

# **The Hobbes Problem: From Machiavelli to Buchanan**

The James M. Buchanan Lecture

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Deirdre McCloskey  
University of Illinois at Chicago  
and Erasmus University of Rotterdam  
[deirdre2@uic.edu](mailto:deirdre2@uic.edu)

## Nussbaum, Buchanan, and All Seven of the Virtues

A case can be made that a flourishing human life must show seven virtues. Not eight. Not one. But seven.<sup>1</sup> The case in favor of four of them, the “pagan” virtues of courage, justice, temperance, and prudence, was made by Plato and Aristotle and Cicero. In the early 13<sup>th</sup> century St. Albert the Great summarized Cicero’s claim that every virtuous act has all four: “For the knowledge required argues for prudence; the strength to act resolutely argues for courage; moderation argues for temperance; and correctness argues for justice.”<sup>2</sup> The four persisted until the 18<sup>th</sup> century in Western reflections on the virtues, as for example in Adam Smith’s *The Theory of Moral Sentiments* (1759/1790).

These pagan four are the political virtues, in many senses---for example, the ancient sense of contributing to the survival and flourishing of a *polis*, a small Greek city state. “A human,” said Aristotle, “is a political animal [*zoon politikon*].” A hoplite in the phalanx of the *polis* needed all four of them. So did a politician speaking to the Athenian assembly. When Athens ignored any of them---for example, justice in its treatment of Melos or prudence in its expedition to Syracuse---the results were not good. Vices undermined Athenian flourishing, as they will always do.<sup>3</sup>

The other three virtues for a flourishing life, adding up to the blessed seven, are faith, hope, and love. These three so-called “theological” virtues are not until the 19<sup>th</sup> century regarded as political. Before the Romantics and their nationalism and socialism they were thought of as achieving the salvation of an individual soul. “The theological virtues are above the nature of man,” writes St. Albert’s student St. Thomas Aquinas around 1270, “the intellectual and moral virtues perfect the human intellect and appetite in proportion to human nature, but the theological virtues do so supernaturally.”<sup>4</sup> The theological virtues could also be called “peasant,” to contrast them with the aristocratic four, or “Christian,” without implying that Christians have been especially skilled at achieving them. The case for them is made very early in the history of that great Jewish heresy. When in about 50 BC St. Paul in his first extant letter praises the three he appears to be drawing on a tradition already established among the emergent Christians (1 Thess. 1:3; 5:8). His most famous statement of it, adorning now many cards from Hallmark, is of course 1 Corinthians 13: “Faith, hope, and love, these three abide. But the greatest of these is love.”

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<sup>1</sup> Or so at any rate I argue at length in *The Bourgeois Virtues: Ethics for an Age of Commerce* (Chicago: University of Chicago Press, 2006).

<sup>2</sup> Quoted in Houser, “Virtue of Courage,” 2002, p. 306.

<sup>3</sup> James Boyd White, *When Words Lose Their Meaning* CITE

<sup>4</sup> Aquinas, *Summa Theologiae*, c. 1269-1272, Ia IIae., q. 62, art. 2.

Yet the theological virtues can be given entirely secular meanings. Faith is the virtue of identity and rootedness. It is backward looking: who *are* you? Hope is forward looking: who do you wish to become? Both sustain humans, and indeed can be viewed, with love of the transcendent, as the characteristically human virtues. A woman without faith is no person. She is as we say “hollow.” A man with no hope goes home and shoots himself. And in a world in which God has died, a human without some love for the secular transcendent---science, art, baseball---is not flourishing.

The four pagan virtues and the three Christian make a strange marriage, consummated in the middle of the 13<sup>th</sup> century by Aquinas in his astonishingly comprehensive analysis of the virtues.<sup>5</sup> The seven often contradict one another. No free, adult male citizen of Athens, for instance, regarded love as a primary virtue. Nice to have, to be sure---see the *Symposium*---but in no sense “political,” and devalued therefore in a world that took politics as the highest expression of human virtue. Aristotle admires most of all the virtue of *megalopsychē*, the great-souled-ness, translated literally into Latin as “magnanimity.” Magnanimity is the virtue of an aristocrat, someone with the moral luck to be able to exercise it from above. By contrast the virtue of love, as Nietzsche said with a sneer, accompanies a slave religion. It is, he almost said, feminine. When in the late 1930s Simone Weil, a French secular Jew on her way to Christianity, witnessed a religious procession one night in a Portuguese fishing village it struck her that “Christianity is pre-eminently the religion of slaves, that slaves cannot help belonging to it, and I among others.”<sup>6</sup> Love—even in its social forms emphasized in the 19<sup>th</sup> century as an abstract solidarity—begins as pacific, Christian, and yielding, quite contrary to the macho virtues of a citizen of Athens or of Rome. Alasdair MacIntyre notes that “Aristotle would certainly not have admired Jesus Christ and he would have been horrified by St. Paul,” with all their embarrassing talk of love.<sup>7</sup> The pagans were not lovelorn, at least not in their philosophies. The Christians were.

From about 400 BC to about 1749 AD the moral universe was described as mixtures of the Seven Principal Virtues, containing hundreds of minor and particular virtues. The tensions among the seven, and their complementarities, too, can be expressed in a diagram:

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<sup>5</sup> Aquinas’ so-called “Treatise on the Virtues” (he did not call it this) is part of *Summa Theologiae*, c. 1270 [1984], First Half of the Second Part, questions 49-67], trans. and ed. John A. Oesterle. Notre Dame, Indiana: University of Notre Dame Press. Also, separately, . c. 1269-1272 [1999]. *Disputed Questions on Virtue* [*Quaestio disputata de virtutibus in commune and Quaestio . . . cardinalibus*]. Translation and preface Ralph McInerney. South Bend, Indiana: St. Augustine’s Press.

<sup>6</sup> Quoted in Cole, *Simone Weil*, 2001, p. 116.

<sup>7</sup> MacIntyre, *After Virtue*, p. 172.

## *The Seven Principal Virtues*

The Sacred

**HOPE**

Martin Luther King

The Ethical Object:

**FAITH**

St. Peter

The Transcendent

**LOVE**

Emma Goldman

Other People

**JUSTICE** [social balance]

Gandhi

**COURAGE**

Achilles, Shane

**TEMPERANCE** [individual balance]

Socrates, Jane Austen

The Self

The Profane, Quotidian

**PRUDENCE**

(Max U, Practical Wisdom, Rationality)

Ben Franklin

(The Ethical Subject:)

**Gender:** "masculine" ← ————— → "feminine"

autonomy ← ————— → connection

Freedom  
*Gesellschaft*

Solidarity  
*Gemeinschaft*

Minor though admirable virtues such as thrift or honesty can be described as combinations of the principal seven. The seven are in this sense primary colors. They cannot be derived from each other, and the other, minor colors *can* be derived from them. Blue plus red makes purple, blue plus yellow makes green. But you can't get red from maroon and purple. Honesty is justice plus temperance in matters of speech, with a dash of courage and a soupçon perhaps of faithfulness. A vice is a notable lack of one or more of the virtues. Aquinas was the master of such analyses, and provides scores of them in showing that the seven are principal. "The cardinal virtues," he notes, "are called more principal, not because they are more perfect than all the other virtues, but because human life more principally turns on them and the other virtues are based on them."<sup>8</sup> Courage plus prudence yields enterprise. Temperance plus justice yields humility. Temperance plus prudence yields thrift.

