



ADAM SMITH'S EMERGENT RULES OF JUSTICE

June 2023 marks the 300th anniversary of Adam Smith's birth. Celebrations of this tercentenary abound, notably at our sister site, [AdamSmithWorks](#). Most often known as the father of modern economics, OLL readers know that Smith's thought was much broader than just that. In fact, [political economy](#) as we know it did not quite exist yet in Smith's time; Smith was in fact a professor of [Moral Philosophy](#).

ADAM SMITH'S EMERGENT RULES OF JUSTICE

by Vernon L. Smith

In this month's Liberty Matters, we're looking back at Adam Smith's legacy, and we can think of no better scholar to start than Nobel laureate Vernon L. Smith, who attributes much of his path-breaking work to his own discovery of Adam Smith. In his lead essay, Vernon Smith ties together not just the *Wealth of Nations* and the *Theory of Moral Sentiments*, he also brings Smith's posthumous *Lectures on Jurisprudence* into sharp relief. Vernon Smith will be joined by several other broad ranging scholars- Brianne Wolf, Leonidas Montes, Caroline Breashears, and Peter Onuf. We are delighted to bring you this forum in cooperation with [our friends at Law & Liberty](#).

Introduction [Adam Smith](#)'s scholarly contributions concern the origins, consequences and understanding of human action. Thus, in his second published book, [An Enquiry into the Nature and Causes of the Wealth of Nations](#) (1776; WN), Smith locates the origins of national economy in the universal propensity of individuals to truck, barter, and exchange one thing for another. The unintended consequence of this propensity is the formation of public prices out of the higgling and

bargaining of buyers and sellers in markets. Buyers each come to market with a maximum private willingness-to-pay money, wtp, for particular goods and are motivated to buy cheap; sellers each bring goods to market for which they have a private willingness-to-accept money, wta, based on their costs of bringing particular goods to market and are motivated to sell dear. The resolution of this collective conflict yields contract prices in buyer-seller trades that make public these previously hidden private wtp and wta valuations. Indeed, this led to Smith's second fundamental theorem that specialization is limited by the extent of the market. People then, without realizing it or intending it, find it natural to use these prices in "pursuing their own interest in their own way," by learning to specialize in their choice of activities, skills, and the development of their expertise. In this way, wealth is created out of enhanced resource cooperation in a vast network of connectedness that would not otherwise occur. Thereby does Smith account for the miraculous increase in national output and wealth accumulation in Northern Europe beginning in the century before him.^[1]



It does not seem to be widely known or appreciated, outside of academic specialties, that in his first published book, *The Theory of Moral Sentiments* (1759, TMS) Smith derives a coherent fundamental theory of justice as property relevant for all societies, down to the present, and a precondition for this economic development. This theme is further informed by class notes taken by two of his students and published over two centuries later in *Lectures on Jurisprudence* (1978; LJ).

Justice Is Negative

Smith's theory of property is a straightforward interpretation of his concept of negative justice: "Actions of a hurtful tendency, which proceed from improper motives, seem alone to deserve punishment; because such alone are the approved objects of resentment, or excite the sympathetic resentment of the spectator." (TMS, p 112)

It is negative because the way we get more justice is by reducing injustice, that is, hurtful actions.

Justice is Fueled by the Emotion of Resentment

Our proclivity to vengefully strike back at those who deliberately hurt us is so immediately felt and powerful, and our response so automatic, that we may unwittingly strike an inanimate object that hurts us:

"The causes of pain and pleasure, whatever they are, or however they operate, seem to be the objects, which, in all animals, immediately excite those two passions of gratitude and resentment. [Resentment is] excited by inanimated, as well as

by animated objects. We are angry, for a moment, even at the stone that hurts us. A child beats it, a dog barks at it, a choleric man is apt to curse it. The least reflection, indeed, corrects this sentiment, and we soon become sensible, that what has no feeling is a very improper object of revenge. When the mischief, however, is very great, the object which caused it becomes disagreeable to us ever after, and we take pleasure to burn or destroy it. We should treat, in this manner, the instrument which had accidentally been the cause of the death of a friend, and we should often think ourselves guilty of a sort of inhumanity, if we neglected to vent this absurd sort of vengeance upon it." (TMS, p 136)

Justice as Punishment Proportioned to Resentment

The violation of justice is the violation of fair play rules. The resentment felt is proportioned to the evil inflicted, and the justified punishment response is proportioned to the resentment felt. Consequently, the greatest evil is for one person to cause the death of another. Hence, humankind, and the relatives and friends of the person slain, harbor the greatest resentment for murder and seek its maximal punishment. To be deprived involuntarily of things in our rightful possession "is a greater evil than to be disappointed of what we have only the expectation. Breach of property, therefore, theft and robbery, which take from us what we are possessed of, are greater crimes than breach of contract, which only disappoints us of what we expected." (TMS, p 121)

With great insight, Smith is here invoking his principle (though he offers no cross references) of the subjectively experienced asymmetry between gains and losses, which he derives from a more fundamental asymmetry between human joy and sorrow: For anyone in health, prosperity, and good conscience little may be added to their welfare but:

"much may be taken from it. Though between this condition and the highest pitch of human prosperity, the interval is but a trifle; between it and the lowest depth of misery, the distance is

immense and prodigious. Adversity, on this account, necessarily depresses the mind of the sufferer much more below its natural state, than prosperity can elevate him above it.” (TMS, p 64)

And much later:

“We suffer more, it has already been observed, when we fall from a better to a worse situation, than we ever enjoy when we rise from a worse to a better. Security, therefore, is the first and the principal object of prudence. It is averse to expose our health, our fortune, our rank, or reputation, to any sort of hazard. It is rather cautious than enterprising, and more anxious to preserve the advantages which we already possess than forward to prompt us to the acquisition of still greater advantages.” (TMS, p 311)

In this restatement, observe that suffering is leveraged by social attitudes concerning rank and reputation, and not only health, prosperity, and conscience. The principle also indicates why human social psychology is biased much in favor of preserving advantages acquired and against new ideas and innovations with greater but uncertain advantages.

The immediate consequence of Justice as security from injury is property:

- Protection from murder implies that the individual has property in their body;
- Protection from theft and robbery implies that one has property in the products of their body and mind;
- Protection from violation of contract implies that individuals have property in each other’s promises.

Justice as Victim Compensation in Weak Decentralized Governments

Since the greatest crime that can be done against any person is to be killed, in civilized countries for the crime

of murder the “natural punishment is death, not as a compensation but a reasonable retaliation.” (LJ, p 476)

But this had not been the case in early societies with weak central governments: Thus:

“amongst barbarous nations the punishment has generally been much slighter, as a pecuniary fine. The reason...was the weakness of government in those early periods of society, which made it very delicate of intermeddling with the affairs of individuals. The government therefore at first interposed only in the way of mediator, to prevent the ill consequences...which might arise from those crimes in the resentment of the friends of the slain. ...The crimes themselves were already committed, there was no help for that; the main thing...society would have in view would be to prevent the bad consequences of it.”

In particular, Smith is referring to the outbreak of violence between the family and friends of the deceased and those of the victim, and in managing these situations it was imperative that the authorities not “attempt by a punishment” a resolution that was un acceptable to the parties involved. (LJ, p 106)

“We find accordingly that it intermeddled...so that in the laws of all those nations there is a particular rate fixed for the atonement that shall be made for the death of persons of every rank in the state from the king to the slave, and this is called the wingild. This wingild varies according to the different ranks of the persons; for [those]...of higher rank their friends would be more powerful and consequently more difficultly appeased, as they would have the greater hopes of obtaining satisfaction.” (p 107)

Victim Compensation Evolved Into a Tax as Government Became Stronger

Continuing from LJ, Smith states that: “As the governments of Europe gain'd more and more strength, they thought themselves entitled to some gratuity for their trouble in interposing.”

Since their intervention was favorable to the criminal, in protecting him from “those who would take away his life and procuring him” a better:

“way of satisfying them, they thought themselves well entitled to some gratification for this protection. This was called the freedom-or-frank-guild...[which] was greater or less according to the dignity of the person within whose peace (that is, jurisdiction) the crime was committed. ...By degrees the sovereigns came to consider, at least in practice, themselves as the persons chiefly injured. The addition therefore which was made to the punishment of the offenders was not to the composition or wingild due to the friends of the deceased, but to the frank-gild due to the king. ...The sovereigns however in time found it more for their advantage, in order to keep peace and harmony amongst their subjects, to substitute a capital punishment in the room of that frankguild which was due them. ...Tho the king could pardon the capital punishment due to himself, as any other man can forgive debts due to himself, yet he could not pardon that satisfaction due to the friends of the deceased, any more than he could excuse them from any other debt due to them. For it is really and truly a debt as any other due from contract. In England, where the seeds of democracy were earlier sown, {Capital punishment here came in place not only of the frank guild due to the king, but also of the wingild or compensation due to the friends of the slain.} the relations had the power of prosecuting independent of the crown, and capital punishment followed on this prosecution as well as that derived from the king’s authority. When therefore the king assumed the right of pardoning, the relations of the deceased had still a [right of] prosecution after this pardon, under the name of an appeal of blood, and the capital punishment which followed on this the king could not pardon. This process still subsists but is very seldom attempted, because the legislature

is very unfavourable to it and the least informality renders it void.” (pp 109-10)

There follows in LJ a long discourse on the interruption of this natural evolution of English government in implementing the emergent rules of justice. It was occasioned by the invasion of the Danish King Canute, who reigned as English King, 1016-1035. English hatred for the Danes took the form of “lying in wait” and killing them. So, King Canute introduced a law requiring punishment by death, thus substituting capital punishment for the customary authority of the victim’s family and friends. Following the Norman Conquest this rule evolved into “a composition” in which “the willful and premeditated killing of a man in whatever manner...[was] called murder and is always punished with death.” (LJ, p 110)

In Conclusion

Capital punishment for the crime of murder, and for lesser crimes such as theft and robbery, are represented by [Adam Smith](#) as having evolved naturally in the pre-civil order, and account for the general forms taken by the rule-of-law in modern liberal states. So has the punishment for violation of contract, which is not criminal but may lead to compensation for damages, via a private transfer from defendant to plaintiff. This last principle is literally one of “victim compensation,” which was found natural also for criminal infractions in the first societies where governments were weak and decentralized. The authorities in these fledgling states were driven primarily by peace-keeping motives to prevent an outbreak of violence between the family and friends of victims and those of the perpetrators. Hence, when the authorities apprehended a criminal, they were presented to the family and friends of the victim to determine what was to be done. The purpose was to avenge the victim who tended always to be at the center of community sympathy; it was too late for talk of prevention, a prerogative much later of strong central governments, concerned only with punishing “crimes against the public,” including generally, but not specifically, the bereaved local neighborhood of family and friends of the victim. That public sympathy sides with

these victims, is evidenced today in national demonstrations, riots, media coverage, calls for tighter gun controls, and for police accountability for the overuse of force in apprehending suspects.

