However, for this to apply in ethics requires or implies that prescriptions, oughts, norms and rights claims can have logical consequences that are not merely logical but factual and theoretical. In FDM I supplied numerous examples to show how to deduce an “is”-statement from an “ought”-sentence. For this book I will use arguments already cited, especially those of Hayek and Popper, as well as others.

3 Three bridge principles

There are relatively uncontroversial principles that not only permit these three types of criticism but also require it. Two of them come from Kant, and do not depend on either his metaphysics or epistemology, assuming they are problematic (as Putnam asserts but does not bother to argue). The first is the “ought implies can” principle; the other is Kant’s universalizability principle parallel to Popper’s “invariance of natural laws” (Popper 1959: 253). The third principle involves the claim that most, if not all, ethical principles, prescriptions, norms, rules and ideals have either existential presuppositions or implications.

4 The problem of first principles

The final problem addressed arises from the most fundamental of all philosophical problems; that of first principles. As noted, I argue that Popper desperately

needs *default principles* to avoid some unnecessary problems with his arguments both in the original OSE, Chapters 22–25 and in his appendix to the 1961 addition, in LLP and in CAR. This enables him to avoid an irrational leap of faith and argue that PRC, while admittedly *non-rational* is logically superior to both irrationalism and the comprehensive rationalism based on an indefensible and logically inconsistent PSR. Finally, a principle he advocates is the distinction between reasonable doubt and sceptical doubt (Popper 1992: 202). Finally the point about default principles applying to epistemology and meta-ethics also applies at the normative level. This entails then that concrete principles such as “stealing is wrong”, we should not tell lies, or break promises, are principles for which we need a reason to violate. This makes them similar to *prima facie* duties. I now try to show how these three principles help solve the fundamental problem of metaethics and why the *onus probandi* is on the one making an existential, rather than universal, assertion.

I will use mostly examples from Hayek and Popper already discussed.

- 1 The first example involves arguments discussed in Chapter 5 from OSE, where in Chapter 7 Popper presents the paradoxes of sovereignty, freedom, democracy and tolerance.
- 2 The second example involves arguments of Hayek and Popper against utopianism.
- 3 Hayek’s ECA.
- 4 Hayek’s arguments against social justice.
- 5 Hayek’s arguments against any claim whose form is the following: “society has a duty to maximize, produce, eliminate X or bring about situation Y”.
- 6 The state ought to enforce perfect equality.

At the outset, I want to make a key distinction. I am using the examples in this chapter to show the *logical possibility* of criticizing normative claims of an ethical and political nature. It is not necessary in this chapter to commit myself on the correctness of the arguments. My point is primarily a logical one at this stage. The justification for this is that my book is structured around a first half (Chapters 1 to 8) focused mostly on descriptive and expository material with minimal (but not zero) critical comment. This crucial Part IV is primarily meta-theoretical in the meta-ethical and epistemological senses. Part V integrates all three, the meta-ethical, epistemological and normative by discussing the philosophical defensibility of many of these crucial arguments. The main point of these ten examples is to show how easily and simply Popper’s PCR can be applied to moral reasoning in order to show the invalidity of the SVR and EPP arguments when they ignore the asymmetry principle.

The first example regarding Popper’s paradoxes obviously illustrates the use of logical criticism. Pointing out a logical contradiction in a theory undermines it whether it is cognitive or ethical.⁸ A theory of tolerance or freedom that does not have paradoxical consequences then is better than one that does. The argument against utopianism involves both theoretical and factual components along

with the “ought implies can” principle, leading to the inference that we cannot be obligated to produce a utopian society. I agree that this is not the end of the argument, since both facts and contentious theories are involved in such arguments and a utopian can still defend her views as ideals. That discussion is resumed in Chapters 12–15. Hayek’s ECA involves the same set of principles, facts, theories and logic. As he argued in TFC, socialism is both factually and logically impossible. This claim can be refuted only by citing factual, logical, and perhaps theoretical grounds.

The argument about social justice is much more complicated, as we shall see in Part V. However, it will serve as an excellent example of a critical argument using all three types of criticism; factual, logical and theoretical. Since it is a much more complicated and contentious issue than three and five, I will save it until Part V. The argument about the term “society” and its referent is a combination of the ought-implies-can as well as logical and theoretical arguments about society, i.e. the referent of the term “society”. It has the following structure:

- a Only persons have duties.
- b Non-persons then have no duties.
- c Natural objects and impersonal social processes are impersonal.
- d Society is neither a natural object nor a person. It therefore follows that:
- e Society has no duties.

As I will argue in Part V, this disposes of one of Kley’s invalid arguments against Hayek, that he reduces society to a natural object like a stone or hurricane or animal with no moral duties. However, his argument is much more sophisticated than that. For now, however, it is solely used as an illustration of the PRC approach to meta-ethics.

Number six is perhaps the easiest to refute on purely logical grounds since the state must have superior power over citizens to enforce anything, including equality, so if it is trying to enforce complete equality it would have to eliminate its own superior power while using it to enforce equality.

The basic flaw in the SVR theory is its failure to see that the argument only proves at best that we cannot go from is to ought, but it does not show that we cannot go the other way. As argued in Chapter 9 none of the proponents of SVR attempted to argue for a two-way logical gap although they frequently asserted it as if it were an obvious corollary. Finally none of them tried to argue that a *reductio ad absurdum* argument in ethical reasoning (such as those of Kant and Gewirth) is impossible. But does my use of the Popperian asymmetry argument presuppose the truth of the claim that Popper has completely solved the induction problem?

I can easily concede that Popper’s solution to the problem of induction is not perfect. Arguing that there is a clear parallel between that problem and the is–ought problem does not show that the cognitive asymmetry thesis holds in ethics as well. Since I argue that the burden of proof is usually on the defender of an existentialist claim, not the one denying it, the onus is on me to argue that

the Popperian asymmetry argument does hold in ethical and normative political reasoning. This is what I am attempting here.

The remaining four examples are:

- 7 “Do your own thing”, interpreted as meaning “all humans have the right to do whatever they want to do”.
- 8 All humans have negative rights.
- 9 All humans have positive rights.
- 10 All humans have unconditional welfare rights.

All of them potentially run into trouble because of the ought-implies-can principle. Now this is a relatively uncontroversial principle. Yet (to illustrate MacIntyre’s principle about disagreement) it is not universally accepted. I shall consider this problem later since I first wish to show that seven to ten are open to potential refutation and criticism on logical, factual and theoretical grounds.

From any rights statement a long chain of deductions is possible, since it seems easy to deduce a duty statement. At least it is unintelligible how anyone can assert, assume or argue, “H has the right to L” without there being a corresponding duty statement “P has a duty to provide H with L” (where P need not, for now, be identified). From a duty statement we should be able to deduce an ought statement. Thus from “P has the duty to provide H with L”, we can deduce “P ought to provide H with L”. By inserting “ought implies can”, we can then deduce “P can provide H with L”. Now we can deduce as a conclusion the factual statement “L is available (either potentially or actually) for P to provide”. It is not too difficult to see how this conclusion can conflict with objective facts thus making possible (by *modus tollens*) a refutation of the original assertions.⁹

It also indicates how rational preference is possible since we could have a similar chain of reasoning without a false implication and this would clearly be preferable to a similar chain with such false implications. This, in fact, is going to be the key argument in my final section when I defend Hayek against MacIntyre on liberal justice versus social justice. What I have argued for in this chapter is following:

- 1 We can validly deduce an “is” from “ought” (not vice versa).
- 2 We can, in principle, refute an “is” statement. Therefore:
- 3 we can refute an “ought” (by *modus tollens*) without,
- 4 the “ought” being itself true or false, therefore,
- 5 rational choice is possible.

We prefer an unrefuted to a refuted theory. In case of a tie, priority goes to the theory there first, i.e. to the one sanctioned by “tradition”. While tradition harmonizes nicely with evolutionary ethics, it raises numerous problems as well. The evolutionary development of human history after all has produced slavery, serfdom, the servile oppressive authoritarian state and the caste system but that issue is the topic for the next chapter.

Conclusion

Since the 1960s, there have been several major developments in philosophy on these problems in the areas of argumentation theory, informal logic and critical thinking. One of the godfathers of this development is Stephen Toulmin. His critique of the Euclidean paradigm, which has allegedly misled Western philosophers and other thinkers since his day, is rejected as inappropriate outside the limited field of mathematics. However, he had to provide an alternative and did so. He filled in the gaps with his “warrants”. Richard Hare had Toulmin in mind when he argued against a special non-deductive mode of inference in ethics.¹⁰

Suppose however, we stick to defending Toulmin’s warrants, or agree with MacIntyre, Salmon, Strawson, Stove and Putnam who all reject the requirement that we can legitimately use only deductively valid arguments. The one major problem for all defenders of inductive logic is “how do we distinguish between fallacies, non sequiturs, enthymemes, and inductive arguments?” The counter-retort could be “why are Popper’s ‘good but inconclusive reasons’ (LLP, p. 1114) any different than inductive claims? Why is an *epistemologically inconclusive* argument be any better than a *logically* inconclusive argument?” That very appropriate and difficult question will be a major foci of Part V. For purposes of the argument in this chapter, it is sufficient to point out that SVR is undermined in two distinct ways. First, its claims that moral judgements cannot be refuted are refuted. Second, it faces a dilemma regarding inductive logic. If non-deductive reasoning is allowed for science, why it is forbidden in ethics and political theory? Why this double standard?

A good Popperian anti-double standard argument proceeds as follows. We should be *logically puritanical* but *epistemically permissive* with logic setting the limits of our epistemic permissiveness. This is preferable to being epistemically puritanical and logically permissive, or to being puritanical or permissive in both areas. This is because a Pascalian–Kierkegaardian leap of faith is preferable to a Tertullian or Humean leap. This is because the former is merely non-rational not either irrational (Tertullian’s principle to believe because it is absurd) or illogical (Humean justification for making invalid inferences). Since we have to rely on fallible premises in almost all of our reasoning, it is better to have arguments with fallible premises and valid conclusions than fallible premises and invalid inferences.

Default principles serve three functions for fallibilism.

- 1 They solve the infinite regress problem without resorting to either dogmatism or psychologism.
- 2 They remove the paradox from Popper’s good but inconclusive reasons, since we only rely on deductive reasons even though the premises may be incorrect. DP entitles us to accept them provisionally not because they have been justified but because they have not been refuted or effectively criticized.
- 3 DP also help solve the problem captured in the formula from Chapter 5.¹⁰

They reinforce Popper’s deductivist epistemology and thereby provide a theory of confirmation that is not inductivist.

Default principles also serve several subsidiary functions for fallibilism as well. DP help solve the Popperian left hand/right hand problem by asserting that sense experience is usually reliable but not always. In addition common sense, intuition and tradition are sometimes reliable and sometimes wrong. DP give a reason for why and how this is the case. Further DP identify where the *onus probandi* lies in a logically compelling way. It also has the advantage of putting the *onus probandi* on the one making an existential assertion not on those making a universal assertion or bold conjecture because of the asymmetry principle. The DP also has the advantage of requiring reasonable doubt not mere sceptical doubt. This requires the critic either to assert a reason for doubt not a mere abstract possibility, or to point to a logical fallacy in the argument.¹¹

I finish by showing how close Popper came to formulating such a principle but without doing so adequately (1972: 323, 306, 134, 77).

- 1 “it was commonsensical to hold that common sense was often wrong – perhaps more often than right; but that it was plain that in philosophy we had to start from common sense, if only to find out, by criticism it was wrong” (Popper 1972: 323). Popper says essentially the same regarding intuition in the context of discussing Brower’s philosophy of mathematics:
- 2 “intuitionism is the doctrine that intuitions are not only important but generally *reliable*. As against this I think that intuitions are very important but that as a rule they do not stand up to criticism” (ibid.: 306). He argues earlier that:
- 3 “it is ... important to give up the mistaken philosophy of intuition as an infallible source of knowledge. There are no authoritative sources of knowledge, and no ‘source’ is particularly reliable” (ibid.: 134). He argues the same of sense experience, for which he is criticized by John Watkins, Alan Ryan, and the authors of PEM. Popper however is not radically anti-empiricist but only sensibly and moderately anti-empiricist as the great philosophers, Plato, Descartes and Leibniz were. As he says “our sense organs are successful more often than not. ... But he [the evolutionary biologist] will deny that they are always or necessarily successful, and that they can be relied on as criteria of truth” (ibid.: 77). Popper also argues that:
- 4 “It is advisable to start from common sense, however vague the views comprised by it may be, but to be critical of all that may be claimed in the name of common sense” (ibid.: 104) and also “Even our sense organs ... are theory-impregnated and open to error, although only occasionally in healthy organisms” (ibid.: 105).

Since Popper said the same about tradition as well it is clear that he needs a better formulated statement or a coherent set of principles covering all these “sources of scientific and moral knowledge” as formulated by my argument

regarding default principles. Any such principle however will completely subvert the traditional Hume–Weber argument regarding either the fact–value or is–ought dichotomies and do so much more convincingly than Putnam’s argument which, at best, shows that facts and values as well as facts and theories are entangled without ever addressing the is–ought dichotomy in an adequate manner. The next chapter discusses a criticism of Hayek arguing that he illegitimately entangled facts and values in his arguments about the desirability of markets and evolutionary processes in general.

11 Evolutionary ethics, Darwinism and the naturalistic fallacy

The main, most serious problem of social order and progress is . . . the problem of having the rules obeyed, or preventing cheating. As far as I can see, there is no intellectual solution of that problem. No social machinery of “sanctions” will keep the game from breaking up in a quarrel, or a fight (the game of being a society can rarely just dissolve!) unless the participants have an irrational preference to having it go on even when they seem individually to get the worse of it. Or else the society must be maintained by force, from without – for a dictator is not a member of the society he rules – and then it is questionable whether it can be called a society in the moral sense.

Frank Knight (cited in Buchanan 1975: vi)

There’s such a difference between the way we really live and the way we ought to live that the man who neglects the real to study the ideal will learn how to accomplish his ruin, not is salvation. Any man who tries to be good all the time is bound to come to ruin among the great number who are not good.

Machiavelli (cited in Donaldson and Werhane 1996: 143)

Evolutionary ethics and evolutionary epistemology

In Chapter 1 I began with a quotation from Popper’s SBW. The context involves a discussion of Bishop Berkeley’s criticism of what he called “the minute philosophers”. In a magnificent summary of what philosophy should be all about, Popper says, “A minute criticism of minute points without an understanding of the great problems of cosmology, of human knowledge, of ethics and of political philosophy and without a serious and devoted attempt to solve them, appears to me fatal” (Popper 1994: 185). The debates over the philosophical implications of evolution involve all of the four main areas of philosophy cited in the above quotation. The fierce debates over its possible negative implications for traditional religious beliefs and theology are too well known to require comment. Most educated people are also aware of the equally intense debates over its possible ethical implications because of late nineteenth-century social Darwinism.

In Chapter 10, we touched briefly on Popper’s “evolutionary epistemology”. In this chapter, we start our examination of Hayek’s extremely contentious

views on evolutionary ethics. Since it is correctly seen as one of the potential Achilles heels in the overall argument for his political philosophy, we examine one specific problem in this chapter and then in Part V, I defend a reconstruction of his argument designed to be immune to the more cogent criticisms made of it. In Chapter 3 I argued that the main problem for Popper at the level of meta-theory is the connection he sees between the epistemological and methodological theses for which he argued and his moral and political philosophy. A similar problem emerges for Hayek in this chapter.

Hayek’s evolutionary ethics, Darwinism and the naturalistic fallacy

A crucial distinction we will begin with concerns two very distinct (albeit related) problems: since they are very relevant to the discussion in de Waal’s book, this is an appropriate place to introduce both of them. They are relevant to the four possible relations of evolutionary theory to ethical theory and practice. Two of them are of primary interest to philosophers while the other two are important to social scientists although they are also arguably relevant to moral philosophy. I introduced the four possible relations in Chapter 2 when I outlined how the moral sciences became the social sciences, thereby eschewing any competence to pronounce on the validity of moral codes in an absolute sense.

First evolution in principle is capable of *explaining the origin and development of ethics* from Neanderthal man through the Neolithic Revolution to the Industrial Revolution (and possibly beyond that). Second, it can at least in principle, help explain the *motivation* to be ethical despite numerous self-interested reasons to prefer our own interests to those of others, particularly when the “other” is a stranger, an alien and/or an enemy or member of an enemy society. While this may seem to be primarily of interest to game theorists, economists, historians and social scientists, it also is of relevance to many moral theories, particularly those of social contract persuasion. Gauss explicitly introduces the prisoner’s dilemma into his discussion of the evolution of moral rules into his discussion of Hayek in CCH (Feser 2006: 242ff.). This is the problem Knight seems to despair of finding any solution in the quote at the head of this chapter.

The more controversial, philosophically interesting claims of evolutionary ethics (hereafter EE) concern justification and criticism, rather than motivation and explanation. The crucial question however is whether it can provide a rational, scientific foundation for ethics. Does it violate logic (and the rules of scientific method) to claim that a scientific theory can do anything other than describe and explain the behaviour and beliefs of a moral nature but not prescribe and justify such behaviour and beliefs? If it is unable to justify moral beliefs and behaviour can it be used to *criticize or refute* arguments or theories favouring certain moral beliefs and behaviour?

This latter issue is the upshot of the traditional is–ought problem and is the primary logical basis for arguing against any attempt to use evolutionary theory for any other than the first two purposes. It is also relevant to an important criti-

cism Erik Mack makes of Hayek's anti-rationalist ethics. There he claims that Hayek "conflates the claim that reason creates or designs moral norms and the claim that reason can confirm or justify norms" (Mack in Feser 2006: 284, fn. 4). Mack adds that since Hayek "is so eager to deny the first, he is continually driven to deny the second" (ibid.: 284). This is in the same category as Caldwell and Reiss' simultaneous denial that Hayek committed the Naturalistic fallacy (hereafter NF) and the tacit claim that he did not endorse Bartley's anti-justificationism since the major obstacle to rational justification (other than the infinite regress problem) is the NF in the particular form Caldwell and Reiss discuss it.

EE is criticized for two major intellectual sins. Interestingly one is at the normative level the other at the meta-theoretical level. The former involves the accusation that EE is irredeemably implicated in social Darwinism. As we all know "social Darwinism is a very bad thing", since it was used as an excuse for gross evils such as imperialism, racism, nationalism, sexism, ruthless laissez-faire capitalism, eugenics and militarism particularly of the "might makes right" variety. The second accusation is the much more sophisticated and more theoretical argument that it is guilty of committing the naturalistic fallacy.

In the next section, we examine the question: "did Hayek commit the "naturalistic fallacy?" Then we explore related questions, such as "is it a formal or informal fallacy?" Since fallibilism teaches us to be prepared to question anything, we will ask critically, "is it a fallacy at all?" or is it merely an example of a philosophical argument based on begging the question?

"Did Hayek commit the naturalistic fallacy?"

While the term "naturalistic fallacy" originated with G.E. Moore in his *Principia Ethics* (1966) in Chapter 1, it has, like the term "ideology" (see Chapter 2), had a somewhat convoluted history. It has become either confused or conflated with the fact-value, is-ought, related distinctions outlined in Chapter 9. Caldwell and Reiss attribute this interpretation to Angner. This is one area in which I would defend Putnam, since he recognized the role that intuition plays in Moore's view. Moore's prime targets were Mill's argument in defence of utility and Herbert Spencer's version of evolutionary ethics.

The exchange in the JHET regarding the first question: "did Hayek commit the naturalistic fallacy?" involved articles by Bruce Caldwell and Julian Reiss with the interesting title: "Hayek, Logic, and the Naturalistic Fallacy" (a response to an earlier article by Erik Angner) and Angner's response, which was especially interesting because it cited Popper as a supporter of his position. According to Caldwell and Reiss, Angner's original article argued the following:

- 1 Hayek appears to have inferred facts from values;
- 2 there is an alternative descriptive reading of Hayek, which is attributed to Caldwell;

- 3 there is another reading the weak normative reading that says that evolved orders tend to be desirable (Caldwell and Reiss 2006: 359–60).

The article by Caldwell and Reiss is preceded by an interesting comment from Hayek's FTC: "I have no intention to commit what is often called the genetic or naturalistic fallacy" (ibid.: 359). What the authors mean by "naturalistic fallacy" is clear in the first paragraph. It would mean, "Hayek *appears* to have inferred values from facts" (ibid.: 359). This means that they are using the Weberian argument that this is a fallacy. Later in the article, they argue that it is an informal fallacy, not a formal one, that is, a deductively invalid argument. First, we examine the three key theses of Angner that they subject to criticism. The first concerns what he claims the naturalistic fallacy would imply if Hayek did indeed commit it.

- 1 There is something *desirable*, in an unambiguously normative sense, about orders that have evolved in a process of cultural evolution ... such orders tend to be more desirable than both artificial orders. Since we cannot improve on spontaneous orders by replacing them by artificial ones, a society based on spontaneous order ... will be superior to any alternative
(Angner 2004: 351–2)
- 2 There is an alternative reading, due to Caldwell, "a descriptive reading" which entails that Hayek escaped the naturalistic fallacy, "since his theory of cultural evolution has no normative implications at all ... the theory of cultural evolution serves to explain how market institutions developed, it does not serve to justify them" (ibid.: 353).
- 3 There is another reading "the weak normative reading" i.e. "evolved orders only tend to be desirable" (Caldwell and Reiss 2006: 360).

Why do Caldwell and Reiss think that the key term "naturalistic fallacy" involves an informal, not formal, fallacy? They illustrate the latter by standard examples, affirming the consequent and *post hoc ergo propter hoc*. A formal fallacy is deductively invalid, whereas an informal fallacy is not. An appeal to authority may be a bad or good argument depending on the authority cited. The main reason for classifying the NF as informal is that "first order logic lacks the resources to express the naturalistic fallacy (as it lacks the resources to distinguish between natural or causal laws and accidental regularities, etc.)" (ibid.: 370).

Angner's response counters with the claim that "my clearly stated view is that that the strong normative reading does not entail that Hayek committed the naturalistic fallacy" (Angner 2006: 371). Attached to this statement is a footnote which says "I explicitly assert that neither one of the three readings imply that Hayek committed the naturalistic fallacy" (Angner 2006: 371, fn. 3). In the original article, he claims, "I have identified three different readings, all of which exonerate him from the charge of committing the naturalistic fallacy".

Regarding the three different readings, Angner says “Hayek is best interpreted in accordance with the weak normative reading ... the thesis that evolved orders only *tend to be desirable*” (ibid.: 371). He says there are plenty of reasons to adopt this reading and says: “Many of those reasons – for instance, why I think Popper’s testimony should not be dismissed – are completely ignored by Caldwell and Reiss” (ibid.: 372). He then adds a key point: “Finally, my usage of the term ‘naturalistic fallacy’, ... is perfectly standard in philosophically informed discussion of evolutionary thought” (ibid.: 372). He has a footnote attached to this, citing several sources to this effect: “Ethicists, following G.E. Moore (1903), sometimes use the term differently” (ibid.: 372, fn. 5). He objects that Caldwell and Reiss “define the term ... in such a way that it refers to an informal rather than a formal fallacy” (ibid.: 373). It is also crucial, that “Hayek’s work in important ways reflects his Austrian intellectual heritage, many aspects of which remain alien to those of us who work in the Anglo-Saxon world” (ibid.: 373).

While this is definitely correct, there is still a dilemma: if Hayek’s argument is not normative then it is not “evolutionary *ethics*”, but, if it is normative then it is a non sequitur given his (and Popper’s) Weberian meta-ethics. In Part V, I solve this problem for Hayek by showing how his actual use of EE in political philosophy uses it for the fourth function described above. This is the purpose of criticism of alternative theories he rejects, not for justification and not merely for explanation, although Hayek is strangely oblivious to the motivational problems well described by Knight and Machiavelli at the head of this chapter.

In regard to the first two, substantive theses regarding Hayek’s meaning, Caldwell and Reiss argued that the evidence for the fallacy is weak and that had Hayek actually held it he would have unambiguously asserted that “*because something has survived an evolutionary process it is optimal*” (Caldwell and Reiss 2006: 361). While this has to be conceded, it is one of the weaknesses of Hayek’s arguments about evolution that he is not as clear as he could have been about the role it plays in justifying, criticizing, proving or disproving certain ethical beliefs. As Caldwell correctly points out there are numerous places where Hayek repudiates any suggestion that one can deduce values from facts including both COL and LLL and not just the more dubious FTC.

It is also clear, as they argue, that Hayek did not think that either evolution or the market (as opposed to both ecological and market fundamentalists) are infallible and always know best. Caldwell and Reiss mention the two main themes of this chapter, arguing that:

in Caldwell’s discussion of The Fatal Conceit, what he points to are those parts of the book that were wholly new and which looked suspiciously similar to views that had earlier been expressed by Hayek’s editor, W.W. Bartley III, namely Hayek’s ringing endorsement of “evolutionary epistemology” and of the Bartleyan idea that our morals are not rationally justifiable.

(ibid.: 363)

This is the strangest argument in their article, since what they term “the Bartleyan idea” is basic and fundamental to the whole idea behind the “naturalistic fallacy” namely, that “our morals are not rationally justifiable” or, to put it in even stronger terms, “our morals cannot be rationally justifiable”. Since this an argument Hayek used repeatedly from RTS to TFC (in COL, LLL and almost everywhere else), and Popper did also, then it is hardly a uniquely Bartleyan idea. It is a necessary and unavoidable corollary of the Hume–Weber position on the is/ought, fact/value distinction. That is what is often meant by “naturalistic fallacy”.

What did G.E. Moore mean by the term he invented “The naturalistic fallacy?” He did not mean by it anything remotely resembling the problems discussed in Chapter 9. In this debate, both sides are correct about their interpretation of the “fallacy”. It is definitely not a formal fallacy and it differs significantly from the (alleged) fallacy of trying to go from is to ought, from facts to values, or from descriptions to prescriptions. It is about the meaning of the term “good” which Moore treats as an undefinable term analogous to “yellow”. There is a rather interesting parallel between what Moore wrote in 1903 in *Principia Ethica* and what his good friend and colleague Bertrand Russell wrote the same year in *Principles of Mathematics*. Both books are concerned with the problem of undefinable terms and the logic of reasoning. Russell refers to Moore in his preface and draws an analogy between undefinables in mathematics and colour terms just as Moore did. For Moore the fallacy involved in the NF is to identify good with any natural property whatever, pleasure, the outcome of evolution, the will of God, or the gods, or whatever all men aim at. He does introduce the term “intuition” but more as a concession to helping understand his position.¹

The fatal conceit and virtue

This section provides two links. The first is that it re-connects ethics and epistemology. The second is that it introduces the main contentious issue of Part V, Hayek’s critique of the egalitarian component of socialism, which survived his critique of the ECA and lives on in two distinct ways. One is the egalitarian component tacitly or explicitly assumed in the concept of social justice. The second, weaker survival of egalitarian ideology, lives on in those defenders of the welfare state who continually complain that the rich get richer and the poor get poorer and that this is unfair, both on the national level and on the global scale.

As noted in the introduction Hayek and Popper both died in the first half of the 1990s, a period that ushered in, depending on one’s perspective, the end of history, the clash of civilizations, or perhaps the triumph of post-modernity. Both communism (in East Europe only it should be noted) collapsed ignominiously and so did apartheid in South Africa. Nevertheless, neither racism nor socialism are “as dead as a doornail” (to use Dickens’ terminology) as they either should be, or are frequently assumed to be. Therefore, while Popper as

well as Hayek lived to see the defeat of European communism, the original major enemy of the Open Society, this did not guarantee the ultimate triumph of the Open Society. During the period of the decline and fall of the Soviet Empire (1989–1992) both of them had works produced when they were 90-years-old: *The Fatal Conceit* and *In Search of a Better World*. Both of them raise problems regarding the interpretation of the final contribution of both to political philosophy in the twentieth century.