Various moderns have tried to make up a new color wheel, with "integrity" and "civility" or "sustainability" as primary. Thus a *New Yorker* cartoon in 2002: a man who looks like he's just returned from a grilling by a Senate committee about Enron and other accounting disasters says to his little son, "Honesty is a fine quality, Max, but it isn't the whole story." Making up new primaries is like depending on purple and green, or chartreuse and aquamarine. These are good and important colors, among my favorites. But they are technically speaking "secondary," or even "tertiary," the palette of Gauguin and Matisse against that of late Van Gogh and late Piet Mondrian. In the ethical case the faux primaries are accompanied by no tradition of how to mix or array them.

The tensions and complementarities, I say, are embodied in the diagram. In ethical space the bottom is the realm of the profane, where prudence and temperance rule. The top is the realm of the sacred — of spiritual love, and of faith and hope. Moving up is moving from self-disciplining virtues (prudence, temperance), whose main object is the self, through altruistic virtues, whose main object is others (love of humans; justice), and finally to the transcendent virtues (faith, hope, and love of a transcendent), whose main object are God or physics or the nation. That is, bottom to top is the axis of wider and wider ethical objects.<sup>9</sup>

Prudence and justice in the middle are calculative and intellectual. They have often been thought since Plato and the writers of footnotes to Plato to be the most characteristically human of virtues. They were glorified especially by the hard men of the 17<sup>th</sup> and 18<sup>th</sup> centuries in Europe fleeing from religious faith and

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<sup>8</sup> Aquinas, *Disputed Questions* (1267-72), Art. 1, p. 112 ("The Cardinal Virtues"). By "cardinal" Aquinas meant the four pagan virtues, but he extends the analysis to the theological virtues, too.

<sup>9</sup> Aquinas, *Summa Theologiae*, c. 1270, Iae-Ia Q. 96, art. 3; and Q. 54 art. 2, to which he refers, quoted in Lisska, *Aquinas' Theory of Natural Law*, 1996, p. 285.

hope and love. Immanuel Kant elevated a combination of prudence and justice which he called “pure reason” to the very definition of a human and a citizen.

By the grace of Darwin, however, we now see that calculative virtues are not particularly human. They can be found after all in the least human of beings, in ants justly sacrificing themselves for the queen, or dandelions prudently working through the cracks in the sidewalk. The terminology is of course figurative, a human attribution, not Nature’s own way of putting it. But that is what we are discussing here: human figures of speech, since Nature has no words. Natural history has taught us in the past three centuries, and especially since 1859, to realize that the lion is not actually “courageous,” ever, but merely prudent in avoiding elephants, with a bit of justice acknowledging the hierarchy of the pride.

Courage and temperance are emotion-controlling and will-disciplining, and therefore, we now realize, more characteristically human than prudence and justice. The most human virtues, I say, are those secularized theological virtues, faith, hope, and love, providing the transcendent ends for a human life. The rest--even courage and temperance---are means.

The triad of temperance-justice-prudence near the bottom and middle is cool and classical, and therefore recommended itself in the 18<sup>th</sup> century to early theorists of the bourgeoisie such as David Hume and Adam Smith. Hume called them the “artificial” virtues, following in substance Grotius and Pufendorf, the virtues necessary for the artful making of any community whatever. Temperance, justice, and prudence were of particular interest to men who had seen or had vividly imagined their communities collapsing in religious war and dynastic ambition, of Jesuit and Presbyter, of Habsburg and Bourbon and Stuart. The excesses of faith and hope and the transcendent parts of love had severely spooked the men of the 18<sup>th</sup> century. Both Hume and Smith had witnessed from afar, for example, the Jacobite rising of 1745, with nothing like sympathy – Hume and Smith were not wild Highlanders or Jacobites, and certainly not Catholics, but lowland Scots of a deistic or atheistic bent, who had made their peace with Englishry.

The other, “natural” virtues of courage, love, hope, and faith impart warmth and meaning to an artfully made community. Sometimes too much warmth and meaning. The Scottish followers of Francis Hutcheson admitted love, as benevolence, and admitted courage, as enterprise, but rather off to the side of their main concerns. They certainly had no business with hope and faith-- Hume for example being very fierce against their religious forms, “celibacy, fasting, and the other monkish virtues.” Imparting warmth and meaning was decidedly not what the Scots of the Enlightenment had in mind. That is a later and Romantic project, and these were not Romantics.

Left to right in the diagram exhibits the gendered character of the virtues, masculine and feminine in the conventional tales. Left-right expresses the gender of the ethical actor, or subject. Women of course are supposed

conventionally to think of the world from the perspective of right-side love, or of its corresponding vices, such as envy and jealousy. Men are supposed to think of the world from the perspective of left-side courage, or its corresponding vices of cowardice, vainglory, self-absorption, and so forth. Another name for the right side in the diagram is "connection"; and for the left, "autonomy." Frank Knight, who was more than an economist, believed that even ordinary human desires could be reduced "in astonishingly large measure to the desire to be like other people, and the desire to be different."<sup>10</sup> The theologian Paul Tillich called them "participation" and "individualization," and noted that there is a "courage to be as a part," that is, to participate. Michael Ignatieff called the one side "connection and rootedness" and the other side "freedom": "a potential contradiction. . . arises between our need for social solidarity and our need for freedom." We have rights, which is a good thing, allowing us to achieve our left-side projects of hope and courage regulated by justice. But we need "love, respect, honor, dignity, solidarity with others," Ignatieff notes, on the other, upper-right-hand side, and these cannot be compelled by law.<sup>11</sup> Hence Hume's odd vocabulary of the "natural" as against the "artificial," law-enforced virtues.

The seven are, I claim, a roughly adequate philosophical psychology. You can test their adequacy by imagining a person or a community that notably lacks one of them. A loveless life is terrible; a community without justice is, too. But any full description of the human virtues would do just as well, I am sure. Confucian thought, or Native American traditions, or African traditional law and custom, each have local versions of the Western Seven, too.

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Martha Nussbaum's recent book, *Frontiers of Justice: Disability, Nationality, Species Membership* (2006), attempts to add the love of others to the accepted axioms of political philosophy. It criticizes on this count the strictly Hobbesian/Gauthieresque contractarian's assumption of Prudence Only; or the Lockean/Rawlsian contractarian's Prudence-With-A-Version-of-Justice. In a brief, bumper sticker version of a complicated project, Nussbaum's book is about love-adding: bringing our care for others in at the start. She says that such a supplement will preserve the contractarian program in political philosophy---the masculine "strength" and parsimony of which she sometimes admires---yet yield a civil society in which the severely handicapped, the old, the foreigners in poor countries, and the animals will be treated with appropriate dignity. I admire the project.

Throughout the book she defers to the late John Rawls, whom she evidently loved and esteemed. In criticizing David Gauthier's strict, economic,

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<sup>10</sup> Knight 1922, in Knight 1935, p. 22.

<sup>11</sup> Ignatieff, *Needs of Strangers*, 1984, pp. 17, 15.

Prudence-Only contractarianism, however, she makes a point which undermines Rawls and is I think very important in itself. I want to call it the Nussbaum Lemma:

### **The Nussbaum Lemma**

I think it implausible [she writes] to suppose that one can extract justice from a starting point that does not include it in some form, and I believe that the purely prudential starting point is likely to lead in a direction that is simply different from the direction we would take if we focused on ethical norms from the start (p. 57).