In these cases, everyone seems concerned with justice as punishment for the alleged wrongs committed, or for police reform, but the only victim compensation is in whatever satisfaction exists in seeing the perpetrators get their due. Although we imagine ourselves more compassionate than the brutes of old, it has not produced sentiment for a return to the principle that criminal punishment should include a sacrifice of their income or assets to help compensate the victim for harm done.

Endnotes

[1] Smith of course had many precursors in Mandeville, Sir William Petty, the French Physiocrats, and the Spanish Fathers. As Mandeville put it in the *Fable of the Bees*: The very poor/ were richer than the rich before./ Greed is beneficial found/ when it's by law rapt and bound. /The worst of all the multitude / did something for the common good.” But Smith brought it all together in a book read by scholars, political leaders and professionals in Europe and America. Moreover, the timing was perfect, coinciding with the American Revolution whose subsequent constitution reflected the English-Scottish development of classical liberalism.

THE AFFECTIVE FOUNDATIONS OF PROPERTY, JUSTICE, AND POLITICAL JUDGMENT

by Brianne Wolf

This year we celebrate the tercentenary of [Adam Smith](#)'s birth. As fits a thinker of his complexity and importance, we are still finding new ideas in Smith's work to inspire our own thinking. In his essay, Vernon Smith presents one such under-explored idea in Smith's work—property and its connection to justice, rights, and economic

development. V. Smith argues: “It does not seem to be widely known or appreciated, outside of academic specialties, that in his first published book, *The Theory of Moral Sentiments* (1759, TMS) Smith derives a coherent fundamental theory of justice as property relevant for all societies, down to the present, and a precondition for this economic development. This theme is further informed by class notes taken by two of his students and published over two centuries later in *Lectures on Jurisprudence* (1776; LJ).



Adam Smith

In agreement with Vernon Smith's thesis, I argue that Smith's notions of justice, property, and injury require judgment and induce citizens to have an emotional attachment to the law via their sympathy with each other. Much of my response will build on important ideas V. Smith raises in Smith's work, especially the role of resentment in justice and his ideas on jurisprudence. I will also raise questions about V. Smith's thesis, especially about justice as property, justice as negative, and the role of government. I will first discuss the theme of property, then I will move to considerations of justice and violence, and finally I will reflect on the role of government, specifically in the American case.

Property

First I want to discuss the important interpretation of property V. Smith gives us in Smith's work. V. Smith argues, “The immediate consequence of Justice as security from injury is property.” He additionally explains

that for Smith we have property in our bodies, “the products of [our] body and mind, and property in our promises.”

We have, as I see it, two ways of understanding [property rights](#) in the history of political economic thought and the liberal tradition. First is the idea that property is an inviolable right based on our humanity. This view is best described by [John Locke](#) in his [Second Treatise on Government](#) (1689). For Locke, property is an extension of our right to our person. We extend our right to our person to material objects by laboring on them, and society gets a secondary benefit because our labor improves these material items that would in many cases otherwise go to waste. Locke describes this process saying, “Whatsoever, then, he removes out of the state that nature hath provided and left it in, he hath mixed his labor with, and joined to it something that is his own, and thereby makes it his property” (Paragraph 27). Locke then explains how injustice can begin to occur when individuals have acquired ownership over things and this ownership is disputed. Otherwise, the state of nature is relatively pleasant as we reason it is not in our interest to be violent to others. However, the problem remains that we always prefer our own interest when we are judges in our own case, and therefore we lack the impartiality necessary for peaceful resolution of conflict. In these instances, it is more useful to decide to join together with our fellows to form a society and consent to be ruled by a sovereign. Locke explains the issue of judgment and why we would give up perfect freedom and consent to be ruled:

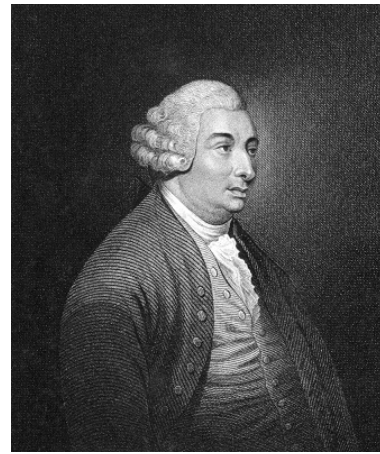
“Man being born, as has been proved, with a title to perfect freedom, and an uncontrolled enjoyment of all the rights and privileges of the law of nature equally with any other man or number of men in the world, hath by nature a power not only to preserve his property—that is, his life, liberty, and estate—against the injuries and attempts of other men, but to judge of and punish the breaches of that law in others as he is persuaded the offense deserves, even with death itself, in crimes where the heinousness of the fact

in his opinion requires it. But because no political society can be nor subsist without having in itself the power to preserve the property, and, in order thereunto, punish the offenses of all those of that society; there, and there only, is political society, where every one of the members hath quitted this natural power, resigned it up into the hands of the community in all cases that exclude him not from appealing for protection to the law established by it. And thus all private judgment of every particular member being excluded, the community comes to be umpire, by settled, standing rules, indifferent, and the same to all parties” (Paragraph 87).

For Locke, government can act as an impartial umpire and decide what is just in cases of conflict over property. Society exists to preserve property and comes into being by the agreement of the community and the consent of individuals within the community. In other words, Locke argues that society provides “safety and security” (Paragraph 94).

In the [Scottish Enlightenment](#) formulation of property, [David Hume](#), and Adam Smith, as V. Smith importantly adds, argue for a spectatorial theory of property rights rather than one based on reason and contract. Hume argues that something is ours when the community agrees to the property right. Property rights, enforced by the government, act as a remedy for our natural partiality towards ourselves and our friends and family. Hume calls this an “artifice” that “provides a remedy in the judgment and understanding, what is irregular and incommodious in the affections” ([A Treatise of Human Nature](#), 3.2.2.9). For Hume there is no conception of justice until there is property. Implicitly, Hume’s understanding of property rests on a process of sympathy with others. For Hume, sympathy allows us to understand the emotions of others toward us and then enables us to communicate about their emotions and our own to allow for the formation of moral judgments. Hume explains how property arises from sympathy as an agreed upon convention that is useful for the members of society:

“This convention is not of the nature of a promise: For even promises themselves, as we shall see afterwards, arise from human conventions. It is only a general sense of common interest; which sense all the members of the society express to one another, and which induces them to regulate their conduct by certain rules. I observe, that it will be for my interest to leave another in the possession of his goods, provided he will act in the same manner with regard to me” (T, 3.2.2.10).



David Hume

He further explains using a metaphor of a rowboat:

“Two men, who pull the oars of a boat, do it by an agreement or concerning the stability of possession the less derived from human conventions, that it arises gradually, and acquires force by a slow progression, and by our repeated experience of the inconveniences of transgressing it. On the contrary, this experience assures us still more, that the sense of interest has become common to all our fellows, and gives us a confidence of the future regularity of their conduct. And ’tis only on the expectation of this, that our moderation and abstinence are founded. In like manner are languages gradually established by human conventions without any promise” (T, 3.2.2.10).

For Hume, it is by interacting with people over time that we arrive at the best rules for protecting property rather than by deciding on a rule beforehand. Hume relies on sociability to determine the best rules for governing society. The society that is established is less contractual than conversational.

Similarly, as V. Smith emphasizes, in Smith’s theory we come to understand the importance of property rights because of the emotions we feel through the process of sympathy when these rights have been transgressed. But just before the part V. Smith cites about the breach of contract that occurs when property is taken, Smith notes that property rights are robust because of “the sympathetic indignation of the spectator” in addition to the resentment of the victim (TMS II.ii.2.2). Sympathy is an essential part of Smith’s contribution to property rights because, like Hume, he calls attention to the necessity of affective ties in the community for establishing meaningful laws. Hume and Smith both help make exchange—also an ephemeral economic concept like property—and rights tangible for the average person.

Hume and Smith’s understanding of spectatorial justice is frustrating because it can seem arbitrary and relativist, but it also explains the necessary foundations of civil society that must operate beyond the legal enforcement of injury or infringement to have a robust system of property rights. When I teach the unit on property in my political economy course, students are routinely most drawn to Locke’s theory because it provides a clear rule. They are uncomfortable with Hume’s understanding of property which is based on what the community will support. However, we then take up cases where property rights are contested, and students quickly see that while a rule is important and helpful, it does not usually solve the conflict. Instead, deliberation and sympathy with others is required for the property right to be realized. Hume

and Smith explain why property rights are justified in the community in which we live and why people are likely to adhere to them. This understanding is part of a larger comprehension students come to have about the law needing not just to be established, but to have buy-in and support from the people under the law.

Importantly, Smith also dismisses Locke's understanding of why we join society on similar grounds. Smith explains:

“As Locke and Sidney, etc. [suppose] that the government owed its origin to a voluntary contract...can hardly be supposed to have ever been the case, even here the subjects must have a right of resistance. The power of the sovereign is in this case a trust reposed in him by the people; he is the great magistrate to whom they have promised obedience as long | as he rules with a middling degree of equity; but when he has abused this power in a very violent manner, for it is only a violent abuse of it which can call for such violent measures, then undoubtedly he may be resisted as he is guilty of a breach of the trust reposed in him” (LJA v.115).

Ordinary people have not read Locke and do not think about their obedience as part of a contract. Smith explains, “the far greater part have no notion of it, and nevertheless they have the same notion of the obedience due to the sovereign power, which cannot proceed from any notion of contract” (LJA v.116) He further states, “Ask a common porter or day-laborer why he obeys the civil magistrate, he will tell you that it is right to do so, that he sees others do it, that he would be punished if he refused to do it, or perhaps that it is a sin against God not to do it. But you will never hear him mention a contract as the foundation of his obedience” (LJB 18). He argues that the common person would have no understanding of property rights and similarly that the idea of contract is impractical because we have duties of obligation to a sovereign even when it is not in our interest in a particular moment. For Smith, exit is difficult and unrealistic and so the idea of a contract is flawed (because membership in a nation is largely inescapable). But more importantly, our

idea of why we belong to a society is affective rather than mechanistic and calculated. In this way, Smith separates his understanding from that of many natural law theorists including Locke, but also [Sidney](#), [Grotius](#), and [Pufendorf](#).^[1]

Still, despite the partial basis of government in obedience and authority, it also has a basis in utility (LJB 18). Smith thinks that resistance is necessary in response to failures on the part of a monarch. Locke bases his right of resistance on the community that exists prior to the decision to found a government, but for Smith, the basis is judgment. For him, whether or not it is appropriate to rebel is subject to judgments specific to a particular case, just like his foundation for property. Smith explains: “a fixed rule about when people can revolt or when a sovereign has overstepped their power is not possible “it can't be said that there is any regular authority for so doing. The property, life, and liberty of the subject are in some measure in his power; nor is it or can it be ascertained what abuses justify resistance. No laws, no judges, have or can ascertain this matter, nor formed any precedents whereby we may judge” (LJA v.135). Smith makes clear that injustice on the part of the sovereign that would justify resistance must be determined by subjects on a case-to-case basis. However, this does not mean that justice is completely relative in his view.