In the introduction to TFC, Hayek argues the following three key points:

- 1 Socialism is both factually and logically impossible (Hayek 1989: 7);
- 2 “reason properly used” means “reason that recognizes its’ own limitations” (ibid.: 8);
- 3 his theory of evolutionary ethics is parallel to that of the evolutionary epistemology of Bartley, Popper and others.

Since it has been debated how much of this book is due to Hayek and how much to Bartley, it is crucial to recognize that these themes harmonize with much of Bartley’s efforts to offer a non-justificationist, anti-foundationalist epistemology and theory of rationality. Concerning point one, it is clear enough how congruent it is with the meta-ethical theory proposed first in FDM and re-asserted in this book: that while ethical theories, principles and prescriptions cannot be proven, justified or verified, they can be refuted, criticized and (perhaps) falsified.

Point two stresses what tends to be either over-emphasized or downplayed that, because of the limits of reason already emphasized more than once (infinite regress, appearance and reality, induction), *reason as just as impotent in epistemology as it is in ethics*. The case for cognitive scepticism is every bit as strong as that for moral scepticism. The third point is the same as that made earlier in this chapter regarding evolutionary ethics and epistemology, namely, that for the two expressions to deserve *either or both terms* they must be *normative*. Merely to come up with a naturalistic account of either ethics or epistemology is to have a putative explanation of what opinions people have about the universe, right and wrong, liberty and whether God (or the gods) exist or what the nature of justice and liberty are. One could have the best explanation of why right-wingers, scientists, creationists and believers, as well as sceptics, about climate change believe, think and say but if one does not have a theory of whom, if any of them, are correct or how we might decide between them, then one does not have an *epistemology*.

God, Mammon and Eros

A significant step of clarification in TFC is that Hayek finally provides some content to the idea of traditional values and, contrary to the claim of O’Hear (in Feser 2006: 145) he does provide a justification of a negative kind. He may however, have ensnared himself in a noteworthy contradiction where his free

market libertarian views collide with his defence of traditional values, especially against intellectuals who attack both the market and the family as institutions (Hayek 1989: 51). He says the following: “challenges to property and traditional values came not only from followers of Rousseau; they also stemmed ... from religion” (Hayek 1989: 51). It turns out to be heretical religion, another example of Hayek’s secular Catholicism, perhaps. He adds also that criticism of “private property and the family was ... not restricted to socialists” (ibid.: 51).

However, lest he be made to sound like a true conservative, Hayek finished by saying “new factual knowledge has in some measure deprived traditional rules of sexual morality of some of their foundation, and ... it seems likely that in this area substantial change are bound to occur” (ibid.: 51). Which rules he has in mind is regrettably left unclear although one can make some reasonable conjectures. Homosexuality is no doubt one of these, prostitution perhaps, possibly divorce laws (for personal reasons) and pre-marital sex as well (but not, one must infer, rape, harassment, incest no doubt and adultery, maybe). Rather than speculate (or boldly conjecture) about these I would rather focus on the meta-theoretical point and then in the next section digress to explain why all communist regimes have not only been very authoritarian but also very puritanical and anti-hedonistic and that this is a logical corollary of their egalitarian ideology.

The first is the point that Hayek says, “new ... knowledge has ... deprived traditional rules of sexual morality of ... their *foundation*” (ibid.: 51). The emphasis is mine, since it is difficult to reconcile this with anything either Bartley or Hayek (or Popper) hold about foundationalism. Hayek’s whole assault on rationalism in ethics is very anti-foundationalist and Bartley’s main efforts have been in the direction of developing a non-foundationalist theory of rationality even more radical than Popper develops.

In a footnote in COL he refers to the Wolfenden report recommending the decriminalization of homosexual sex (Hayek 1960: 451, fn. 18). His comments suggest rather clearly that he is tacitly or explicitly using J.S. Mill’s well-known and extensively debated harm criterion.² If that is not clear in COL, it is in LLL, where he says, “actions which affect nobody but the individuals who perform them ought not to be subject to the control of law, however strongly they may be regulated by custom and morals” (Hayek 1976: 57). This is a more consistent application of Mill’s well-known harm criterion than Mill himself produced. Popper also seems to use a version of harm as well although he uses his negative utility criterion, which overlaps with, but is not identical to, Mill’s very strict harm criterion. Mill’s argument is primarily anti-paternalistic and therefore strictly speaking anti-utilitarian at least in the act-utilitarian sense.

Now one could defend Hayek (or Bartley) by interpreting or deconstructing Hayek’s arguments saying, “new ... knowledge has ... *refuted some* of the traditional rules of sexual morality”, just as Hayek’s arguments in the 1930s and 1940s refuted the arguments of socialism, i.e. “deprived them of their foundation”. However, there is still a consistency problem for Hayek (or Bartley) in these diatribes against rationalistic ethics. Hayek points out that all ethical ideals

are unjustifiable rationally and that the list of unprovable ideas includes three specific items: traditional religious beliefs; sexual/family traditional values; and the values underlying the market order. Of these ideas, Hayek does favour one of the three above the others. He decided early on that the idea of God was meaningless (but not on superficial positive grounds). Hayek also ingeniously links sex and money (Eros and Mammon)³ in a wonderful quote (Hayek 1989: 101). There is one significant difference between these two: one is (perhaps) the most natural of all desires, the other the most conventional of all desires.

Evolution, epistemology, ethics and economic equality

The basic assumption underlying this discussion (introduced in Chapter 2 on ideology) is not conceded by many, whether on the left, the right or in the middle. It is the assumption that Stalin (and other communist leaders after him: Mao, the Khmer Rouge, Ho Chi Minh, Castro) really took seriously the ideology of the Communist Manifesto. My counter-argument to the denial of this assumption is based primarily on “inference to the best explanation”. If these self-described communist regimes did not base their policies on the Marxist Decalogue as well as on Engels’ *On the Origins of the Family, Private Property and the State*, then what did they base them on? At any rate, the hypothetical explanation assumed here implies that, despite the pragmatic orientation of the above-named leaders, they did understand the logic of Marxism better than a lot of woolly-minded fellow travellers and sympathizers.

First, however let us recall Caldwell’s comment that Popper was well to the left of Hayek, as well as my rider: “but he is also more conservative than Hayek”. This is not due to logical confusion but to a clear recognition of what equality entails. It explains why communism and socialism are necessarily anti-hedonistic, *as long as they take egalitarianism seriously*: there are two quite distinct ways in which inequality can increase from free choices of persons that do not impinge directly or even indirectly on others. Smith, by superior talent, intellect, effort or just plain luck gains more than Jones; or Jones, by less effort, talent, bad luck, bad laws, *inter alia* or *by harming herself via hedonistic pursuits*, lags behind Smith: over-consumption of alcohol, tobacco, drugs, STDs, pregnancy, marital breakup. A recent article in *The Economist* presented the evidence on how and why marital breakups increase inequality. Since many will criticize this type of argument for “blaming the victim”, we will focus logically on the explanation evaluative-ethics connection. Maybe the victim cannot help being this way and we cannot blame her but this does not alter the fact that an egalitarian logically either:

- 1 has to let persons pursue self-destructive behaviour; or,
- 2 forbid it paternalistically as communist countries did.

The same applies to gambling and risk-taking such as using fast cars or engaging in activities that are only occasionally risky (sex, skiing, sports). Popper

argued in the 1950s in defence of Hayek that, “a liberal society ... needed a framework of conservative values” (Feser 2006: 146). It seems to me easy to argue that any society, liberal or non-liberal, needs such a framework but I will not do so now and suggest to the reader to consider how any society could survive without some “traditional values”. What is not so obvious is that they all need to be enforced by either authoritarian or totalitarian means. But if the “virtue of chastity” need not be enforced legally what about the “virtue of charity” and of justice and altruistic behaviour in general?

Social Darwinism, tradition, virtue and the paradox of competition

The problems of motivation and explanation is wonderfully described in the second quote at the head of this chapter from Machiavelli’s *The Prince*. In FDM I labelled it the ought–is problem (as opposed to is–ought problem of Hume). It was also well expressed over 2,000 ago by the Koheleth, who has been quoted frequently: “In my vain life I have seen everything; there is a righteous man who perishes in his righteousness, and there is a wicked man who prolongs his life in his evil-doing.”⁴

My main point is that EE is of value to moral philosophers primarily for: shedding light on human nature, especially as related to the origins of morality and the motivation, or lack thereof, to be good especially for those living in societies that do not always encourage this. In addition all societies have situations such as the prisoner’s dilemma, gyges’ ring, free-rider and principle agent problems, tragedy of the commons, moral hazard and similar situations that create typical temptations to cheat situations.

ABCs of evolutionary ethics (altruism, benevolence and cooperation)

This final section will focus on the relation between EE and the two most difficult problems for moral philosophy involving the connection between is and ought. We begin with Michael Ruse and Edward Wilson. In their article on “Moral Philosophy as Applied Science”, Ruse and Wilson suggest that “it will prove possible to proceed from a knowledge of the material basis of moral feeling to generally accepted rules of conduct. To do so will be to escape ... from the debilitating absolute distinction between *is* and *ought*” (Ruse and Wilson 1996: 83). Their argument is even more disappointing than Putnam’s who at least pays attention to what other philosophers and economists have written. One would not suspect from reading this article that a great deal has been written on the topic of evolutionary ethics and they certainly add nothing that improves on Hayek’s discussion or that or numerous others.⁵ The fact that they refer to the is–ought gap by using the term “debilitating” is an important clue that they, like Putnam, do not know how to solve the problem and so try to dissolve it. If any problem concerning morality is debilitating it is the one

stressed at the outset by Knight, Machiavelli and much earlier by the Koheleth. What the major contribution of EE can be to moral philosophy is the light it might shed on the ultimate problem of altruism, in two distinct ways. First the problem “why do humans at least occasionally exhibit altruistic behaviour?” and the more difficult philosophical issue “why should we humans ever be altruistic?” Those two questions leads to the final section of this chapter.

From the standpoint of a purely naturalistic theory of evolution the main problem in explaining ethical behaviour is the undoubted existence of altruism, in the sense of altruistic behaviour by both animals and humans. I will define the subtitle above with reference to the existence of three types of behaviour that appear to conflict with assumptions of purely self-interested behaviour by economic actors or animal species. These three are the undoubted existence of behaviour exhibiting altruism, benevolence, and cooperation when there are numerous reasons for not engaging in such behaviour.

It will be helpful to use the standard distinction in biology between two types of altruism, reciprocal and kin and relate it to the dictum “Charity begins at home”. The term “altruism” can be defined as behaviour that benefits others at a cost to the self. Benevolence and cooperation are examples of each although the latter is clearly also a benefit to the cooperator even though there are temptations to be a free-rider, parasite or predator. It could well be that the source of these behaviours in the first case of kin altruism is hard wired in the genes and that extensions of these as in patriotism, loyalty to clan, tribe and nation. But it is easy to see the inability of such explanations to work in areas involving reciprocal altruism as well as altruism that is costly when it favours total strangers. Such anomalies lead on the one hand to veneer theory (see note 5) and, on the other, to the desperate ideological arguments of cosmopolitans emphasizing that we are all brothers or sisters or comrades or children of God. This is one more reason why Bergson has a much stronger grasp on the problem of cosmopolitanism than Popper does. Hayek is also cosmopolitan and more aware of the problems there are in implementing it.

In Part V I attempt to tie everything together by developing an extended argument about the role of reason, tradition, evolutionary ethics, virtue and competition in moral arguments and theories by setting up a contest between Hayek and MacIntyre with Popper in the role of rational arbiter. It attempts to argue a clear, definitive solution to both parts of the EPP and to the two questions in MacIntyre’s magnum opus *Whose Justice? Which Rationality?*

Part V

Liberal individualism, the Enlightenment Project, justice and the Open Society

The Hayek–MacIntyre paradox

In the final section, we shall explore Alasdair MacIntyre’s challenges to both liberal individualism and what he terms “the Enlightenment Project”. We begin with an interesting and provocative paradox. It emerges from two easily documented claims:

- 1 Both Hayek and MacIntyre have strikingly similar views on tradition, rationality and virtue (although Hayek seldom uses the last of these three terms). However, they completely diverge from there on, since,
- 2 Hayek, as well as Popper, is a strong defender of liberal individualism, whereas MacIntyre is a critic of liberal individualism and defends a very different view of justice than Hayek does. His two major challenges to liberal individualism come in *After Virtue* and *Whose Justice? Which Rationality?* (hereafter AV and WJWR) He claims in both books that there is no coherent version of liberal individualism, even though his critique of such versions was solely those of the Anglo-American versions and he never once considered the Austrian school.

In Part V, we begin with documenting the initial claim regarding the striking similarities between Hayek and MacIntyre. We then explore the differences and agree that MacIntyre has some strong arguments against the various philosophical foundations given for ethics and for liberal individualism, in the past three centuries. However, I shall defend the Anglo-Austrian version of liberal individualism against MacIntyre, by arguing that the meta-theory propounded here repairs the only serious weakness in the PHD theory. This is because it:

- 1 incorporates MacIntyre’s valid points about reason, tradition and virtue;
- 2 is immune to the main criticisms he makes of liberal individualism and;

3 answers the two questions in the title of WJWR, more satisfactorily than he does.

In Chapters 12 and 13, we consider MacIntyre's theories and arguments. The main concepts explored are virtue, tradition, reason and justice, as understood from MacIntyre's Aristotelian perspective. In Chapters 14 and 15 I contrast the liberal individualism of Hayek with the anti-individualist alternative MacIntyre defends. The similarities with Hayek on three of these topics are striking, the difference about justice equally striking and therefore puzzling given the agreement on the other three closely related issues. There are also striking similarities as well as differences between MacIntyre's dialectical justification and Popper's principle of rational criticism (PRC).

Virtue in MacIntyre's theory is inextricably interwoven both with tradition and with justice since justice is one of the four cardinal Greek virtues. Further, according to WJWR, there is an indissoluble interdependence between justice and rationality. Finally, rationality cannot be divorced from tradition anymore than virtue can be.

While MacIntyre can (and will) be criticized, from the PRC perspective, for taking the wrong fork in the path when he opted for a partly non-deductivist theory of rationality, discussion of this problem is postponed until Chapters 13 and 14. Despite taking an incorrect turn here (from the PRC perspective), MacIntyre still has a defensible theory of virtue. It is arguably superior to other extant solutions, despite the fact that in some cases MacIntyre's arguments are weaker than those found in alternative theories. I later try to turn the tables on MacIntyre and show how his claims about liberalism are misguided and that tradition and virtue are better accommodated with it than into his own somewhat incoherent ideology.

The strategy adopted for Part V combines the exegetical, expository approach with the critical and involves presenting a long complex argument that combines the actual arguments of Hayek mostly, along with some from Popper as well as my own. What follows then is primarily my argument, which includes components from both Popper and Hayek, expressing what they should have argued, as well as the best of what they did argue, in defence of the PHD. By doing, this I seek to immunize their arguments against some of the stronger criticisms made. I particularly aim to improve Hayek's arguments on evolutionary ethics, Popper's PRC, and their common meta-ethical theory in a threefold manner.

- 1 I use the theory of moral criticism developed in FDM.
- 2 I replace PSR with the use of default principles to solve three problems in Popper's epistemology and ethics.¹ These problems also effect Hayek's evolutionary ethics.
- 3 I argue that (1) and (2) shift the *onus probandi* on to the critic by distinguishing critical doubt from mere sceptical doubt. I then use Popper's PRC first to answer MacIntyre's second question: "which rationality?" and then utilize my revised version of Popper's PRC to defend Hayek's theory of justice and thus tacitly answer his first question.

12 MacIntyre on virtue, tradition and reason

To understand MacIntyre's account of morality one needs to understand both the context of the problems discussed in the Part IV, and the context of modern moral philosophy. The context includes the particular theories used and defended by modern philosophers in:

- 1 meta-ethical theory as well as in;
- 2 applied ethics and;
- 3 political and social philosophy.

The most influential philosophical theories of ethics in the past few decades are (ET1) utilitarianism; (ET2) Kantian deontological theories; (ET3) varieties of Hobbsean social contract theory and; (ET4) theories of rights (sometimes including animal rights). There is some overlap possible with various permutations and combinations. MacIntyre categorically rejects all of them. In this chapter, I shall concentrate on the negative aspect of MacIntyre's position, since MacIntyre's strategy is remarkably similar to that of Popper and especially Hayek. This means that he does not often offer positive arguments in favour of his position but proposes refutations of the major alternatives. Most of what is cited in this chapter is from AV rather than WJWR.

While his strategy can be questioned, it will be defended here. It is what I meant in the introduction to this part by "dialectical justification". It can be justified by asking, "what plausible alternative is there?" Even the most highly rational meta-ethical theories now extant (those of Gewirth and Kant) proceed by the *via negativa*. They reject alternatives as illogical, self-contradictory, or problematic. Barring a rigorous mathematical proof of an ethical theory, it is difficult to see what alternative we have. In addition, even if we had such a proof we could not prove the consistency of our theory, although we can prove inconsistency.²

Thus if MacIntyre can:

- 1 rationally refute the major alternatives to his account, utilitarianism, rights theories, Kantian deontology and social contract theories especially;
- 2 show how his account of virtue is immune from those defects and, in particular;

- 3 can solve the problems posed by modern society better than these alternatives then he shall have a very strong case.

It will be as good as is possible outside the context of rigorous logical proof.

All of MacIntyre's writings on moral theory are set in a context of a theory of intellectual history. There are obvious pitfalls here. Historicism and relativism are the two most prominent and we need to ask if MacIntyre, who clearly recognizes the dangers, avoids them. It is not obvious that MacIntyre, in avoiding the Scylla of absolutism, does not fall into the Charybdis of relativism. We shall begin by summarizing his key points then take a detailed look at his critique of various alternatives cited above. We shall find that his comments are somewhat cryptic and undeveloped but that there is a defensible core to most of them. We begin with a quotation and then a summary of the argument from AV:

Imagine that the natural sciences were to suffer the effects of a catastrophe. A series of environmental disasters are blamed by the general public on the scientists. Widespread riots occur, laboratories are burnt down, physicists are lynched, books and instruments are destroyed.

(MacIntyre 1984: 1)

There first occurs an abolition of the teaching of science but a reaction against that occurs and there is slow recovery of previous scientific theories, experimental instruments and documents. This however is only partial, people debate theories with only a very superficial understanding of what these theories, and their empirical, theoretical and logical basis was. It would obviously not be natural science, as we know it.

The basic motive behind this vivid example is to draw a parallel with modern moral philosophy. Modern moralists are heirs to a tradition that they partly reject and partly accept without realizing this. By setting ancient ideas in a modern context, uprooted from their original metaphysical, epistemic background, they have produced unintelligible concepts, just as the pseudo-scientists cited above have.

Thus, modern debates such as those between deontologists and teleologists, between constructivists and realists, between prescriptivists and cognitivists clearly have ancient roots. Having been divorced from their ancestral theories however, they are as unintelligible as the above-described "scientific" scenario. Having rejected the older metaphysical and epistemic underpinnings they have had to construct morality on a new foundation and offer a rational justification for it. According to MacIntyre, this project not only failed, but also was one that could not help but fail.

Another key premise in his argument is that modern moral debates are incapable of rational resolution (*ibid.*: 8). This is held for several reasons. The terms of the debate involve a melange of heterogeneous and incommensurable concepts (*ibid.*: 2). We lack any shared consensus on values including a consensus on the virtue of justice.

The first position he attempts to refute is the most logically airtight, in both intention and effect. This is Alan Gewirth's rigorous argument that from the universally necessary desire of all persons to have their own freedom and well-being he can deduce that [R] "All persons have the right to freedom and well-being" and therefore that [D] "All persons have obligations (both negative *and positive*) towards other agents". Thus we are obligated both [D-] *not to hinder or prevent* an agent's freedom and well-being and, *when necessary and possible*, [D+] to assist agents in promoting this freedom and well-being (not just by voluntary charity but also through the legitimate coercive power of government). Note that [D+] is identical to what Popper attributes to Schopenhauer in SBW.

In his reply to critics, Gewirth offers a very neat and concise summary of his argument as found in his two major books (Gewirth 1978, 1982). According to him, all rational agents must reason thusly (if only tacitly, which in 99.99 per cent of cases, must be how such rational agents reason):

- 1 I do X for end or purpose E.
- 2 E is good. ("Good" is not used in the moral sense here.)
- 3 My freedom and well-being are necessary goods. (Again "Goods" is not used in the moral sense here.)
- 4 I must have freedom and well-being.
- 5 I have rights to freedom and well-being.

(Gewirth in Regis 1984: 204–6)

How does Gewirth bridge the logical gulf between the "is" of (4) and "oughts" tacit in (5) without violating the stringent deductive requirement he himself (as well as Hare, Popper and myself do, and, in this case MacIntyre) insists upon in ethical reasoning? He does not reply, as Strawson, Salmon, A.J. Ayer and all believers in inductive "logic" should do, by saying that it is not necessary for arguments to be deductively valid and that only superstitious devotees of entailment would expect this. Instead, he argues that if an agent rejects (5) she is logically committed to reject (6): "all other persons at least ought to refrain from removing or interfering with my freedom and well-being".

At this point Gewirth makes very effective use of a classic *reductio ad absurdum* argument as follows:

By denying (6), she has to accept (7) "Other persons may ... remove or interfere with my freedom and well-being.". However, by accepting (7) she has to accept (8) "I may not ... have freedom and well-being." However (8) contradicts (4).

(ibid.: 205)

He then argues: "Since every agent must accept (4), he must reject (8). In addition, since (8) follows from the denial of (S), every agent must reject that denial; so that he must accept (5) 'I have rights to freedom and well-being'" (Gewirth in Regis 1984: 205–6).

MacIntyre chose Gewirth on rights for the following interesting reason:

Gewirth adopts what is at once a clear and a strict view of what reason is: in order to be admitted as a principle of practical reason a principle must be analytic; and in order for a conclusion to follow ... it must be demonstrably entailed by those premises. There is none of the looseness and vagueness about what constitutes "a good reason".

(MacIntyre 1984: 66)

MacIntyre does not mention his earlier article on Hume (briefly discussed in Chapter 9), where he seems to endorse such "looseness and vagueness". He certainly denies the need for demonstrative entailment there (its devotees are superstitious) and reiterates the need for induction in *WJWR* (where "induction" at the least means "not demonstrably entailed"). What MacIntyre needs to do, but never does, is explain the difference between objectionable looseness and vagueness on the one hand and acceptable "inductive logic" on the other. MacIntyre's Aristotelian theory of moral reasoning doesn't require non-deductive reasoning at all not even when it comes to the "justification" of first principles, despite his apparent feeling that induction is an indispensable tool in both scientific and moral reasoning.

MacIntyre concedes the validity of Gewirth's argument on the formal level but criticizes it on informal grounds, focusing on the key move from (4) to (5).

quite clearly the introduction of the concept of a right needs justification both because it is at this point a concept quite new to Gewirth's argument and because of the special character of the concept of a right.... It is of course true that if I claim a right in virtue of my possession of certain characteristics, then I am logically committed to holding that anyone else with the same characteristics also possess this right. But it is just this property of necessary universalizability that does not belong to claims about ... the need ... for a good, even a universally necessary good.

(*ibid.*: 67)

He goes on to argue that the key difference between claims about goods and claims about rights is that "the latter in fact presuppose, as the former do not, the existence of a socially established set of rules" (*ibid.*: 67). Far from being universal, they are late in the historical record (the late Middle Ages according to MacIntyre) and have a highly specific and socially local character. Since they presuppose certain atypical social forms in a society lacking such for a form "the making of a claim to a right would be like presenting a check for payment in a social order that lacked the institution of money. Thus, Gewirth has illicitly smuggled into his argument a conception, which does not in any way belong" (*ibid.*: 67).

I make two points germane both to this argument and to the one constructed in Chapter 10. The first may seem trivial and unimportant but it is neither. Mac-

Intyre criticizes one of the *presuppositions* of Gewirth's arguments (rather than a strict consequence of it). I mention this not because it is problematic but because I think it very unproblematic, and it is crucial to the argument in Chapter 10. The second point is that MacIntyre uses (or tacitly assumes, i.e. presupposes) two Kantian principles here. One is tacit whereas the other is made by way of concession. In the first quotation, MacIntyre concedes the validity of the universalizability principle but attempts to argue its irrelevance here.

The other Kantian principle is the "ought implies can" principle. Both of these were crucial in Chapter 10 and, since they are directly relevant right now, I will discuss them in this connection. It could be claimed that MacIntyre is tacitly using this latter principle when he uses the analogy between Gewirth's rights-claims and the attempt to cash a cheque in a cashless society. Is this a valid analogy? It is up to a point. Imagine a slave in ancient society, a heretic in the Middle Ages or an oppressed female in a patriarchal society about to be whipped, tortured or beaten in societies lacking the concept of rights. Suppose this person somehow dreams up Gewirth's argument. Should it move the slave-owner, inquisitor, or "sexist" male?

MacIntyre could argue "no", for two reasons. First such arguments could no more be reasonably expected to be effective than similar arguments vis-à-vis animals, viruses, hurricanes, infants or lunatics. In fact, MacIntyre's argument might have been more effective if he had used the last two since they clearly lack the prerequisites of moral responsibility. To have such responsibility generally requires not only ability but also knowledge. To take a relatively uncontentious claim, it is possible to argue that technology, as it develops, changes and expands our moral duties in the following way. It not only makes it possible to assist needy people in geographically remote parts of the world, it also makes us aware of their need. If we had airplanes to carry food or medical supplies to a desperate area but no means of knowing of the existence of such people or their needs then we would not have a moral obligation to help them.

It seems the only way to avoid this would be to reject the "ought implies can" principle, a possibility raised in Chapter 10. Therefore, if MacIntyre adds this principle he does have a valid argument. It is just as much an inability if we are ignorant or unable to form certain concepts as any physical and/or psychological impossibility (universal altruism) or logical impossibilities (requiring a barber in a small village to shave all and only those people who do not shave themselves).

Now Gewirth could respond that these people ought to have formed such concepts or he could alter the argument so that it applies only to the modern world since, *inter alia*, one could argue that it is pointless to impose retroactive duties on the dead. Further, we could draw an analogy with flat-earth geology or Ptolemaic astronomy. It would be unreasonable for us to accept these but not unreasonable for medieval thinkers. The same could be true of rights. We do not criticize Aquinas for not discussing the theory of quarks. Why should Machiavelli be expected to discuss Gewirth's theory of rights?

MacIntyre could also have introduced his distinction between justifying and motivating reasons. Gewirth repeatedly refers to the "pain of contradiction"

(Gewirth in Regis 1984: 203, 231). Most rational agents, one might suspect, fear other pains much more. If faced with the pain of torture versus that of contradiction I would certainly opt for the latter which I always find much less painful (further there are of course philosophical masochists like Feyerabend who seem to delight in this pain). Even if a slave-owner, inquisitor or “macho” male could understand Gewirth’s argument, it is still unclear why it should motivate him to act otherwise.

It is interesting that MacIntyre does not attempt to exploit Gewirth’s otherwise excellent argument for his own purposes. This is because most of Gewirth’s critics (and Gewirth himself) have missed what the key premise in his argument really is. It is not stated in any of the premises cited earlier but it does emerge in his reply to critics when explaining how he justifies the move from (4) to (5). It is his tacit thesis about the *logical symmetry between rights and duties*. As he puts it “if he [any rational agent] denies (5) then, because of the logical correlativity of claim-rights and strict ‘oughts’ (my emphasis), he also has to deny (6)” (ibid.: 205).