The Nussbaum Lemma is profoundly right, and it is---as she shows in her book---devastating to the project since 1651 of pulling a just rabbit out of a purely prudential hat. You can't get virtue Y from a starting point consisting only of virtue X. Y has to be in from the start. You have to put the rabbits in the hat if you are going to pull them out.

A technical implication, and her point in effect throughout---although as I say she bows respectfully towards Rawls---is that the Nussbaum Lemma applies also to Rawls' argument. Prudence in Rawls is supplemented by the justice-imitating features of the Veil of Ignorance, similar to the Veil of Uncertainty in Buchanan and Tullock.<sup>12</sup> But as can be proven on a blackboard or in actual societies depending on ones intellectual tastes, it is implausible to suppose that one can extract full justice towards the handicapped, the globally poor, or the animals from a starting point that does not include love of others and full justice already, at the start, in some veiled form if you wish. That is Nussbaum's theme.

But another and less friendly technical implication is that the Nussbaum Lemma applies also to her *own* project in the book. *You can't stop*, I say, *with prudence, justice, and love of others*. It is implausible to suppose that one can extract faith, temperance, hope, courage, the fullness of love (including love of nature, say, or science, or God), and other qualities constituting as I have claimed human flourishing from a starting point that does not, in Nussbaum's words, "include them in some form." And it seems likely that attempting to do so will lead in a direction that is simply different from the direction we would take if we focused on ethical norms from the start.

What of it? This: political and economic philosophy needs to be done with all seven of the virtues, not merely with a cleverly axiomatized selection. My point, and hers if she would but admit it, is that to characterize people with one or another of the boy's own "models" said to suffice for theories of justice or politics will not do. Characterizing humans as Prudent Only, or even as prudent and just with love of others, will not do. People also have identities (faith), and projects (hope), for which they need courage and temperance, those self-disciplining virtues, and they all have some version of transcendent love---for God, the traditional object, though as I say science or humanity or the revolution or the environment or art have provided modern substitutes.

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<sup>12</sup> Cite veil talk in Buchanan and Tullock



The usual reply is, as Nussbaum says, that political theory is only concerned with the minimum conditions for a peaceful society. The other virtues are supplementary: thus the terminology of artificial and natural. But the reply does not appear to work. The artificial virtues often need the protection, so to speak, of the natural virtues---after all, that is Nussbaum's point, that a society without love of handicapped children or the foreign poor is flawed; often enough the flaw causes the collapse of the artificial virtues themselves, as when an unloving contempt for animals brutalizes a society's attitudes towards human justice. Likewise, without what James Buchanan calls an "ethic of constitutional citizenship," a constitution originating from the selected, axiomatized virtues of prudence and justice will not survive. That has been the theme of much of Buchanan's work, especially since the 1960s. The implication is that the virtues of faith and courage and hope must somehow arise to protect the constitution of liberty.

In any case, suppose you have in mind a fully flourishing human (or living being, if you include the animals and even the trees). If this is your end, namely, a society consisting of such beings, then your social-scientific means must as Nussbaum says "focus on ethical norms from the start." You have to put the rabbits in the hat. That is, in order to have a society that shows prudence, justice, love, faith, hope, courage, and temperance we need to arrange to have people who are . . . prudent, just, loving, faithful, hopeful, courageous, and temperate "from the start."

The "start" is called "childhood," mostly ignored in Western political philosophy (it is not, by the way, in the Confucian tradition). A political/economic philosophy needs to focus on how we get in the first place the people who are prudent, just, loving, etc., and who therefore would care about the capabilities of good health, emotional attachment, affiliation, etc., or about the appropriate constitutional changes to obviate prisoners' dilemmas, or about the categorical imperative, or about the greatest happiness. This is what feminist economics has been saying now for two decades, and what also comes out of some development [note the word] economics, and even, reluctantly but persistently, out of such unpromising-looking fields as game theory, experimental economics, behavioral economics, the new institutionalism, and constitutional political economy.

The excellent little primer on ethics by the late James Rachels begins with a "minimum conception of morality" underlying any ethical system whatsoever. In describing "the conscientious moral agent" at which the analysis must begin Rachels selects unconsciously from the seven virtues. The conscientious moral agent will be in part "someone who is concerned [love] impartially [justice] with the interests [prudence to discover these] of everyone who is affected [justice, love, faith]. . . ; who carefully sifts facts [prudence again]. . . ; who is willing to 'listen to reason' [justice plus temperance = humility]. . . ; and who, finally, is

willing to act on the results [courage]."<sup>13</sup> Since this is quite an arduous task, a *bonum arduum*, as Aquinas put it, a hard-to-achieve good, he'd better have hope, too.

That is, ethics must *start* from an ethical person imagined as The Ethicist, who turns out to have all seven of the Western virtues. The rabbits are already in the hat. Think of how impossible it would be to come to the conclusions of Kantian or utilitarian or Sen-Nussbaum or Buchanan-Tullock ethics if The Ethicist did not *already* have the character Rachels praises – of concern, impartiality, carefulness, humility, courage, and so forth. Frankly, my dear, he wouldn't give a damn.

The economist Mark White has arrived at a similar conclusion. He says that a Kantian ethical theory posits a prudential and an ethical self, the choice between them being determined by a probability, *p*, that one has the strength of character to follow the ethical self. This seems to fit Kant, and as White points out it also fits John Searle's notion of a "gap" in decision-making allowing for free will; one is reminded, too, of Stuart Hampshire's account of free will. But White realizes that something is fishy. "Is the probability distribution, representing one's character, exogenously given? Though that would make things much simpler, I should think not; it is crafted by our upbringing, and even to adulthood one can act to improve his character. Of course, this begs the question: to what goal or end does one improve character?" His reply is that "in the Kantian model . . . we assume that a rational agent's true goal is to be moral."<sup>14</sup> But that is the goal of being a virtuous person. The argument is circular.

Annette Baier made a related point about characteristically male ethical theories. "Their version of the justified list of obligations does not ensure the proper care of the young and so does nothing to ensure the stability of the morality in question."<sup>15</sup> It is not merely a matter of demography. It is a matter of more fundamental reproduction, as the Marxists say. Somehow the conscientious moral agent assumed in the theories of Descartes and Kant and Bentham and Buchanan and Rawls and Nussbaum must appear on the scene, and must keep appearing generation after generation. "The virtue of being a *loving* parent must supplement the natural duties and the obligations of [mere] justice, if the society is to last beyond the first generation." Imagine a human society with *no* loving parents. We have some examples in children war-torn and impoverished, boy soldiers or girl prostitutes. One worries – perhaps it is not so – that the outlook for them becoming conscientious moral agents is not very good.

What is required for *any* ethics is, in other words, a conscientious moral agent, a virtuous person. Virtuous: namely, having the seven virtues in some

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<sup>13</sup> Rachels, *Elements*, 1999, p. 19.

<sup>14</sup> White, "A Kantian Critique," 2005, p. 15.

<sup>15</sup> Baier 1994, p. 6.

idiosyncratic combination. Kant himself said this. In his *Reflections on Anthropology* he praised “the man who goes to the root of things,” and who looks at them “not just from his own point of view but from that of the community,” which is to say (wrote Kant), *der Unpartheyische Zuschauer*, which as it happens is precisely the German translation of Adam Smith’s ideal character from whom all virtues are said to flow, the Impartial Spectator.<sup>16</sup> Adam Smith’s system in *The Theory of Moral Sentiments* was the last major statement of virtue ethics before its recent revival. Especially in Part VI, added in 1790, he reduced good behavior to five of the seven virtues: prudence, justice, love (“benevolence”), courage (“fortitude”), and temperance (the last two being “self-command”).<sup>17</sup> Hope and faith are absent, as monkish, but the ideal bourgeois he praises in the early pages of Part VI has them anyway in secular form, as Smith did in his own life.