Justice

To understand when we can rebel, we have to understand Smith's notion of justice and impartiality. For Smith, whether or not one can rebel is closely related to the moral judgment one exercises in society to determine propriety. To be able to judge whether the behavior of others is moral or not, one first engages in a process of sympathetic exchange with those around us. We observe the behavior of others and then bring the case home to ourselves through the imagination of the sentiments of the person principally concerned to determine whether or not their behavior is appropriate in a given instance. We are also aware that others are observing our behavior and we watch their reactions to our actions to determine whether we need to recalibrate our responses in specific situations. All of these interactions compile over time and

our experience allows us to exercise moral judgments about the character of others. We eventually develop the ability to act as what Smith calls the impartial spectator—an ideal type we can adopt as a perspective to judge as an observer who knows the relevant facts but is not personally involved would judge a given situation.

As V. Smith describes, for Smith, we can also use this imaginative, emotional process to determine whether or not an injustice has been committed. V. Smith emphasizes the vengeful feelings we have as individuals when we personally have been wronged. He writes: “Our proclivity to vengefully strike back at they who deliberately hurt us is so immediately felt and powerful.” But Smith also tells us that we feel unsatisfied resentment when an injustice has been done to our peer, and we then seek to have this injustice rectified. In explaining why we adhere to the rules of “fair play,” Smith says, “They readily, therefore, sympathize with the natural resentment of the injured, and the offender becomes the object of their hatred and indignation. He is sensible that he becomes so, and feels that those sentiments are ready to burst out from all sides against him” (TMS Iiii.2.1). This desire to have our resentment satisfied is so strong that Smith provides an out in case governments do not do their due diligence in punishing an offender to the satisfaction of the community. He argues that the spectator “would call upon God to avenge, in another world, that crime which the injustice of mankind had neglected to chastise upon earth” (TMS II.ii.3.11).

V. Smith argues that justice for Smith is primarily negative. “It [Justice] is negative because the way we get more justice is by reducing injustice, that is, hurtful actions.” Smith certainly describes mere justice in this way. But he also suggests that one would not likely be approved of, or well-liked by one’s fellows if they exercised only this sort of justice. He writes, “The man who is barely innocent, who only observes the laws of justice with regard to others, and merely abstains from hurting his neighbors, can merit only that his neighbors in their turn should respect his innocence, and that the same laws should be religiously observed with regard to him” otherwise he can expect to “be allowed to live in

the midst of society, as in a great desert where there is nobody to care for them, or to inquire after them” (TMS II.ii.1.10). For Smith, a robust society requires that there be what we might call thick emotional ties to one another.

I have long been interested in the number of vignettes of violence Smith uses as examples in TMS. I think it was Maria Pia Paganelli who first drew my attention to these examples at a Liberty Fund Smith Camp. Smith makes reference to several forms of violent torture and punishment to establish the reality of sympathy to his readers. He talks about spectators watching a man on the rack whose limbs are being torn apart (TMS I.i.1.2), describes a mob watching the hanging of a person (TMS I.i.1.3), and notes how we enjoy the novelty of an amputation or torturing as long as we haven’t seen too many such occurrences (TMS I.ii.1.10), and observes how the mob wants to see the person being attacked stand up for themselves (TMS I.ii.3.3), among other examples. Smith seems to want to use these examples to demonstrate to the reader the power of sympathy given our fascination with public displays of violence, presumably in response to some crime of the victim. Another interpretation is that these examples show the power of the government to treat subjects inhumanely in the name of punishment and justice.

In his essay, V. Smith focuses on our natural impulse for revenge as foundational to the protection of property by governments. Yet, I also see Smith using these passages to check this same impulse in his readers. Smith makes explicit the connection between the violent examples and punishment: “Nothing, however, would appear more shocking to our natural sense of equity, than to bring a man to the scaffold merely for having thrown a stone carelessly into the street without hurting anybody” (TMS II.iii.2.8). In these examples, Smith is demonstrating the value of human life that we can easily forget in our passions as we begin to treat others as chess pieces rather than individuals. Smith is especially concerned about governments using violence against their subjects and forgetting their humanity. In this way, I see Smith as part of the great humanist tradition coming out of the

Enlightenment, especially as argued by [Beccaria](#). Interestingly, in her call to make the reduction of fear and cruelty “first” in liberalism, Judith Shklar (1989) too makes reference to Beccaria and his call to value human life (37). For Smith then, it is insufficient for justice to stop at mere justice. The sympathetic system he describes also emphasizes positive justice or justice as action, especially in the theory of resentment.^[2] The spectatorial nature of justice for Smith leaves it flexible though at the same time he often calls the rules of justice “sacred.” For Smith, judgment is not property, but a sense of fairness and morality based on emotional ties to others. This same emotional grounding allows us to make claims on property and determine whether or not they are valid.

The Role of Government and the American Case

At the end of the essay, V. Smith makes a fascinating connection about how government comes to stand in as an impartial intermediary in the moral process of settling justice disputes, writing “Victim Compensation Evolved Into a Tax as Government Became Stronger.” He also makes an allusion to the contemporary American case noting that “public sympathy” cries out for revenge and restitution for victims in many instances, but especially, “tighter gun controls and police accountability.” He also argues that true Smithian justice would require that people be individually responsible for restitution for their crimes rather than substituting government as a proxy for impartiality. Smith puts it: “The violator of the laws of justice ought to be made to feel himself that evil which he has done to another” (TMS II.ii.1.10). It is not government Smith has in mind as the enforcer, but the sympathetic system. But this is precisely why mere justice is not sufficient for Smith: because the person who “fulfill[s] all the rules of justice by sitting still and doing nothing” would not act upon (or possibly even feel resentment) at the violation of another’s rights or what Smith terms “the sacred laws of justice” that “guard” life, property, and rights (TMS II.ii.2.2). This benevolence Smith wants from individuals in service of justice or emotion cannot be “extorted by force.” It has to be a response of the sympathetic reactions of others as we saw above (TMS II.ii.1.7).

Many scholars have analyzed the important connection between the Scottish Enlightenment project and the [American Founding](#), focusing especially on the role of affective bonds, overcoming individualism toward a common good through competition amongst factions, civic republicanism as opposed to individualism, and generally promoting moral judgment and sociability coming out of the Scottish Enlightenment project.^[3] The connection is especially made through [James Madison](#) and [James Wilson](#). However, it is interesting to note that many more people emphasize the influence of the Lockean idea of rights and the formation of government on the American project than the Scottish Enlightenment. Even those who have focused on explaining the connections to the American project in the liberal tradition and the Scottish Enlightenment have not emphasized the influence of the Scots on ideas of property rights in the American founding.

Smith was very interested in the American case and especially the possibilities for sympathy and consequently moral and political judgment that were lost between the Americans and Britain because of the structure of the empire. He suggests that if “Great Britain should voluntarily give up all authority over her colonies...by thus parting good friends, the natural affection of the colonies to the mother country...would quickly revive” (WN IV.vii.c.66). In addition to moral judgment, if Great Britain were to grant the American colonies representation, this would increase their political judgment because the representative “would still feel that he owed his seat in parliament...to the good-will” of the constituents and “the balance of the constitution” in Great Britain would be maintained (WN IV.vii.c.77-78). Looking to Smith for the important description of justice and property that rests on civil society, affective ties, and spectatorship offers a different understanding of liberalism, and indeed a different gloss on the American case. Rights are central, but they only make sense, on the Smithian account, in a context of a society that recognizes these rights and defends them through the sympathetic process.

Endnotes

[1] For more on Smith's argument against contract theory see Haakonssen 1981, especially pp. 127-133. [2] For more on the role of resentment as an impetus to advocate for justice in a liberal society see Schwarze 2020. [3] For more on the contributions of the Scottish Enlightenment to the American project, especially those that include Adam Smith see for example Adair 1957, Fleischacker 2002, Spencer 2002, Robinson 2007, McLean 2015, Schwarze and Zink 2018, Fleischacker 2019, and Liu 2022.

VERNON'S LESSONS ABOUT EXCHANGE

by Leonidas Montes

Vernon Smith, our own Smith, has called our attention to [Adam Smith](#)'s jurisprudence emphasizing the origins of property, government, taxes and the emergence of the rules of justice. Relying on fascinating passages from TMS and LJ, Vernon's loupe illuminates the importance and the complexities of justice. The father of [experimental economics](#) underlines the role of resentment and punishment and the social relationship of victims with compensation under Smith's evolutionary perspective.

We know that "The rules of justice are accurate in the highest degree" (TMS, III.6.10: 175) and that is why those rules "may be compared to the rules of grammar" (TMS, III.6.11: 175). But we also know that this artificial virtue has evolved from the early stages of the "savage nations of hunters and fishers" until we reached "commercial society". This institutional process is also the unintended consequence of the [division of labor](#) and exchange.

The challenges for classical liberals are clear in terms of Smith's "liberal plan of equality, liberty and justice" (WN, IV.ix.3: 664). And since the eighteenth century, we have improved towards a much better living together. The social edifice of classical liberalism has increasingly

rendered more equality, liberty, and justice. But we forget the basic foundations of these three principles.

Vernon Smith begins his reflection saying that "the origins, consequences and understanding of human action" are the foundation of Smith's legacy. And he calls our attention to our propensity to "truck, barter and exchange". The "origins, consequences and understanding" of exchange are connected to human action, society and justice. Let me focus on the latter with a personal note that has influenced my own understanding of Adam Smith.



www.adamsmithworks.com

Almost six years ago there was a meeting at Liberty Fund about the "[Adam Smith Works](#)" project. We explored and discussed different things, but during a memorable lunch we began to exchange ideas about the centrality of Smith's "truck, barter and exchange". And Vernon called our attention to the use of the word "fair" and what it really meant. He strongly recommended reading Anna Wierzbicka's "English: Meaning and Culture" (2006). I did so and we began an unforgettable email exchange on this issue.