What “correlatively” or “symmetry” means in the preceding paragraph is not merely that rights entail duties but vice versa. Thus not only can I go from “Socrates has a right to A” to “all persons are obligated to Socrates to do (or not to do) A” but I can go in the opposite direction. Gewirth, however, who carefully argues everything else, has no convincing apodictic reason for this and it is difficult to think of what such an apodictic reason could be. This reinforces or complements MacIntyre’s critique. Most societies, MacIntyre could argue, have one of these concepts (that of duty) but not the other. While it is, of course possible that they are being illogical maybe they are not. The Decalogue of Judaism has an imposing list of duties (and very strict ones) but no theory of rights. Utilitarianism rejects talk about rights as nonsense.

In addition, when discussing negative utility in Chapter 7 it was argued that welfare is at most an imperfect duty and, therefore, a duty with no corresponding rights. This leads to the primary criticism of Gewirth’s argument. It is arguable that Gewirth’s fundamental error is to assume that only one principle of ethics can be inserted to avoid the admittedly undesirable conclusion. However, this is not true unless he can make his symmetry principle work. A much more plausible principle is an asymmetry principle.

Such a principle would assert that, while rights clearly imply duties, the reverse is not necessarily (or at the least *always*) true. If other citizens have the right to life then clearly no one should kill them, but the reverse is not logically necessary. If people have a duty not to seduce their neighbour’s wife, this is not necessarily because he has an exclusive right to her (or because the male may be violating his own wife’s rights). It could be because:

- 1 it violates the utility principle;
- 2 it transgresses God’s laws, or;
- 3 violates the categorical imperative, or;
- 4 violates Aristotle’s dictum that there is no such thing as adultery with the right woman, at the right time, and in the right way (Denise *et al.* 1999: 33).

Gewirth appears to be tacitly using a secular version of the Dostoevsky argument: “If God does not exist, then everything is permitted.” Gewirth’s variant is that “If rights do not exist, then anything is permitted”. However, this does not follow anymore than God’s existence follows from the Dostoevsky argument: Gewirth would quite properly object to this type of argument because the only reason given for belief in God is avoiding an allegedly undesirable conclusion. However, in the end, without his correlativity principle, this is the only reason Gewirth has and it works *if and only if* his symmetry principle is valid.

If MacIntyre were to take advantage of the premises in Gewirth’s argument and substitute his own theory of virtue, would it then provide a rational justification for his position? There are several principles that could be substituted and what MacIntyre has to argue is the superiority of his own approach, in terms of wider generality, superior problem-solving ability, and relative immunity from criticism. This means, philosophically, survival value in a Darwinian struggle for logical survival based on superior ability to endure criticism in dialectical debate.

It is in effect what MacIntyre’s project is all about. While he does not stress it, an interesting feature of a theory of virtue is that it has a wider generality than most alternatives such as a theory of rights, social contract theories, and utilitarianism. To start with, it is not just a moral theory, since it includes intellectual virtues and non-human virtues. It has interesting things to say about friendship, family and love that social contract and rights theories ignore or downplay. It could be argued that such a theory is more intelligible to the average person including people from very different societies, many of which have theories of duties and virtue but no theory of rights. Does this, however, include Kant’s deontological theory?

Kant, utility and universality

MacIntyre is rather cryptic in his comments about Kant’s universalizability principle and Mill’s utility principle. Despite acknowledging the logical validity of the former he criticizes it as a moral criterion with a fairly standard type of argument: he argues “‘Keep all your promises throughout your entire life except one’, ‘Persecute all those who hold false religious beliefs’ and ‘Always eat mussels on Mondays in March’ will all pass Kant’s test, for all can be consistently universalized” (MacIntyre 1984: 46).

This is similar to the point frequently made that we can will as a universal principle “Always tie your right shoe before your left”. MacIntyre then suggests Kant conflated this with his principle of not treating others as means only but always as ends. He argues that this still does not rule out willing a universe of egoists who confine this principle to themselves only (*ibid.*: 46).

Utility, like rights, is dismissed as a modern “fiction” (*ibid.*: 69–70). Why are rights as well as utility fictions? According to MacIntyre, it is because no one has satisfactorily demonstrated otherwise (this comment comes right after his critique of Gewirth’s argument). There is no reason to accept rights anymore

than we have reason to believe in witches or unicorns and there are no self-evident truths (ibid.: 69). This is a very strong argument as far as it goes. MacIntyre has covered all the bases. He rejects any argument to the effect that rights exist and will not permit the dogmatic assertion that their truth is self-evident. This incidentally violates the principle he accepted when endorsing Strawson's "argument" in defence of induction: it somehow happens that induction does not need to be justified but claims about rights and utility do need to be!

His argument is nonetheless sound but only if we accept the principle that the burden of proof is on whoever makes an *existential assertion* rather than on whoever denies or questions it. Since this is not itself a self-evident truth, it needs some kind of rationale. If it can be argued that there exists no objection to this principle (other than one based on a principle of sufficient reason: the dogma that we always need a good reason for all of our beliefs, principles, assertions, propositions) then it can be accepted as a plausible default principle. The advantage of this is that it clearly identifies where the *onus probandi* lies in any argument.

It was earlier formulated as "accept all and only those propositions (beliefs, principles, etc.) for which we have sufficient reasons". This is highly objectionable since it leads either to an infinite regress or to a non-justified starting point (and fails to pass its own test). The latter violates the principle of sufficient reason; the former leads to an undesirable epistemic situation. MacIntyre does not make it clear whether he bases his argument on such a principle. At any rate, he clearly wants the burden of proof to be on the defender of rights or utility or whatever (witches, unicorns).

It is a reasonable demand, as long as we do not expect apodictic proof but merely good reasons. However, one can make the same critical challenge to MacIntyre. If we agree with his claim that "Natural rights then are fictions – just as is utility – but fictions with highly specific properties" (ibid.: 70), this raises the obvious question "Can we use the *tu quoque* argument here against MacIntyre?" What reason do we have to believe the same is not true of virtue?

Further, it is not clear that this is the real problem with utility, although the problems stressed earlier might be what MacIntyre has in mind but he does not make this clear.³ Utility, rather than being a fiction, is a subjective reality: a preference on the individual's part which, when combined with probability estimates, yields an index of utility. Such an index cannot have a meaning in the cardinal sense but can in an ordinal sense. This is because it is not possible to construct a meaningful unit of measurement to sum up the total utility in a group. It is like adding height to mass to temperature and the Dow-Jones index. You would have a number but not a very meaningful number.

Thus, any individual can construct an ordinal preference scale and compare it to others but no meaningful comparison of cardinal utilities is possible. People can be compared about height, weight and income, but not utility maximization. If we say a rich person is more likely to be happy than a poor person, or that a healthy child is more likely to be happy than a sick child, this can only be given an ordinal and not cardinal meaning and translated into "most people prefer

health and wealth to poverty and sickness". MacIntyre should have used this objection against utilitarianism. While it does not totally devastate the theory, it creates such havoc as to require a massive overhaul. This entails emasculating it to something like Pareto-optimality, negative utilitarianism, or Jan Narveson's reduction of the claim that "we seek to maximize utility" to a tautology since "utility" is defined as "whatever we seek to maximize!" (Narveson in Cragg 1987: 427).

MacIntyre on rationality

For purposes of clarity, I divide this section into two parts. The first is expository, the second critical. We summarize MacIntyre's position with minimal critical comments and then offer criticism and comments, including a defence of what he has to say about tradition and reason. Much of this will carry over into Chapters 13 to 15.

The ambiguity of reason

The key ideas behind MacIntyre's views of reason in ethics are based on important issues long debated in the different contexts of epistemology and philosophy of science. These have to do with controversies about incommensurability, the lack of neutral criteria of rationality and the tradition dependence of our standards of rationality.

According to MacIntyre, circularity in our reasoning is ineliminable (MacIntyre 1987: 4). While logic plays a role in moral reasoning it is what has to be added to the laws of logic that is decisive for a theory of rationality (ibid.: 4). Reason cannot be divorced from tradition but this is just the assumption of the Enlightenment or so-called Age of Reason. It has left us with an ambiguous legacy, an "ideal of rational justification which has proved impossible to attain" (ibid.: 6). This is a rational justification per se, one valid for all men, for all time independent of the particularities and social specifics of their historical habitat and cultural context. This is the best definition of what the EPP in the broad sense is, providing rational justifications of both our moral and cognitive claims.

Rational justification instead is context-dependent. We can only justify any action, belief or value within the structure of a particular tradition. It is a point frequently made in both AV and WJWR. In this chapter, we shift our attention to the latter but without totally ignoring the former. The main arguments of WJWR grow out of the claims in AV about justice and the rational resolution of competing claims.

We cannot resolve disputes about justice by reference to a theory of rationality because there is no neutral theory available to do this. In AV, he used an interesting example of a debate between two non-philosophical citizens in America differing on social policy who had (during their academic careers) sophisticated philosophical counterparts in the academy: John Rawls and Robert Nozick.

We have two anonymous individuals A and B. The former is a store-owner, or police officer, or construction worker, who owns a home, has children who he wants to send to college and he has medical expenses.

He now finds his projects threatened by rising taxes. He regards this threat to his property as unjust: he claims to have a right to what he has earned and that nobody else has the right to take away what he acquired legitimately and to which he has a just title.

(MacIntyre 1984: 244)

Individual B is a liberal professional, social worker or other typical “limousine leftist”, who is:

impressed with the arbitrariness of the inequalities in the distribution of wealth, income, and opportunity. He is ... even more impressed with the inability of the poor and deprived to do very much about their own condition as a result of the inequalities in the distribution of power. He regards both types of inequality as unjust and ... believes more generally that all inequality stands in need of justification and that the only possible justification of inequality is to improve the condition of the poor ... by for example fostering economic growth.

(*ibid.*: 245)

His key conclusion from this argument is “Our pluralist culture possesses no method of weighing, no rational criterion for deciding between claims based on legitimate entitlement against claims based on need” (*ibid.*: 246). It is this claim that is the background to the entire project in *WJWR*. It is the crucial premise in MacIntyre’s argument and is a key problem for the main meta-ethical argument proposed in this book. It is an interesting test case for his theories as well as the one constructed in Chapter 10. To defend the liberal individualism of Hayek and Popper vis-à-vis MacIntyre I must show this claim is incorrect. Unless it can be defeated, the argument in Chapter 10 either collapses or at least is seriously inapplicable in very crucial areas of moral debate. This in turn would totally undermine the claim that Popper and Hayek have defensible answers to the two questions “whose justice? Which rationality?”

For now, I shall explain it and try to strengthen it (following Popper’s advice for critics). First it can be generalized to include other theories of justice in addition to the two referred to (Rawls and Nozick). This includes Kantian, utilitarian, and other social contract and rights theories (Gauthier, Mackie and Hare).

Justifying versus motivating reasons

MacIntyre draws the standard distinction between motivating and justifying reasons. What he adds to it is an interesting correlation with two distinct types of goods: those of efficiency and those of excellence (MacIntyre 1987: 56). The

issues debated in ancient Athens particularly between the sophists and Socrates can best be understood as systematic and radical disagreement over the goods of excellence and those of efficiency.

The term “excellence” is one modern translation of “*arête*”, the term traditionally translated as “virtue”. In modern terms, the distinction is roughly that between deontological and teleological modes or concepts of the good. A utilitarian theory aims at efficiency, the maximizing of utility, and the basis of its practical reasoning is motivating reasons. These reasons are the subjective motives for the avoidance of pain and the quest for pleasure. For a deontologist the goal is intrinsic good or value not an instrumental good and justifying reasons are sought, the avoidance of the “pain of contradiction” and the aim of logical consistency and validity. (I do not intend to imply that utilitarians eschew any of the latter.)

Justifying reasons are supposed to be objective. Similarly, the concept of excellence is partly objective. On MacIntyre’s account of Aristotle, we discover standards of virtue; we do not invent them contrary to John Mackie and many others.⁴ The concept depends on a particular view of human nature or an objective ideal of humanity independent of the whims, desires, passions and wants of humans and yet it is in harmony with such a human nature since the essence of humanity is to be rational not merely passionate, desiring, experiencing beings. These latter characteristics fail to distinguish us from the animals and hence cannot constitute our unique *telos* or purpose.

The Greeks not only invented the concept of man as rational animal but also invented the first two deductive systems of thought: Aristotelian logic and Euclidean geometry. Although both have been superseded and improved, they remain two very impressive intellectual achievements. MacIntyre mentions the deductive sophistication of the Greeks but strangely cites neither of these two. His examples are well chosen: forensic debate and natural philosophy (ibid.: 56). Both lead to the crowning achievement of Greek rationalism, the dialectical methodologies of Plato and Aristotle.

MacIntyre has an interesting description of their origins and evolution. As he points out Plato “inherited both a negative use of deductive argument as deployed in his [Socrates’] dialectic and a standard of truth” (ibid.: 71). However, this leads to a major philosophical problem that is still unresolved in modern epistemology and perhaps irresolvable. If we cannot begin in a non-question-begging way from what we already believe, how can we begin at all? If all we assume are the minimal Socratic assumptions above, we cannot derive a rationally grounded conception of the good, which can claim the status of knowledge. In the debate between Plato and the sophists neither side can supply sufficient reason for the opponent to admit refutation so even the negative task of dialectic seems unable to be carried out let alone any positive function (ibid.: 75).

According to dialectic, we owe rational allegiance to that set of statements best able to withstand refutation so far but if the situation is as described, there can hardly be any such unique set. Further, even if we did single out such a

unique set somehow there would be no guarantee that it will continue to survive critical scrutiny in the future. Plato's solution is therefore "radically incomplete" (ibid.: 83). The tasks of Aristotle's philosophy are to answer Plato's questions. Subsequent philosophy then "impugns, vindicates corrects or supplements. Aristotle's answer" (ibid.: 85), an interesting twist to the well-known dictum. For MacIntyre all philosophy consists of footnotes to Aristotle (not Plato as in Whitehead's dictum) even if perverse or subversive of his thought (as in Hume etc.).

Aristotle solves the problem by adding his theory of epagoge (induction) to the method of *elunchus* in order to construct a theory of demonstration upon which a theory of practical reasoning can be based. It is crucial to understand the role of dialectic in Aristotle. It never presents us with a conclusion not open to revision, elaboration, emendation or refutation, a point MacIntyre reiterates several times (ibid.: 100, 172). It is also reiterated repeatedly by Popper, a point that shows he may be closer to the Stagirite than he would care to admit.

However, Aristotle, like Euclid, was not consistent in carrying out his ideal of deductive reasoning. Just as there are gaps in the latter's reasoning (filled in by the nineteenth-century "revolution in rigour" and corrected by non-Euclidean geometry), so there are gaps, fallacies and errors in Aristotle. What MacIntyre has in mind is not so much the atavistic character of his teleological physics and biology or the deficiencies of his logic (the inability to go from "a horse is an animal" to "the head of a horse is the head of an animal") as his "invalid arguments" about slaves and women, his failure to see the effects of irrational dominion on its victims and the fact that his reasoning was deformed by his beliefs about slaves and women (ibid.: 105, 121).

Nonetheless, Aristotle was correct to see that rationality is at least partly constituted by membership in a social institution such as the polis. This is because we require an ordered conception of the good so that rational choice is possible in terms of a supreme good standing in hierarchical relation to lower goods. This is the most striking difference with modern subjective concepts where each individual has his or her own "utility function" or subjective preferences which can vary radically from another individual and the problem of rationality is defined in terms of maximizing whatever happens to be that individual's self-chosen highest good.

For Aristotle there is a supreme good or *arche*, which defines the good independently of whatever subjective preferences each individual has. This makes possible Aristotle's use of the so-called "practical syllogism" a term MacIntyre seems to dislike (ibid.: 129). Nonetheless, it is correctly so called. "It is a syllogism" (ibid.: 129).

However, there is more to moral reasoning than deduction. He reiterates the point made in his article on Hume's is-ought argument. Moral reasoning shares with scientific reasoning very strong parallels. They both use a variety of types of reasoning including deductive reasoning as well as epagoge. Hence we can conclude he still believes a non-deductive (i.e. inductive) component is still necessary in both types of argument (cognitive and moral). However, his main

emphasis is on the deductive character of our moral reasoning. Epagoge gives us the first principles. Deduction and factual knowledge enable us to deduce from the archai what we should do qua good.

The logical structure of a practical syllogism is then as follows. In the initial premise or premises, the agent affirms ... such and such is to be done qua good. In the secondary premise or premises, the agent affirms that circumstances are such as to provide the opportunity and the occasion for doing what is to be done. In the conclusion, the agent in acting affirms that this action qua action such and such is to be done.

(ibid.: 139)

A person who fails to perform the act then contradicts himself as surely as the agent who accepts all of Gewirth's premises (include the crucial correlativity principle) and refuses the conclusion. This is both like as well as unlike modern conceptions of logic. It is unlike modern logic in regarding an action rather than a statement as the conclusion of an argument. However, the practical syllogism is more like modern logic than Aristotle's theoretical syllogism in the following interesting way.

As MacIntyre points out, Aristotle's logic has no place for singular referring statements. However, in modern logic with its interpretation of "all" and "some" statements we can render this intelligible. A parallel with Popper's deductive nomological or "covering law" model of scientific explanation is useful here. According to this model, we need both *universal scientific laws* and *initial conditions* to deduce an explanation. The universal laws correspond both to "all" statements and the initial premises in the practical syllogism whereas the initial conditions correspond to the secondary premises describing the circumstances.

Of course, in some circumstances the conclusion could be negative, entailing that the agent refrains from an action. If an agent accepts Aristotle's dictum cited earlier, adopting the major premise: [P] there is no such thing as adultery with the right woman, in the right way, and in the right time, and describes his situation by the minor premise; [M] I am being seduced by a married woman who is not my wife, then his conclusion would be an inaction, not giving in to temptation. A crucial implication of MacIntyre's claim is one that, if valid, would give him a powerful advantage vis-a-vis rival theories. This is the claim that there are no conflicting goods in Aristotle as there are on modern theories. The above in fact would be a good example since a utilitarian would have to balance the "good" of the pleasure of adultery with the long-term disadvantages. As MacIntyre puts it:

On a characteristically modern view, the claims upon particular individuals of some good may be inconsistent with the claims of some other good, thus creating dilemmas for which on occasion there may be no mode of rational resolution. Precisely because Aristotle's logic in practical argument is, the same deductive logic employed in theoretical argument and precisely

because there can only be at any one time one right action to perform, the premises of any Aristotelian practical argument must be consistent with all other truths.

(*ibid.*: 141)

This is not a result of the formal characteristics of logic but of the material content of Aristotle's concept of the good. One can deduce, on a purely formal basis, contradictory conclusions by starting with contradictory assumptions. However, on Aristotle's theory our moral reasoning should start with a concept of the good including a supreme good. If MacIntyre is correct in this assumption then he has an excellent argument in favour of his theory vis-à-vis modern ones. In the next three chapters I argue that, despite some strong arguments, he does not completely succeed.

13 Whose justice? Which rationality?

Not to the strong is the battle, not to the swift is the race but time and chance happen to all men.

Eccl. 9:11

Criteria of rationality

In Chapter 12, I introduced the Hayek–MacIntyre paradox to show the striking similarities between the views of Hayek and MacIntyre on the relation between tradition and reason, especially as it relates to the foundations of morality. The one significant difference between them seems to be merely terminological or semantic, that is Hayek prefers to emphasize traditional values whereas MacIntyre prefers to emphasize traditional virtues. This is the one area in which I would argue that has MacIntyre an advantage. In this chapter we examine a crucial topic where they differ profoundly, that concerning justice. On this topic, I argue that Hayek has a decisive advantage. I suggested in Chapter 12 that MacIntyre’s theory of dialectical justification has strong parallels with Popper’s PRC, with one key difference. This difference is not due to MacIntyre’s use of the term “justification”. It is due rather to his rejection of a basic principle in Popper’s critical philosophy; that arguments are either “deductive or defective” (Chappell 1966: 244). MacIntyre rejects this principle in his discussion of David Hume’s is–ought argument in his *Treatise of Human Nature*.

There are several reasons for criticizing MacIntyre’s rejection of this admittedly contentious principle. One is that a non-empirical epistemology is much less problematic than non-deductive logic, a point we tacitly acknowledge every day as we make numerous non-empirical practical and theoretical assumptions, whereas, if we use non-deductive logic we are either:

- 1 committing non sequiturs and/or fallacies or;
- 2 using enthymematic arguments.

Thus, I would prefer to reword the above principle to “arguments are either deductive, defective or enthymematic”.

The argument for that started in Chapter 10 and I shall attempt to reinforce it in this chapter (pp. 204–5) when I discuss the relation between fallibilism, scepticism and relativism. For now I make one final point about induction and the is–ought problem, then proceed to MacIntyre’s solution of the latter. Wesley Salmon says that “every inductive argument can be turned into a valid deductive argument by the addition of appropriate premise” (Salmon 1963: 17). He objects to this procedure on justificationist grounds.¹ Such justificationist grounds ultimately lead, as previously argued, to the problem of Fries’ trilemma and “how do we avoid an infinite regress in our reasoning?” I agree with Popper that the answer is not to construct a theory of induction (again in the sense of non-deductive logic) but to use Popper’s PCR, or a theory of dialectical justification of the type MacIntyre espouses (but without his use of induction as one of the components).² For now we return to MacIntyre’s use of dialectical justification to criticize modern moral philosophy and defend an updated Aristotelian theory of virtue as the most rational alternative.

On the modern view, according to MacIntyre, we start with the conceptions of good, including whatever ordered preferences individuals happen to have, and a neutral theory of rationality to resolve the inevitable conflicts that will result. Thus, some individuals will have as their preference the production of sacrilegious or pornographic literature and others will prefer the preservation of Islamic virtue or feminist ideology. Since both cannot have their way whose preferences are to take precedence and why?

MacIntyre has two basic objections to this procedure. The first is that the preferences people happen to have are not preferences they just happen to have or that they have *qua* human beings i.e. as part of human nature. They are the products of a particular culture or society in the modern Western world, a product of liberal modernity. The answer of practical rationality will then be to give preference to modern, secular, Western, liberal values. Thus, the first choice is easy; we prefer Salmon Rushdie’s views to those of the Ayatollahs since they are unenlightened, pre-modern bigots. The same choice is not as easy in the second case since feminist ideology is part of western liberal modernity nor is it easy to resolve the RNA, the Rawls–Nozick argument cited earlier in Chapter 12.

But not only does MacIntyre raise that objection, he also argues that there is no neutral criterion or criteria of rationality by which we can resolve these disputes once we surrender the Aristotelian idea of an *arche* of virtue or the good. This is reiterated repeatedly in WJWR (*ibid.*: 144, 166, 205, 321, 329, 333, 334, 351). This raises a serious issue, which he confronts later but does not solve, or attempt to solve, until the very end of the book. He reiterates frequently that dialectical argument of the Aristotelian type is always open to “some as yet unforeseen argument” (*ibid.*: 172). He also posed the central question of moral philosophy as “what are the principles governing acts to which no rational person can deny his or her assent” (*ibid.*: 176). He asserts, “there are in fact no non-trivial statements which have appeared evidently true to all human beings of moderate intelligence” (*ibid.*: 251).

While one could ask if *this statement* is an exception to its own dictum, I attempt to strengthen MacIntyre's argument here in two ways. There are not even trivial statements to which all persons of moderate intelligence have given their allegiance including the laws of non-contradiction, excluded middle, and identity. Feyerabend and Quine constitute counter-examples here. The history of mathematics is surprisingly full of debates about fundamental principles and so is modern meta-mathematics or philosophy of mathematics.³ Paul Feyerabend has argued that "there exists no finite set of general rules that has substance (i.e. recommends or forbids some well-defined procedure) and is compatible with all the events leading to the rise and progress of modern science" (Feyerabend 1987: 9). Quine questioned the absolute validity of the law of the excluded middle in his well-known 1951 paper discussed in Chapter 9.

Feyerabend's principle of incommensurability is used by MacIntyre (although he probably derives it from Kuhn's better-known use of it) to explain why modern debates in moral philosophy are so exasperatingly inconclusive (MacIntyre 1984: 8). He also endorses the familiar Aristotelian dictum that we should not expect the same degree of accuracy and precision in ethics and politics that we expect in mathematics and logic (although in view of the foregoing we might wonder what "accuracy" and "precision" mean here).

In his survey of post-medieval debates, MacIntyre traces the breakdown of various efforts to construct some type of infallible basis for our moral (and epistemic) principles. These include the Bible (Protestantism), common sense, moral sense, and the appeal to self-evident truths. In regard to the last-named MacIntyre raises the crucial question: "to whom must first principles be evident?" (MacIntyre 1987: 234) It is hard to answer this question in a non-question-begging way. If we answer in an egocentric or ethno-centric way such as, "all people who agree with me or my cultural assumptions" we clearly beg the question. If we try to answer on independent grounds, we discover all sorts of people who do not accept our "self-evident truths".

How then can we avoid the "anything goes" type of relativism that Feyerabend espouses and Dostoevsky warned us against? Since MacIntyre rejects the possibility of some neutral tradition-independent standard of rationality for several reasons, including that crucial point (also in Feyerabend) that there are "no preconception or even pre-theoretical data" (ibid.: 333) nor any neutral set of criteria. Further, "no particular thesis can be conclusively established unless incompatible points are conclusively refuted" (ibid.: 334). I will argue in Chapters 14 and 15 that this is exactly the strategy pursued by Hayek concerning social justice, the anthropomorphic fallacy, collectivism, and the rule of law.

MacIntyre argues that modern liberalism is a failure for the reasons given in the two quotations from him in the previous paragraph. There are no neutral grounds for adjudicating moral disputes (ibid.: 346). There is no Archimedean point that philosophers such as Descartes and Hobbes *inter alia* have sought outside all tradition. This seems to entail the radical relativist conclusion that we can have no good reason to decide in favour of, or against, any one theory rather

than another. Yet MacIntyre resists this conclusion. Is he being irrational or making his own Pascalian or Kierkegaardian leap of faith?

Not necessarily, for the failure of Enlightenment rationalism and modern liberalism lies in its failure to see the rationality of tradition. First principles can receive a particular kind of rational justification, which is “at once dialectical and historical” (ibid.: 397). This is preferable to modern liberal theories that delude students and others into believing there are independent shared standards of rationality but the result is to confuse the poor students so that they have “divided moral attitudes expressed in inconsistent moral and political principles” (ibid.: 333).

Just when it appears that there is no way out of the bind MacIntyre produces his *deus ex machina* or so it seems. However, dialectic has been present all through his account. If he can show its rational superiority to modern rationalism then he will have an even stronger case. Just how well does he succeed?

Fallibilism, scepticism, relativism

What if we adopt the extreme claims of MacIntyre and Feyerabend? What follows? Among the possible options are:

- 1 irrationalism;
- 2 a different theory of rationality;
- 3 relativistic scepticism; or Brecht’s SVR;
- 4 fideism;
- 5 authoritarianism.

Since MacIntyre accepts neither irrationalism nor fideism nor authoritarianism and wishes to avoid relativism (what he terms “perspectivism”) he is forced to offer another concept of rationality. Can the radical fallibilism that is part of his dialectical approach be embraced while simultaneously eschewing the radical relativism of sceptical arguments?

It can be avoided, I suggest, by the following two moves. The first is to make a careful distinction between the fundamental principles of fallibilism and scepticism. The second is to impose or recognize radical limitations on the scope of reason. Both can be accomplished within the framework MacIntyre offers. It is easy, however, to show that it can just as easily be incorporated into Hayek’s liberal individualism. As Chapters 14 and 15 will show it already was before MacIntyre wrote either AV or WJWR.

The fallibilism MacIntyre, Popper and many others espouse holds that: (F) “any position can be doubted”. From this, the sceptic concludes that therefore: (S) “every position can be doubted”. However, this is as fallacious as the move from (F) “any position can be proven” to: (R) “every position can be proven”. As Gödel and others have shown (Aristotle knew it also), you cannot prove everything although there is no particular *p* that cannot be proven.

However, the sceptic still has rejoinders. Whether she or he is a moral or cog-

nitive sceptic is, in the present context, irrelevant. The quest for infallible foundations of knowledge has pretty well reached a cul-de-sac and very few philosophers will defend this, just as few theologians will defend an infallible Bible and/or church.