By admitting that *der Unpartheyische Zuschauer* begins his system, Kant undermines it, since the impartial spectator is not *derivable* from maxims. His system is supposed to ground everything in maxims that a rational being would necessarily follow. It doesn't. What Peter Berkowitz said about Kant's political philosophy could also be said of his ethical philosophy, that he "makes practical concessions to virtue and devises stratagems by which virtue, having been formally expelled from politics, is brought back in through the side door."<sup>18</sup> Or as Harry Frankfurt puts it,

There can be no well-ordered inquiry into the question of how one has to reason to live [such as Kant's], because the prior question of how to identify and to evaluate the reasons that are pertinent [that is, those favored by a conscientious moral agent, the Impartial Spectator] in deciding how one should live cannot be settled until it has first been settled how one should live. . . . The pan-rationalist fantasy of demonstrating from the ground up how we have most reason to live is incoherent and must be abandoned.<sup>19</sup>

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You might well say to all this philosophical heavy lifting, Valley-Girl style, "Duh! We need to raise children with ethical values? People need to be good already in order to want to be good? Double duh!" I agree. But the intellectual tradition of economists and calculators does *not* wish to acknowledge---especially at the start---all the virtues in a flourishing being. It wants to start

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<sup>16</sup> The passage is noted and the identification with Smith asserted by a German translator in 1926 of *The Theory of Moral Sentiments*, Walther Eckstein, quoted in Raphael and Macfie, eds., “Introduction,” to *Theory* (ed. of 1976), p. 31.

<sup>17</sup> Smith 1759 (1790), *The Theory of Moral Sentiments*, Part VI, section iii, para. 1-3 (p. 236 of the Oxford edition, 1976).

<sup>18</sup> Berkowitz 1999, “Introduction,” at <http://www.pupress.princeton.edu/chapters/i6565.html>.

<sup>19</sup> Frankfurt, *Reasons of Love*, 2004, pp. 26, 28.

simply, with a nearly empty hat, such as “Pareto optimality,” and then pull from it a complex ethical world. It wants to reduce the virtues to one, ideally prudence, and derive the other virtues, such as a just polity, from the prudence. It does not want to talk about how we arrange to have on the scene in the first place an ethical actor who by reason of her upbringing or her ongoing ethical reflection wishes the greatest happiness for the greatest number, or the application of the categorical imperative, or the following of constitutional instructions from behind a veil of ignorance.

Amartya Sen and Martha Nussbaum have long advocated a minimum standard of human flourishing called “capabilities.” It is a rich and Aristotelian list:

#### How Nussbaum’s List of Capabilities Lies Down on the Seven Virtues

Not dying prematurely	Justice
Good health	Justice, temperance
Secure against assault	Justice,
Use of imagination	Hope, justice, courage
Emotional attachment	Love, faith
Practical reason	Prudence, hope, faith
Affiliation	Love, justice
Love of other species	Faith, temperance
Play	Courage, hope
Political and economic rights	Justice

Source: Nussbaum 2006, pp. 76-78

Justice figures in so many of the capabilities because Nussbaum wants them to be liberal-political, that is, agreeable to all, the result of an “overlapping consensus,” as the liberal tradition and Nussbaum express it. Such artifice will require of course an other-respecting virtue named something like “justice.”

But notice: in order to have the disposition to work for this or that capability *one has to have at the start the virtues to wish to do so*. It is *not* enough to rely on prudence or justice or even love of others. Adam Smith writes in a well-known passage that if *love* for our fellow humans was all we had to depend on, then the extermination of the Chinese would trouble us less, really, than the loss of a little finger.<sup>20</sup> It takes a sense of abstract justice, he argued, a virtue separate from love and not translatable into it, to want to give a damn for a strange people whom you have never seen and whom you can never love. The moral sentiment of justice impels the man within to scold a self that is so very selfish as to save the finger rather than the entire race of Chinese. “What is it,” he asks, “which prompts the generous upon all occasions and the mean upon many to sacrifice their own interests to the greater interests of others? It is not. . . that feeble spark

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<sup>20</sup> Smith, *Moral Sentiments*, 1759 (1790), Part III, Chp. iii, para. 4, p. 136. Compare Rousseau *Political Economy*, 1755, p. 121.

of benevolence. . . . It is reason, principle, conscience, the inhabitant of the breast. . . . The natural misrepresentations of self-love can be corrected only by the eye of this impartial spectator."<sup>21</sup> But the same can be said of the other virtues. It takes a character of hope to have an interest in constitutional reform. It takes a character of faith to worry about the corruptions of Me-ism in American society. It takes a character of courage to stand against the Northeastern establishment in intellectual life. Characters---not wind-up toys of Prudence Only, or even prudence with a version of justice---should be in the theory at the start. The hat needs to be full.

Economics since Bentham, and in sharp opposition to Smith, has been by contrast the pure theory of prudence. Econnowannabes like political scientists and political theorists get excited when economists suggest that *all* you need is prudence. If the theorists find they can't get away with Prudence Only they add a mechanism in Rawlsian style to imitate justice. If they find they can't get away with that, they add love of others, as Nussbaum does.

I say that all this "if they can't get away with" suggests, just as the Nussbaum Lemma avers, that the project is mistaken. It is *not* a good idea to start with a parsimonious (i.e. Platonic) description of human beings. There is no "strength" in Ockham's Razor. *Essentia non sunt multiplicanda praeter necessitatem*: Essences must not be multiplied more than is necessary. All right, yes, I agree: not more than is *necessary*. But the Seven Virtues, or some other rich, Aristotelian description of the flourishing life, *are* each of them necessary---to get *der Unpartheyische Zuschauer*, to get capabilities, to get a constitution under which we want to live.

A Virtue-Ethical Theorem seems to follow from Nussbaum's Lemma. *Looking at the matter in the Nussbaum-Lemma way undermines invisible-hand arguments*, which have so fascinated us since Mandeville. They do not entirely undermine them. I am not suggesting that we abandon the insights we gain from thinking of ethics at two levels, the individual and the society, and asking how the one level relates to the other.<sup>22</sup> Relating one level to the other is an important merit of the Virginia School, of constitutional political economy---though the School tends to want to get along on Prudence Only. As Smith said in *The Theory of Moral Sentiments*, to start where Mandeville starts, with selfish prudence only, will not produce humans.<sup>23</sup>

Oddly, the so-called Theorem reinstates an older and simpler view of how to go about political philosophy. The wider our list of virtues for flourishing, the wider our list of capabilities, the more rabbits we have to put into the hat at the outset, the stronger is the Nussbaum Lemma. And therefore the more and more

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<sup>21</sup> Smith, *Wealth*, 1776, III.3.5, p. 137. I wish he hadn't said "reason," which makes the passage sound Kantian.

<sup>22</sup> I myself need to do it more than I have; and will in the next book on the bourgeois virtues.