Vernon, like Adam Smith, understands [competition](#) as unintended "assistance and cooperation". But they also value "fair-play rules". If TMS is Smith's book on ethics, I would like to argue that morality is behind Smith's political economy since the very beginning of WN. For reasons of space, I will only concentrate on [chapter 2 of Book I](#), stressing Vernon's call to the "universal

propensity to truck, barter and exchange one thing for another” and Adam Smith’s use of the word “fair”.

The second chapter of Book I is, in my view, the most important chapter of WN. This short and rich chapter is about “the principle which gives occasion to the division of labour”. The first paragraph is worth fully reproducing, as it refers to the unintended consequences and the “nature and cause” of the division of labor:

“This division of labour, from which so many advantages are derived, is not originally the effect of any human wisdom, which foresees and intends that general opulence to which it gives occasion. It is the necessary, though very slow and gradual consequence of a certain propensity in human nature which has in view no such extensive utility; the propensity to truck, barter, and exchange one thing for another.” (WN, I.ii.1: 25)

The propensity to “[truck, barter, and exchange](#)” is the cause of the division of labour. The father of Economics was very careful choosing this combination of words.^[1] He is covering the three different institutional arrangements for exchange. Smith’s comprehensive choice covers truck, that is changing one thing for another, as in a tribe of hunters or shepherds; barter, changing one thing that can be money for a service, and finally exchange as simply meaning the modern use of money as a means that facilitates trade. But more importantly, the division of labor and the expansion of the market are a “gradual consequence” of the “principle of exchange”. Exchange is the final cause.

Then, with striking pragmatism and realism, Smith refers to the cause or origin of exchange:

“Whether this propensity be one of those original principles in human nature, of which no further account can be given; or whether, as seems more probable, it be the necessary consequence of the faculties of reason and speech, it belongs not to our present subject to enquire.” (WN, I.ii.2: 25)

Exchange is neither something that we receive from heaven, nor the consequence of any natural law. It seems “more probable” that the propensity to exchange is the necessary consequence of the “faculties of reason and speech.” Immediately, Smith argues that WN is not the place to inquire about the causes of exchange, so he continues explaining our human propensity to trade.

Smith then argues that if language and persuasion are common to all men, these faculties can be found “in no other race of animals” (WN, I.ii.2: 25). And he surprises the reader with this very simple but at the same time deeply insightful argument:

“Nobody ever saw a dog make a fair and deliberate exchange of one bone for another with another dog. Nobody ever saw one animal by its gestures and natural cries signify to another, this is mine, that yours; I am willing to give this for that. When an animal wants to obtain something either of a man or of another animal, it has no other means of persuasion but to gain the favour of those whose service it requires. A puppy fawns upon its dam, and a spaniel endeavours by a thousand attractions to engage the attention of its master who is at dinner, when it wants to be fed by him.” (WN, I.ii.2: 26, italics added)

If animals want to obtain something, they need to “gain a favor.” Yet we, human beings, who are social and political animals ([Aristotle’s](#) zoon politikon), have language and speech as a “means of persuasion.” Language and speech are necessary for exchanging ideas, that is, for persuading.^[2] Trade is about persuasion, so we live in a social field of communication, a kind of marketplace of persuasion. And within this market, language and speech are essential for our economic and political interaction.

The apparently simple sentence “Nobody ever saw a dog make a fair and deliberate exchange of one bone for another with another dog” hides a social and moral twist. Six years ago, Vernon Smith called our attention to the unique Anglo-Saxon concept of fairness that has a social and moral sense. Smith’s purposeful, careful and often

neglected use of “fair” is not fully assessed. As Wierzbicka has persuasively argued, the word fair is “thoroughly untranslatable” (2006, p. 141). In fact, the meaning of “fair” always relates to others implying “a certain consensus” (ibid., p. 146).

The meaning of fair goes beyond reason and rational deliberation. It appeals to the notion of a fair game, to social rules and not only laws, to what is socially approved but not necessarily enforceable. It relates to justice but also to honesty. If the word “sympathy” does not appear in WN, the sympathetic process is present as moral exchange. In sum, Smith adds a rational and moral basis to trade. And exchange, the first cause for WN, rests upon fairness and persuasion, that is, communicating or trading through “reason and speech.”

Then follows the famous and traditionally misinterpreted sentence: “It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest” (WN, I.ii.2: 26–7). Smith carefully uses another combination of three words that made much sense to the poor and common people during the 18th century. The “industrious and frugal peasant” (WN, I.i.11: 24) was quite familiar with meat, beer, and bread. They were “necessaries” for the “street porter”, not “conveniences” - like expensive old books - for the philosopher.^[3] The main concern of WN was improving the condition of the poor.

Today we know that Smith’s self-interest is different from self-love or selfishness, as it relates to prudence. Regard for our own interest is a realistic account of human nature that has moral foundations in TMS and experimental economics. As Vernon Smith has also taught us, “fair and deliberate” exchange is the basis for a liberal order. Reasons and sentiments interact, even when we think about justice and the market.

Endnotes

[1] Already in the Introduction and Plan of the Work he uses “necessaries and conveniences”, “industrious and frugal”, “skill, dexterity and judgment”, and now, in chapter 2, “truck, barter, and exchange”. The meaning

and sense of the words comprehensively complement each other.

[2] As Deirdre McCloskey has argued, to persuade is to exchange ideas “softly” with the other, to convince is the victory of one’s ideas over the other. The latter might lead to Smith’s “man of system” and to the triumph of one over the others.

[3] See the wonderful paragraph that compares the street porter and the philosopher whose vanity, when she or he becomes older, dispels any resemblance (WN, I.ii.4: 28–9).

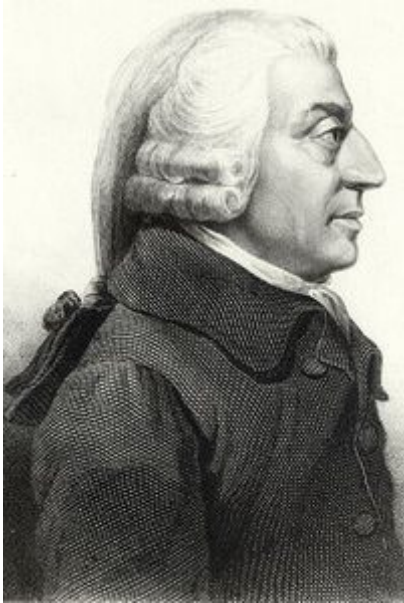
“PRACTICING ORATORY ON OTHERS”: ADAM SMITH AND THE RHETORIC OF LIFE

by Caroline Breashears

Professor Vernon Smith observes that in *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776), Adam Smith “locates the origins of national economy in the universal propensity of individuals to truck, barter, and exchange one thing for another.” Professor Smith emphasizes that a precondition for the resulting economic development is Smith's theory of justice as property, evident in *The Theory of Moral Sentiments* and the surviving student notes for Smith's *Lectures on Jurisprudence*. Professor Smith's analysis of those connections enhances our understanding of not only Adam Smith's jurisprudence but also how his oeuvre forms a larger system.

Foundational to that system are Smith's rhetorical ideals. When we sell bread, defend our characters, or seek the sympathy of our neighbor, we engage in the art of persuasion. This point was so important that [Smith](#) added a section on veracity in the last chapter of his final edition of *The Theory of Moral Sentiments* (1790), where he observes, “the desire of being believed, the desire of persuading, of leading and directing other people, seems to be one of the strongest of all our natural desires. It is, perhaps, the instinct upon which is founded

the faculty of speech, the characteristic faculty of human nature" (TMS VII.iv.25, p. 336).



Adam Smith

Smith addressed this and related subjects from the start of his teaching career, when he delivered lectures on rhetoric and literature for the benefit of the public in Edinburgh (1748-51). He later chose this subject for his first private class when he became a professor at the University of Glasgow. Although he never published a book on rhetoric, student notes from the course in 1762-63 were recovered and published in 1983 as [Lectures on Rhetoric and Belles Lettres](#) (LRBL) as part of The Glasgow Edition of the Works and Correspondence of Adam Smith. Reading them alongside Smith's other works illuminates his sense of how this "characteristical faculty of human nature" undergirds his larger system.

Propriety

In *LRBL*, Smith closely attends to a theme central to his *Theory of Moral Sentiments* (TMS) as well: propriety. In TMS, he begins by examining propriety of action and how we judge it through the impartial spectator process. Is your neighbor properly screaming over his hangnail, or should he take *Adulting 101*? We answer by imagining ourselves in the neighbor's position and assessing how we would behave. Do we sympathize? Can we go along with the neighbor's response?

In *LRBL*, propriety in writing consists first in expressing oneself clearly, concisely, and in one's own character. Smith praises Jonathan Swift as a plain man who writes plainly, properly ridiculing genuine human foibles with the goal of reformation. Conversely, [Lord Shaftesbury](#) lacks any natural style, and "as he was of no great depth in Reasoning he would be glad to set off by the ornament of language what was deficient in matter," rendering his assumed style "pompous" (*LRBL* 11, pp. 58-59). Smith certainly knew how to keep his students' attention.

In both ethics and writing, sympathy and the impartial spectator process are critical. In his eighth lecture on rhetoric, Smith argues that what gave beauty to style was "when the words neatly and properly expressed the thing to be described, and conveyed the sentiment the author entertained of it and desired to communicate . . . by sympathy to his hearers" (*LRBL* p. 40). Likewise, in his eleventh lecture, Smith observes, "the Rules of Criticism and morality when traced to their foundation, turn out to be some Principles of Common [Sense] which [everyone] assents to; all the business of those arts is to apply these Rules to the different subjects and shew what their conclusion is when they are so [applied]" (*LRBL* p. 55).

In *TMS*, Smith explains how we first learn to adjust our behavior by attending to how impartial spectators judge us, lowering our passion to a pitch with which others can sympathize (I.i.4.7, p. 22). Likewise, in *LRBL* 11, "a wise man" speaks honestly and adjusts his tone for his audience: "He will only regulate his [natural] temper, restrain within just bounds and lop all [exuberances] and bring it to that pitch which will be [agreeable] to those around him" (p. 55). The key is restraint.