We can however still use fallible sources. Indeed, it is difficult to see how we can do otherwise. We all trust our senses, and rely on common sense, intuition, unarticulated tacit presuppositions, axioms and traditional beliefs and values, which we cannot prove. We do this despite the fact that we recognize in our more reflective moments that they are highly problematic. Optical illusions are far more common than we realize since various factors of a physiological, linguistic, psychological and social nature warp our perceptions. Yet we trust our senses and, when they are insufficient, we resort to non-empirical reasons such as intuition, common sense and, as both Hayek and MacIntyre wisely recognize, tradition. This is how pragmatically we solve the sceptical challenges involved in the problem of induction, the infinite regress problem, and the fallibility of all knowledge claims including “empirical” ones. However, is it satisfactory theoretically? Here the sceptic will demur. If we are mistaken in one context in trusting sense experience (e.g. sunrises, mirages, the shape of the earth, size of stars, their disappearance in day, colour of the sky *inter alia*) how do we know we are not frequently deluded or systematically mistaken?

I finish this section by dogmatically answering this challenge. The argument will come when I discuss the rationality of tradition in the last section of this chapter. Tradition is “the product of the collective experience of a particular culture or humankind as a whole”. MacIntyre and Hayek are correct in asserting that the rationalist-cum-sceptical challenge can only be met by categorically rejecting the principle of sufficient reason and embracing an alternative principle, one that neither of them, nor Popper either, adequately formulates. It is the following: DP “*reject a principle based on tradition if and only if there is sufficient reason to do so.*” Here “sufficient reason” has a different status and meaning than it has in the rejected principle of PSR: “accept all and only those propositions for which there is sufficient reason.” From this, we can deduce “accept all and only those components of tradition for which there is sufficient reason”. By contrast, “sufficient reason” as defined by DP would be a self-contradiction or incoherence or an improvement upon a traditional belief or value. Despite its apparently arbitrary and “conservative” character I shall argue (in agreement with both MacIntyre and Hayek) that it is neither arbitrary nor conservative.

MacIntyre on justice

Since MacIntyre insists that we cannot choose a non-controversial theory of rationality to adjudicate disputes about justice he may be hoist to his own petard. While this entails that we cannot demonstrate the superiority of modern conceptions of justice over that of Aristotle, the reverse is also true. Why then not opt for the modern view given that we live in the modern world and cannot turn the clock back to the ancient polis even if it were possible and desirable?

MacIntyre has an answer to this but it either conflicts with his claims about rationality or appears to do so. The key issue arises from the following two claims of MacIntyre. The first is that modern liberalism lacks shared values by which controversies can be resolved and the second is that there are no conflicting values in Aristotle. If these two claims were true, then clearly an Aristotelian approach would have the competitive advantage of superior problem-solving ability. It could resolve all moral disputes, whereas liberalism could only, at best, solve some, but not all. This means that, instead of interminable and insoluble debates about abortion, euthanasia, capital punishment, nuclear disarmament, animal rights, social justice, sexual morality, how to cope with terrorism in an ethically just manner, sanctions against Iran and so on, we would have a well-ordered conception of the good which, combined with an accurate description of the circumstances we are in, would enable us to deduce what the morally right policy, action or decision should be. What then is the Aristotelian account of justice and its alleged logical contrary, modern liberalism?

While he discusses four theories of justice in *WJWR*, we shall consider MacIntyre's account of only two: those of Aristotle and Hume. The other two (those of Augustine and Aquinas) are organically related to Aristotle's theory, and this limitation sets up two diametrically opposite concepts (according to MacIntyre) which correspond to the debate we will focus on: Hayek's defence of liberal or *legal* justice versus *social* justice. As we shall see, Hayek's enthusiasm for Hume is in inverse proportion to MacIntyre's dislike of him.

Aristotelian justice

The key to understanding Aristotle on justice is the concept of desert. Modern philosophers distinguish *distributive* and *retributive* justice. Strictly speaking, both could be subsumed under one principle if MacIntyre is correct about Aristotle. That is, the distribution of both rewards and penalties should be according to merit or desert. This means no one should get either undeserved rewards or undeserved punishment. This means that justice for MacIntyre, following Aristotle, must be defined positively and negatively unlike justice, rights and utility in the PHD.

For a distribution of both rewards and penalties to count as just they should be distributed, not according to a principle of *arithmetical* equality, but rather according to *proportional* or *geometrical* equality. This entails that people should be rewarded and/or punished in proportion to their merit or deserts. MacIntyre gives two different expositions of the presuppositions of such a theory: one in *AV* and the other in *WJWR*. I begin with that in *AV*.

To be just is to give each person what each deserves; and the social presuppositions of the flourishing of the virtue of justice in a community are therefore twofold; that there are rational criteria of desert and that there is socially established agreement as to what those criteria are:

(MacIntyre 1984: 152)

In WJWR, he gives two similar criteria for justice to be achieved:

There must be some common enterprise to the achievement of whose goals those who are taken to be more deserving have contributed more than those who are taken to be less deserving; and there must be a shared view both of how such contributions are to be measured and of how rewards are to be ranked.

(MacIntyre 1987: 106–7)

This includes not merely rewards but punishment also. The structure of the polis then must include agreement on how achievement is to be measured not only positively “but also negatively by its scale of punishments and deprivations” (ibid.: 107). For this reason, the promotion of civic virtue requires a concern “with the occupational structure of the polis” (ibid.: 105). Desert and merit are rewarded proportionately in terms of virtue not, as in modern societies, by marginal utility. Injustice is characterized by two extremes. One is attempting to take too much or suffering injustice: “to undergo undeserved harm or less than one’s deserved good” (ibid.: 111). The normative implications are traditional. They harmonize interestingly with many injunctions of theistic ethics, since adultery, theft and murder are all unjust (ibid.: 121).⁴

To judge the justice of acts requires complex reasoning, since it involves the use of *phronesis* and various aspects of dialectical method, *epagoge* and:

“that other resource of dialectic, the confronting of alternative and rival opinions, especially of those most plausibly and cogently argued by each other, so that we may arrive at a conclusion as to which of these best survives the strongest objections which can be advanced.

(ibid.: 118)

Justice entails fairness and this means equality. This means like cases are treated alike and unlike cases are treated in a manner proportionate to their differences in merit. “So a distribution is just, if and only if, it preserves between two cases where the recipients are unequal in merit a proportionally unequal distribution” (ibid.: 119). This applies to rewards and punishment, that is, to corrective and distributive justice (or retributive and distributive justice in modern terms).

The application of this

in distributive justice obviously presupposes a rank-ordering of actions as meritorious or undeserving and a rank-ordering of goods to be distributed, while in corrective justice it presupposes a rank-ordering of harms and deprivations which may be imposed as more or less serious punishments.

(ibid.: 119)

As he points out correctly such a concept is incompatible with a modern market economy for at least two reasons. A community guided by Aristotelian norms

would have to set strict limits to economic growth to preserve or enhance a distribution of goods according to merit and in a modern economy prices and wages are unrelated “indeed in a modern economy *could not be related*” (ibid.: 112, author’s emphasis) to desert in terms of labour “and the notions of a just price or just wage in modern terms makes no sense” (ibid.: 112). These points are repeated in both *Dependent Rational Animals* (hereafter DRA) and his essays on Marxism (see the epilogue for a discussion of both).

MacIntyre is fully aware of two objections from a “modernist”, including those not at all interested in defending a “market” economy. One is a meta-theoretical objection, while the other raises a normative problem. Both focus on what MacIntyre himself recognizes as atavistic defects in Aristotle’s theories. They involve his teleological science and his “reactionary” views on women, slaves, and “lower” classes. Rather than attempting to defend Aristotle on these points, he attempts to detach them. In Aristotle’s polis, justice applies mainly to relations between free and equal citizens and that leaves out most people, not just slaves and women but metics and children as well. As he points out,

the claim that in the best kind of polis the distribution of public offices and the honoring of achievement will be in accordance with excellence, that is, virtue, is independent of any thesis about what kinds of persons are or are not capable of excellence.

(ibid.: 105)

He further argues that the Stoics and then Christianity extended the scope of justice to include all those left out of Aristotle’s account. (As we shall see in Chapter 14, Hayek makes a similar point about Stoics and Christianity.) As for the effect of the anti-teleological, mechanistic view of modern physics and biology on Aristotle’s thought, MacIntyre assumes, rather than argues, that this does not detract from Aristotle’s *human* teleology. On this, he may be correct. At any rate, where I will criticize him when discussing Hayek, concerns a very different type of anthropomorphic teleology to which he is very blind. This will be apparent when we discuss Hayek’s devastating critique of “social justice” (Chapter 14). For now, it is more appropriate to move on to his account of Hume on justice.

Justice with a Humean face

Aristotle’s theory of justice forbids theft. In his discussion of Aquinas, MacIntyre points out that condemnation of theft implies the legitimacy of private property (ibid.: 199). Hume also believes in private property but MacIntyre seems to see a qualitative difference here. This means that Hume makes the “rights of property absolute” (ibid.: 195, 307). MacIntyre does not make it very clear what this means. It can have at least two distinct connotations. It can mean, on the one hand that “I can do with my property whatever I want” or it can mean, “no one can take my property, or use it without my permission”.

It is much easier to criticize the former than the latter. MacIntyre never makes it clear which one he has in mind but his own exposition of Hume suggests it should be the latter, much more sensible and defensible, notion. The difference can be illustrated with the following argument of Gewirth's.

In his reply to his libertarian critics Gewirth argues:

If a person should be "free to do with his resources as he pleases, then he should be free to drive 100 miles per hour down city streets, dump his garbage from his windows, and pollute the air with carcinogenic chemical." In none of these activities would he "forcibly restrict others from doing likewise".

(Gewirth in Regis 1984: 246)

This corresponds with the first meaning I cited above but it clearly violates the second. A person who dumps garbage on my lawn, pollutes it, or drives his car on it, also violates property rights in that sense. Hume seems to believe in the latter, definitely not the former. Despite his reputation as a moral sceptic, and as a critic of natural law theory, Hume argues that there are three fundamental laws of natural justice, two of which do involve property rights. The first principle is stability in possession; the second is transfer by consent; and the third is promise keeping. MacIntyre does not discuss any other aspects of Humean justice than property rights. Hume, as well as Adam Smith, helped lay the foundations of the modern liberal, capitalist ideology.

In modern liberal society, each individual is free, equally free, to propose and live by whatever subjective preferences he or she has, subject to the limits imposed by such rights as those cited above. Consequently, in modern liberalism we are left with no overriding good as in Aristotle. This is the reason it cannot resolve the interminable quarrels in modern moral philosophy. Its ultimate data are subjective preferences. Thus, each individual asks himself: "What are my wants? What order do they have?" This leaves him his initial premises for practical reasoning. They can then be supplemented by theoretical and empirical reasoning about the most efficient way to achieve such ends. This procedure aims hence at the goods of efficiency not excellence.

Thus liberalism must justify itself by circular argument. It has internal to it, its own standard of rational justification despite deceiving itself and others into arguing that it can be justified on neutral grounds when no such grounds exist (MacIntyre 1987: 395, 205). Thus there are two central problems of liberalism it has yet to resolve satisfactorily. They are: [L1] *the liberal self*; [L2] *the common good* (MacIntyre 1984: 255). Neither [L1] nor [L2] can be defined coherently or convincingly in the framework of liberal ideology. Hence, the cul-de-sac regarding the Rawls-Nozick argument, and other similar debates about the requirements of liberal justice in connection with abortion, war, punishment and social policy. A recognition of the same two problems (from a writer much more sympathetic to libertarianism than MacIntyre) is found in Jeremy Shearmur where he discusses two basic criticisms of liberal capitalism that are virtually identical to MacIntyre's (Shearmur 1996: 210–11).

Since we lack any neutral criteria of rationality, it may seem impossible to avoid what MacIntyre terms relativism and perspectivism (what is normally termed “subjectivism”). The former (in its philosophically most interesting version such as Brecht’s SVR) claims that there is no rational, scientific way to adjudicate disputes about conflicting values and hence all are equal from the rational point of view. They are created equal, and must forever remain equal. The latter means we can only decide between conflicting points of view regarding values by adopting a particular perspective. However, this simply transfers the question to “is one perspective better than another? If so which one and how do we know this?” At least it does so if we wish to keep the theory philosophically interesting. According to MacIntyre, relativism and perspectivism (a concept derived from Nietzsche) are the only possible alternatives if the Enlightenment concepts of truth and rationality cannot be sustained.

Some preliminary criticisms

While MacIntyre’s views about the alleged need for shared values, what he says about theft and property rights, the scope of justice and circular arguments, will all be criticized in this section, I will begin with a defence of his theses regarding the rationality of tradition. This is because this is the strongest part of his argument and one easily incorporated into the frameworks of Popper and Hayek. Strictly speaking, it does not need to be incorporated since Hayek has emphasized this long before MacIntyre wrote AV.

The main virtue of a traditional principle, which neither Hayek nor MacIntyre gives us, is that it solves one of the most difficult of all theoretical problems in epistemology and meta-ethics: the problem raised in acute form by Fries’ trilemma. This in turn arises from the following argument. Suppose we adopt a principle of sufficient reason (PSR “accept all and only those propositions (prescriptions) that can be rationally justified”). We illustrate the problem with both concrete and abstract examples and arguments.

The concrete example arises with an old myth that the earth rests on the back of a huge elephant. The question “what does the elephant stand on?” is answered by “the back of a giant tortoise” and the next obvious question “what does the tortoise rest on?”, makes it relatively easy to see the possibility of infinite regress. Suppose we have a sentence (propositional or prescriptive) “p”. How do we know p? Because q is true and q implies p. However, how do we know q? Because r implies q and r is true. Not only do we have a potential infinite regress but also in addition *modus ponens* is being assumed. Why accept it? Fries’ trilemma seizes on this by showing that there exist only three types of alternatives all apparently equally undesirable (hence tri-lemma). We face the above-mentioned potential infinite regress, or we stop the regress by propositional means, an indubitable set of first principles (dogmatism) or by non-propositional means (psychologism). Dogmatism means that we “appeal” to a set of self-evident truths (which may be a set with only one member) or divine revelation or tradition. Psychologism means we stop the regress by

sense experience, intuition, common sense, moral sense, clear and distinct ideas, *inter alia*.

Notice that the problem is completely neutral between ethics and epistemology as J.S. Mill recognized (Mill in Lerner 1961: 189–93). This is quite crucial to the argument. I earlier pointed out the parallel between induction and the is–ought dichotomy, when, in Chapter 10 I argued that the asymmetry Popper uses in LSD applies to both problems. MacIntyre also argues this in his comments on Hume’s is–ought passage. The problem of induction is inextricably intertwined with that of infinite regress. This entails that we have another, even stricter, parallel between ethics and epistemology: the problem of rationally choosing first principles.

Here is where there is a clear advantage for the moralist who rejects, rather than embraces, moral truth. I shall illustrate and argue this by presenting a variation of the Burdian’s ass problem to “justify” the proposed alternative principle to PSR; and then assessing the merits of this alternative to PSR relative to meta-ethics and epistemology. The Burdian’s ass argument is also highly relevant when we come to the disagreement between Hayek and MacIntyre about the justice of the free market. For now, I use it to make a meta-ethical rather than a normative point.

The principle proposed earlier as an alternative to PSR: “reject a traditional principle (whether cognitive or normative) if and only if there is *sufficient reason* to do so” involves the key term emphasized in the previous sentence, “*sufficient reason*”. As emphasized earlier it means what it does in Popper’s PRC. It entails finding a contradiction, either a self-contradiction or a contradiction between that principle and accepted facts and theories.

A sceptic can always ask, “why should anyone accept this principle?” There are several good answers to this reasonable question. First, it is not subject to the same difficulty as PSR, although this does not mean it does not face any difficulty. Second, it can avoid Fries’ trilemma without embracing either dogmatism or psychologism or indulging in circular reasoning (a species of dogmatism). It avoids the naïvety of either comprehensive rationalism or the fideism of uncritical traditionalism. Finally, rather than being ad hoc and arbitrary it can be “justified” by creative use of the Burdian’s ass argument.

In the (traditional) Burdian’s ass situation, the unfortunate animal is equidistant from two equally desirable (qualitatively, quantitatively and, crucially, perceptually) piles of hay. The ass has no reason whatever to prefer one to the other. It does have, however, good *subjective* reasons to choose *arbitrarily*. It is easy to construct or imagine realistic parallel situations for human choices: two elevators arriving simultaneously and equidistant from the people waiting; two identical twins in a beauty contest; two clones applying for the same job who are equally qualified. This argument does not entail that this is why we prefer tradition since the same would show the opposite but it leads us to imagine a variation. If the left pile in front of the ass is either larger, or more nutritional (even if only in appearance), or closer to the ass it clearly has a reason (or reasons) to prefer the one on the left.

The latter situation is what prevails in the case of tradition. Why make the effort for another pile of hay when the one in front is right there? What if the other pile is larger and/or better but also farther away? In that case, the ass has a reason to prefer it and make the effort. However, are these good grounds on which to make momentous moral or metaphysical choices? The answer of the PRC is “yes”. What it does not do is create an *irresistible* bias for the status quo. It merely shifts *the burden of disproof* (not proof) onto the critic and it does not merely *assume or assert but argues* that the burden belongs there. It demands a reason for rejection not acceptance and this is possible to satisfy, unlike the quite unreasonable demand of PSR.

Does the argument work equally well for ethics and epistemology? This depends partly on whether the category of moral truth is relevant or not. Since the ass is not a metaphysician, it is only interested in satisfying its subjective values, not in finding out the truth about the universe. Tradition can be given more content here by pointing out that it includes interpretations of sense experience, intuition and “common” sense. These are not, as in previous epistemologies and moral systems, infallible sources of knowledge and morality. They are potentially refutable and criticizable. The burden of disproof is not an impossible demand to fill in the way that the burden of proof in PSR is.

Consider two examples of “psychologism”, one of the three horns of Fries’ trilemma. How do empiricism and utilitarianism stop the infinite regress? For the empiricist the stopping point is bedrock experience of some kind. For the utilitarian it is the experience of pain and pleasure. Suppose we ask, “why choose these stopping points?” Empiricists have to assure us that it is because sense experience gives us reliable information about the universe. This is a very sweeping claim involving a completely unjustifiable assumption. The utilitarian, unless she rashly accepts the category of moral truth, does not have to make this assumption. For her pain and pleasure are good subjective, not objective, reasons and that is all she need assume. She need not assume that it gets her into touch with some realm independent of the human mind. The tables are turned on the moral sceptic!

It can be replied that we know that experience and tradition are reliable guides because we either do, or should, adopt a causal, “naturalistic, evolutionary epistemology” such as those discussed in Chapters 10 and 11. That is, one can argue, if our traditional beliefs were not in accord with reality, or, if at least a significant majority of our traditional beliefs were not in accord with reality, then we could not and would not have survived. As we continue to evolve, we may, as we in fact do, revise these beliefs but they cannot be systematically misleading or deceptive or it is impossible to explain how we have survived. While this argument has considerable merit, exactly the same argument can be made about evolutionary ethics and the role of traditional values. Therefore, at best, the two are equal in status although no self-respecting sceptic will swallow, without demur, evolutionary epistemology.

Neither Hayek nor MacIntyre form their principle in the way I have just done. Nonetheless, it does make sense of their position. Neither of them gives

much content to the concept of tradition nor do they supply many examples. Let us then take some traditional and very contentious examples to see what a more blatant rationalist, especially a utilitarian or contractarian might say. Consider traditional sexual morality, the view held by Catholic, Protestant, Islamic and other religious traditions, that sex outside the marital covenant is sinful and/or unjust (Aristotle, the Bible, the Koran, and other sacred writings seem to agree here).

The rationalist will argue that we should accept this if and only if there are good reasons to do so, and not merely reject it if and only if we cannot find a reason to do so. She might agree with Hayek and MacIntyre that evolutionary processes explain our moral codes but then argue that, there was either a clear utility (or argument from rights) for them in the past, or else there were not such sufficient reasons. If there were, and still are, such good reasons, then this is why we accept them, not because they were traditional. If there either were (or no longer are), any utilitarian or other good reasons then we should not accept them.

Up to a point Hayek would accept this but not MacIntyre. The counter-argument would be “true, there may have been good utilitarian reasons in the past but there are customs and traditions for which there were original good reasons that we don’t understand. These are the rules we accept without reason but not contrary to reason”. It is crucial to distinguish these.

Much of MacIntyre’s argument hinges on a claim that the modern moral problems arise solely due to a lack of shared values. In some cases, it may seem so but let us take a very controversial topic, which MacIntyre cryptically alludes to, i.e. “justice for the unborn”. This is an obvious reference to abortion where it might appear that MacIntyre is correct regarding lack of shared values. How can we adjudicate a dispute between an extreme pro-life and an extreme pro-choice advocate? Here it may seem that Hayek has a slightly better account, that it is the difficulty in deciding on the priority of rules.

However, there is more involved. All sides, even the extremes, can agree with the values of both personal freedom and the value of human life. They can even agree that any person’s individual freedom is limited by the rights of others. What they disagree on the *scope* of rights and other ethical principles: does the fetus have an overriding right? Is it fully human? Is abortion sometimes, or always, or never, a case of justified homicide? What constitutes “justified homicide”?

Property rights are another contentious issue MacIntyre discusses. According to him, Hume made property rights absolute. I avoid the problem of Humean exegesis and concentrate instead on the intelligibility of absolute property rights. It seems clearly to be an unintelligible concept, unless qualified in such a way as to make it non-absolute. As argued earlier, this very misleading term could mean either: [PR1] I can do whatever I want with my property or; [PR2] my property is sacrosanct in that no one can do anything to it without my permission. I take it that MacIntyre means the latter although this is unclear.

Suppose we had to choose between them, or between the combination and one of them. Clearly, from a rational point, [PR2] is preferable to [PR1] or both. This is because if [PR1] is valid then I can use my property to do damage to

yours without your permission, thus violating [PR2] and [PR1]. MacIntyre also fails to explain why liberal justice is not superior in terms of the scope of justice and makes an elementary logical error about property and theft. While it is true that “theft is wrong” does entail “private property is just”, it does not entail only that. Because of the fact that a person can steal public property, a society without private property can still forbid theft. No communist or socialist society has ever let private citizens take public property for their own private use (if they could prevent it).

MacIntyre acknowledges that the scope of liberalism applies to all humans even if purely formally. He also criticized Aristotle for restricting the scope of liberty. Why then is he not faced with this dilemma: either the liberal concept is superior to Aristotle’s or there is nothing wrong with slavery, or with discrimination based on class, race or gender?

The final and most crucial criticism of MacIntyre is that he is hopelessly (and confessedly) vague on what policies and institutions he thinks should replace the market and liberal individualism, although he does give some content to his Aristotelian theory of justice in more recent writings as I say in the final sentence below. MacIntyre is not a “reactionary” trying to favour pre-market systems, such as mercantilism, feudalism, serfdom, slavery, a caste system. However, just what alternative does he have in mind? He says:

the rule of law, so far as it is possible in a modern state, has to be vindicated, injustice and unwarranted suffering have to be dealt with, generosity has to be exercised, and liberty has to be defended, in ways that are sometimes only possible through the use of governmental institutions.

(MacIntyre 1984: 255)

The parallels with PHD should be obvious: first, the rule of law must be vindicated; second, injustice and unwarranted suffering have to be dealt with; third, generosity has to be exercised; and finally, liberty has to be defended. Since every single one of these principles are found in Hayek and Popper’s PHD, as well as many other theories it raises the obvious question: “what is the major difference with MacIntyre’s view?” If these are the main role for the state, what is the major difference with liberal individualism? The previous two questions are not rhetorical. MacIntyre has an answer in DRA. It also seems to undermine his claims about rationality, since he states them as if they are self-evident truths when they are not, involving both contentious normative and causal claims that need to be argued (“only possible through ... governmental institutions”). In *Dependent Rational Animals* (DRA) MacIntyre does give an answer to the challenge above similar to that made by Keynes against Hayek, to the effect that MacIntyre is clearer on what he opposes than about what he favours. He discusses these issues in recently published *Selected Essays* including a republication of *Three Essays on Marxism*, written in the years 1953, 1968 and 1995. Since these writings permit, or even invite, a comparison with Hayek’s theory of justice, they will be critically examined in the epilogue.

14 Virtue, tradition, justice and the Enlightenment Project

I saw all the oppressions that are practiced under the sun. . . . On the side of their oppressors was power.

Eccl. 4:1

In this chapter I combine the three main criticisms Hayek offers to both soft leftist and liberal positions as well as to the hard left. The first is his critique of social justice. The second is the ECA. The third is his criticism of the use of “society” as if the term refers to a person with duties and possibly rights as well. I begin by listing what I regard as the ordinal strength of Hayek’s arguments. The strongest argument is his critique of possibility of rational economic planning in a socialist society. It is as apodictic as any argument ever made in political philosophy. The argument against social justice is the second strongest, especially in terms of putting the burden of proof on the defender of social justice. The argument against treating society as a person as opposed to its being an entity like the Earth is extremely difficult, albeit not necessarily impossible to refute, but his critics have not succeeded in doing so.

Individualism and rationalism are topics upon which a great deal of polemical energy has been expended. It often seems to be taken for granted that there is only one type of either available. Since it is very easy to criticize the naïve versions of each, it is easy to infer the conclusion that both are indefensible. This is one of MacIntyre’s major errors, but one he only makes in connection with individualism. One of the reasons for this is a widespread but very naïve and indefensible attitude toward tradition.

This is the view that both individualism and rationalism are incompatible with according tradition a major role in epistemology, ethics and political theory. It is one of the major contributions of MacIntyre to re-establish the connection between reason and tradition. It is one of the major contributions of Hayek to establish this connection between all three. This point, at the outset, confers a comparative advantage on Hayek’s position. Hayek distinguishes true and false individualism in his IEO (Hayek 1948: 3–5). We earlier distinguished (in Chapter 6) *methodological and political* individualism. Methodological individualism has to be distinguished carefully from a position with which it is often

confused, one that Hayek includes in his critique of false individualism. This view can be termed *metaphysical* (or *ontological*) individualism, one that does seem to entail an atomistic conception of society (ibid.: 5, fn. 4 re: Rousseau).

Methodological individualism posits the primacy of the individual but an individual who is not the stereotypical, rootless, atomistic, individual divorced from the traditions and institutions of society, but rather one who acts more or less rationally or at least appropriately within this framework. Methodological individualism opposes not the *reifying* of collective concepts such as society, (contra Maggie Thatcher and Samuel Brittan), class, nation, race, and so on, but rather the *personification fallacy*. This latter entails treating the ostensible referent of these concepts as if they were persons who therefore possess (or act as if they possess) minds, wills or intentions of their own. Methodological individualism is equally opposed to the historicist or determinist theses that individuals are caught up helplessly in impersonal social forces or historical laws, mere cogs in an evolutionary, determinist juggernaut.

It is important to distinguish:

- 1 society can be a *causal* agent, from;
- 2 society can be a *moral* agent.

Hurricanes, viruses, rocks, insects and sharks can all cause harm and produce evil or bad results. They cannot however be capable of wrongdoing or injustice. The same, Hayek claims, is true of “society”. The standard distinction has to do with concepts such as intention, knowledge and capability of choice. Non-moral causal agents have none of these capacities. Moral agents have all three. Hayek’s critical argument is that an anthropomorphic fallacy is committed when “society” is treated as if it were a *moral* agent (Hayek 1976: 22; 1979: 141). False individualism, as described by Hayek, bears a striking resemblance to the more naïve hippies and yippies of the 1960s. That “view” (if it was that rather than an expression of an “in your face” attitude) did presuppose that the individual was a completely autonomous individual (ethically and epistemically), who therefore can totally reject all tradition, including conventional ethical restraints, traditional values and beliefs by constructing the physical, social and moral universe from scratch.