<sup>23</sup> Smith, *Theory of Moral Sentiments*, VII, ii, 4.6-13, pp. 308-313 of Oxford edition.

implausible does it become that some "immensely simple theory" (as Bernard Williams once put it) will turn out to give a livable human society, as though from an invisible hand.<sup>24</sup> Or a hat. In other words, the civic republican notion that the way to have a good society is to arrange somehow to have a bunch of good people---which in the light of invisible hand liberalism seems insufficiently social scientific ---turns out to be much more plausible and scientific than we liberals thought. My "theorem" is that the more seriously we take full human flourishing the more true becomes Orwell's apology for Dickens' ethic: "'If men would behave decently the world would be decent' is not such a platitude as it sounds."<sup>25</sup>

In still other words, an economics that takes human flourishing seriously should start with the virtues ---and finish with them, too, since by the Nussbaum Lemma they end up pretty much the same, *and that is what we want in humans*. To put it in terms that begin to edge towards Virginia Political Economy, the seven virtues are what a flourishing individual wants for herself; it is what she chooses, when she has the capability to choose.

All the necessary virtues. Not Prudence Only in Benthamite style, of course. Nussbaum and Buchanan and I start from that anti-utilitarian assumption. But also not prudence and a version of justice by themselves (Rawls); or prudence and another version of justice (Buchanan and Tullock); or prudence, a version of justice, and the human side of love (Nussbaum). It is humans who make and honor constitutions, not partial monsters. All seven virtues need to be there at the start, which is to say there in the adults who participate in politics and society and the economy: prudence, to be sure; and justice; and love of others; but also temperance, courage, hope, faith, and love for a transcendent such as the Good or, with one letter left off, God.

There is no point to the modern (post Machiavellian/Hobbesian) reduction of the theoretical project to a simple few of the virtues. The simple few lead to societies in which free riding is rampant. If we want flourishing people we need to raise up virtuous people. It's not such a platitude as it sounds.

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Nussbaum's book has a practical side, which is good; but her practicalities repeat the errors of collectivism, which is bad. The Virginia School offers a solution.

Nussbaum notes that in 1992 the ratio of income in the richest country as against the poorest was 72. Before modern economic growth it was much lower--3 to 1, for example (Nussbaum 2006, p. 224). The right way to look at this fact, I believe, is not to get angry at the rich countries, which is the underlying tone of

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<sup>24</sup> Williams, *Ethics* 1985, pp. 197, 127.

<sup>25</sup> Orwell, "Charles Dickens," 1940, pp. 150-151.

Nussbaum's book, but to lament that the poor countries have not joined the rocket of modern economic growth. The right away to confront it at the level of policy is to urge the countries to do so: to adopt the reasonably free economies, the reasonably honest courts, and the reasonably non-extractive governments that seem to cause economic and political success in the modern world, and to allow for the reasonably long run in which such institutions work. Cases like East and West Germany, or North and South Korea, or Mao's China and Hong Kong appear to show that activating governments to intervene more closely in the economy is not the solution. Rather the contrary.

Economic growth depends overwhelmingly on *internal, domestic* forces. Nussbaum treats the articulation of such a truth as though it were an ethical failing. She is scandalized by Rawls' economic libertarian assertion that "the causes of the wealth of a people and the forms it takes lie in their political culture and in the religious, philosophical, and moral traditions, . . . as well as in the industriousness and cooperative talents of [a people] . . . , all supported by their political virtues."<sup>26</sup> She replies that colonialism, "the international economics system, and the activities of the multinational corporations" are important reasons why poor countries are poor. It is in their stars, not in their selves.<sup>27</sup>

The scientific truth is that mostly the enrichment of a country like England since 1780 or Japan since 1860 or Korea since 1953 has depended on English and Japanese and Korean people making investments out of their own consumption and allowing trade among themselves and thinking up new ways to do things. Imperialism was a bust. Foreign trade was not an engine of growth. Foreign investment was greatly exaggerated as such an engine. And foreign aid most assuredly has not been one. There is a good deal of confusion about this. The Japanese themselves, for example, are persuaded that having a balance of payments surplus with the rest of the world should be the purpose of Japanese policy. All the policy does is give Americans Toyotas in exchange for engraved portraits of George Washington, to the disadvantage of the courteous Japanese.

An economist could tell Nussbaum that in particular a redistribution from North to South on which she places such hopes, "substantial material redistribution across national boundaries" (p. 242), is not the solution. "Giving all human beings the basic opportunities on which we have focused will surely require sacrifice from richer individuals and nations" (p. 273). No, it will not. What giving all human beings the basic opportunities requires is that presently

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<sup>26</sup> Rawls 1999, *The Law of People*, p. 108, quoted in Nussbaum 2006, p. 239-40. Buchanan writes that "Rawls must be classified as a more *laissez faire* theorist than [Adam] Smith." A minimum wage, Buchanan says, "would clearly be 'unjust' under either Rawlsian or Smithian criteria." "John Rawls is far from the 'defender of the liberal welfare state' that he has been made out to be" (Buchanan, 1976, "The Justice of Natural Liberty," in *Collected Works*, Vol. 1, p. 301, 302, 304).

<sup>27</sup> Nussbaum 2006, p. 240. And likewise pp. 225, 236, 240, 258, 262, 266, 277, 306, in which multinational corporations are said to be bad for people.

poor countries join the modern economic world, which is *not* a matter primarily of gifts from the North to the South. Nussbaum favors the Scandinavian 2% Rule, that is, giving 2% of your national income as foreign aid (pp. 316-317). "The precise figure is debatable; the general principle is not" (p. 317).

I should like to know why it is not debatable. It is surprising that Nussbaum does not mention that foreign aid has been a failure. Countries with large amounts of aid (Ghana, for example) have not developed; countries with none (Hong Kong again) have. And a great deal of government-to-government aid has gone to support the party or the big man in power.<sup>28</sup> The current big man in Nigeria is known to some of his enemies as ITT: "International Thief Thief." As William Easterly notes in his latest book, over five decades the North has given \$2.3 trillion to the South, with no result. The fastest growing country is aidless China.

Nussbaum remarks that "many nations of the world do not have governments that represent the interest of the people taken as a whole" (p. 233). That is to put it mildly. See China. Even the nations viewed conventionally as having such governments---France and the United States, for example---have in fact governments run for the interest of Iowa farmers, Parisian and Washingtonian civil servants, graduates of elite *grandes écoles*, and Texas oil companies, not the regular Jill or Jacques. "One of the things people themselves might actually want out of international relations is help in overthrowing an unjust regime."<sup>29</sup> Yes. That would probably be a more productive investment than government-to-government money "for" elementary schools that ends by making the big man's bank account in Switzerland bigger.

I affirm that certain capabilities are necessary. It really is necessary, for example, that people (and especially for instance women) become minimally educated. No amount of TV sets or Fritos can substitute for the ability to read a rental contract and to write a job application, not to speak of the minimal literacy for participation in politics. I worry, though, that using the governments we actually have to achieve capabilities is to ride the back of a tiger. A government strong enough, like Kemal Atatürk's in the 1920s, to impose equality for women, say, is also a government strong enough to corrupt the collection of government revenues. Atatürk did not. But it is imprudent to depend on poor countries getting an Atatürk or a Nelson Mandela or a George Washington just when they need them. More usually they get a Marcos or a Nkrumah.

When Nussbaum says that it is a good idea to "assign the responsibility for promoting others' well-being (capabilities) to institutions" I really do stand amazed. I wonder what sweet "institutions" she is talking about. The American

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<sup>28</sup> William Easterly, *The Elusive Quest for Growth: Economists' Adventures and Misadventures in the Tropics* (Cambridge: MIT Press, 2001) and *The White Man's Burden: How the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good* (London: Penguin, 2006).