Smith argues that we learn this propriety of behavior not only through observation and formal education but through attending plays and reading great literature. In some cases, novels of sensibility are better teachers than Stoic philosophers: "The poets and romance writers, who best paint the refinements and delicacies of love and friendship, and of all other private and domestic affections, Racine and Voltaire; Richardson, Marivaux, and Riccoboni; are, in such cases, much better instructors

than Zeno, Chryssipus, or Epictetus" (*TMS* III.3.14, p. 143). Reading a novel such as *Clarissa* enhances our powers of sympathy, thereby enabling a more precise moral judgment by the impartial spectator.

Business

Clear language, self-regulation, and the impartial spectator process are also essential for engaging in business, which was also discussed in Smith's *Lectures on Jurisprudence*, of which two sets of student notes survive (A and B). Lecture notes from January 1763 for Smith's courses on *Rhetoric and Belles Lettres* (*LRBL*) and *Jurisprudence* (here designated *LJA*) underscore these interdisciplinary connections, which must have been especially lucid for students enrolled in both.

On Monday, 17 January 1763, for instance, Smith discusses in his course on Jurisprudence the nature of "obligations which arise from contract or agreement." A bare declaration of intention is insufficient; one must promise and insist that someone can depend on it. "The expectation and dependance of the promittee that he shall obtain what was promised is hear altogether reasonable, and such as an impartial spectator would readily go along with" (*LJA* p. 87). In very early times, however, "language at all times must be somewhat ambiguous," so exactly determining intention would be difficult (*LJA* p. 88).

On Friday, 21 January Smith continued this discussion of contracts in his lecture on Jurisprudence, and he also mentions contracts in his course on Rhetoric: "'Tis the Introduction of Commerce which brings on the improvement of Prose.—Opulence and Commerce commonly precede the improvement of arts, and refinement of every sort." He continues, "Prose is naturally the Language of Business" (*LRBL* 21 Jan. 1763, p. 137).

The language of business was, of course, very much on Adam Smith's mind in relation to all forms of exchange. In his lead essay, Professor Smith alludes to Smith's point that the [division of labor](#) is not originally the result of

humans foreseeing and intending the resulting opulence. Adam Smith observes,

It is the necessary, though very slow and gradual consequence of a certain propensity in human nature which has in view no such extensive utility; the propensity to truck, barter, and exchange one thing for another. Whether this propensity be one of those original principles in human nature, of which no further account can be given; or whether, as seems more probable, it be the necessary consequence of the faculties of reason and speech, it belongs not to our present subject to enquire. (*WN* I.ii.1-2, p. 25)

Smith did, however, address this point in his *Lectures on Jurisprudence*, which he had long intended to perfect and publish. His "Advertisement" prefacing *The Theory of Moral Sentiments* (1790) affirms, "I have not altogether abandoned the design." His Lecture on Jurisprudence dated Wednesday, 30 March 1763 suggests what he might have written in the proposed book:

If we should enquire into the principle in the human mind on which this disposition of trucking is founded, it is clearly the natural inclination [everyone] has to persuade. The offering of a shilling, which to us appears to have so plain and simple a meaning, is in reality offering an argument to persuade one to do so and so as it is for his interest. Men always endeavour to persuade others to be of their opinion even when the matter is of no consequence to them. . . . And in this manner [everyone] is practicing oratory on others [through] the whole of his life. (*LJA* p. 352)

A later set of notes from the course dated 1766 (*LJB*) reinforces this point with different phrasing, reporting that Smith said, "We ought then mainly to cultivate the power of [persuasion], and indeed we do so without intending it. Since a whole life is spent in the exercise of it, a ready method of bargaining with each other must undoubtedly be attained" (*LJB* p. 494).

For Adam Smith, the desire to persuade was a powerful human motivation underlying his theories of rhetoric, moral philosophy, economics, and jurisprudence. But perhaps you disagree, and I have been practicing oratory on you to no purpose. Persuade me.

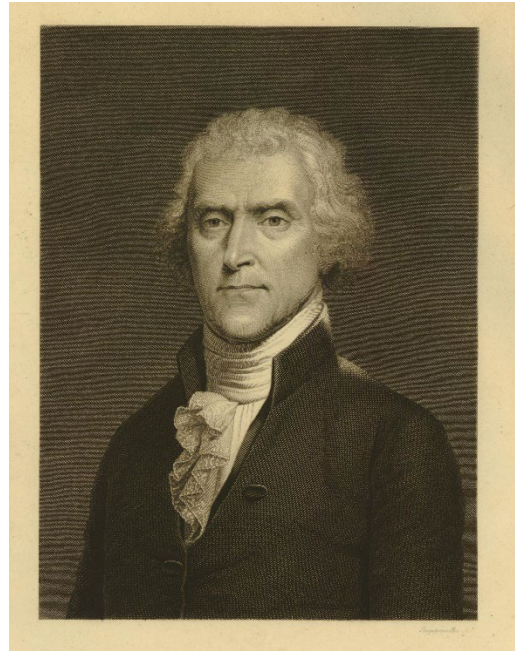
ADAM SMITH, STATE FORMATION, AND THE AMERICAN REVOLUTION

by Peter S. Onuf

[Adam Smith](#), the famous Scottish political economist and moral philosopher, was also a profound and prophetic historical thinker who charted the progress of Western civilization from its “barbarous” beginnings to its culmination in the prosperity, politeness, and power of his own eighteenth-century Britain. Smith conjectured in the grand manner on the [stages of historical development](#), beginning with the primitive, pre-civil stage of hunters and gatherers and progressing toward more advanced pastoral and commercial societies.^[1] These stages reflected the ascendancy of successive modes of subsistence, production, and exchange that were characterized by distinctive forms of rule—the appropriate “superstructure” for dominant classes at each stage.

Smith was fluent in this idiom, but questioned the linear logic of development when he looked beyond the boundaries of European nations and markets. With a growing number of British contemporaries, he condemned the “savage injustice of the Europeans” as they encountered and exploited more “primitive,” less developed societies during the age of discovery and imperial expansion.^[2] Not surprisingly, the moral philosopher had mixed feelings about the implications of extending the market and thus enabling its progressive specialization.” Market expansion was certainly a good thing in theory, as it was in practice within and among the European states that collectively constituted a sort of “commonwealth” or “republic” under the emerging law

of nations. But it was clearly not so in encounters with “barbarous nations” in the world beyond.



Thomas Jefferson

Asymmetries of power fostered injustice. European fiscal-military states extended their “protective” domain over underdeveloped, stateless societies lacking the capacity to resist the depredations of exploitative, state-sanctioned capitalists. Published in 1776, Smith’s [The Wealth of Nations](#) celebrated the freedom markets afforded advanced commercial societies, but recognized the darker legacy of European globalization. The most conspicuous symptom of incipient despotism was the rapid expansion of the Atlantic slave trade and the exploitation of enslaved African labor in the New World enabled by British capital. Enlightened critiques of slavery and the slave trade expressed broader misgivings about state formation and imperial expansion in the era of the [American Revolution](#). The American [Declaration of Independence](#), also published in 1776, was a powerful indictment of imperialism and the abuses of illegitimate state power. In his original draft the slave-holding planter [Thomas Jefferson](#) excoriated King George III for waging a “cruel war against human nature itself” in sanctioning the slave trade and violating the “most sacred rights of life and liberty in the persons of a distant people who never

offended him, captivating & carrying them into slavery in another hemisphere.”^[3]

Jefferson and fellow patriots in the North American provinces mobilized against Parliamentary claims to sovereignty, breaking with Britain in 1776 to counter the coercive force the imperial state unleashed against them in another “cruel war.” Resistance rhetoric focused on the fearful prospect that overseas Britons would be stripped of their vaunted liberties and reduced to the condition of their own slaves. White American fears of enslavement seem grotesquely hyperbolic and hypocritical in retrospect. But many Revolutionaries, including Jefferson and other slave-owning opponents of slavery and the slave trade, shared Adam Smith’s anxious forebodings about the growth and potential abuse of unbounded—or what Americans and their metropolitan friends deemed “unconstitutional”—state power.

From Smith’s perspective, deluded British policy-makers had stumbled into a stupid war, inspired by their vision of “a great empire on the west side of the Atlantic” that “has hitherto existed in imagination only.”^[4] Rather than subjugating American “rebels,” Britain should incorporate them into an extended and more perfect British nation-state and market—or recognize their independence. The American war was tragically mistaken, in some ways worse than the “savage injustices” inflicted by Europe on the rest of the world. To reduce the rebellious colonies to submission (if not slavery) would be to reverse the linear logic of progressive history, for they had already arrived at an advanced stage of constitutional and commercial development. Having so quickly passed through (or by) the stages of development, the self-declared United States would soon demonstrate the capacity to develop infrastructure, mobilize resources, and forge progressively more perfect unions with each other and “the powers of the earth.” In other words, Parliament’s deluded claim to sovereignty over its imaginary empire would ultimately be fulfilled by reluctant Americans who could not imagine themselves to be independent—until they had no choice.^[5] But theirs would be a “popular” or constitutional sovereignty,

drawing on a shared tradition of legal and political development that enabled market formation.

Adam Smith’s misgivings about “progress” in the context of extra-European expansion illuminates his historical consciousness. As economist Vernon Smith’s brilliant short essay shows us, Adam Smith was an history-minded comparativist whose understanding of contemporary market society was grounded in his empirical understanding of the contingent and ongoing development of state capacity, focused specifically on the problem of justice in Britain. Vernon Smith’s great predecessor “locates the origins of national economy in the universal propensity of individuals to truck, barter, and exchange” (VS, my emphases). The historical circumstances that made market development possible were unique to Britain, notionally latent as propensities—or contingent possibilities—in all humans, but not the inevitable outcome or endpoint of human history. The Smiths instead invoke a universally shared “theory of justice as property” as “a precondition for this economic development” (VS, my emphasis). They define justice in negative terms, as violations of an individual’s property “in their body,” “in the products of their body and mind,” and in the “promises” sociable individuals make to one another (VS). All of these claims signify an individual’s dependence, or need for protection: “security, therefore, is the first and the principal object of prudence” (VS).

The Smiths’ conception of state formation and market development is predicated on the psychology of property owners rather than on the rationality of (sovereign) individuals in a conjectural state of nature. According to Vernon Smith’s formulation of Adam Smith’s “great insight,” individuals are naturally risk averse. The “subjectively experienced asymmetry” between possible “gains and losses” derived from “a more fundamental asymmetry between human joy and sorrow.” For those who enjoyed a reasonable degree of sufficiency and security, “little may be added to their welfare” but, as Adam Smith explained in *The Theory of Moral Sentiments*, “much may be taken from it.” In the absence of a modern, liberal protective state and market society, most individuals would thus opt for a seemingly

timeless status quo. Property made anxious owners conservative. Prospective “adversity,” Smith concluded, “necessarily depresses the mind of the sufferer much more below its natural state, than prosperity can elevate him above it” (TMS, p 64, quoted in VS). Progressive propensities would only be mobilized under the aegis of a protective sovereign. Before they would “truck, barter, and exchange,” it was “natural” for men to know their place—and stay put.