While naïve in its “counter-cultural” exemplifications, it does have respectable philosophical pedigree. One of Hayek’s targets is the rationalism of Descartes (Hayek 1948: 4–5; 1973: 9–11). He represented epistemic egoism or individualism of the false kind. His contemporary, Hobbes, is a prime example of ethical individualism of the false variety. On this score, there is almost total agreement between Hayek and MacIntyre. Descartes began by claiming to reject all previous cognitive claims in order to doubt everything and accept *all and only* those propositions that pass the test of being clear and distinct ideas. Hobbes rejected traditional views of morality in order to build it up from scratch via a sort of pre-Benthamite “felicific calculus”.¹ “True” individualism, as defined by Hayek, rejects this approach. Instead of constructing a cognitive and

moral map of the universe and society all by herself, the individual begins with the acceptance of tradition rather with its total rejection. This does not entail an uncritical, “holistic” acceptance. Both the total rejection and total acceptance of tradition are anathema to both Hayek and MacIntyre.

This does raise an obvious problem but one that can be easily solved in principle by the theory mooted in Chapter 10. This problem arises from asking (and then trying to answer) the question: “how do we distinguish which aspects of traditional morality to accept and which to reject?” Notice that this is a *potentially* soluble problem whereas the approach rejected runs into insuperable difficulties: those faced by any version of the principle of sufficient reason. This type of positive (constructive or comprehensive) rationalism is unable to prove everything. As argued in Chapter 13 the argument from Aristotle to Godel is unassailable. We simply cannot prove everything even though we can prove anything.

What Hayek, as well as MacIntyre, can reasonably be required to do is give criteria for distinguishing acceptable from unacceptable traditions, as well as answer the obvious question: “why is tradition so apparently sacrosanct by being given this special status?” That it is a special status is clear. A clear corollary of this approach is that Hayek and MacIntyre need a theory of moral criticism, as does Popper, such as that offered in Chapter 10. They need to be able to explain how effective rational criticism of moral prescriptions and principles is possible given the strong claims of SVR. Without such a theory tradition would no longer be what they claim, presuppose, or imply that it is; a fallible, flexible starting point. Without such a theory, tradition would be either an uncriticizable dogma or just another arbitrary or allegedly infallible “foundation”.

The argument all three need to articulate and defend more adequately is the following: unlike mathematical statements (except axioms of course) or scientific theories, the burden of proof is not on the one making an assertion: rather the burden of *disproof* is on the one rejecting tradition. If this claim is not to be merely another dogma it must be explained how and why this should be the case. Hayek’s answer is very complicated in some ways yet surprisingly simple in others. Tradition is not invented by humans, nor handed down to them from heaven. It evolves. It is the collective accumulated product of human experience. It therefore partakes of the distinctive properties of evolutionary processes: they are undesignated, unintended consequences of complex interactions of biological, human and physical processes. They are also very stable and slow to change, yet flexible. At least the ones that survive are flexible or they will be eliminated in the case of a radical environmental change. Most mutations are deleterious rather than beneficial; an argument that Hayek could have used to buttress his position although he never uses it. Besides, in a meta-ethical context it would beg the question: why prefer beneficial to deleterious mutations? This is not like asking why a circle is round. For a moral sceptic there are no motherhood issues.

Humans then do not *consciously invent* their values, institutions (such as language, one of Hayek’s favourite examples), moral and legal codes, or economic systems. Yet they can *consciously criticize* and attempt to reform them. This can

only take place within the traditional framework provided by society and its traditions. This is one of the major weaknesses of Hayek's argument that his critics have focused on, one that can be solved only by a better articulation of default principles. Hayek's ethical theory needs these as much as Popper's epistemology requires them. His practice was better than his preaching in this case.²

One could also use the Buridan's ass argument here, although Hayek does not do so (nor does MacIntyre). It could be argued that we do not face the pure Buridan's ass situation. Rather we have a situation in which:

- 1 we have a pile of hay right in front of us as well as one several metres away, or worse yet;
- 2 we have a pile of hay right in front of us as well as one down the road where we not only do not know what the pile looks like, we do not know if it will be there when we arrive.

Because of the fact that our moral codes have evolved under the evolutionary pressure of natural selection, "we can't have any morals we like or dream of" (Hayek 1976: 98).

Yet we are not pawns of purely impersonal forces. We are not confined to no choice or to a choice of an infinite (or at least indefinite) number of equally defensible moral codes. Hayek is a relativist in one sense of that enigmatic concept. He says that, "no universally valid system of ethics can ever be known to us" (Hayek 1989: 20). On the same page he comes as close as he ever did to formulating a default principle to support his argument for tradition. Hayek argues that a correct understanding of cultural evolution will "shift the burden of the benefit of doubt to established rules, and to place *the burden of proof* on those wishing to reform them" (Hayek 1989: 20, my emphasis). This is exactly what I had in mind in proposing them in FDM, except for stressing the more Popperian idea of the burden of *disproof*.

If God is dead, evolution (or Mother Nature) has replaced Him, and, while not as strict as Yahweh or Allah (perhaps), she is no permissive, doting parent. We are neither the victims of determinism (hence faced with no choice) nor condemned to existential "freedom" of anarchism (unlimited but irrational) choice nor faced with a purely rational choice. Our starting point is not reason but tradition and our *ethical choices, while not irrational, are not purely rational but partly non-rational and partly rational*. At this point, it is worth pointing out that while tradition is a "given" it is not unalterable. Its status is exactly parallel with the "ordered preferences" of individuals in utilitarianism, which are made on pragmatic, subjective grounds. At the same time, despite appearances, we are not committing ourselves to an inflexible conservatism. After all if the situation or environment changes, Buridan's ass had better alter its strategy or it will wind up with less desirable hay.

It is not unreasonable or arbitrary to put the burden of disproof on the critic, as the usual objection by anti-traditionalists argues, rather than the defender of tradition. It is instead highly rational. It is also not unfair, assuming this carries

any weight. In the present context, it does not. It rather begs the question. To repeat: there are no motherhood issues for SVR. Either the critic can give a good reason to reject tradition or she cannot. If she cannot then why should we listen? If she can, then we can accept it and try to change things rationally. If she asks why she has to give a good reason that question has been answered. This also avoids Fries' trilemma. We do not need to choose between an infinite regress, dogmatism, "psychologism", and circular reasoning.³

We need neither "intuitionism" nor "foundationalism". We need neither reinvent the wheel nor resign ourselves to the "status quo". However, it is reasonable to ask what would constitute a valid criticism? Hayek offers two tests: "internal consistency" (Hayek 1976: 24, 40) and generalization (ibid.: 40–2). Both are very Kantian criteria, but seem also (if not therefore) to fit perfectly in an Aristotelian context. When we face a conflict of rules in our tradition, we have a problem. Moral problems all arise from such conflicts, since "All real moral problems are created by conflicts of rules and most frequently are problems caused by uncertainty about the relative importance of different rules" (ibid.: 24).

Hayek has an interesting answer to two problems moral philosophers have long debated:

- 1 "Are virtues natural or conventional" and;
- 2 "Are they based on reason or passion?" (Socrates versus the Sophists, Kant versus Hume).

They are neither of the above, since "What has made men good is neither nature nor reason but tradition" (Hayek 1979: 160). Hayek accepts the view that values are relative rather than subjective, and accepts the standard view that economic value is subjective, as in marginal utility theory.

On the view argued here (and in FDM) if we wish to talk about objectivity in ethics then we should either:

- 1 talk about Platonism, natural law, God's will, or virtue; or
- 2 confine such talk to the problem of the objectivity of the *reasons for* ethical choices not of ethical "entities" themselves.

At this point, I reinforce an argument already made with further arguments.

There are objectively good reasons as well as subjectively good reasons for ethics. We shall discuss the latter when we consider Hayek on egoism and self-interest [later in this chapter]. My focus is on emphasizing the objective good reason not the subjective. While the latter are controversial, the problems are of a different type as argued in Chapter 10. Once again, I point to parallels from non-moral, putatively cognitive disciplines. If we can have good objective reasons for our mathematical knowledge without knowing just what mathematics refers to, why not in morality? What we need to do is show how we can choose rationally, rather than show what virtues, duties, *inter alia* refer to, or

discuss their “bizarre” status. Similarly, in philosophy of science instrumentalism is at the very least a viable option.

Now one could reject these instrumentalist claims, even if coming from prominent physicists.⁴ Popper criticized instrumentalism but he (wisely) did not claim to have a knock-down refutation and certainly could not and should not have used the following as such an argument: unless we know what the theories refer to, unless there exists outside the mind a reality for models to refer to, the category of truth cannot apply and therefore we cannot deduce true and false implications testable both logically and experimentally. If both mathematical and scientific theories can have true or false (or both) implications *without themselves* being true or false, then why should this unreasonable demand be imposed on moral theories? In fact, one does not need to delve into mysterious and murky epistemic areas since ordinary, run-of-the-mill non-moral prescriptions illustrate this, such as “close the door”, “keep off the grass”, and “go to hell”.

While containing no explicit theory of virtue Hayek does have the following interesting comment, “Morals presuppose a striving for excellence and the recognition that ... some succeed better than others” (Hayek 1979: 171). Since *arete* is usually translated as “excellence”, this fits in with an Aristotelian theory. At this point, it is worth commenting on MacIntyre’s critique of scarcity value as a criterion of prices and wages in a market society. Suppose we ask, “what makes aesthetic, non-monetary values prized so much?” For instance, the music of Mozart, Shakespeare’s plays, Rembrandt’s art? If it is not scarcity value, then why would they be much less valuable if everyone could produce such magnificent music as *The Clarinet Concerto*? The same argument applies to the non-monetary value attached to praise and honour bestowed on scarce talents from great athletes to Nobel Prize winners. That monetary prizes go to such persons does not undermine the example. An athlete voted to the Hall of Fame or a Nobel Prize winner is elated because of the honour. However, what would these awards be worth if such prizes were awarded to all contestants (as in *Alice in Wonderland*)? The more relevant point for us has to do with his comments in the relative importance and nature of our duties and rights, meaning the connection between positive and negative duties and rights.

Earlier we saw that Hayek offered two criteria: consistency and generalization. I shall criticize Hayek later for confining his consistency criteria too stringently while defending his use of universality vis-à-vis MacIntyre’s rejection of Kant for his overly abstract, formal views on morality. For now, I point out how Hayek uses the universality criterion. It will be the focus of special attention at both the meta-ethical and normative levels respectively in the next two sections. We content ourselves here with exposition. Our negative duties are strictly universalizable, whereas our positive duties are only hypothetical and universalizable only in a restricted sense.

To borrow a Kantian term the former are categorical whereas the latter are hypothetical. We could even introduce the term “natural” and contrast it, not with “conventional”, but with “voluntary”. One prominent view holds that the only positive duties anyone has are those that she has: either (I) opted for by

getting married and/or having children; or (II) opted for by signing a valid contract to provide some type of service or goods; or (III) they are supererogatory.

However, negative duties “exist” whether we want them to or not. Since Hayek, like MacIntyre, is a traditionalist, we will use one of the most traditional of all moral codes: the Mosaic Decalogue. It fits in with both Hare’s claims that morality consists of universalizable prescriptions and with Hayek’s claims that the laws which define the rule of law are primarily negative. The Decalogue enjoins mostly negative injunctions or “thou shalt not do X” rather than “thou shalt do x, y, z”.⁵

The basic argument in favour of the primacy of the negative involve a combination of the universality and the “ought implies can” principles. This entails that, while we can (even logically must, according to Kant) universalize our negative injunctions, we cannot do so with positive injunctions. We can (or logically must) have universal negative duties to *all humans* in a way that no one can have positive duties to all six (or seven) billion plus people in the world today. The argument is not original with me. The only original arguments in this book are in Chapter 10 concerning “is and ought” and the crucial role of default principles. This particular argument is a prime illustration of the meta-ethical theses in Chapter 10 as well as excellent illustrations of the rationality of morality defended on negative grounds. Nothing better illustrates these theses (beyond the level of trivial examples which are easy enough to provide) than such arguments and nothing better illustrates MacIntyre’s fundamental errors.

For now, I make a different point indirectly related to these debates and then move to the legitimate role of subjective reasons and their relation to the problems of egoism. The point is that, strictly speaking: (A) we can universalize the principles behind positive duties; (B) there really is no such animal as the categorical imperative. Since it will appear to the careful reader that (A) and (B) are mutually contradictory, I shall clarify the above. The distinction between categorical and hypothetical duties is relative not absolute and this can be easily demonstrated on trivial grounds of (modern) logic. The latter point requires a more careful distinction.

There is a difference between:

- 1 everyone has negative duties to all other humans;
- 2 everyone has positive duties to all other humans, so therefore;
- 3 everyone ought to perform whatever positive duties she and he have.

Both (1) and (3) pass the universality test as well as the “ought implies can” test, but (2) passes only the former. It is therefore inferior from the standpoint of critical reason. (As indicated, I will elaborate this later. For now, I wish merely to clarify my point to avoid self-contradiction.) I will use my other claim to make another point in criticism of both Hayek and MacIntyre. This has to do with the denial that there are strict categorical imperatives. It is not based on the same reason as MacIntyre has for rejecting them. These grounds are purely logical although I mostly defend and endorse Kant’s principles.

I paraphrase them in the following from *Great Traditions in Ethics* and then explain why they are not strictly categorical: (CI-1) always act on that maxim you can will as a universal principle without self-contradiction; (CI-2) never treat people as means only but always as ends in themselves (Denise *et al.* 1999: 159–62). While I defend CI-1 (suitably revised) against MacIntyre, in Chapter 15, I shall raise interesting problems for Hayek based on CI-2 and then defend him. For now, I make the following point. As MacIntyre, Hegel, and numerous others have insisted, nothing specific and determinate whatever follows from either principle but not for the reasons usually given. The true reason is the same as that which explains why we cannot explain anything *solely* on the basis of the laws of gravity or the four basic forces of nature or natural selection or marginal utility or chaos theory or Mendel's laws.

The reason is that we need initial and boundary conditions. Nothing specific follows from "all humans are mortal" either. We cannot deduce "Socrates is mortal" until we add the premise, "Socrates is human". Similarly, from CI-2 we cannot deduce "we ought to treat Socrates solely as a means but as an end" without the premise "Socrates is a human". Nor is this merely a trivial logical point (although it is that too). It has enormous consequences for debates about racism, sexism and the rights of foetuses *inter alia*. After all blacks, barbarians, females, foetuses, heretics and heathen have all been regarded as sub-human or less than fully persons. Thus one could accept Kant's CI-2 and still be racist, sexist, ethnocentric, homophobic and so forth, simply by denying that Aborigines, Africans, Arabs, Jews, Asians, homosexuals or Gypsies are fully human just as in the past it was argued that slaves, serfs, lower castes, pagans, heretics and Christians had (or lacked) certain properties detracting from their moral status.

It is easily arguable that a number of our difficulties in moral reasoning are due to uncertainties about fact and theories rather than uncertainty about the moral premises in the argument. Here I differ from Hayek and MacIntyre about the nature of moral problems. The above example suggests that it is the *scope* of moral principles that is often problematic. Does "Thou shalt not kill" include murderers, infants, zygotes, enemies in war, heretics, animals, the terminally ill, slaves and "inferior" races?

The answer to this partly involves the role of *subjective* reason and here we can return to Hayek's discussion of egoism and self-interest. Despite his reputation as a defender of ruthless, laissez-faire capitalism, Hayek is not a defender of egoism. What he defends is the right of the individual to pursue one's self-interest within the framework of the rule of law while permitting all others to do the same. The content of this self-interest can vary immensely and it need not be selfish in the sense of solely self-regarding. It can include family, friends and the wider community. It can take the form it does with people like Mother Theresa, various philanthropists, and the average "good mother" or devoted nurse. (Another refutation of Putnam's superficial discussion of Adam Smith's invisible hand as is what follows below.)

Strictly speaking, paradoxically, the relevance of morality depends on their

being self-interested individuals. Consider the paradox of universal altruism. Suppose that one lives in a society of altruists, where no one cares about themselves, only about others. Why should anyone care about me, if I do not and why should I care for anyone else if they don't care about themselves? If there is no such thing as *legitimate* self-interest then morality loses its major point. Here is where subjective reasons play their role in moral reasoning. It is easy to show the following: (R) all people have good subjective reasons to want a moral code followed by everyone minimal though that code may be; (S) there are occasions when people have good subjective reasons to cheat (in Gyges' ring, free-rider, moral hazard, principle/agent, economic rent, tragedy of the commons and prisoner's dilemma situations).

Equal liberty versus “social justice” (legal justice versus “social justice”)

In his introduction to LLL, Hayek argues that the “demonstration that differences between socialism and non-socialism ultimately rests on purely intellectual issues capable of scientific resolution and not on different judgements of value ... [is] one of the most important outcomes ... of this book” (Hayek 1973: 6). Nothing in Hayek stands in more stark contrast to MacIntyre's entire argument. Instead of arguing that Hayek is demonstrably correct (a very non-Popperian strategy), I will attempt to show that:

- 1 Hayek clearly has the better of the argument, and since either;
- 2 Hayek is correct, or MacIntyre is, or neither is but;
- 3 both cannot be correct, therefore;
- 4 if Hayek is correct this clearly supports my own meta-ethical theory whereas;
- 5 the only way MacIntyre can refute Hayek is by showing that he is wrong on logical or scientific grounds which would again show that;
- 6 my meta-ethical theory is correct.

While this may look as if “heads I win, tails, the moral sceptic or defender of SVR loses”, the dice are not loaded quite that way (to mix metaphors). We will begin with an exposition of Hayek's critique of social justice, return to MacIntyre's RNA, and then use Hayek's critique of social justice to undermine MacIntyre's argument. Since the key points of Hayek's basic argument have already been summarized in some detail, I will offer a brief summary that will, at first blush, appear self-contradictory. He argues that the concept of social justice is meaningless, and that it rests on a category mistake (Hayek 1976: 31) but also that it simultaneously has totalitarian (or at least authoritarian) implications. How can a meaningless concept have any implications, let alone totalitarian and/or authoritarian implications?

The reason it is not self-contradictory (although it may be incorrect) is that Hayek argues that the goals of socialism *cannot* be achieved but the effort

necessary to try (unsuccessfully) to do so will lead inevitably to totalitarian (or unacceptably authoritarian) control and not equality and/or freedom. It is crucial to the understanding of Hayek's argument that he is not debating the issue of freedom versus equality as it is sometimes misleadingly phrased. This is too vague and unclear a way of formulating it. What is involved is a conflict between two types of equality. They are equal liberty and economic equality, which, in turn involve the difference between a planned society and a free, open society. While we cannot achieve the goals of economic equality or rational economic planning, we can try to do so. The effort will succeed in *some* but not all goals and it will entail a drastic reduction of freedom, the creation of special privileges, the treatment of people unequally, the misallocation of resources, the institutionalization of mediocrity and incompetence *inter alia*.

It is the difference between two types of equality already defined by the Greeks of antiquity: formal versus material equality or proportional versus numerical equality. The reason formal equality leads to material inequality or numerical equality of opportunity leads to unequal outcomes and incomes is due to a combination of unequal natural talent, ability, brainpower, education, effort, skill and pure luck.

The result, unless distorted by government or individual injustice (fraud, force, theft) will be that people are rewarded according to the marginal utility of their contributions. There can still be voluntary transfers (within families, private eleemosynary institutions) and even involuntary transfers (via taxation mostly).

I will use a simple example to illustrate proportional justice in a mathematical form. The following equation is from Wilson and Herrnstein:

$$\frac{G_a}{C_a} = \frac{G_b}{C_b}$$

where G = gain, C = cost, and a and b are any two arbitrarily selected individuals (Wilson and Herrnstein 1985: 7). If we wished a good example of a meaningful example of "social justice" or proportional justice this would be it. For simple examples, it works well such as those within *organizations* as opposed to society.

Thus if Smith and Jones both work eight hours at the same job doing the same work and being equally productive it only seems reasonable and just that they be paid the same. If Jones however, gets more because, say, Smith is black or female, or of the wrong religion, political persuasion or sexual orientation, or has deviant opinions on whatever, then this seems patently unjust. While most people would agree that if Jones works twice as long as Smith or is twice as productive then it would not be wrong for him to earn twice as much, problems arise as soon as we vary the example significantly.

Suppose Jones and Smith work for different companies? Suppose they do different but (ostensibly) similar jobs. What if one is a secretary for a cement company, and the other for an accounting firm or a law firm? Should they get the

same pay? What if Smith is a nurse and Jones is a truck driver? What if Smith has more education, more experience, or more expertise? How do we decide in these cases? Hayek's answer follows from his views about justice but also in part from his views about utility. No individual or set of individuals are in a position to be able to resolve this. As indicated in Chapter 5 the economic calculation argument proceeds on several lines: philosophical, economic, logical and ethical. He argues that any arrangement of the order of value of goods and services made by individuals or bureaucratic bodies cannot be anything other than arbitrary. Therefore, it is better that the decision be left to the impersonal forces of the market. This means the laws of supply and demand, marginal utility, scarcity value and consumer and employer expectations.

However, why are the arbitrary decisions of the market any better than the arbitrary decisions of individuals and government bureaucrats? The basic reason is that it is the best we can do. While we can think up alternatives that are better (every utopian theory ever concocted is proof of this), these alternatives will not work and they will turn out to be less desirable than free market results. The two key arguments are subdivided into both philosophical and economic components. The first is that the concept of social justice is meaningless and rests on a category mistake. The second argument is that the problems of socialist planning are insuperable. The latter claim (as pointed out in Chapter 5) in particular involved technical, complex and contentious issues in economic theory but this is an advantage for the meta-ethical theory of Chapter 10. There is a philosophical component to this part of his argument. This is because of Hayek's argument that the attempt to implement a rational socialist plan, even though it cannot succeed, will lead to totalitarianism or it is *the road to serfdom*. MacIntyre's alleged refutation of liberal individualism totally ignored Hayek's argument (as well as Popper's OSE) and one has to wonder why.

Hayek is a well-known figure outside the field of economics. He won a Nobel Prize in 1974 and first wrote on the problems addressed here in the 1930s and 1940s. It is easy to show that MacIntyre is well aware of Popper's theories (since he refers to him in his *First Principles, Final Ends*) and MacIntyre certainly knows the Austrian contribution to philosophy and psychology in the early twentieth century. He knows the Vienna Circle and its philosophy of logical positivism, Freud, psychoanalysis and its internal debates, Husserl, Wittgenstein and much else about this brilliantly creative but unfortunately self-destructive culture.

Perhaps MacIntyre thinks that Hayek's arguments are invalid or not worth considering. Perhaps they are, but MacIntyre gives no reason whatever in any of his writing to indicate this. If he cannot refute the arguments of Popper and Hayek, then his whole case against liberal individualism collapses, but not his case for tradition. The latter, however, is easily incorporated into Hayek's framework since Hayek may be a better Aristotelian than MacIntyre.

Let us recall that injustice for Hayek is an undeserved harm (wrong) caused by (a) person or persons or a law created by persons. In saying that "social

justice” involves a category mistake, Hayek means the following: the term “justice” and “injustice” can only apply to the acts of persons or to the laws they make. Hayek’s definition of the rule of law implies that apartheid laws, “Jim Crow” laws in the Old South, and the Nazi’s Aryan decrees are unjust. This is because they do not exemplify his meaning of the rule of law since they favour or disfavour certain designated groups rather than applying equally to all and clearly distort the functioning of the market in goods, services and labour.

However, the terms “justice” and “injustice” cannot be applied to society. Here is where his views on methodological individualism become relevant. Society is not a person with a will, plan, intention, values and goals of its own. The results of societal processes, the spontaneous order of society is not intended by anyone or under the control of anyone. As argued in Chapter 6, the views of Popper and Hayek on MI are equivalent to neither the psychologism of Watkins, introspective psychology, nor the dogmatism of Margaret Thatcher. She was wrong to say, “Society does not exist, only individuals and families do”. Institutions are real and so is society, or else Popper’s distinction between an Open and Closed Society is like the distinction between ugly and beautiful witches or virtuous and vicious unicorns.

The outcome of free market processes are then like the outcome of sporting contests. While both teams want to win, the exact outcome is under nobody’s control but is a result of a combination of the talent, effort and luck of everyone involved. Even the teams that win the World Cup of football or the World Series of baseball do not win it in the exact way they planned. While the rules of a game, or the referees and judges could be unfair, and some of the individuals may cheat, attempt to bribe officials, or use steroids or human growth hormones to gain an illegal competitive advantage the outcome itself cannot be regarded as unfair even if the better team does not win. If it is the result of the type of cheating just mentioned, however, that is a different matter since those are traceable to individual acts of injustice. It is not unfair or unjust that some teams have won more than 20 championships and others none at all, although if the winners had some type of an unfair advantage such as those just mentioned above there would be just reason to complain.

Just as it would be a mistake to call a stone moral or immoral, to regard a virus as unjust or unfair, or say that a hurricane is unethical so we cannot meaningfully speak of society as a moral person or individual (Hayek 1976: 78). A virus may be nasty and a hurricane cause evil results; a stone can cause harm but none of them are immoral or unjust or commit wrongdoing. Neither are the *impersonal* outcomes of societal processes, albeit some people can have unfair advantages due to unfair rules, cheating, or both. That however is a different matter. These are due to violations of the rule of law, not due to its implementation. This is a crucial point that Kley misses in his criticism of Hayek. He objects that life in the marketplace is not like a game and that a comparison of impersonal processes to natural processes is unwarranted, but this misses the point of Hayek’s argument (Kley 1994: 162).

Hayek admits that one cannot prove that social justice is meaningless

anymore than we can prove that “colourless green ideas sleep furiously” is. However, he has waited patiently for someone to explain its meaning and no one has done so. Now notice that Hayek is tacitly using the “ought implies can” principle. No one, presumably, would be foolish enough to say that a stone ought not to hurt people, a hurricane should not harm, a virus has a duty to be just, or that cats should not kill mice, but people are foolish enough to insist that society should be just or should be constructed according to principles of social justice. Since this cannot be done, we can, by *modus tollens*, refute the original prescription providing one more example of precisely what I was arguing in Chapter 10.

It seems to be obvious that only humans qualify as persons (but not necessarily all) since the “definition” of “persons” usually includes “capacity to make moral choices”. From this then we can deduce, given the “ought implies can” principles, that (A) “all and only persons have duties”. Then if we add (B) “society is an impersonal entity” we can now refute any claim such as (C) “society ought to distribute goods equitably” or any claim beginning with “society ought to do (or not do) A or bring about result R”. This refutes Kley’s argument since society does not have to be a natural entity only an impersonal entity. It is equally crucial to recognize that the fact that either nature or society causes *harm* as opposed to *injustice* is not a reason not to correct it. Burczak, as well as Kley, miss the point that Hayek recognizes that there is a case for humanitarian response to natural disasters (1979: 44). However responding to a tsunami, a hurricane, attacks of rats, viruses, or boll weevils, involves the virtue of charity not justice.

Now, if Hayek’s own position does not face similar difficulties, it would be rationally preferable. Thus if (P1) it is possible to implement the rule of law; but (P2) it is not possible to implement social justice; and (P3) if both theories of justice pass the universality test then clearly the former is preferable on rational grounds without having to meet MacIntyre’s demands regarding rationality. MacIntyre could avoid this by rejecting Kant’s “ought implies can” and/or he could reject the universality principle but he would have a high price to pay.

Now, as John the Baptist said, God could command stones but God can also (by definition) enable the stones to obey (or disobey, if he gave the stones free will) these commands. We mere humans lack this ability so the consequences of MacIntyre rejecting the ought-implies-can principle is that he is unable to tell us why stones, hurricanes, viruses, animals and plants cannot have moral duties! Nor is this a trivial example. Social justice is supposed to have all sorts of critical moral, ethical, political, and economic implications. The only way to refute Hayek is to:

- 1 show that the concept is meaningful and that;
- 2 it is possible to implement it; or,
- 3 reject the Rule of Law; or,
- 4 show that the rule of law faces similar difficulties (but in AV MacIntyre endorsed the rule of law); or,

- 5 MacIntyre could try to refute Hayek's claims about the possible difficulties facing central planning.