<sup>29</sup> Nussbaum 2006, p. NNN



Internal Revenue Service? The French riot police? The Federal Bureau of Investigation? The institutions of American foreign policy under Bush II? It all seems a trifle twee, as the British say. As Buchanan puts it in 1992, “the idealist-utilitarian mindset . . . imposes its intellectual straitjacket on many,” for example on Martha Nussbaum.<sup>30</sup> An ideal government, consisting perhaps of the better Swedish civil servants, is imagined to stand ready to engineer life in Calcutta or Chicago.

On the contrary, some of us think that a big modern government is a ravenous leviathan, or a band of robbers into whose clutches we have fallen. And short of these libertarian nightmares, as Buchanan noted in 1978, it is anyway clear that the extension of the *res publica* that Nussbaum and other communitarians advocate *creates* what economists call a fisheries problem. A gigantic government---and modern governments in places like France or the United States are “gigantic” in their abilities, historically speaking---is a public pond in which K Street maximizers and French public-sector trade unions can go fishing.

The theorist surely has some responsibility to tell how such “institutions” will do the trick in the world as it actually is. Suppose we admit what is correct, that the most successful method of increasing the Sen-Nussbaum capabilities has been economic growth (Nussbaum denies this, for example on p. 282; Sen does not). Well. Are actual governments able to deliver modern economic growth? I do not think so. They can provide what Adam Smith advocated, such as defense and elementary education and the law of contracts, his list of capabilities. And then they can get out of the way, as they have recently in China and India. Maoist central planning and the Great Leap Forward in China, or five-year plans and the License Raj in India, did less than nothing for the inhabitants. Nussbaum notes correctly that an advantage of the capabilities approach is that it focuses “from the start on what people are actually able to do” (p. 290). I wish she would exhibit the virtue of prudence in the theorist and focus from the start on what *governments*, or those “institutions” she hopes so much from, are actually able to do.

The axiom of good will is popular in liberal circles (by the American definition of “liberal,” I mean). It is: “if a policy is advocated with good will it is OK.” No it isn’t. Drug laws are advocated with good will, we may for the moment suppose. But they have ruined the lives of millions of Americans, especially Americans of color, and have corrupted every police force from Kabul to Kansas City. The advocacy of utopias in a fallen, second-best world is mischievous, not OK. That was Ronald Coase’s point, to mention another of the Virginia School. To “assign to humanity generally the duty of realizing these entitlements” (p. 291) makes us feel good. But it doesn’t accomplish anything else. If governments are on the whole corrupt and corrupting---as they are even

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<sup>30</sup> Buchanan 1992, “Better Than Plowing,” *Collected Works*, Vol. 1, p. 17

in countries with pretty good governments: see the sad history of American road construction or of Italian anti-mafia laws---then recommending that governments implement universal sisterhood is not efficacious. A social theorist concerned about real social problems, as Nussbaum is, has a responsibility to be efficacious. If, as Nussbaum notes, her purpose is *political*, that is, to achieve capabilities in real political communities, then her arguments should be. . . political.

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A vivid realization that we need to talk about politics as it actually is, I say, is the great merit of the so-called public choice, or Virginia, school in economics and politics and political theory, that of James Buchanan and Gordon Tullock and their many colleagues. The school asks what governments can in fact do, considering that the governors have their own agendas---for example, the acquisition of large and secret bank accounts in Switzerland, and the monopoly of violence at home to achieve them. Buchanan and friends are the reply to Nussbaum's hazy nostalgia for collectivism.

But remember the Nussbaum Lemma and the Virtue-Ethical Theorem. Is a full ethics missing?

"The Madisonian vision, with its embodied ethic of constitutional citizenship," Buchanan noted in one of his elegiac pieces after the 1960s, "is difficult to recapture once it is lost from the public consciousness."<sup>31</sup> Of course it is easier to have the ethic of a constitutional citizen if one is involved, as Madison and his founding brothers were, in making and defending an actual, new constitution. Still, Buchanan is rightly advocating an appreciation of constitutional issues, as against a game of maximizing within a given constitution, which he believes characterizes the Me Generation. He notes over and over again in his work that "if we [in Prudence-Only style] are considering games with effectively large numbers of players, there may exist little or no incentive for any single player to participate actively in any serious evaluation of the rules," that is, the constitution of the game.<sup>32</sup> There is no point in voting in a large election if casting the vote costs even a tiny inconvenience, five minutes to go to the polls, or a spot of rain, or a long line. He concludes that "participating in the discussion of constitutional rules must reflect the presence of some ethical precept that transcends rational interest for the individual."<sup>33</sup>

Bingo. Suddenly we are back in an ethical world. "We remain," Buchanan wrote in 1992, "ethically as well as economically interdependent."<sup>34</sup>

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<sup>31</sup> Buchanan 1989, "The Ethics of Constitutional Order," *Collected Works*, Vol. 1, p. 372.

<sup>32</sup> Buchanan 1989, "The Ethics of Constitutional Order," *Collected Works*, Vol. 1, p. 370.

<sup>33</sup> Buchanan 1989, "The Ethics of Constitutional Order," in *Collected Works*, Vol. 1, p. 371.

<sup>34</sup> Buchanan 1992, "The Supply of Labor and the Extent of the Market, in *Collected Works*, Vol. 1, p. 359. By the way, let me mention here a technical objection to the case he makes in the essay -- finding himself in agreement, startlingly, with such men of the left in economics as Nicolas Kaldor and Martin Weitzman---that inducing

The most obvious sort of ethical precept, other-regarding, may not do the trick, in the middle reaches of the virtue diagram: "The individual may be truthful, honest, mutually respectful, and tolerant in all dealings with others; yet, at the same time, the same individual may not bother at all with the maintenance and improvement of constitutional structures."<sup>35</sup> He plays checkers with a good will, but does not enter into the question whether the 10 x 10 board is better than the (long-solved) 8 x 8 board. In other words, Buchanan's idea of "constitutional citizenship" is a transcendent ethic, at the top of the diagram of the virtues. We vote because we have faith in the traditions of American democracy or hope for its future, not because we irrationally expect to influence the outcome of a senatorial campaign in which 5 million other citizens of Illinois are voting.

In 1989 Buchanan wrote that "Each one of us, as a citizen, has an ethical obligation to enter. . . into an ongoing . . . constitutional dialogue."<sup>36</sup> But where does the inclination to fulfill our obligations come from? Not, as Buchanan shows repeatedly, from Prudence Only. He wrote in 1978 that "*Homo economicus* has assumed. . . a dominant role in modern behavior patterns."<sup>37</sup> He attributes the sad slip towards Prudence Only to larger polities, national politics (the K Street fishery again), and the "observed erosion of the family, the church, and the law" (remember: it's 1978). Is that right?