When Adam Smith talked about state formation, he eschewed ahistorical conjectures about human nature, instead relying on the kind of data antiquarian contemporaries were assembling about the histories of law, governance, and material conditions of the nations that constituted the United Kingdom. Progress toward the world Smith analyzed so comprehensively in *Wealth of Nations* had followed an uncertain path, punctuated by regime change and war: the emergence of a consolidated nation-state in the British Isles and a single, still far from perfect national market was not fore-ordained—or irreversible. The primal impetus toward state formation came from demands for property protection, not from the aspirations of *homo economicus*, an anachronistic ideal type.

The ways in which societies historically dealt with murder—the most extreme violation of property rights—chart the progress of state formation.

The “natural punishment” for murder in civilized countries “is death,” Adam Smith told his students in his [Lectures on Jurisprudence](#), while “amongst barbarous nations the punishment has generally been much slighter, as a pecuniary fine” (LJ, quoted by VS). Because early governments lacked the capacity to impose the “natural” punishment, they could only hope to break the cycle of violence and preserve “the publick peace” by negotiating alternative forms of compensation (effectively putting a price on a life). As states successfully contained private violence by socializing vengeance, they reinforced the feudal hierarchy of ranks that maintained social order by fixing “a particular rate . . . for the atonement that shall be made for the death of persons of every rank in the state from the king to the slave” (LJ,

quoted by VS). As the ambit of the sovereign’s authority expanded, however, his subjects were progressively reduced to a common status (aristocrats were transformed into courtiers), equally dependent on the modern, civilized state’s protection. Murders—and all other crimes—were assaults on “the king’s peace” not on the victims’ families, friends, or rank order.^[6] In Scotland, “the criminal came to be considered as punished, not as the murderer of the relation of such persons, but as the murderer of the free subject of the king” (LJ, quoted by VS). As Vernon Smith pithily summarizes this development, “Victim Compensation Evolved Into a Tax as Government Became Stronger.”



Sir William Blackstone

Mirroring common lawyer [William Blackstone](#)’s assertion that the original title to all landed property in Britain and its overseas possessions derived from the Crown, so too the British “people” were fictively embodied in the sovereignty of King-in-Parliament. The idea that capital punishment—the state’s exclusive authority to inflict punishment on the bodies of its citizens, members of the body politic—could be seen as a landmark in the progress of civilization may seem counter-intuitive in our enlightened day. But the state’s monopoly on punishing criminals signaled a broader capacity to protect property and so establish “the general forms taken by the rule-of-law in modern liberal states” (VS). Enlightened legislators might one day even abolish

capital punishment, deeming it a barbarous legacy of the progress of state-formation chronicled by Adam Smith in his *Lectures on Jurisprudence*. Certainly, the expansion of market freedom would make government progressively more responsive to the will of a peaceful, prosperous, and polite people.

The modern idea of the “people,” the Smiths suggest, originated in the domain of market exchange. “The higgling and bargaining of buyers and sellers” produced “public prices” that circulated in emerging trade and information networks and gave rise to public opinion, a new constraint on the sovereign’s power (VS). Because “FORCE is always on the side of the governed,” as Adam Smith’s fellow Scot [David Hume](#) famously concluded, “the governors have nothing to support them but opinion.”^[7] The market mobilized “buyers” and “sellers,” making them into a *nation*, even as modern governments consolidated authority and developed their coercive capacity, they increasingly depended on the *wealth* that tax-paying market participants produced. Nations became prosperous and powerful by promoting enterprise and distributing tax burdens equitably—among producers and consumers and across generations—in ways that enhanced state capacity without unleashing the latent “FORCE” of an alienated counter-public. For Smith and other critics, this was the measure of Parliament’s failure in the American crisis: by withdrawing protection from, and making war against, its overseas provinces, Britain divided the nation and squandered its wealth.

The new nation that misguided ministerial policy makers brought into being was “born modern,” demonstrating the American provinces’ capacity to mobilize men and resources and forge a continental alliance *before* they declared independence. The “people’s war” was a great equalizer. Sovereignty begat sovereignty: commercial republican patriots successfully resisted conquest and subjection to the unconstitutional authority of a distant despot, deflecting the “savage injustices” European states had inflicted—and would continue to inflict—on the rest of the world. It is not therefore surprising that these freedom-loving anti-imperialists should imagine

themselves inaugurating a “new order for the ages,” a republican millennium of peace and prosperity for all the peoples of the world—even, ultimately, including their own slaves. What they could *not* so easily grasp was the enhanced capacity of the United States, a new and improved version of the old empire, to consolidate and perpetuate the “peculiar institution” and expand the ambit of “savage injustice” across and beyond the continent they claimed as their home. Focusing on capital punishment, Adam Smith underscored the growth of sovereign state capacity, even as he and his followers emphasized the ways markets unleashed the dynamic, yet peaceful and spontaneously self-ordering propensities of profit-seeking and productive enterprise that the powerful and protective nation-state makes possible.

Endnotes

[1] Nicholas Onuf and Peter Onuf, *Nations, Markets, and War: Modern History and the American Civil War* (Charlottesville: University of Virginia Press, 2006), 23-29.

[2] Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. Edwin Cannan, 2 vols. (London: Methuen, 1904), vol. 1, book 4, chap. 1, <https://oll.libertyfund.org/title/smith-an-inquiry-into-the-nature-and-causes-of-the-wealth-of-nations-cannan-ed-vol-1> On evolving metropolitan attitudes see Jack P. Greene, *Evaluating Empire and Confronting Colonialism in Eighteenth-Century Britain* (New York: Cambridge University Press, 2013).

[3] A Declaration by the Representatives of the United States of America, in General Congress Assembled, in Merrill D. Peterson, *Thomas Jefferson Writings* (New York: Library of America, 1984), 22.

[4] Smith, *Wealth of Nations*, vol. 2, book 5, chap. 3.

[5] Eliga H. Gould, *Among the Powers of the Earth: The American Revolution and the Making of a New World Empire* (Cambridge: Harvard University Press, 2012).

[6] Historian Lisa Ford persuasively argues that imperial Britain developed the technology of sovereignty in its overseas territories. Ford, *The King’s Peace: Law and*

Order in the British Empire (Cambridge: Harvard University Press, 2021)

[7] David Hume, “Of the First Principles of Government,” in *Essays Moral, Political, and Literary*, ed. Eugene F. Miller (Indianapolis: Liberty Classics, 1985), Essay IV, 32-36, at 32.

SOME COMMENTS STIMULATED BY THE ADAM SMITH FORUM ESSAYS

by Vernon L. Smith

Caroline Breashears cogently observes that rhetoric is at the foundation of [Adam Smith](#)’s larger system: “When we sell bread, defend our characters, or seek the sympathy of our neighbor, we engage in the art of persuasion.”

Indeed, persuasion is central to Smith’s theory of society. The rules we create and follow are consequences of having reached a consensus that is conveyed in the Smithian concepts of propriety, approbation, impropriety, and disapprobation. Without persuasion, there can be no agreement among neighbors in which “Actions of a beneficent tendency, which proceed from proper motives, seem alone to require reward; because such alone are the approved objects of gratitude felt by the spectator” (TMS, 112). The truth of this beneficence proposition is revealed in the common English expression “debt of gratitude” and in the strong form of saying thank you with “I owe you one.” The proposition is general, predictive, and of the mathematical form beneficial action Z, under conditions X, invokes reward response Y, because it is the approved object of gratitude felt by the (fair-play and impartial) spectator. In any application, one identifies (Z, X) then observes whether or not the predicted response Y occurs. (See V. Smith and B. Wilson, [Humanomics](#), Cambridge University, 2019 for some experimental designs and observed results motivated by a few of the many precise propositions in TMS.)

Smith criticizes utilitarianism whose modern form has sought to explain everything, including the selling of bread, the defending of characters, and the seeking of our neighbor’s sympathy, as utility yielding consequences of the individual’s action choices. In Smith’s theory of society, everyone is strictly self-interested. Moreover, in the above proposition, it must be common knowledge among the principals that more in quantity or quality of a good thing is desirable or preferred. You and I both like avocados, which are good things for us, but many do not like them. Therefore, if you do me a favor (benefit), I might reward you with a dozen avocados picked off my trees. But, unlike modern main-stream accounts, Smith distinguishes between *being* self-interested and *acting* in one’s self-interest.

Thus, explicitly:

“Though it may be true...that every individual...naturally prefers himself to all mankind, yet he dares not look mankind in the face, and avow that he acts according to this principle. He feels that in this preference they can never go along with him, and that how natural soever it may be to him, it must always appear excessive and extravagant to them. When he views himself in the light in which he is conscious that others will view him, he sees that to them he is but one of the multitude, in no respect better than any other in it. If he would act so as that the impartial spectator may enter into the principles of his conduct, which is what of all things he has the greatest desire to do, he must upon this, as upon all other occasions, humble the arrogance of his self-love, and bring it down to something which other men can go along with.” ([TMS, 121](#))

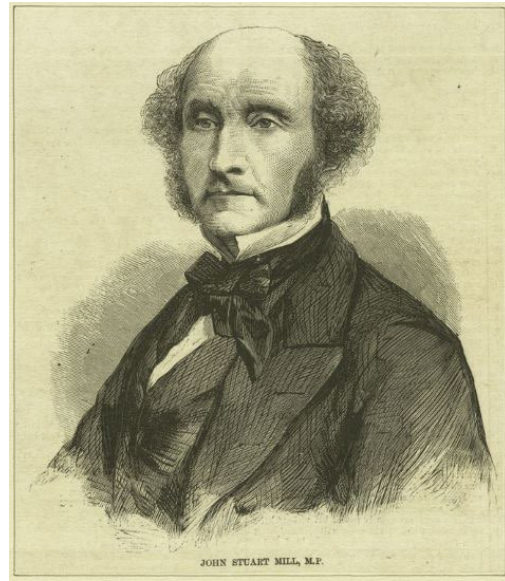
By way of persuading his readers, Smith invokes the phrase “go along with” over 40 times in TMS.