Of all these (4) would be the most promising. He could try (5) but this would fly in the face of both very overwhelming historical experience and an extremely airtight logical argument.

It could be objected that we can speak of justice analogically as well as equivocally and/or unequivocally. We can speak of a compassionate, or a kinder, gentler, caring society. Just as "health" can be used analogically of different types of entities, so can compassion and justice. MacIntyre does not use this argument but he could. Since I am going to discuss compassion in Chapter 15, I will postpone refutation of this counter-argument for now.

What the regulation of economic activity necessary to make socialism work requires is massive government distortion of economic activity. Hayek is not, as I have repeatedly argued, a libertarian like Ayn Rand, Nozick (was), Jan Narveson or Jan Lester. He is not opposed to government regulation of property and taxation for limited purposes of welfare, health and education. He favoured these *pursuits if they fit the criteria of the rule of law and do not interfere with the price mechanism*. Rather than being a defender of the "minimal state", Hayek is best described as a defender of a minimal welfare state. "Welfare" here is not a matter of justice or rights but benevolence or charity (imperfect duties as argued in Chapter 8). But giving sufficient power to bureaucrats (or allowing, tolerating, or being unable to prevent them from assuming such powers) to make a socialist economy work and bring about allegedly just outcomes and incomes require a quite arbitrary power to be given to them. This includes the power to order about labour and machinery. This is undesirable for at least two reasons and this leads to his massive critique of socialist planning.

The first reinforces the point about ought implies can and fits in well with it. I can utilize it without having to agree with it (although I do). I merely need point out that it cannot be refuted by MacIntyre's argument, since it involves the argument that what the socialist planners have to do is simulate and improve the market's results. To do this the market matches supply and demand by utilizing the *dispersed knowledge no one mind* can have access to. To succeed not only would we need to be able to solve over 70,000 simultaneous differential equations, but more crucially would need to have all the relevant data dispersed over millions of minds

The historical and contemporary evidence seems to indicate that the market functions much more efficiently than any socialist economy. MacIntyre concedes this point but objects on other grounds explained later in this paragraph. MacIntyre was, as he later admitted, hopelessly vague on how and with what he would replace the market. As I emphasized his views are not reactionary enough to favour pre-market systems: mercantilism, feudalism, serfdom, slavery, a caste system, nor does he favour post-modernist fascist ideologies nor modernist Stalinism, Maoism or liberation theology. In DRA and his final essay on Marx in

1995, MacIntyre re-asserts that, while capitalism has been awesomely efficient in producing goods it still lacks justice in his sense and therefore needs to be rectified, even at the cost of a severe drop in economic growth. Since this view reappears in Chapter 15 and the Epilogue, I raise it now only as a problem that he ignores.

What MacIntyre does not do is explain how and why we would apply either Aristotle's desert theory or Marx's hopelessly vague principle of "from each according to his ability, to each according to his need", to concrete situations. If we ask "how much do truck drivers deserve compared to nurses, compared to secretaries, compared to professors, poets, athletes, accountants, engineers, factory workers, and so on and so on?", we do not get any specific advice or even any recognition that this is an obvious problem for the theory. This is not meant as a rhetorical question but as a very serious problem MacIntyre does not address.

Hayek does however have an answer. It is not a question of justice but (marginal) utility and, if there are some who, for reasons beyond their control, cannot participate in this process then help can and should be provided *outside the market as a matter of charity or imperfect duties*. This is a point that a philosopher who takes seriously traditional Christian virtues should appreciate better than he seems to do.

The Good Samaritan is another example one would suspect MacIntyre would appreciate in this context but he seems to let his secular guides Aristotle and Marx mislead him (or is misinterpreting them perhaps). What duty of justice did the Good Samaritan have? He did not cause the victim's pain and suffering and had no obvious duty of justice to the man but he apparently had an imperfect duty of charity, even if that is not how Luke's Gospel expresses it.

The main advantage of Hayek's theory is that its focus is on what we do *not deserve*. An innocent person does not deserve to go to jail, or to be fined, beaten, tortured or exiled. A parasite or predator has not done anything to deserve benefits. But neither has a neonate. She has done nothing to deserve either benefits or harms. So what should we or her parents do to or for her? Hayek's advantage here is due to his theory having more content. His view is more easily refutable because it is clearer and more coherent. One of the best illustrations of this is illustrated by his claim that, despite the fact that the apparently arbitrary, impersonal process of the market determines one's outcomes and incomes, this is preferable to an arbitrary personal decision. The argument has the appearance of being utilitarian. He argues that the market not only reduces the arbitrary power of individuals over us while simultaneously improving the chances of any individual chosen randomly (Hayek 1976: 23, 130; 1979: 141).

An intuitive test may be appropriate here. Consider the results of Olympic contests or sporting events. In basketball or football games, the winner is determined by an impersonal process as is the case in races. Either my team scores more points or goals than the other team, or they do not. Either one runs faster than all the other runners or not but some contests are determined (skating, diving, boxing) by what quite frequently appear to be arbitrary decisions by the

judges. The outcomes of games sometimes do depend on bad or arbitrary decisions by judges, umpires or referees but there is more anger and resentment about losing that way (or to cheaters) than there is in cases of bad luck or when being outplayed. However, can we accept such a situation in the far less trivial matter of our livelihood? To that problem, we turn in the final chapter.

15 Liberty, equality, modernity

I have seen slaves on horses and princes walking.

Eccl. 8:10

The title of this chapter is obviously a variation of the sacred trinity of the French Revolution: liberty, equality, fraternity. From 1789 to 1989, the Western world's leading political thinkers (as well as lesser lights) have been engaged in a furious heated set of debates about the first two terms and their relation to the critical question: "what is justice?" The rise and decline of imperialism, the spread of globalization, and the 1948 UN Declaration of Human Rights has expanded this debate to include the entire world within its provenance. However, this apparent advance to a consistent cosmopolitanism is complicated by ambivalent attitudes towards modernity, modernization and modernism in both the West and the rest of the world.

I begin with a potpourri of quotations from Hayek, MacIntyre and other sources that may seem to be only vaguely related but which, when set in context, help define the major problems facing the world in the twentieth century. They also illustrate the ambiguity of progress since many people of conservative and leftist persuasion oppose its advance, based largely on the Burkean principle called the "precautionary principle".

First, Erik Mack, in his article on Hayek in CCH says, "Hayek does not have a thoroughly developed and persuasive theory of justice. [Who does?]" (Feser 2007b: 259). The rhetorical question in brackets parallels MacIntyre's two quasi-rhetorical questions in his WJWR. The second quotation is from MacIntyre himself: "Thus there are two central problems of liberalism it has yet to resolve satisfactorily. They are (L1) *the liberal self* (L2) *the common good*. Neither can be defined coherently or convincingly in the framework of liberal ideology" (MacIntyre 1984: 255). The third is from Jeremy Shearmur expressing an almost identical pair of problems as MacIntyre does:

There are, as I understand it, two central criticisms ... of a liberal, market-oriented order. The first is that such a society is atomizing in its consequences, destructive of intermediate institutions and destructive of the

individual's socially constituted moral character. The second is that ... such a society faces a legitimacy problem, in that it cannot produce from its own resources, the moral capital needed to legitimate itself to its citizens.

(Shearmur 1996: 210–11)

The fourth is from Samuel Huntington concerning the three logically possible responses to modernity in the NICs: He labels them kemalism, rejectionism and reformism.

Rejection involves the hopeless task of isolating a society from the shrinking modern world. Kemalism involves the difficult and traumatic task of destroying a culture that has existed for centuries and putting in its place a totally new culture ... A third choice is the attempt to combine modernization with the preservation of the central values, practices, and institutions of the society's indigenous culture.

(Huntington 1996: 74)

Since modernity is usually been associated with reason, enlightenment and progress the final quote from Hayek seems appropriate since he recognized that there can be reasonable reservations about progress, and that it may be both too fast and "too exclusively material" (Hayek 1960: 49). Hayek also points out that any hopes to reduce present misery and poverty rest on the expectation of further progress. "If we abandoned progress, we should also have to abandon all those social improvements that we now hope for", *especially in education and health* (ibid.: 51). As he recognized, while the so-called third world (not an expression he used), "may not wish to adopt our entire civilization" they should be able to "pick and choose from it whatever suits them" (ibid.: 51). This is an excellent example of how Hayek avoids both a purely ethnocentric "White man's burden" mentality or its opposite, anti-Westernization with its accompanying anti-modernization, rejectionist rhetoric.¹ It is also a clear indication that he would favour the third alternative, the Hegelian synthesis of the first two, which constitute the thesis and anti-thesis. It is easy to argue that Popper would favour this alternative also.

These last two points tie in the third term in the title of this final chapter of the book in which I sketch an argument that the ultimate problem of the modern world involves the relation of liberty, equality and modernity. Further, I argue that Popper and Hayek provide the best possible ideological solution to these problems, a point that may be better appreciated in a country not many people would expect; Iran. In the 19 January 2003 issue of *The Economist* a discussion of Iran reported that one could not get involved in political arguments in Iran without having to discuss the following four people: Popper, Hayek, Hobbes and Khatami.² This appeared six months after an interesting talk was given at the Popper Centenary Conference entitled *Popper in Iran*.

Reason, justice and the limits of liberty

In his *History of the Jewish People* Paul Johnson makes the following interesting point about medieval Jewish thought: “A great deal of Jewish legal scholarship in the Dark and Middle Ages was devoted to making business dealings fair, honest, and efficient” (Johnson 1987: 172). The same can be said about Hayek’s legal philosophy. The most basic and fundamental principle in Hayek’s political philosophy is the concept of the rule of law. It is his answer to two (of many) problems raised in the last three chapters: the first problem is “how can we regulate the inevitable disputes, conflicts, and clashes of competing values, desires, aims, purposes, and ideals?” The second problem relates to his solution to MacIntyre’s quandary about the absence of shared values in a liberal individualist society.

While free market capitalism is generally conceded to be awesomely efficient as an economic system (Marx and MacIntyre agree on this point), it has been criticized on the other two points mentioned by Johnson above (Marx and MacIntyre once again provide good examples). However, it is said quite reasonably to encourage dishonesty and to not be fair in its outcomes. The problem of fairness will be dealt with later. The problem of honesty can be discussed now without becoming a major distraction from the main point since it is easier to answer. This is because the incentive to dishonesty comes in almost any context involving a Gyges’ ring or prisoner’s dilemma situation as well as numerous other parallel problems that are not unique to a free market economy (moral hazard, externalities, free-rider and principal/agent problems, economic rent and the tragedy of the commons). The standard philosophical dilemma “why be moral?” only has bite in such a situation. This is because we can easily show that all rational persons have good subjective reasons for wanting people to be at least minimally moral. However, there are also situations where we are tempted to cheat to gain an advantage or to compensate for a perceived and/or real disadvantage. All of the situations cited above in this paragraph illustrate this last claim.

These situations also indicate the main validity of social contract theory, a point especially well argued by John Rawls. As he shows, even pure egoists have rational self-interested motives to avoid (or if necessary overcome) life in a state of nature. This provides all the incentives needed to give up the privilege of cheating in order to have an agreed upon authority to resolve disputes and enforce voluntary agreements and the negative rules of society. While Hayek is highly critical of the constructive rationalism under-girding such thought he was originally favourable to Rawls’ efforts at such social contract theorizing.

The rule of law is simultaneously egalitarian and anti-egalitarian. It meets the criteria of fairness in opportunity or starting point rather than equality of outcome or finishing point. The rule of law is universal and negative. It applies equally to all humans, regardless of class, race, sex, nationality, ability, talent, position, wealth, and political or religious beliefs. It entails that whatever the laws of a society are, they should apply without exception to all members, including the rulers themselves.³

It is negative in the sense that it primarily forbids, rather than enjoins actions. While the rationale for the forbidden acts is generally utilitarian, it is a version of what Popper labelled “negative utilitarianism” (see Chapter 8). This means that the intention of the law is to forbid certain classes of harms that humans can inflict on others rather than to bring about desirable states of affairs. Since “justice” is defined in negative terms, the key term is “injustice”. Injustice can be defined, in a Hayekian sense, as “an undeserved harm or wrong inflicted on an innocent party or a law that favours one group, person, or set of persons over another group”.⁴

The rule of law forbids only harmful acts but not all such acts (Hayek 1973: 101; 1976: 57–8). When properly done, the rule of law permits the market to function like a game. Such games can be of several types. Some are games of skill (chess), others involve skill and chance (card games) while others such as sporting contests involve skill, effort and chance. In the marketplace, the outcomes of such contests are determined by the actions of free men acting within the framework of the rule of law and the particular traditions of their society.

They produce what Hayek calls a spontaneous order or *catalaxy* (Hayek 1976: 115ff.), one that is not the outcome of anyone’s intentions and which could not possibly be the outcome of anyone’s intentions. Freedom, like justice, is defined in negative terms, that is, by what must not be done to any other humans by other humans as well as by what one is free to do as long as one does not violate the laws. Freedom is not identical with power (or the contemporary vogue term “empowerment”), with the ability to do certain things, with the recognition of necessity, or with any similar semantic manoeuvres.

While freedom includes the right to hold property, such rights are neither unlimited nor absolute. Hayek favours severe restrictions on the rights of non-mobile and non-material property, i.e. land and intellectual property, e.g. patents (Hayek 1989: 36). He is neither a radical libertarian like Jan Lester, nor a moderate one like Charles Murray. He endorses Nozick’s well-known claim that “liberty upsets patterns” and argued this for decades prior to Nozick’s book (Nozick 1974: 163). Consequently, he does not object to taxation for the purposes of welfare, education and health. What he objects to are government-supported monopolies, or special privileges accorded to certain interest groups, or the exercise of arbitrary power, or the use of state power to bring about an allegedly desirable state of affairs as opposed to prevention of an undesirable preventable state of affairs such as crime, ignorance, fraud, deception and coercion. There are several subtle distinctions about property rights too often ignored in debates and discussions concerning the implications of property rights.

Four standard objections to capitalism

The four standard objections to capitalism include the two central criticisms of a liberal, market-oriented order discussed by Shearmur, which are virtually identical with what MacIntyre calls the “[t]wo central problems of liberalism” (MacIntyre 1981: 255). The other two include theoretical and moral criticisms. Therefore, the four objections include:

- 1 the liberal individualist theory of human nature;
- 2 the individualist theory of society;
- 3 the liberal individualist failure to define a common good; and,
- 4 the free market's moral defects.

We will address them in order discussing Hayek's responses to them and arguing that is surprisingly easy to refute them. Here it is crucial to distinguish two different types of criticism. One is directed at the system itself, pointing out its faults. The second is criticism levelled at the theory or theories used to justify it or to argue for a change from a non-capitalist system to a free market.

Theory of human nature. A rootless, Kantian cosmopolitan

One of the more jejune "criticisms" of capitalism (repeated by Putnam) Hayek has no difficulty refuting. As he says "the silliest of the common misunderstanding [is] the belief that individualism postulates (or bases its argument on the assumption of) the existence of isolated or self-contained individuals instead of starting from men whose whole nature and character is determined by their existence in society" (Hayek 1948: 6). This effectively rebuts one of MacIntyre's more facile criticism of liberalism, as well as Putnam's naïve view that economists still assume "rational self-interested utility maximizers" means selfish individualists in Ayn Rand's sense of the term.

Here it should be noted that this problem could be turned back onto MacIntyre. I indicated in an earlier chapter how the contractarian faces the same problem regarding ordered preferences as a traditionalist does. This is their brute arbitrary "givenness". However, MacIntyre faces the same problem regarding conflicting ordered preferences among various *traditions* as the libertarian, utilitarian and contractarian faces. As MacIntyre well knows, there are numerous traditions with mutually inconsistent preferences. If rational choice requires an overarching supreme good this would be just as true of competing traditions as it would be of competing individual preferences.

A similar myth concerning individualist assumptions about human nature concerns the alleged bogey of "economic man" (ibid.: 11). Hayek argues that the traditional view of classical economics was that man was lazy by nature and needed incentives (either positive or negative, or both) to behave properly. At this point Hayek misses the opportunity to point out an overlooked moral advantage of the free market that can be easily buttressed by strong historical arguments and is relevant to the third criticism regarding compassion and the common good.

This is the argument that a capitalist, free market economy relies much more on the carrot rather than on the stick, quite unlike slavery, serfdom, despotism or socialism, *as it actually functions* in the post-Cold War world and as it did in the ex-USSR. To put it in more modern, "scientific" (or perhaps "scientistic") terms, it relies more on positive reinforcement than it does on aversive stimulus.⁵

While Hayek rejects the more naïve versions of the "work ethic", those

holding that there is a direct correlation between work and success, he nonetheless, like any sensible person, approves its basic principles. Hayek recognizes, and emphasizes repeatedly, that effort and work often come to nought because of unforeseen circumstances, such as natural disasters, fluctuations in the market, bad luck, “acts of God”, *inter alia*.

MacIntyre criticizes philosophers for thinking in abstract *ahistorical* terms. This cannot be raised as a valid objection against Hayek. On the contrary, his work is firmly rooted in a theory of historical development, one going back to the Scottish Enlightenment. It has been argued that it is no coincidence that the rise of free market capitalism is accompanied by the decline and abolition of slavery, as well as numerous other humane reforms.⁶

MacIntyre can be criticized for what he ignores. One can, without espousing the naïveté of Enlightenment rationalism, point out that the pre-modern world was one in which individuals may not have felt the “alienation” and “depersonalization” of modern life but did feel the sting of poverty, diseases, torture, *inter alia*. While these have not disappeared from the modern world, such evils are much more prevalent in pre-modern than in liberal, open societies.

As argued over 20 years ago in *The Economist* “The over whelming weight of human experience is overwhelming that societies organized around these principles [democracy, human rights and free markets] are freer and wealthier” (8 March 1986). This is a concession MacIntyre grants. Since MacIntyre also endorses the rule of law and rejects Aristotle’s alleged sexism and elitism, it should be noted that there are aspects of individualistic societies that promote these vis-à-vis other types of societies (whether tribal, peasant, collectivist, patriarchal). The role of romantic love, property rights, and the rule of law in favouring these trends has been well documented by Alan MacFarlane (1978, 1986). In his critique of the common law tradition MacIntyre complains that it often entails lawyers defending clients they know are guilty. What he does not point out is that, unlike the Roman legal tradition, it also does not permit the use of judicial torture. He also does not emphasize the opposite side which I would argue is at least equally pertinent, the way the odds in some ways seem to be stacked against the *defendant* in modern America in violation of the traditional common law assumption of innocence.

Theory of society

Neither did classical economists contend “that this system was incapable of further improvements, and still less as (another current distortion) that there existed a “natural harmony of interests’ irrespective of the positive institutions” (Hayek 1948: 13) of society. Finally, it does not rest on egoism. Individualism does not necessarily encourage selfishness nor preclude altruism. This is Hayek’s solution to MacIntyre’s concerns about the problem of the liberal self. “The ‘self’ for which alone people were supposed to care, did as a matter of course include their family and friends; and it would have made no difference to

the argument if it had included anything for which people did care” (ibid.: 13). As argued by Arthur C. Brooks in *Who Really Cares*, those who oppose (or who look askance at) government regulation, who work, and who are part of a “traditional” family are much more charitable than those who believe it is society’s duty to look after the poor and needy. This point will re-appear under the next argument about compassion.

Hayek also argues that collective or group egoism has probably caused more harm than individual selfishness (Hayek 1979: 89–93). Popper made a similar point regarding the egoism and egotism of class, race, nation, religion and ideology (in OSE, Chapter 6). Another advantage of the type of evolutionary ethic Hayek espouses emerges here. As discussed in Chapter 11 this type of ethic often involves the “naturalistic” or genetic fallacy. However, the theory of moral reasoning offered here involves no such fallacies. The dictum “charity begins at home” can plausibly be explained biologically. It seems clear that a society that failed to inculcate care of its children would not survive. However, we cannot have altruistic, friendly, or familial feelings for all humans. We can have the limited kin altruism that the institutions of family and friendship inculcate. These are not feelings you either would or could contract into as part of a rational bargain in a state of nature. As argued in *Who Really Cares* those who have children and stable families are much more likely to be charitable.⁷ That leads to the next crucial point.

Compassion and the common good

The critique built on compassion is by far the easiest to refute. Part of the counter-argument is based on the same points made regarding social justice. It can be argued that society can no more be compassionate (or kinder or gentler) than it can be just for the same reason that a stone, virus, tornado or the sun can be compassionate, caring, kinder or gentler (Hayek 1976: 78). However, it can be objected that we can speak intelligibly of a compassionate, caring society at least analogically just as we talk of sick societies. Turkey (when it was the Ottoman Empire in its decline) was called “the sick man of Europe”. This means the term is parasitic upon its primary use, which applies to individuals. We can also use such terms of institutions such as the Society for the Prevention of Cruelty to Animals, Amnesty International, the Red Cross, and similar eleemosynary institutions.

What the term “compassion” has come to mean is “power to force people to be good and to spend their money involuntarily”. This will either make the society freer or more coercive. While the state can compel people to give more tax money, it cannot compel them to be more compassionate. It would seem easy to argue on deontological grounds that voluntary compassion is superior to involuntary. The counter-argument would have to cite *teleological* grounds, arguing that the state can more effectively administer welfare and charity than private organizations. This is something that is far from self-evident but even if true this does not make the society more compassionate, but at best more fair or

just. It involves what Wittgenstein and other proponents of analytic philosophy call “a misuse of language”. Again I dissent from Popper’s injunction about argument about words, although I would agree that a stronger argument than the linguistic one would be that of Hayek about the dispersal of knowledge over many individual minds. Just as a bureaucrat in Washington, London, Paris, Berlin, Moscow or Beijing could not know the economic needs and opportunities in cities and villages thousands of miles away, she cannot know the eleemosynary needs and opportunities in those same cities and villages thousands of miles away.

This is a good place to return to MacIntyre’s RNA. As pointed out often enough, Hayek is not a libertarian. He endorses the use of taxation to provide a “safety net” as long as the rule of law is not violated but he also argues that private charity, families, religious and secular voluntary organizations should be encouraged to do so. I argued earlier that it is logically easier to defend negative than positive duties or, to be more precise, that the scope of the latter is much less than the scope of the former. This means that we all have negative duties to *everyone* but cannot possibly have positive duties to everyone even though we all have positive duties.

To be more precise:

- 1 All persons have negative duties to all other persons (but not necessarily *only* persons).
- 2 All persons ought to perform their positive duties, mainly familial, contractual and voluntarily accepted duties.

The tradition Hayek and MacIntyre both favour supports this and they may have God on their side. Jesus once gave a list of purely *negative* duties (Matthew 19: 16–22) in response to a lawyer’s question. These duties were not original with Jesus but came (according to tradition) from Moses, who allegedly derived them from God. It can be retorted that Jesus added a positive duty: telling the lawyer to sell his goods and give to the poor. Note however, that, unlike the negative injunctions, this cannot be universalized since it is an order not a rule that only a few can obey for obvious reasons. Only those that possess goods could sell them and there have to be both buyers and sellers. Are the buyers, in turn, to sell their goods and give the proceeds to the poor?

This type of situation gives substance to Hayek’s argument that individuals in a prosperous economy have a higher probability of well-being than those living in a non-prosperous society. One does not need MacIntyre’s shared values or a solution to the “problem of the liberal self” or an agreed hierarchy of values to see this. It requires only elementary logic and some obvious facts. If there is a flaw in the logic or the facts are not that obvious then that is the defect in this argument and not a lack of shared values.

This ties in with another point, the manner in which Hayek and MacIntyre defined the source of moral problems since their account seems to be radically incomplete. The three sources of moral problems are:

- 1 uncertainty about the order of priority of moral rules;
- 2 the scope of injunctions;
- 3 uncertainty about secondary (factual and causal) premises.

In connection with (3) consider the following argument: (A) any policy to reduce unemployment ought to be implemented; (B) policy E will reduce unemployment; (C) policy E ought to be implemented.

In many ways, the key debate in this valid argument would centre on premise (B). On (1) I will not comment any more since I agree with Hayek and MacIntyre on its importance. It would be important if in the above case, one would argue (D). However, what if policy E will cause inflation? Therefore, conflict of values obviously is important but so is uncertainty about the causes and unintended consequences of our acts, policies, institutions and decisions.

Moral defects: equity and exploitation

Equity

The next two points have much more force since they rest on Kant's two principles that Hayek and Popper both accept. The first, CI-1 enjoins us "always act on the maxim that you can will as a universal principle without self-contradiction"; the second, CI-2 says "always treat other persons as ends in themselves and never as means only". Now, since MacIntyre criticizes and accepts parts of Kant's moral theory, he may not appear to be in a very good position to use Kantian principles. However, he can use *ad hominem* arguments. While it seems that such arguments are more legitimate in ethics than in cognitive reasoning, there is an obvious legitimate use of them in the latter also. If P believes in (or asserts that) p and $p \rightarrow q$, even if one does not accept p , if q is unwelcome to P, one can use this as a legitimate *ad hominem* argument.

The two points of alleged moral defects in free markets, are brought out forcefully in an interesting article on microeconomic theory and ethics by Larue Tone Hosmer. After carefully explaining microeconomic theory, he offers a criticism of its use to defend Milton Friedman's minimalism in business ethics (Hosmer 2006: 43–5).

They concern the alleged inequity of capitalism and its allegedly exploitative nature. Once again, Hayek can turn the tables. First, let us state the argument in highly plausible, intuitive terms. Why should athletes, entertainers, accountants, lawyers and university teachers make more than nurses, farmers, daycare workers and other social workers? It is not just the pure differential but also the scope of the differences, which are quite substantial, as Jan Pen has made clear in very vivid terms (Pen 1971). The argument is not crude enough to suggest absolute equality nor does it rest on numerical equality, but rather, like MacIntyre's AM, it rests on proportional equality. While most people agree that perfect equality of income would not be a just ideal, if we accept a proportional

system how can anyone justify the simultaneous existence of billionaires with people working at subsistence wages?

This seems clearly to violate Kant's universality principle but not his own normative ethic which, like Hayek's, permits very wide discrepancies of income as long as formal, legal equality is in effect. One of the main points of Hayek's critique of social justice is to combat this argument. Part of that case is similar to his critique of more naïve versions of utilitarianism. Since we cannot make interpersonal comparisons of utility, we cannot compare the utility a doctor gets from her income minus the disutility of her work to the utility a nurse gets minus his disutility. Hayek also argues that the alternative is even less desirable. There is no such thing as objective value to society. While it seems to be obvious that farmers must be more valuable because we could not survive without food, health and housing, then workers contributing to these and other harm-reducing activities must be more valuable to society than baseball, botany or the Beatles, this is an illusion.

Again, this rests on *marginal utility* theory (Hayek 1989: 79, 97), the view that the value of goods and services rest on the marginal utility of an extra unit and hence on scarcity value not on the total utility of the goods and services in question. Now a theory of exploitation hardly makes sense without a theory of a just wage, which in turn entails a theory of a just price. MacIntyre seems to think such a theory is possible but has no argument whatever in its favour. Hayek points out that the Spanish scholastics concluded that only God could determine the just wage and/or price (Hayek 1976: 75). It is part of his devastating critique of social justice that we mere mortals cannot know this. Since Hayek has an extremely strong argument and MacIntyre has none whatsoever here, once again a rational choice is not that difficult to make. The only way MacIntyre can refute this is not by reiterating points regarding shared values but by refuting it on factual, logical, and theoretical grounds.