Buchanan is the greatest student of Frank Knight. Like Knight, he is a theologian who dismisses theologies. He has a tragic, Protestant vision, as Robert Nelson has described it.<sup>38</sup> We are sinners in the hands of an angry God, who has arranged all sorts of prisoners' dilemmas and free-riding problems to stand in the way of a second Eden that the naïve believers like Nussbaum and McCloskey think are attainable. We may not in fact be among the elect. The more there are of us, the further we get from small communities, the more likely is damnation. As early as 1965 Buchanan was asserting that "the scope for an individualistic, voluntaristic ethics must, of necessity, be progressively narrowed."<sup>39</sup> In 1978 he exclaims in anguish, "Is not man capable of surmounting the generalized public goods dilemma by moral-ethical principles

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people to enter markets rather than staying at home reaps gains for all in the division of labor. The theorem applies only to internationally or regionally non-traded goods: *these* (such as elementary education or sewerage or policing or the local theatre scene) must exhibit the non-convexities he speaks of. Entry that allows international or regional specialization, and more and more so in the modern world, exhausts the gains from the division of labor in making automobiles and steel and wheat that Buchanan expects from inducing housewives to get a market job.

<sup>35</sup> Buchanan 1989, "The Ethics of Constitutional Order," in *Collected Works*, Vol. 1, p. 371.

<sup>36</sup> Buchanan 1989, "The Ethics of Constitutional Order," in *Collected Works*, Vol. 1, p. 369.

<sup>37</sup> Buchanan 1978, "Markets, States, and the Extent of Morals," in *Collected Works*, Vol. 1, p. 366.

<sup>38</sup> Cite Nelson

<sup>39</sup> Buchanan 1965, "Ethics Rules, Expected Values, Large Numbers," in *Collected Works*, Vol. 1, p. 327.

that will serve to constrain his proclivities toward aggrandizement of his narrowly defined self-interest?" But immediately he answers, No, not under the large-polity conditions of modern governments.

The underlying dilemma that Buchanan has been worrying about for so long is that although private goods are best provided in anonymous markets, public goods are best provided in face-to-face communities, two people playing checkers or two people married, or a small town in Tennessee. It is the classic dilemma of modern public finance, noted by Wicksell and the Italians and James Buchanan. The only solution is ethical, and Buchanan is not optimistic about getting it.

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But the paradox in economists like Buchanan or Tullock, and my criticism of the Virginia School, is that the *ethical* change they advocate to solve the large-polity problem---or the change in institutions supported by a change in ethics---is undermined by the very Prudence-Only framework they bring to the task. That is, *the rhetoric of Prudence Only corrupts the public discussion of getting beyond Prudence Only.*

One of Buchanan's contributions to Prudence-Only theorizing, for example, was his 1975 paper, "The Samaritan's Dilemma," arguing that the Samaritan has every incentive to "pass by on the other side," especially if the road is thronged with passers by. But the Samaritan in the gospel of Luke (10:33-34) did not do so, for reasons that had precisely nothing to do with prisoner's dilemmas or Prudence Only. That of course is the point of the parable. Suppose everyone around the Samaritan, and especially his professor of economics, was saying, "Why be a sucker? Only a fool would bother, under Prudence-Only ethical rules. Come on, Samaritan, pass by on the other side." That is the effect, I say, of 200 years of Benthamism in economic discourse

Why *do* we talk about ethics? Because we are exchanging persuasions in the way we exchange goods. Adam Smith spoke of the "propensity to truck, barter, and exchange," which Buchanan wishes to place at the center of economics, as arising from the faculty of reason -- so much for Prudence Only and the reason half of the Enlightenment project. But Smith added, and believed, "*and the faculty of speech*," which is the other, freedom half, the matter of persuasion's role in the economy, ignored after his death.<sup>40</sup> We are, as Smith said, orators through our lives. We preach. And what we preach is the seven virtues.

Buchanan complains about "lawyers [turning to] economic theory for new normative instructions," by which in 1978 he probably meant the then Professor,

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<sup>40</sup> Smith, *Wealth*, 1776, Chp. 2 of Part I, second paragraph, p. 25, italics added. Compare Deirdre McCloskey and Arjo Klamer, "One Quarter of GDP is Persuasion," *The American Economic Review* 85 (2, May 1995): 191-195.

soon to be Seventh Circuit Court of Appeals Judge, Richard Posner.<sup>41</sup> But what has given Posner his influence (I mean aside from his crushing if misled energy and brilliance) is his retailing of just those theories of Prudence Only to which James Buchanan and Gordon Tullock and numerous of their colleagues have so notably contributed.

We need, obviously, direct ethical change. Only that will protect the constitution, or result in wide capabilities, or a society of love. Buchanan dismisses direct ethical change with the anti-clerical's sneer: "Rather than hope for a 'new morality,' I shall focus on the potential for institutional reform that may indirectly modify man's behavior towards his fellows."<sup>42</sup> Hard-nosed and practical. No preacherly talk of ethical conversion.

But institutional reform, in turn, is only possible if we stop speaking of people as I'm-All-Right-Jack maximizers and start insisting that they are complete ethical beings. The change in professors' talk won't of course suffice. Other people need to adjust their rhetoric to an ethical world. But it will help. John Adams doubted "whether there is public Virtue enough to support a Republic"; yet James Madison expected political competition, like economic competition, to make it "more difficult for unworthy candidates to practice with success the vicious arts by which elections are too often carried."<sup>43</sup> Adams stands for a civic republicanism depending on individual virtue, Madison for a liberalism depending à la Buchanan and Tullock on constitutional structures. Either individual virtue *is* necessary for the polity to thrive, or else ingenious structures can offset the passions with the interests. I suggest that the only way we are going to get the ingenious structures of Madison is in a polity with the public virtue of Adams, and the only way we are going to get that is to start talking about it. All right: "preaching." Since when has urging virtue on our friends been a bad idea?

The analogy in ethical theory is the difference between act utilitarianism and rule utilitarianism. Buchanan's example of playing of a game within a given set of rules is act utilitarianism, and as he has been explaining to us for 50 years act utilitarianism has great problems. In a game of chess, for example, do you cheat when your opponent goes to the bathroom? The monster of Prudence Only assumed in most economic theorizing would. So, says Buchanan, we have to rise to the level of *rule* utilitarianism. We formulate for ourselves and others by mutual agreement some extensive rules of the game. No cheating. A bishops

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<sup>41</sup> Buchanan 1978, "Markets, States, and the Extent of Morals," in *Collected Works*, Vol. 1, p. 366.

<sup>42</sup> Buchanan 1978, "Markets, States, and the Extent of Morals," in *Collected Works*, Vol. 1, p. 360.

<sup>43</sup> Compare Prindle, *Politics and Economics*, 2003, pp. 98, 70.

moves on the diagonal. No taking out a .38 and threatening our opponent. It is Hobbes' and Locke's or Rawls' or Buchanan and Tullock's social contract.<sup>44</sup>

*But why would anyone follow the social contract?* The answer is not, as Hobbes supposed, Prudence Only. The answer is Buchanan's "constitutional citizenship." But this in turn must be supported by a third level, above the rules and constitutions, namely, educated character. *Ethos*. Ethics.

I can put it in a little table, where the two later levels solve the problem of the earlier one:

The ethical level of ↓: recommends		
	as social policy ↓:	but leaves unsolved the problem of ↓:
act utilitarianism	central planning, Bergson/Samuelson welfare economics	rent seeking, selfish interests
rule utilitarianism	constitutional change	motivating the changers
ethics	policies to get virtuous people	how exactly to do this

Buchanan sometimes rejects ethical reasoning in terms that echo the so-called "emotivism" of logical positivism and other hard-nosed theories, such as Hobbes' in 1651: "Good and evil are names that signify our appetites and aversions."<sup>45</sup> In 1975 Buchanan disdained ethical discussion as "pure escapism; it represents empty arguments about personal values which spells the end of rational discourse." We must proceed "on the presumption that no man's values are better than any other man's."<sup>46</sup> I don't think he could really have meant this.