So, in Smith’s model, strictly self-interested individuals are both own- and other-regarding in their actions because of their joint experience of sympathetic fellow-feeling, validated by third party observers who concur. This perspective is fundamentally at odds with

independent utility maximization in the absence of just-so extrasensory perception. The “utilitarian” component of Smith’s model is in the little services we do for each other, as predicted in the above proposition: “These affections, that harmony, this commerce, are felt...to be of more importance to happiness than all the little services which could be expected to flow from them” ([TMS, 53](#)).

Smith models relationships which motivate the context-dependent flow of “little services,” each of which have utility value. In utilitarianism, it is the other way around. Every chosen action reveals what must have been highest in utility, a theory without predictive content. One searches databases or performs experiments without theoretical design guidance to see what regularities might be discovered. While such exercises can be of immense value in science, I only want to emphasize that their motivation does not stem from a predictive theory. Remarkably, TMS offers a host of predictive propositions still relevant to contemporary socioeconomics, two hundred sixty-four years after their first publication.

In reading the comprehensive essay by Leonidas Montes, I am reminded of a second fundamental methodological distinction in Smith’s articulation of his theory of society and economy. The first, above, is his distinction between being self-interested and acting self-interestedly. The complementary second distinction is between the origins of human action and the consequences of human action (as noted by Samuel Alexander in *Beauty and Other Forms of Value*, Thomas Y. Crowell Company, 1968, p 249). Modern utilitarian accounts do not make this second distinction because it is the consequences of action that yield utility and therefore motivate the action. In Smith’s proposition on beneficence, the strong sense of obligation felt by the recipient of a favor to reward the action originates in their emotions of gratitude. A “debt of gratitude” is heavy and can only be removed with a rewarding action taken by the one favored.



John Stuart Mill

In the treasured Chapter II of WN’s Book I, the division of labor is deemed an unintended consequence of trade. But from whence comes the propensity to trade? As is his wont, Smith presses more deeply into the search for origins. Failing to find any, he notes that trade is a unique characteristic of humans. But that failure does not diminish his finding that the wealth of nations is a consequence of the division of labor, itself a consequence of trade, which is a consequence of gains from exchanges unaccompanied by any intention beyond achieving those narrow self-interested gains. Hence, people everywhere engage through markets, causing all to prosper but having no clue as to why. All the while, the vast majority of them imagine, as [J. S. Mill](#) did, that, having solved the problem of production, we need to focus on how to better distribute its output, as if we can achieve whatever we may collectively think we want by top-down design—a belief, as Smith might say, that is the source of half the world’s troubles.

It was Smith’s clear-headed distinction between origins and consequences that framed his insight that wealth creation was an entirely unintended consequence of the entirely natural socially driven propensity to trade. The creation of wealth via the [division of labor](#) was not a new idea, but Smith gave it a grand comprehensive meaning that accelerated the classical liberal trend.

Peter Onuf elegantly and accurately summarizes Adam Smith’s intellectual and practical contributions to the understanding of human action. I am grateful to have learned from him.

Smith’s “stages of historical development” serve as a metaphor for adapting property, from rights of hot pursuit in a world of abundant game and gathering products, to domesticated animals, to domesticated plants, to appropriated land, to capital accumulation above subsistence needs in the new commercial classes. Smith’s clarity assured avoidance of the errors in [Ricardo](#)’s labor theory of value.

I believe that Adam Smith saw North America as a testing laboratory for his simple system of natural liberty. He could sympathize with the growing aspirations of the colonists, yet remained a loyal British citizen in dissent because he believed that Britain could only be free if dissent was part of national learning. Liberty was a natural product of [Hume](#)-Smith’s “experimental reasoning.” [Ben Franklin](#) symbolized their counterpart in America. He was the grand old man of the slave-owning founders, who shared Adam Smith’s view that slavery was a moral abomination but also entertained no racial exceptions to the principle “that all men are created equal” in the [Declaration of Independence](#) and the [Constitution](#), clearing the way for the eventual expansion of freedom to all men, and even to women and children.

I turn finally to the informative essay by Brianne Wolf. I call it informative because I am a consumer of Smith’s works, not a scholar of literature about his thoughts and those of his followers. It was only late in my career that I could appreciate my work as part of the Hume-Smith method of experimental reasoning. Her essay, like those of the other responders to my original piece, represents a learning opportunity for me.

Brianne Wolf raises important questions about my discussion of Smith’s concept of justice as negative. As

she notes, and I agree, justice as negative is what Adam Smith refers to as “mere justice.” But she further states:

“V. Smith argues that justice for Smith is primarily negative. It [Justice] is negative because the way we get more justice is by reducing injustice, that is, hurtful actions. Smith certainly describes mere justice in this way. But he also suggests that one would not likely be approved of, or well-liked by one’s fellows if they exercised only this sort of justice. He [Adam Smith] writes, ‘The man who is barely innocent, who only observes the laws of justice with regard to others, and merely abstains from hurting his neighbors, can merit only that his neighbors in their turn should respect his innocence, and that the same laws should be religiously observed with regard to him.’” (Wolf, 5)

My reading of this quotation from TMS differs in that the man who observes the laws of justice *cannot expect to be rewarded for doing this*. Rather he “can merit only that his neighbors in their turn should respect his innocence, and that the same laws should be religiously observed with regard to him” ([TMS, 76](#)).

I interpret TMS this way because the quotation is an elaboration of what he says in the previous paragraph:

“Though the mere want of beneficence seems to merit no punishment from equals, the greater exertions of that virtue appear to deserve the highest reward. By being productive of the greatest good, they are the natural and approved objects of the liveliest gratitude. Though the breach of justice, on the contrary, exposes to punishment, *the observance of the rules of that virtue seems scarce to deserve any reward*. There is, no doubt, a propriety in the practice of justice, and it merits, upon that account, all the approbation which is due to propriety. But as it does no real positive good, it is entitled to very little gratitude. Mere justice is, upon most occasions, but a negative virtue, and only hinders us from hurting our neighbour. The man who barely abstains from violating either the person or the estate, or the

reputation, of his neighbours, has surely very little positive merit.” ([TMS, 117](#), Stewart edition, italics added)

The claim that “the mere want of beneficence seems to merit no punishment” refers back to Smith’s second beneficence proposition: “Beneficence is always free, it cannot be extorted by force, the mere want of it exposes to no punishment; because the mere want of beneficence tends to do no real positive evil” ([TMS, 112](#)).

Adam Smith is saying that society treats beneficence and justice symmetrically. Just as we do not punish “want of beneficence,” we do not reward “want of breaking the law.” There is no reward for driving through a green light, only a punishment for failing to stop at a red light. His impeccable precision in articulating the theory is matched only by the rigor of his applications to life.

Near the close of TMS, Smith records his critical assessment of positive law:

“Every system of positive law may be regarded as a more or less imperfect attempt towards a system of natural jurisprudence, or towards an enumeration of the particular rules of justice....To prevent the confusion which would attend upon every man’s doing justice to himself, the magistrate, in all governments that have acquired any considerable authority, undertakes to do justice to all, and promises to hear and to redress every complaint of injury. In all well-governed states too, not only judges are appointed for determining the controversies of individuals, but rules are prescribed for regulating the decisions of those judges; and these rules are, in general, intended to coincide with those of natural justice. It does not, indeed, always happen that they do so...Sometimes...the interest of the government; sometimes the interest of particular orders of men who tyrannize the government, warp the positive laws of the country from what natural justice would prescribe....In no country do the decisions of positive law coincide exactly...with the rules which the natural sense of justice would dictate. Systems of positive law, therefore, though they deserve the greatest authority, as the records of the sentiments of mankind in different ages and nations, yet can never be regarded as accurate systems of the rules of

natural justice....It might have been expected that the reasonings of lawyers, upon the different imperfections and improvements of the laws of different countries, should have given occasion to an inquiry into what were the natural rules of justice, independent of all positive institution....But though the reasonings of lawyers did produce something of this kind...it was very late in the world before any such general system was thought of...In the laws of Cicero and Plato, where we might naturally have expected some attempts towards an enumeration of those rules of natural equity which ought to be enforced by the positive laws of every country, there is, however, nothing of this kind. Their laws are laws of police, not of justice...” ([TMS, pp 501-5](#))

I want to close by thanking the four distinguished Smith scholars for their responses to one who is a deeply respectful consumer and beneficiary of Smith’s work. We are fortunate to live in a free country; a country that survives factionalism; a country where it is possible for dissent to overcome oppressive narrow-minded forms of populism; a country still predominantly influenced by bottom-up principles of government despite scary recurring threats to those principles. The widespread celebration of the 300th year anniversary of the birth of Adam Smith gives evidence that these principles continue to matter. May our descendants never fail to honor this path-finding tradition.

ANOTHER PROPENSITY OF HUMAN NATURE IN LAW AND GOVERNMENT?

by Brianne Wolf

All the other excellent essays in this forum focus on Vernon’s discussion of the emphasis [Adam Smith](#) places on the propensity to truck, barter, and exchange in [The Wealth of Nations](#). As is rightly pointed out, this propensity of human nature is also accompanied by the propensity to sympathize with others. In his essay, Onuf focuses on Smith’s reliance on

historical fact rather than proclamations about human nature. Breashears and Montes, however, focus on the important propensities of human nature necessary for trade in Smith's system. For her part, Breashears focuses on the importance of the faculty of persuasion. Montes's essay focuses on the role of fairness in a market system as representative of the role of society, encompassing persuasion and morality in trade. Much speculation is made both in this forum and across Smith scholarship about additional works Smith was considering. As Smith writes,

"I have likewise two other great works upon the anvil; the one is a sort of Philosophical History of all the different branches of Literature, of Philosophy, Poetry and Eloquence; the other is a sort of theory and History of Law and Government" (CAS, 286-7).

Smith's references make one wonder if an additional human propensity would have been posited by these works. Although Breashears has persuaded me that a work about literature and eloquence would likely have focused on the faculty of persuasion and perhaps the faculty of taste (TMS I.i.4), I intend for this essay to explore what propensity would have accompanied Smith's proposed work on jurisprudence. He defines jurisprudence in TMS:

"The wisdom of every state or commonwealth endeavors, as well as it can, to employ the force of the society to restrain those who are subject to its authority, from hurting or disturbing the happiness of one another. The rules which it establishes for this purpose, constitute the civil and criminal law of each particular state or country. The principles upon which those rules are, or ought to be founded, are the subject of a particular science, or all sciences by far the most important, but hitherto, perhaps, the least cultivated, that of natural jurisprudence." (TMS VI.ii.1.1)

Smith also provides an indirect definition in WN while discussing the duties of the sovereign:

"The second duty of the sovereign, that of protecting, as far as possible, every member of the society from the injustice or oppression of every other member of it, or the duty of establishing an exact administering of justice, requires too very different degrees of expense in the different periods of society." (WN V.i.b.1)

Onuf makes a compelling point that Adam Smith's conception of politics focuses on the opinion of the people as a kind of political market force. Indeed, throughout Book V of *The Wealth of Nations*, Smith emphasizes "the great body of the people." He worries about the people's ability to make political judgments. [1] He also discusses the oft emphasized judgment of the sovereign or legislator (e.g. WN IV.ii.39). But what propensity would animate this participation in a political regime?