MacIntyre does offer one such interesting argument. It is made in connection with his RNA. As he points out correctly, property owners are not always descendants of primary Lockean acquirers. He also points out that Nozick "does at one point discuss the possibility of a principle for the rectification of injustice but what he writes is so tentative and cryptic that it affords no guidance for amending his general viewpoint" (MacIntyre 1984: 248). Nozick's approach is very ahistorical despite the historical nature of his entitlement principle. However, Hayek not only could, but also does, admit the validity of MacIntyre's point and has his own cryptic comments.

MacIntyre's criticism can be strengthened (as Popper advocates we should do before criticizing anyone) along the following lines, which are in harmony with my meta-ethical theory. We cannot go from (P1): "income inequalities are justified on the basis of differential marginal utility" to a conclusion such as C: "present income distribution is just" because we need *factual* premises such as (P2): "present income distribution is due to different marginal utility contributed by income recipients."

However, the criticisms made, not only by MacIntyre and most Marxists, but also by Nozick and Hayek, against our present economic system for being much

too statist presupposes that the facts are not as (P2) asserts. Income distribution is distorted by various means including unjustified government regulations, subsidies, quotas, unions, protectionism (all of which are anathema to both) as well as cheating, theft, huge taxes, and past injustices of various sorts (which is what MacIntyre emphasizes).

There are serious problems here, of both a pragmatic and theoretical nature. However, it is not clear that anyone has a solution. As argued already there is no use imposing retroactive duties on the dead. We can only ask what can be done either to rectify past and present injustices or to prevent (or at least minimize) future injustices. This is far from an easy question to answer but not because of MacIntyre's point regarding shared values. Even if we all agree on the need for fairness and agree that this requires rectification of injustice, it does not help in this situation, since both sides share the relevant values or principle of rectification.

Both sides agree that no one should benefit from either their own or someone else's dishonesty, theft, force and fraud. However, if we agree with the traditional principle that children ought not to suffer for the sins of their fathers, on grounds of desert (they did not commit the sins), a view Hayek and MacIntyre share, then we still have a problem. Both recognize that wealth, income, and other property acquired dishonestly in the past have by now worked their way via complex interactions with well-gotten gain to produce present results so that we face an extremely perplexing dilemma: how do we sort this out? While MacIntyre has an effective critique of Nozick (that his comments are too cryptic to be of any use), MacIntyre himself has *even less* to add! Further, he leaves off his list Spaniards in the sixteenth and seventeenth centuries, some of the greatest plunderers in human history who nonetheless argued the justice of their acts in Aristotelian and Christian terms. Curiously, MacIntyre, despite his historical orientation, has nothing to say about these events. In his recent *Selected Essays* (MacIntyre 2006) he reiterates these points and then engages in the type of rational criticism that he had earlier rejected in AV and WJWR, appealing to various facts and apparently self-evident truths to refute claims to ethical superiority on behalf of liberal individualism and capitalism. In his DRA and *Three Essays on Marxism*, he argues that even if capitalism is awesomely efficient as a producer of consumer goods, it is defective from the standpoint of justice (see the Epilogue for my more thorough critique of these arguments).

However, the Hayek quote in the second paragraph of this chapter is a devastating critique of this view. Does MacIntyre really believe that a drastic reduction of the standard of living on a global basis will not harm the least well-off more than any other group? Is this what he means by just generosity? These are intended to be rhetorical questions, since I find it very hard to believe that he can seriously believe his. In addition, MacIntyre *never argues* that his AM theory of justice actually entails what he says it does. Since the details of it are the main focus of the epilogue I return to the main point now.

This point is that present economic inequalities are not the result of pure free market impersonal processes but the result of partly free market processes distorted by several factors is well taken. Hayek recognizes this and his principles

require him to criticize the policies and practices producing these results. While it does weaken the case for the permissibility of gross inequalities, Hayek could respond that inequalities exist under all systems and reply to MacIntyre, who criticizes the alleged inequities of a market system, that at least free markets are based on formal equality. No other system has even that merit, especially systems based on slavery, serfdom, socialism and various right-wing authoritarian systems. There is, therefore, no trade-off between freedom and equality. There is only a choice between *free and unequal* or *unfree and unequal* social systems. This claim is not a matter of value judgements but of objective facts and MacIntyre can only refute this by refuting the logical, theoretical and factual basis of it.

Another possible criticism of Hayek is that he is more critical of trade unions than he is of professional unions. The latter, just as much, perhaps more, than the former, create special privileges. Here is where Hayek again turns the table on the critics. He argues that we all are, or at least, ought to be in the same situation, competing openly and freely in a job, career or employment market without artificial barriers. Where there exists simultaneously competition with protection this means some people face the unfair situation of working or buying and selling within a competitive market whereas others have special privileges and protections. Hayek is just as critical of conservatives who preach but do not practice free market economics but give special privileges to agriculture, or protected industries with tariffs, quotas, subsidies and bailouts. In LLL, he points out that while unions were originally the creation of the truly least well-off, now their techniques are imitated by other groups, which, due to numerical advantages and ease of organization can gain unfair advantages over other groups lacking those characteristics (Hayek 1976: 140–2).

Hayek argues that union privileges and the slogan of social justice used to justify them are now used by persons and groups who cannot plausibly claim to be less fortunate, but who wish to protect their status and get what they think they deserve. To achieve this they must try to restrict competition in order to take advantage of the laws of supply and demand to raise the marginal value of their own services. This is where he could forcefully argue the real inequity exists, in the lack of equal opportunity, not in unequal outcomes and incomes. As Hayek argues, by government caving in to special interest groups other groups less able to organize or less articulate are hurt. This list is rather interesting – consumers, women, the aged and the taxpayer, all are especially hurt by inflation (Hayek 1979: 97). The reason that this is so interesting is that at least three of these four groups are those that the left sanctimoniously professes to defend against the evils of the present system, in roughly the following order: women, consumers and the aged. They cannot really try to pretend to defend the interests of taxpayers, unless they are left-wing libertarians or anarchists.

Exploitation

The final criticism raises issues where once again Hayek can turn the tables on the critics such as Hosmer, Theodore Burczak and Roland Kley as well as numerous others including MacIntyre. The argument is that, where there is an unequal distribution of resources certain people are in a better position to exploit others. This means that they can treat these people as means to an end (making money) and not as an end in themselves. This is the point behind MacIntyre's use of the RNA. The counter-argument is that it is only in unfree, *monopoly* situations, such as slavery, serfdom, socialism and state-supported cartels, where this is possible. A slave owner can force someone to work or else, whereas a free labourer can look for a job elsewhere and, in a genuinely open, competitive situation may find one.

This response is treated as inadequate by the critics who deny the claim that genuine freedom is involved here. It is merely "formal freedom". Two replies to this are appropriate here. The first point has to do with the obvious difference between treating a piece of furniture, a factory, a machine or a commodity as a means and treating a person as such. Only use of coercion, fraud, deception and force I would argue (in agreement here with libertarians) constitute violations of C1–2. When employers have to compete for employees, they cannot use them as they can inanimate objects, although, as we shall see in the prologue, MacIntyre repeats this argument.

Further while one can ask "is a free market really free?" and "is liberal justice really just?" the correct answer to both is the same: "compared to what?" The situation is much worse in a state-controlled situation where the state controls everything or attempts to do so, since it really cannot control everything. What choice will the people at the bottom have then? Further, the disincentives and distortions due to bureaucratic mismanagement will make things even worse.

Buridan's ass will make one final appearance here. Suppose the ass is now given the choice between an imperfect pile of hay in front of her which, however, has improved greatly over time, and a perfect pile which, she is told, may (or someday inevitably will) exist down the road in a socialist barn or in MacIntyre's AM barn? If the ass happens to notice that animals are leaving those barns or, at the least, causing an uproar; and that other animals enchanted by John Lennon's beautiful song, "Imagine" have not yet found or constructed a better barn either, then what is the rational thing for her to do?

This is not a variation on Churchill's famous dictum "Democracy is the worst form of government ever devised except for every other system of government ever devised". I am not rephrasing it as: "The free market is the worst economic system ever devised except for every other economic system ever devised". The argument of Hayek, as I understand it, is based on positive reasons as well, including reasons conceded by the most prominent critics of capitalism from Marx to MacIntyre. Both concede its awesome efficiency and its role in creating modernity. While it cannot provide the resources for the moral capital needed to sustain it, that is precisely what makes Hayek's marriage of modernity, markets,

tradition and science so effective and appealing (or as another economist put it: the marriage of the rule of law, the Christian ethic and modern science is what underlies European civilization at its best).⁸

It is easy to argue that if everyone were to follow rigorously his or her negative and positive duties the world would be a much better place. It is difficult enough to create incentives for people to live up to their limited negative and positive duties. To expect too much from Ms and Mr Average Josephine and Joe, or from the state, or from business is quite unreasonable. As Adam Smith could have put it, we need the invisible hand, the law, and the moral sense *In Search of a Better World*.

Epilogue

Marx, MacIntyre, modernity and the Lenin–Lennon dilemma

Three essays on Marxism

The first of the three essays was written in 1953, the year of Stalin's death. The second was composed in 1968, the year of the Tet Offensive in Vietnam, of student revolutions, especially in Paris, and of the Soviet invasion of Czechoslovakia. The third was written in 1995, after the collapse of European communism. MacIntyre acknowledges that "some parts of Marxist theory and some Marxist predictions had genuinely been discredited" (MacIntyre 2006: 145). He tries to detach Soviet totalitarianism from Marxism because "many Western apologists ... accept at its face-value the Soviet Union's claim that its social, political, and economic practise embodied Marxist theory, in order to justify their own root-and-branch rejection of Marxism" (ibid.: 145). Now as far as I can tell MacIntyre never discusses Popper's critique of Marxism, which is definitely not "a root-and-branch rejection of Marxism". As indicated in my introduction, where I would criticize Popper on his treatment of Marx is his overly favourable attitude. That is another matter. For now I want to concentrate on MacIntyre's deconstruction of Marx and Marxism.

On the next page he unites for one of very few times the twin Judeo-Christian virtues of justice and charity. He also defends a proposition Popper accepted from Marx which was definitely anathema to Hayek: "there is ... a type of injustice which is not the work of a particular person on a particular occasion, but is instead perpetrated institutionally" (ibid.: 147). This is equivalent to the idea usually expressed as "social injustice". MacIntyre follows this with a comment that Hayek would agree with totally. In the "impersonal relations imposed by capitalist markets ... [w]hat is necessarily absent in such markets is any justice of desert" (ibid.: 147). Hayek and MacIntyre completely disagree on the desirability of such a situation and they differ on how they argue about this desirability. Hayek has numerous arguments for his position whereas MacIntyre offers no argument whatever. He simply repeats his faith in his own Aristotelian-cum-Marxist theory of justice. While he argues against the theories of justice of Rawls and Nozick, he never attacks the Austrian individualist tradition.

He concedes, "it is clearly much, much better that capitalism should provide a rising standard of living for large numbers of people than it should not" (ibid.:

148). He qualifies this severely by arguing that “no amount of a rise in the standard of living by itself alters the injustice of exploitation” (ibid.: 148) and adds that “when apologists for capitalism point out quite correctly that capitalism has been able to generate material prosperity at a higher level and for more people than any other economic system in human history, what they say is irrelevant as a rebuttal of these charges of injustice” (ibid.: 149). MacIntyre next moves to the theory allegedly underlying apologies for the system. He starts with the question “why is political liberalism to be rejected” (ibid.: 153), despite achievements of pensions, health benefits and unemployment benefits which are “a great and incontrovertible good” (ibid.: 153). Apparently, this is a self-evident truth! He dogmatically asserts that workers in the system are “mere instruments of capital formation” (ibid.: 153). His next argument is at once based on valid claims and yet unsatisfactory. He asserts, “liberalism is the politics of a set of elites” (ibid.: 153) and the “manipulator of mass opinion” (ibid.: 153).

He does not give any evidence to support this (although I will not challenge it since I agree that it is true of North American liberalism which is more of a distortion of true liberalism than communist societies are distortions of Marxism) nor does he give any examples of non-liberal societies of which the same claim could not be made with at least equally convincing evidence. His much stronger claims are that “moral individualism is ... a solvent of participatory community” (ibid.: 153) and that “liberalism will be incompatible with justice thus understood and will have to invent its own conception of justice as it has indeed done” (ibid.: 154). Its moral arguments “cannot ... begin from some conception of a genuinely common good that is more than the sum of the preferences of individuals” (ibid.: 154). This is definitely not true of Hayek, although it could be true of most North American “liberals”. What Hayek calls the “three great negatives”; peace, justice and liberty, are common goods.

MacIntyre admits, “I found it relatively easier to say what I was against, rather than what ... I was for” (ibid.: 154). He acknowledges that the critics were correct to focus on this as weakness (ibid.: 154). He then argues that what needs to be recovered is “some version of Aristotle’s view of social and moral theory and practise” (ibid.: 156). This is still true despite his [Aristotle’s] reactionary views on “treatment of women, productive workers, and slavery” (ibid.: 156). This is, apparently, why we need to combine Aristotle with Marx. He asserts, “we shall need to re-examine Marx’s thought of the 1840s” (ibid.: 156).

Marxism was not defeated by its critics “so much as it was self-defeated ... by the failures of both Marx and his successors to provide a resolution of key difficulties internal to Marxism” (ibid.: 156). That these “difficulties internal to Marxism” may be insuperable does not seem to occur to him. He asserts that it was due to “Marx’s refusal to press further with his Theses on Feuerbach” (ibid.: 156). He then repeats the point made in AV and WJWR to the effect that “gross inequalities in the initial appropriation of capital whatever point in time is taken to be the initial point” will always turn out to be the “outcome of force and fraud by the appropriators” (ibid.: 158). As a historical claim, this may unfortunately be true. Since this point is one that Hayek readily concedes and comments on, it

does not require his Aristotelian-cum-Marxist theory of justice. These acts are unjust based on Hayek's theory of justice and of every other "liberal theory of justice" ever mooted. MacIntyre does not give any evidence to support this (although I will not challenge it) nor does he give any examples of non-liberal societies of which the same claim could not be made with at least as much convincing evidence.

While I have been primarily comparing Hayek and MacIntyre, there is rather a stronger parallel and contrast with Popper and his comments on the early writings of Marx. In his reply to H.B. Acton's contribution to LLP, Popper makes a rather rare concession to criticism conceding in delightful fashion that "the younger Marx (like the old Marcuse) was largely motivated by a hostility to *all* 'repression' ... I am very ready to admit" (Popper in Schillp 1974: 1163). Popper has some of his best political and ethical arguments in this section but I shift the focus to the basic problem that neither MacIntyre, nor most left-wingers, nor anarchists, nor libertarian defenders of free market capitalism (from Ayn Rand to Jan Lester) can solve. Since MacIntyre has opened up himself for criticism on this score, he has given me a gift horse whose teeth I will not examine. Either he is repudiating the anti-anarchist, anti-libertarian argument cited in Chapter 12, or he is impaled on the horns of what I called in FDM, the Lenin–Lennon dilemma.

In 1917 after the original Russian Revolution overthrew the Tsarist regime, Vladimir Lenin wrote *The State and Revolution*, subtitled *The Marxist Teaching on the State and the Tasks of the Proletariat in the Revolution*. In it, he promised not only a classless but also a stateless society with no need for police, bureaucracy, law courts, and top-down control in industry, the army or anywhere else in society. After the Bolshevik coup in the autumn of 1917, Lenin quickly forgot such romantic dreams and was the prime mover in creating the first totalitarian state in human history.

Later, in 1975, John Lennon sang his beautiful song "Imagine", another anarchist dream of a utopia without government, religion, borders, property, greed, and war. Unlike Lenin, he had no political party, secret police, army or other means of implementing this dream. Ironically, 1975 was the year the Khmer Rouge decided to create their own egalitarian utopia in Cambodia with extremely authoritarian measures, not being as naïve as the pre-Bolshevik coup Lenin or Lennon! This is the Lenin–Lennon dilemma: "how do we bring about a utopia whether libertarian, egalitarian, or both?" We can choose Lenin's method of coercion and thereby totally compromise the ideals or we can choose Lennon's more peaceful, purely persuasive methods and sacrifice any reasonable hope of ever realizing the utopia. To this day, no one has successfully solved this problem, which may be the best argument in favour of the Popperian search for a better, but not perfect, world.

Dependent Rational Animals

In *Dependent Rational Animals* (hereafter DRA), MacIntyre develops a very plausible and generally well-argued set of theses about those humans who are

especially dependent, some because of physical disabilities and disfigurements, others due to intellectual disabilities that make them somewhat less than Aristotle's "rational animals". The strongest point in MacIntyre's arguments is his stress on how all humans are dependent on others, and not just in their early years of childhood. The details of the argument cannot concern us here since I focus on its relation to the Enlightenment Project, tradition, and the Open Society (in the PHD sense).

In this book he finally tells us not just what he is opposed to but what he favours as an alternative. He recognizes finally that the state is not the solution, but part of the problem. The family as it presently functions is not the solution either. He favours neither an expansion of the present welfare state nor communitarian panaceas but rather advocates a decentralized, local community solution. It is based on what I choose to label the AM theory of justice. While one might assume that I mean it to refer to his first and last names, it is because it combines, MacIntyre thinks, the best of Aristotle with the best of Marx minus the mistakes of Aristotle and the distortion of Marxism that he claims all communist societies implemented.

Chapter 11 is entitled "The Political and Social Structures of the Common Good". He starts with stating three conditions. The first is to give expression to the voices of independent reasoners on matters of political decision making so that they will "be able to come through shared rational deliberation to a common mind" (MacIntyre 1999: 129). In such a community, "just generosity" is a virtue yet no "single simple formula will be capable of capturing the different kinds of norms ... necessary for different kinds of just relationship" (*ibid.*: 129). He does recommend a "revised version of Marx's formula for justice.... 'From each according to her or his ability, to each, as far as possible, according to her or his needs'" (*ibid.*: 130). MacIntyre criticizes the trend in modern social and political philosophy to ignore issues about "associations and relationships that are intermediate between ... the nation-state and ... the individual and the nuclear family" (*ibid.*: 130). He does so without acknowledging that this point comes from Burke and the anti-revolutionary, but non-conservative, tradition he defends as well as Hayek. The problem with the modern welfare state is that "the distribution of goods by government in no way reflects a common mind arrived at through widespread shared deliberation governed by norms of rational inquiry" (*ibid.*: 131). As usual, MacIntyre totally ignores the critiques made by Popper, Hayek and numerous others against the possibility of such a common mind ever being achieved on rational rather than on totalitarian grounds. Not even authoritarian governments have achieved this and only totalitarian societies have come close.

He has very eloquent, well-argued passages on the problem in modern society that good looks are far too prominent in our evaluation of people. It does seem to be true that tall men and beautiful women are especially favoured in our societies, open or closed. What he does not acknowledge is that Popper criticized this bias when found in Plato even though I doubt the accuracy of Popper's interpretation of Plato. MacIntyre criticizes the communitarians (with

whom one might suspect he would have some sympathy) for ignoring history and sociology (ibid.: 142–3).

MacIntyre then retreats into utopianism quite self-consciously but does so in his unique fashion of combining left-wing, Marxist principles advocating less inequality and traditional conservative anti-capitalist arguments based on “community”. MacIntyre says:

economic considerations will have to be subordinated to social and moral consideration, if a local community that is a network of giving and receiving is to survive, let alone thrive. There may have to be self-imposed limits to labor mobility for the sake of the continuities and the stabilities of families and other institutions.

(ibid.: 145)

This type of argument should remind us of one of Nozick’s most brilliant comments: “A socialist society would have to forbid capitalist acts between consenting adults.” By contrast, no genuinely Hayekian free market society “would have to forbid socialist acts between consenting adults” (Nozick 1974: 163). MacIntyre acknowledges that these goals are utopian (MacIntyre 1999: 145) and produces a rather interesting reply to this standard objection: “trying to live by utopian standards is not utopian, although it does involve a rejection of the economic goals of advanced capitalism” (ibid.: 145).

I finish with two criticisms of MacIntyre’s arguments, one empirical/historical whereas the other is logical/philosophical. MacIntyre’s arguments about justice strongly suggest the old Roman nostrum “Let Justice be done though the heavens fall”. In reply to this I respond (along with, I conjecture not that boldly, the vast majority of people in the world): “if the heavens fall will that not inflict massive undeserved harm on billions of people?” Capitalism in both theory and practise no doubt falls short of perfect justice so it may be the most unjust of all economic systems except for every other system.

MacIntyre wants us to believe that it is an amazing coincidence that, while all ostensive Marxist societies have been brutally authoritarian and responsible for the deaths of millions, this was due to a distortion of Marxist theory. The same argument could be used by apologists for Hitler and Mussolini and the ideologies they are both associated with; national socialism and fascism. Yet he never mentions the amazing co-incidence that, of the ten points in *The Communist Manifesto* (all of them are listed in Chapter 2), most were implemented by Stalin in the 1930s and by almost all communist countries ever since. Point one of *The Communist Manifesto* advocates the collectivization of agriculture. Almost all communist societies have followed this policy and it has been the most disastrous economic policy in the past century.

I finish by reiterating my main argument. It is that the problems posed by SVR can best be met by the power of *negative thinking*. We solve the is–ought problem, not by the futile quest for a logical deduction from is to ought, or a unique source of moral knowledge or postulation, dogma or purely subjective

good reasons. We solve it by the opposite – by deducing an is from an ought and criticizing the implications and choosing the view that best survive dialectical criticism. We insist on *purely deductive* arguments in ethics. We solve the problem of ultimate premises, stopping the infinite regress by using a purely deductive *reductio ad absurdum* combined with intersubjective values (not objective positive values). The keys to a deduction of is from ought are:

- 1 the *existential implications* of moral principles;
- 2 the *ought implies can* principle, and;
- 3 the Kantian *universalizability* test.

These are all we need. Given them, we can overcome moral scepticism without the assumptions of moral truth. There are arguable advantages to rejecting moral truth. Given my theory we can answer MacIntyre's quasi-rhetorical questions: "Whose justice? Which rationality?" The ironic answer is that Hayek's theory of justice can be defended by using MacIntyre's own quasi-Popperian theory of the rationality of dialectical justification. This is equivalent to Popper's PRC ("Rational criticism replaces justification"). We do not need shared positive values, a neutral starting point or the rejection of tradition to make liberalism work. We can defend Hayek's theory of justice on rational grounds that avoid the standard weaknesses of rationalism and its associated naïve individualism and liberalism. The arguments of Hayek can be refuted only by counter-arguments based on logic, facts, principles and theories not by reference to shared values or dubious criteria of rationality or circular reasoning. MacIntyre could only produce a refutation of Hayek by using the process described in Chapter 10. Finally, a theory of virtue is not only compatible with a liberal individualist society; it is a necessity for its functioning.

Notes

1 Popper, Hayek and the grand narrative of modernity

- 1 This is the title of an excellent book by Walter Laqueur, which was written a few years before 9/11. He has very interesting and well-researched discussions of the variety of motives and explanations of terrorism.
- 2 Other books include three collections of critical essays: Edward Feser, *The Cambridge Companion to Hayek*; Thomas Boylan and Paschal O’Gorman, *Popper and Economic Methodology*; and Philip Catton and Graham MacDonald, *Karl Popper, Critical Appraisals*, as well as solo efforts: Herbert Kleuth, *The Philosophy of Karl Popper*; Roland Kley, *Hayek’s Social and Political Thought*; Chris Sciabbara, *Marx, Hayek and Utopia*; Stephen Fuller, *Popper and Kuhn*; Theodor Burczak, *Socialism after Hayek*, two books by Mark Notturmo, three books by Jeremy Shearmur, two of them on the political philosophies of Hayek and of Popper as well as *After Hayek*.
- 3 I owe this reference to the term “vitality” to my friend and colleague Bob Dimand (it is in Schumpeter 1950: 3).
- 4 One person conspicuously missing in my reference to the 1513–1543 period who may seem for good reasons very relevant to the topics in this book is Thomas More who wrote *Utopia* between Machiavelli’s *The Prince* and Luther’s prolific writings of 1517–1520 attacking many church beliefs and practices.
- 5 R.R. Palmer wrote a book with the title *The Age of Democratic Revolution*, about the late eighteenth-century revolutions (not just those in America and France). In a recent book, Charles Tilley refers to a so-called age of democratic revolution in his excellent *Democracy* and suggests the alternative I use: proto-democratic revolution.
- 6 Two interesting examples are Michael Fumento’s *Bio Evolution How Biotechnology is Changing Our World* and Gregory Stock’s *Redesigning Humans: Our Inevitable Genetic Future*. Both of these books make very controversial claims but that is not the main issue here. It is that they illustrate extremely well the BDT.
- 7 The precautionary principle is an example of what I labelled in FDM “default principles” (DP) and will use later, especially from Chapter 10 on. It holds that “we should not use a new technology unless it has been proven to be harmless” rather than the more usual DP “we should use a new technology unless it has been proven to be harmful”.
- 8 In addition to the two tomes mentioned in the text, there is a recent book on Nicholas Bourbaki by Amir Aczel, *The Artist and the Mathematician*, and another by Hal Hellman, *Great Feuds in Mathematics*. The book *Popper and Economic Methodology* also raises issues in philosophy of mathematics concerning finitism, recursion theory, proof theory and classical logic.
- 9 B.F. Skinner was a very prolific writer. The most relevant of his books for our concerns are *Waldon Two* (1948), *Science and Human Behavior* (1953), and *Beyond*

Freedom and Dignity (1971). The last one earned him a picture on the cover of *Time* magazine with the provocative warning that “we cannot afford freedom”.

- 10 As with Skinner later, Marx and Comte defined this scientifically in such a way as to eliminate significantly the right and/or desirability of freedom as a political value. Comte’s view is clearly an updated Platonic view, except that, instead of the philosopher king, we would have the scientist president or its equivalent. It is inimical to both freedom and democracy. The scientific experts will run things knowing both the laws of nature and the laws of historical development. This has a clear advantage over both of Popper’s two major enemies of the Open Society; Plato and Marx. Plato is old-fashioned, an antique metaphysical thinker and, while Marx claimed to be “scientific”, he confined his revolution to a narrow ideological and an equally narrow class basis.

2 Ideology, ideals and political philosophy

- 1 Terrell Carvell has an excellent introduction to *Ideals and Ideologies* by Ball and Dagger and is especially interesting on the largely forgotten inventor of the idea, Tracy De Stutt, who really thought he was inventing a science of ideas.
- 2 There is no need to use a gender-neutral term here, since almost all wars in human history have been initiated and fought by males. There are of course exceptions such as Joan of Arc, various queens and recent rulers such as Golda Meir and Margaret Thatcher to cite only a few examples.
- 3 Carvell emphasizes how Tracy De Stutt attempted to combine the concepts of progress, knowledge and the improvement of the human condition (quite in accord with the BDT) in his development of the original definition of “ideology” (Ball and Dagger 2004: 4).
- 4 Edward Tufte argues effectively (*Political Control of the Economy*) that ideology does affect political decisions on the side of both politicians and voters. In his key chapter, the main point concerns trade-offs between party positions on inflation and unemployment. This applies primarily to the USA but he also includes data on Sweden, Great Britain and the inflation unemployment relation in 12 countries as well as on debates and issues regarding income redistribution. This is a very mild left–right distinction, if it is that at all. He then argues in the next chapter that politicians accept the theory that their ideologies make a difference (to the electorate) and that this theory is confirmed by the electorate’s behaviour.
- 5 While this summary is based on my own study of the relevant debates, the description of the entire process owes a great deal to Bruce Caldwell’s concise yet thorough summary in *Beyond Positivism* (Caldwell 1982).