Emotivism is also called the "hurrah-boo" theory, and many "realist" thinkers, which is not Buchanan's party, have really meant it. Ethical and aesthetic preferences, Oliver Wendell Holmes, Jr. wrote in 1902, are "more or less arbitrary. . . . Do you like sugar in your coffee or don't you?"<sup>47</sup> Hurrah. In the

<sup>44</sup> Buchanan 1987, "Justification of the Compound Republic: The *Calculus* in Retrospect," in *Collected Works*, 16, p. 73.

<sup>45</sup> Hobbes, *Leviathan*, 1651, I, Chp. 15, p. 82; and I, Chp. 6, p. 24.

<sup>46</sup> Buchanan 1975, "Boundaries on Social Contract," in *Collected Works*, 16, p. 89.

<sup>47</sup> Holmes, letter to Lady Pollock, Sept. 6, 1902, *Holmes-Pollock Letters*, Vol. 1, p. 105.

same year: "Our tastes are finalities."<sup>48</sup> Boo. In the fourth year of the Great War he wrote to Harold Laski, "When men differ in taste as to the kind of world they want the only thing to do is to go to work killing."<sup>49</sup>

The problem is the word "taste," with its invocation of considerations more or less arbitrary, sugar in your coffee, hurrah-boo. Joseph Schumpeter of Vienna and Harvard expressed an ethical philosophy along similar lines: "We may, indeed, prefer the world of modern dictatorial socialism to the world of Adam Smith, or vice versa, but any such preference comes within the same category of subjective evaluation as does, to plagiarize Sombart, a man's preference for blondes over brunettes." Hurrah-boo. Thus also Lionel Robbins of the London School of Economics at about the same disturbed time: "If we disagree about ends it is a case of thy blood against mine — or live and let live, according to the importance of the difference, or the relative strength of our opponents. . . . If we disagree about the morality of the taking of interest . . . , then there is no room for argument."<sup>50</sup> And a fount of this attitude, Bertrand Russell: "As to ultimate values, men may agree or disagree, they may fight with guns or with ballot papers, but they cannot reason logically."<sup>51</sup> Russell certainly didn't.

Emotivism is "the doctrine that all evaluative judgments and more specifically all moral judgments are *nothing but* expressions of preference."<sup>52</sup> Emotivism, observe, taken as a doctrine one *should* believe, is of course self-contradictory, since preaching against preaching is preaching. But logic is not a strong point among the emotivists or the logical positivists.

I am saying that there is a tension in Buchanan's thought, this lack of comfort with ethical thinking in a man very given to . . . ethical thinking. Like Frank Knight, he is a highly ethical thinker, "admittedly and unabashedly" celebrating, for example, constitutional political economy precisely for its "rationalization purpose or objective."<sup>53</sup> He is not by any means the laughing amoralist that Schumpeter pretended to be. The judgment about dictatorial socialism is decidedly not in Buchanan's ethical world a preference more or less arbitrary, hurrah-boo.

Let me put the point another way. A paper by Buchanan and Viktor Vanberg in 1991 declares that people's preferences have but two components, theories and interests. "A person may oppose the imposition of a highway speed limit because it is predicted to be unenforceable (a theory-component) or because

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<sup>48</sup> Holmes, *Address . . . at the Dedication of the Northwestern University Law School Building*, quoted in Alschuler, *Law Without Values*, 2000, p. 24.

<sup>49</sup> Holmes, *Holmes-Laski Letters*, Dec 3, 1917, quoted in Luban 1992, p. 244.

<sup>50</sup> Robbins, *Nature and Significance*, 1932, p. 134. Sen says that such a view was "quite unfashionable then" (Sen, *Ethics and Economics*, 1987). Not I think among the reigning *fashionistas* of 1932.

<sup>51</sup> Russell, *Education and the Social Order*, quoted in James F. Perry, "The Dream Hypothesis, Transitions, and the Very Idea of Humanity," at <http://www.bu.edu/wcp/Papers/Teac/TeacPerr.htm>.

<sup>52</sup> MacIntyre, *After Virtue*, 1981, p. 11, his italics.

<sup>53</sup> Buchanan 1975, "Boundaries on Social Contract," in *Collected Works*, 16, p. 88.

he or she enjoys driving at high speeds (an interest-component)."<sup>54</sup> That is mistaken. There is also an *ethical* component: "High speed is good for the human spirit," say, or "No government should interfere." It seems apparent that human preferences are much affected by ethical reasonings. The ethical component often has nothing to do with the person's own pleasures---she may not know how to drive, for example, or herself be terrified by high speed, but nonetheless advocates the right to high speed for others.

The reason the third, ethical component matters is that the veil-move in contractarian philosophy is supposed to leave only the theory component, what Buchanan and Vanberg call "the knowledge problem," since one does not know where one's interests will be located in the rule-guided world thus enacted. But that is mistaken. The veil does take away interest. But it leaves theories *and ethics*, a knowledge problem *and an ethical problem*.

Buchanan had earlier written that it would be "empty to evaluate imagined social states without consideration of the structure of rights, or rules, that may be expected to generate them."<sup>55</sup> It is what he and I would agree is wrong in Martha Nussbaum's brave book. We can call it the Buchanan Lemma. But as in Nussbaum's case, it applies to the very writer in question. Nussbaum returns the critical favor. It would be empty to evaluate imagined constitutions without consideration of the structures of ethics that may be expected to generate them.

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So I am advocating what can be conceived of as the next step in Nussbaumian capabilities or the next step in Buchananesque constitutional reform: namely, taking all the human virtues seriously. You could call it a humanistic economics. It is the "second-stage classical economics" that Vivian Walsh recently advocated.<sup>56</sup> It is the program of the blessed Adam Smith.

My own reasoning, I am very willing to admit, has its own unresolved problems, chiefly: by what mechanisms do I imagine that the next ethical step will take place? If our hope must rest partly in ethical change, what is the basis for the hope?

I would reply that one small contribution we economists can make is to stop talking of Prudence Only as the ideal constitution of liberty. It is not, and we economists and calculators have done damage by obsessing on it all these years since Paul Samuelson first mathematized it, or since Jeremy Bentham first formalized it, or since Bernard Mandeville first put it into verse, or since Hobbes first declared it the natural law of humans, or since Machiavelli first suggested it

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<sup>54</sup> Buchanan and Vanberg 1991, "Constitutional Choice, Rational Ignorance and the Limits of Reason, in *Collected Works* 16, p. 128.

<sup>55</sup> Buchanan 1975, "Individual Rights, Emergent Social States, and Behavioral Feasibility," in *Collected Works*, 16, p. 208.

<sup>56</sup> Vivian Walsh 2000, 2003, *Review of Political Economy* **full cite**



to the prince. Amartya Sen was among the first Samuelsonian economists to deconvert; Buchanan already was suspicious of Prudence Only, but he had never been a Samuelsonian.

A contribution the *non*-economist clerisy can make to an ethical change is to cease talking of voluntary exchange as exploitative, or as easily second-guessed by those better Swedish bureaucrats I spoke of. Listen up, Martha.

The choice of an ethical character is so to speak a within-person “constitutional” choice. We should be investigating how to produce good people, because good people make good political and economic choices. And anyway flourishing human beings is what we seek.