3 Popper in the Weimar era (1919–1933)

- 1 As any reader of this book (or FDM) can tell, if I err in treating Popper it is clearly on the side of admiration not criticism.
- 2 The Boolean operator, “and”, is used to defuse the response that any reader might immediately have that she can think of several more influential or important philosophers of science and/or political philosophers. This is definitely true, but can she think of any other philosopher who could plausibly be considered both? As pointed out in FDM, very eminent authorities (in a good Popperian sense), *Scientific American* (November 1992) and Paul Johnson (1994) made such claims in the final decade of the past century. These opinions are cited, not because they are “authoritative”, but because they are highly plausible, from respectable sources.
- 3 Bruce Caldwell presents an excellent paper on the question of who influenced whom in the Hayek–Popper relationship at the 2002 Popper Centenary Conference. He sees a mutual influence but no clearly predominant one-way influence. As with Hacohen

on Popper, there is only one interpretive point on which I have to the temerity to challenge his scholarship on Hayek. This occurs in Chapter 11 when I discuss the article he co-authored with Julian Reiss on Hayek and the naturalistic fallacy.

- 4 Any one who has read Weber's book on the methodology of social science (Weber 1949) and knows the views of Hayek and Popper on these subjects will see striking similarities.
- 5 I sent an e-mail inquiring from Prof. Hacohen if I was correct about what I suspected was the reason Bergson is mentioned only once in Hacohen. He kindly confirmed my opinion that it was because there was little or no influence. I thank him for replying and permitting me to report this.
- 6 Apparently it was harder for authoritarian societies in 1914 to manufacture consent than it allegedly is today in democratic societies.
- 7 In the *Times Literary Supplement*, 30 October 2007, in a review of Jean Eisenstadt's *The Curious History of Relativity*.
- 8 By emphasizing the term "*life long propensity*", I am deliberately, not tacitly, denying the stereotype that after 1945 he became "a cold war conservative" no longer interested in *A Search for a Better World* as any decent person would. Yes, he was a cold warrior but a liberal cold warrior, not a conservative cold warrior.
- 9 Popper also recognized later the need for common sense and tradition (Hayek had always done). I also interpret Hacohen as saying that it was Popper who thought that he could dispense with Einstein's appeal to intuition, not that Hacohen agrees with it.
- 10 A good account of the comparison between Bergson and Popper is found in Dante Germino, *The Open Society in Theory and Practice*, Chapter 1. I will rely more on Anthony O'Hear's excellent discussions of Popper to critically evaluate his too-casual acceptance of cosmopolitanism. It is not that I disagree with this aspect, but rather I will argue that it has both pragmatic and theoretical problems unaddressed by Popper.

4 The refutation of positivism and socialism

- 1 The writer of *The Economist* obituary notice for Popper, September 1994, implied this clearly. Anthony O'Hear is a good example, as is Martin Gardener and numerous others including almost all the contributors to *Popper and Economic Methodology*.
- 2 Hare argues in FAR that moral reasoning is much like Popper's account of scientific inference. They are both strictly deductive and we attempt to test them critically. Finally moral laws like scientific laws are universalizable (Hare 1963: 87–9).
- 3 John McCall criticizes Popper on several points. He says "Popper's dismissal of the senses as a source of knowledge is controversial" (Boylan and O'Gorman 2007: 127). It also is completely misunderstood by McCall as is Popper's views on probability. He makes it sound as if Popper totally dismisses sense experience and never explains or discusses this. See my Chapter 10 for at least an attempt at a thorough discussion of the point behind it.
- 4 McCall again is the guilty party (ibid.: 127). No one reading his article would know that Popper has more to say about probability in LSD than any other topic and he constantly argues against a probabilistic interpretation of inductive reasoning.
- 5 In OK, Popper cites two versions of the PSR. The first is "'that a reason can be given for every truth' (Leibniz) or in the stronger form which we find in Berkeley and Hume who both suggest that it is a sufficient reason for unbelief if we 'see no [sufficient] reason for believing'" (Popper 1972: 30).
- 6 In CCH Robert Skidelsky has a mostly excellent argument in his article "Hayek versus Keynes: the road to reconciliation". His interpretation suggests that the differences may have been less than many assume, especially Hayek himself, lending substance to the suggestion that this difference may be an example of one of Freud's more insightful ideas "the narcissism of small differences". In Skidelsky's massive biography of Keynes he has an interesting comment that it was unfortunate that Keynes died in 1946

and thus there was no great debate between him and Hayek: “it would have been a battle of giants” (p. 6).

- 7 In his *Postscript to the Logic of Scientific Discovery*, Popper claims that while he does not regard his theory as an empirical theory he does provide what he regards as 20 examples of experimental falsification of scientific theories (Popper 1982: xxvi–xxx).

5 The open society and the road to *The Road to Serfdom*

- 1 Popper’s anti-essentialism holds that two somewhat distinct views are not always adequately distinguished. One is the mostly useful practical advice not to argue about the true, or real, essential meaning of words and thus we should avoid “what is X?” questions. This is a basically semantic point. There is also a very dogmatic metaphysical counterpart. This is the claim that there are no essences of things and so it is pointless to seek any essentialist definition.
- 2 Slavery still exists where it is illegal today, just as it persisted in the USA in the nineteenth century in places where it was illegal but not adequately monitored or suppressed by force.
- 3 He prefaces this by saying this should only be a last resort and that suppression of the utterance of intolerant philosophies should not be done “as long as we can counter them by rational argument and keep them in check by public opinion”. Otherwise “suppression would certainly be most unwise”. (ibid.: 265).
- 4 The references to *In Defense of Rationalism* are from Miller (ed.) *Popper Selections*, Chapter 2. Popper has a different title for his chapter in the original but I prefer this title since it focuses on the problem on which I am most critical of Popper.
- 5 In LSD Popper says, “the number of our axioms – of our most fundamental hypotheses – should be kept down” (Popper 1959: 273). I have never read a rationale for this but it seems easy to provide, that rationality requires the minimization of arbitrary, i.e. unjustified, assumptions.
- 6 This definition is my own, not one found in the words used in either Hayek or Popper, but is based on my understanding of that crucial concept and therefore is how they should have understood it.
- 7 Hoover archives Box 48 File 5. Samuelson admitted his mistake and corrected it in later additions.
- 8 The critics of Popper and Hayek are not confined to the traditional left but include both neo-conservatives as well as libertarian critics.
- 9 The last named may have a more plausible case since during the European Middle Ages they were arguably the most advanced society in the world (Bernard Lewis, *What Went Wrong?*).
- 10 In North America it is not uncommon to see car bumper stickers such as the following: “Out of work yet? Keep buying from foreigners and you soon will be”. The UAW once had a billboard with a Mexican in a typically stereotypical hat stealing jobs from North American workers. The more moderate bumper stickers merely say “Buy domestic cars”. An interesting question is “could the maxim of this act be willed as a universal principle?” What almost nobody notices is that “saving jobs” is an extremely conservative principle.
- 11 The optimism of Popper and Hayek is historical not historicist. This means the facts of history support claims that we have made progress but there is no law or inevitable trend toward inevitable progress.

6 Historicism, scientism and collectivism

- 1 The term “social atomist truism” was used by Stephen Lukes (cited by O’Hear 1980: 167). It is similar to O’Hear’s own description of the Popper of OSE being “a rootless, Kantian cosmopolitan”. The fact that it is truism, however, does not make it insignifi-

cant in particular in the case of debates about social justice since it seems clear that this truism shifts the onus robandi on to those who think society can be just. This is one of the major arguments of Part V.

- 2 In *Popper and Economic Methodology* Popper's views are frequently misinterpreted or dismissed in a cavalier fashion with no argument although the impression is given that there are such knockdown arguments. This is from authors who use the DQT to refute Popper's theory of falsifiability. If the DQT is valid it is just as decisive as an argument against the possibility of refuting meta-theories. One of several seriously misleading expositions of Popper is that his philosophy of SI is based on privileging introspection and uncritically accepting the dogma of rational economic man maximizing his utility.
- 3 The HUL lecture series title is reproduced exactly as it appears in the Hoover archives.

7 Accentuating the negative

- 1 As we shall see in Chapter 9 Robbins also contributed, albeit only moderately, to the orthodox SVR argument and has more to say about the interpersonal comparison of utilities.
- 2 See LaRue Tone Hosmer's textbook *The Ethics of Management* for an interesting outline of the World Bank position advocated by Larry Summers on exporting industrial waste to Africa. Summers served under the Clinton Administration and was president of Harvard where he ran into trouble for some carelessly worded comments about women in academia. It seems to me he should have been under much more serious scrutiny for his proposal to adopt the policy of exporting Western industrial wastes to Africa on the grounds that, since their expected utility is less than ours (they do not live as long) it is OK to export our wastes to them. It is an argument based on both a careless logic and an amazingly callous ethics. It also illustrates the significance of the uncritical acceptance of the Weber–Robbins view of is–ought, fact–value dichotomy since Summers was defended by some economists on grounds of the scientific status and value neutrality of cost–benefit analysis.
- 3 The movie *Extreme Measures* has an interesting case about a doctor played by Gene Hackman who performs experiments on homeless people without any consent whatever, let alone informed consent.
- 4 Jeremy Waldron's book *Nonsense on Stilts* takes its title from Bentham's famous putdown of the rights dogmas of his day (from his 1789).
- 5 Ignatieff's *The Rights Revolution* even argues that conflicts among rights is a good thing that we should not worry about but welcome. He may some day be the Prime Minister in the country I was born in and where I still live (Canada). If he ever becomes the Prime Minister he surely will discover how extremely difficult it is to reconcile the numerous conflicting rights claims many Canadians hold.
- 6 Bentham in his *Introduction to the Principles of Morals and Legislation* (1789) in David Skidorsky (ed.) *The Liberal Tradition in European Thought*, asserts "Nature has placed mankind under the governance of two sovereign principles, *pain and pleasure*. It is for them alone to determine what we ought to do and what we shall do" (Skidorsky 1971: 74). On the next page he argues that "the community is a fictitious *body*. . . . The interest of the community then is, what?—The sum of the several interests of the members who compose it" (ibid.: 75). This seems almost obviously to be a classic fallacy of composition, just as Mill's argument about what is visible, audible and desirable involves the fallacy of equivocation, not the so-called naturalistic fallacy (this will be argued in Chapter 11). Bentham also asserts that "The general object which all laws have, or ought to have . . . is to augment the total happiness of the community" (ibid.: 75).
- 7 A good summary of Simon's outlook is found in his posthumous *It's Getting Better All The Time*.
- 8 In *Marx, Hayek and Utopia*, Chris Sciabarra develops a very interesting comparison between Marx and Hayek treating them both as anti-utopian radicals. He distances

Hayek quite a bit from Popper who he treats as more conservative. I see no reason to disagree although I also agree with Caldwell, who asserts “Popper was considerably to the left of Hayek”. This and the rider that “Popper was more conservative than Hayek” are truisms for me and a paradox only for those still mesmerized by the archaic, atavistic left–right iron cage of ideological conformity.

- 9 The quotation from O’Hear is in Feser (2007: 136). Instead of totally jettisoning the intuitive fairness of equal opportunity as an excellent liberal alternative to the utopian “social justice” rhetoric, why not stress the concept of *formal* equal opportunity rather than *material* equal opportunity as Kant does in his excellent *Two Essays on Right?* (Phelps 1973: 155–62).

8 Is “liberal utopia” an oxymoron?

- 1 As Chris Sciabarra does in *Marx, Hayek, and Utopia*.
- 2 The presupposition is not mentioned by Shearmur nor, as far as I can tell, by Hayek either and it also seems to be ignored by MacIntyre, despite the fact that it has permeated Western thought starting with the ancient Greeks and Romans. It is one of the many downsides of the Germanic triumph of values over virtue as the fundamental category of moral philosophy that both political theory and moral philosophy (with rare exceptions such as MacIntyre and Q. Skinner) have totally lost sight of a very important concept that permeated Western thought until at least the French Revolution.
- 3 The dictionary also offers another distinction between “denotation” and “connotation” under the sub-heading “Logic instances falling under a concept versus the sum of qualities implied by a term or essential to it” which is similar to the “extension” and “intension” distinction.
- 4 Bryan Magee (rightly) objected to the label “conservative” for Popper in *Popper* and I rejected this label for Popper in FDM especially in connection with Canadian pop-philosopher Mark Kingwell’s description of Popper as “a conservative trying to convince himself that he was a liberal” (Hayes 2001: 19, 84, 85).
- 5 During the 1950s the term “liberalism” had negative connotations for North American conservatives, while in the 1960s it had negative connotations for the “new left”. Both Popper and Hayek have been described as advocating a “conservative liberalism” and of course it is crucial to discuss the context especially to distinguish social and economic liberals as well as distinguish social and economic conservatives.
- 6 Hillel Steiner argues that we can define a set of compossible rights as those that do not lead to conflicting claims (contra Ignatieff) in his excellent “The Structure of a Set of Compossible Rights” (1977) *The Journal of Philosophy*, pp. 757–75.
- 7 Popper later used similar dogmatic argument for freedom in SBW, for which I criticized him in FDM.

9 The Achilles heel

- 1 See the book edited by George Carey, *Freedom and the Policy: Critical Essays on the Open Society*. Lanham: University Press of America.
- 2 In FDM I mention the non-existent physics–history dichotomy. One could easily pose a problem here by arguing that:
 - 1 there is no logical connection between the facts and laws of physics and the facts and explanations used by historians. In addition;
 - 2 while physics uses both experimental methods and advanced mathematics, history uses neither.

This alleged problem bothers neither scientists, historians, or even philosophers who worry about a lot of very less significant issues. The obvious reason is that historians have

- a vast amount of empirical data to test their factual and explanatory claims on. Well perhaps philosophers, including moral philosophers, have such a dataset available as well.
- 3 Hoover, Box 302 there is a brief exchange between Hare and Popper about whether Popper is an ethical rationalist.
 - 4 See Father Copleston's *History of Philosophy* for his numerous references to earlier advocates of radical fallibilism who were antecedents of both Dewey and Popper.
 - 5 In John Searle's *How to Deduce an Ought from an Is*, he argues that making promises logically commits one *ethically* to keeping such promises. In FDM I reversed Searle's strategy by naming Chapter 6 "How to Deduce an Is from an Ought". This turns out to be surprisingly easy to do, and since is statements are at the very least supposed to be refutable then clearly any "is" deduced from an "ought" should be refutable contrary to Weber, Robbins, Brecht, Popper, Hayek, Hare and numerous others.
 - 6 I would formulate three challenges to Quine's radical empiricism-cum-pragmatism:
 - 1 Did Godel produce empirical arguments against the Hilbert program?
 - 2 Did Andrew Wiles provide merely empirical, inductive, pragmatic arguments for Fermat's Last Theorem in 1994?
 - 3 Should social scientific research investigate statistical evidence that might test, confirm, corroborate, refute, undermine, disconfirm, or at least pose anomalies for both "all bachelors are unmarried" and "all bachelors are unhappy" and then try to determine what percentage of bachelors are unhappy versus what percentage are married?
 - 7 How would these three principles solve issues about gay rights, same-sex marriage, civil rights for minorities, how to respond appropriately and morally to Islamic terrorism and so forth? This is not a purely rhetorical question. Putnam must know that there are many more evangelical Christians in the USA than there are secular, humanistic, pragmatist followers of Dewey and also that there soon will be (if there are not already) more conservative or outright reactionary fundamentalist Muslims. His own sarcastic comments about fundamentalist students suggests he is fully aware that their views are very different from his own "progressive" left-wing views. Nor does he give any reason whatsoever for thinking that the appeal to the authority of John Dewey is more rational than appealing to the authority of John Calvin's *Institutes of the Christian Religion*, the Koran, Kant, papal bulls or the Talmud. If any one thinks this is too harsh a judgement then I suggest that she read the book and then show me where he has such arguments. As O'Hear argues in making a similar point against Popper in CCH

there may be people unprepared to discuss at all ... but that is not where the problem lies. In this case, Popper can appeal to his Kantian humanitarianism.... The problem for Popper [and Putnam I would add] arises when both parties to a discussion are ... Kantian ... However ... this may not be enough to produce agreement or progress on issues in on which there are radical differences of perspective.

(O'Hear 2006: 144)

He uses topical examples such as stem cell research and abortion.

10 Relativism, scepticism and "the Enlightenment Project"

- 1 There was an interesting debate about this topic in the journal *Political Theory* at the turn of the millennium.
- 2 An anarchist or libertarian might point out that Popper does not argue that welfare state defenders are also afraid of the consequences of freedom as well as those critical of anarchism such as himself, Hayek, Bryan Magee and almost everyone else who fears a Hobbsean state of nature.
- 3 Most notably the authors of *Fashionable Nonsense* (Bricmont and Sokal 1998: 61–9). Their book has the interesting subtitle *Postmodern Intellectuals Abuse of Science*.

- 4 In the conclusion to this chapter I cite several examples.
- 5 Popper's main discussion of the problem of background knowledge is in CAR, Chapter 10.
- 6 In his preface to the 1959 translation of LSD, Popper says "from Plato to Descartes, Leibniz, Kant, Duhem and Poincare; and from Bacon, Hobbes, and Locke, to Hume, Mill, and Russell, the theory of knowledge was inspired by the hope that it would enable us to contribute to the advance of . . . scientific knowledge" (Popper 1959: 19).
- 7 George Feisler is the person given credit for "shifting attention from the existence of mathematical objects to the objectivity of the mathematical truth" (Shapiro 2005: 6).
- 8 This argument works of course if and only if one accepts the traditional logical principles of *modus tollens* tollendo as Popper does. He is criticized for this by Vela Velupillai, as well as for accepting *reductio ad absurdum* arguments and rejecting Brouwer's philosophy of mathematics with its finitist programme and he is accused of ignoring developments in recursion theory, proof theory and modern probability theory that allegedly provide an alternative to his solution of the problem of induction. One obvious problem with these criticisms is that it is difficult to see how one can refute Popper's meta-theoretical or normative claims without using *modus tollens* or *reductio* arguments. While technically impressive, the arguments never use illustrative arguments, contrary to Popper's practise, in order to show how their alternatives solve the problem of induction by demonstrating how we can now be confident that the sun will keep rising, that we are all mortal, that Newton's theory is better than Aristotle's, and that (or why) Einstein's is better than Newton's, and why Darwinian evolution is preferable to creationism.
- 9 The argument in the text can be (as I did in FDM) formalized as follows: we can reason: $R \rightarrow D \rightarrow O \rightarrow C \rightarrow I$, Not-I; therefore Not-R (by elementary *modus tollens*). In the above R = rights, D = duties, O = ought, C = can and I = is, so that not-I means a denial or refutation of is which in turn by *modus tollens* eventually refutes the rights claim. Thus, the rights claim is refuted. This is the form tacitly used in Hayek's argument against universal positive rights (Hayek 1976: 100–5). Since there is an indefinite number of possible bearers of positive duties (family, eleemosynary institutions) this can be applied to positive rights, welfare rights and negative rights as well, if one adopts a moderate determinism. If one is willing to argue that crime, alcoholism and homosexuality are in a person's genes and so it is unreasonable to hold people responsible for their acts then one can use a similar argument although one would usually be assuming as an unstated premise, "only actions that we can control should be punished".
It also should be noted that since the argument is purely formal the "R" does not have to be a theory or principle of rights. It can be any putative foundation or first principle of morality.
- 10 The formula is $Tuc > Tun > Trc > Trn$.
- 11 Popper argues for this (or rather asserts it without an argument) in SBW, where he says "criticism must always be specific it must give reason why specific statements, specific hypotheses, appear to be false, or specific arguments invalid" (Popper 1993: 202).

11 Evolutionary ethics, Darwinism and the naturalistic fallacy

- 1 There is a rather interesting parallel between what Moore wrote in 1903 in *Principia Ethica* and what his good friend and colleague Bertrand Russell wrote the same year in *Principles of Mathematics*. Both books are concerned with the problem of indefinable terms and the logic of reasoning. Russell refers to Moore in his preface and draws an analogy between indefinables in mathematics and colour terms just as Moore did.
- 2 After quoting Bertrand Russell's defence of decriminalization of homosexuality, Hayek argues that "private practise among adults, however abhorrent it may be to the majority, is not a proper subject for coercive action for a state whose object is to mini-

mize coercion”. Hayek the great “right-wing guru” wrote this in 1960 when every left-wing government in the world, i.e. every communist society, made gay sex illegal. It was not until the mid to late 1960s that the North American left opportunistically took up the cause of gay liberation.

- 3 The passage is so well written it deserves to be quoted: “Money ... is hence of all things the least understood and – perhaps with sex – the object of greatest unreasoning fantasy; and like sex it simultaneously fascinates, puzzles and repels” (Hayek 1989: 101).
- 4 Later the Koheleth says “There is a vanity that takes place on the earth, that there are righteous people who are treated according to the conduct of the wicked, and there are wicked people treated according to the conduct of the righteous” (Eccl. 7:15, 8:14).
- 5 An excellent recent book is Franz van de Wals’ *Primates and Philosophers*. Unlike Ruse and Wilson deWals cites many contemporary moral philosophers, economists and of course biologists in his area of specialty, primate behaviour. He is best at debunking what he calls “veneer theory”, the view that we are essentially selfish and that moral behaviour is just a veneer.

12 MacIntyre on virtue, tradition and reason

- 1 The three problems are Fries’ trilemma, the empirical basis, and the epistemological status of background knowledge. While I discuss the first two in detail I do not say much about the third even though it merits more, however, as explained in the introduction, like all authors, I had to be selective. I emphasize here that all three are equally difficult as problems in epistemology and help collapse the is–ought dichotomy much more logically than Putnam collapses the fact–value dichotomy.
- 2 Vela Velupillai makes some interesting criticisms of Popper for his acceptance and use of classical logic, i.e. rules of reasoning such as *reductio ad absurdum* claiming that “two dubious mathematical principles are implicitly used in any falsifiability exercise based on Modus (Tollendo) Tollens ... *the law of excluded middle* and *proof of contradiction* (sic)” (Boylan and O’Gorman 2007: 148). He also criticizes Popper for his “absolute and almost fanatical faith in classical logic” (ibid.: 155). This is parallel to MacIntyre’s reference to “superstitious devotees of entailment”. Since a long digression to discuss this adequately is not possible it will suffice to say that he at least owes us an explanation of how he is refuting or criticizing or falsifying Popper’s claims without using the “proof of contradiction”. If he uses Popperian criticism as outlined in Chapter 10 (based on CAR, p. 316) then I agree he has good criticisms. That is what the best critics of Popper do. But if he is doing that he is using classical logic. If he is not deducing contradictions from Popper’s view why should we think he has adequate criticisms? He seems to replace Popper’s fanatical faith with his own faith in “set theory, proof theory, recursion theory and model theory” (ibid.: 148). Now I do not doubt that they are wonderful theories but no argument of any kind is given to show that they solve the problem of induction better than Popper does. I could easily claim that they solve the problem of the rationality of morality also. If I did that, most readers would expect me to show how with specific examples but none are provided by Velupillai. We are merely given impressive mathematics, quotations from Popper’s critics and gratuitous rhetorical insults.
- 3 In *A Short History of Ethics* MacIntyre does discuss the problem of interpersonal comparison of utilities.
- 4 John Mackie argues in his 1977 book that we invent morality, we do not discover it. It was this book which first gave me the idea that Popper’s world three could be applied to ethics in just the same ways that he applied it to our mathematical inventions.

13 Whose justice? Which rationality?

- 1 Salmon objects to turning inductive arguments into deductively valid arguments by adding premises, since this simply shifts the problem to that of justifying the additional premises. This argument justifies my claim that the infinite regress problem is the more ultimate problem. This is because whatever premises are added will lead to the question “what justifies these premises?” Whatever answer is given to that will recursively lead to the same question ad infinitum.
- 2 In FDM I suggested that the term “inference” is preferable to the term “induction”, and can include “inference to the best explanation”. For some unexplained reason David Miller denies repeatedly in his [1994] that we make inferences but this is easily refuted since we are always leaping to conclusions transcending the evidence and if these are not inductive then they must be “inferences”. Popper’s bold conjectures clearly involve leaping from dataset E, which does not entail T, to theory T. If this is not inductive then what else can it be than an inference?
- 3 The history of mathematics is surprisingly full of debates about fundamental principles and so is modern meta-mathematics or philosophy of mathematics. The recent book by Stewart Shapiro on logic and the philosophy of mathematic makes this abundantly clear.
- 4 It should therefore be noted that these principles of both Aristotle’s secular ethic and traditional theistic ethics are primarily negative since they forbid acts rather than enjoin particular acts.

14 Virtue, tradition, justice and the Enlightenment Project

- 1 This is only one of many examples where I would agree that Hayek, like Popper, is unfair to a great thinker and a great intellectual tradition. Hayek seems not to notice that contractarian thought usually culminates in defence of strong property rights and often libertarianism. Normally so does utilitarianism.
- 2 Hayek’s ethical theory needs these as much as Popper’s epistemology requires them. His practice was better than his preaching in this case. He did use DP but without articulating adequately a principle to justify, or argue for it on a non-historicist or non-scientistic basis.
- 3 While this gives us more than a trilemma, for purposes of defining the trilemma circular reasoning can be treated as a form of dogmatism.
- 4 The prominent physicists include Pierre Duhem, Stephen Hawkins and numerous others.
- 5 To be mathematically precise, seven of the ten commandments are negative.

15 Liberty, equality, modernity

- 1 This may appear to conflict with one of Huntington’s major themes in *The Clash of Civilizations*, namely that Westernization and modernization, while twin products of European civilization, are neither Siamese twins (difficult to separate) nor identical twins. According to Huntington you can have one without the other. My statement is not meant to conflict with this thesis, which I neither deny nor accept.
- 2 In *The Economist* (19 January 2003) issue a discussion of Iran made an interesting claim that political discussion in Iran usually invoked four persons: Popper, Hayek, Hobbes and Khatami, the Iranian president at that time. In Mark Notturmo’s book, *Karl Popper: Science and the Open Society*, the introduction by George Soros says that Popper was disappointed to find out he was Hungarian since he thought he was the first American to understand his book since a Hungarian like Soros could understand it because he lived through the period. While there certainly are numerous North Americans (including myself) who do appreciate Popper without having endured the

1917–1945 period in modern history, I think it helps. Most Americans and Canadians I conjecture (not that boldly I think), take the principles and practices of democratic, open societies for granted because they have never experienced anything else. I think this partly explains Putnam’s obvious animosity to Popper since he grew up American and can afford to advocate left-wing views with impunity and without anything like the bitter experience with such policies that Europeans have had. Just to be a good Popperian fallibilist I might point out a problem with this argument namely that many in Great Britain appreciate Popper albeit often outside the ivory tower of academia.

- 3 The claim that the rule of law means all have to obey the same laws needs to be qualified since Hayek recognizes the need for exceptions, for children, for laws permitting emergency vehicles to violate traffic laws and a few other obvious exceptions. Off-duty police officers, however, do not have the right to break laws in police vehicles.
- 4 This definition is not a quotation from Hayek but my own based on his arguments for the rule of law and against social justice. It is also meant to be an antithesis to MacIntyre’s views since it does not include undeserved benefits or undeserved losses (of income or status) if due to impersonal processes of Mother Nature or the Invisible Hand rather than being due to the unjust actions or laws of other humans.
- 5 As I would prefer to put it, “Better the capitalist carrot than the Stalinist stick”.
- 6 It has been argued that it is no coincidence that the rise of free market capitalism is accompanied by the decline and abolition of slavery as well as numerous other humane reforms. The book by Sydney Jackman *The English Reform Tradition 1790–1910* is an excellent documentation of, and description of, numerous humanitarian reform movements in the years referred to in the title. It coincides with the rise of free market capitalism and the liberal tradition supporting it.
- 7 Brook also shows that charitable people are more likely to be religious and not believe it is the responsibility of state or society to solve problems like poverty.
- 8 Interestingly and ironically it is Keynes being cited by Skildesky in CCH. During the outset of the Second World War referred to the foundations of Western civilization as resting on three principles: “the Christian Ethic, the Scientific Spirit and the Rule of Law” (Feser 2006: 83).

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