In his original essay, Vernon focuses on the pre-civil role of property rights. But what promotes adherence to the law or the conception of government at all? Another possible interpretation of Vernon's essay is that our Smithsonian political propensity would be to seek justice.

Yet we often see the negative origins of government and politics presented in Smith's writings. As Vernon suggests, the desire to protect property is foundational to government, especially the wealthy. Smith snidely comments,

"Civil government, so far as it is instituted for the security of property, is in reality instituted for the defense of the rich against the poor, or of those who have some property against those who have none at all" (WN V.i.b.12).

When Smith comments on the benefits of government for the rich, he sounds like [Rousseau](#). After all, Smith's first publication is a review of the Frenchman's "Second Discourse" where Rousseau says something similar:

"The rich above all must have soon sense how disadvantageous to them was a perpetual war in which they alone paid all the costs and in which the risk to life was common to all, while the risk to goods was theirs alone...such was, or must

have been, the origin of society and of laws, which gave new fetters to the weak man and new forces to the rich man, irreversibly destroyed natural freedom, forever established the law of property and of inequality, made an irrevocable right out of a clever usurpation, and henceforth subjected the entire human race to labor, servitude, and misery for the profit of a few ambitious people.”

Onuf’s and Vernon’s essays propose that the government uses the people as a tax base. Indeed, in Book V of WN, Smith emphasizes the propensity of the sovereign to accumulate debt at the expense of the people. But Smith throughout WN disapproves of the use of government as a benefit to the rich. In particular, he railed against mercantilism or, what we might call today, crony capitalism. In a letter to Andreas Holt, Commissioner of the Danish Board of Trade and Economy, Smith wrote that the *Wealth of Nations* was a “very violent attack...upon the whole commercial system of Great Britain” (CAS, 250).

The impulse for political participation for Smith is a natural love of those closest to us and a preference for their well-being. In *Lectures on Jurisprudence*, he calls this a propensity toward what is familiar:

“We see that there is in man a great propensity to continue his regard towards those which are nearly connected with him whom we have formerly respected. The sons and particularly the eldest son commonly attract this regard, as they seem most naturally to come in the place of the father; and accordingly in most nations have been continu’d in their fathers’ dignity.” (LJA Iv.46)

In *The Wealth of Nations*, he writes:

“Civil government requires a certain subordination. But as the necessity of civil government gradually grows up with the acquisition of valuable property, so the principal causes which naturally introduce subordination

gradually grow up with the growth of that valuable property.” (WN V.i.b.3)

Smith also identifies four parts of human nature that render us susceptible to rule by others: 1) “superiority of personal qualifications,” 2) “superiority of age,” 3) “superiority of fortune,” and finally, 4) “superiority of birth” (WN V.i.b.5-8). At the same time, because Smith recognizes that “The violence and injustice of the rulers of mankind is an ancient evil, for which, I am afraid, the nature of human affairs can scarce admit of a remedy” (WN IV.iii.c.9), I argue that he wants to replace this propensity of subordination with individual judgment wherever possible because “the law ought always to trust people with the care of their own interest, as in their local situations they must generally be able to judge better of it than the legislator can do” (WN IV.v.b.16).

But this judgment must be educated. In a much-analyzed section of Book V of *The Wealth of Nations*, Smith details the downfall of the division of labor—the intellectual development of the worker. These insights are best grouped with those of TMS. For Smith, moral judgment develops throughout one’s life by experiencing many situations and engaging in the sympathizing process—both reacting to individuals’ behavior and seeing others react to their own. The ideal endpoint of this process is an individual who no longer requires actual spectators but can judge their own behavior as an impartial spectator would. The division of labor limits what workers will experience in the world, depriving them of adjusting and contextualizing to many different circumstances. They are confined to “performing a few simple operations” and therefore have “no occasion to exert...understanding, or...invention” (WN V.i.f.50). I think the desire to remedy this lack of exposure is one of the reasons Smith emphasizes military training and service. Additionally, Smith wants to be sure that workers can contribute to society not only morally, but also politically. He writes, “Of the great and extensive interests of his country, he is altogether incapable of judging” (WN V.i.f.50). However, in other stages of economic development, lack of invention is not a problem and “every man too is in some measure a

statesman, and can form a tolerable judgment concerning the interest of the society, and the conduct of those who govern it” (WN V.i.f.51).

As we learned from Vernon’s original essay, our emotional attachment to one another is important for justice. But as the scope of government increases, the mechanism of justice becomes increasingly out of view and the leaders in government less familiar and proximate. As Smith tells us in his “circles of intimacy,”^[2] it is hard to sympathize with those who are far away from us. Just as Smith thought that extending sympathy beyond immediate circles was possible in a commercial society where “colleagues in office, partners in trade, call one another brothers.” Smith also thought it was possible to judge sovereignty beyond simple familiarity or habits of obedience (TMS VI.ii.1.15). Therefore, the concern with the government's administration of justice is the difficulty of being spectators and commentators of an entity far removed “from the great body of the people,” leaving neighboring government officials to work together. Indeed, Smith warns us to guard against corrupt judges who can be bought off and to ensure “that justice should not frequently be sacrificed to, what is vulgarly called, politics” (WN V.i.b.13, 24).

Sentiment was always part of the motivation toward government and rules of justice, but it seems that, as the government increases in size, citizen judgment is also required to check political power.

Works Cited

Frame, Edward. and Michelle. Schwarze (forthcoming) "Adam Smith on Education as a Means to Political Judgment." *Political Research Quarterly*.

Nieli, Russel "Spheres of Intimacy and the Adam Smith Problem," *Journal of the History of Ideas* 47, no. 4 (1986).

Oprea, Alexandra. (2022). "Adam Smith on Political Judgment: Revisiting the Political Theory of the Wealth of Nations." *Journal of Politics* 84(1): 18-32.

Smith, Adam. (1981 [1776]). *An Inquiry into the Nature and Causes of the Wealth of Nations*. Indianapolis, Liberty Fund.

Smith, Adam. (1987). *Correspondence of Adam Smith*. Indianapolis, Liberty Fund.

Smith, Adam. (1982 [1762-3]). LJ(A). *Lectures on Jurisprudence*. Indianapolis, Liberty Fund.

Smith, Adam. (1982 [1759]). *The Theory of Moral Sentiments*. Indianapolis, Liberty Fund.

Endnotes

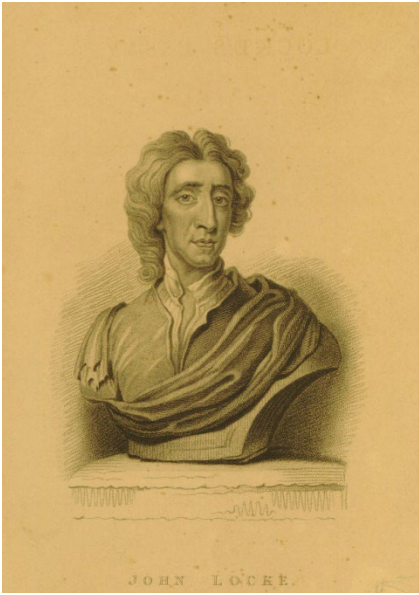
[1] For more on the political judgment of the people in Smith’s work see Oprea, A. (2022). "Adam Smith on Political Judgment: Revisiting the Political Theory of the Wealth of Nations." *Journal of Politics* 84(1): 18-32.; Frame, E. and M. Schwarze (forthcoming) "Adam Smith on Education as a Means to Political Judgment." *Political Research Quarterly*.

[2] Russell Nieli, "Spheres of Intimacy and the Adam Smith Problem," *Journal of the History of Ideas* 47, no. 4 (1986).

CIVILIZATION, PERSUASION AND PROPRIETY

by Leonidas Montes

The four exchanges triggered by Vernon Smith’s essay are different but interrelated responses. I will simply focus on some spontaneous reactions to the essays that celebrate Smith’s tercentenary.



John Locke

Peter Onuf rightly refers to [Adam Smith](#) as a “history-minded comparativist whose understanding of contemporary market society was grounded in his empirical understanding of the contingent and ongoing development of state capacity, focused specifically on the problem of justice in Britain.” The rule of law combined with the British tradition of common law allows Smith to take experience as an evolutionary process. A great insight, underlines Peter, is that individuals are risk averse. And, as [John Locke](#) wrote in his *Second Treatise*, we value and defend “life, liberty and property”. Classical liberalism relies on this simple and very human assumption. It is also the basic foundation of self-interest. And regarding life - the most precious and first reason for self-interest - Vernon Smith delves into the way society has dealt with murder. The defense of life is Leviathan’s first civil responsibility. Yet the social and political importance of the development of murder leads Vernon Smith to argue that “victim compensation evolved into a tax as government became stronger”. This is a mark of civilization and as a final and suggestive connection Peter Onuf reminds us about the role of the United States. As a final reflection, how we have dealt with life and murder has shaped modernity.

Caroline Breashers engages with Smith's rhetoric, particularly with “the art of persuasion”. Persuasion is a

key aspect that permeates all Smith's legacy, through his *Lectures on Rhetoric and Belles Lettres*, *Lectures on Jurisprudence*, *Theory of Moral Sentiments* and finally *Wealth of Nations*. Its importance is pervasive and comprehensive, and I believe we can even talk about “sympathetic persuasion” (see Montes 2019). I do not need to persuade Caroline of the importance of persuasion. I fully agree with her. She concludes, the “desire of persuasion was a powerful human motivation for Smith”. But persuasion also involves risks: it can also become a strong and dangerous political impulse. Adam Smith and Vernon Smith are aware and alert towards the man of system who believes he knows what is best for all of us. Many enlightened politicians might attempt to move us over the chessboard of society forgetting that we can move on our own. Persuasion is a foundational concept behind exchange, division of labor and progress. But we need justice and the rule of law.

Brianne Wolf recovers Locke's idea that property is “an extension of our right to our own person”. It is interesting to note that during the seventeenth century “property” and “propriety” were used interchangeably. They had the same meaning. Today property has a material sense, but “propriety” is still morally loaded. For example, the first part of TMS is precisely entitled “Of the Propriety of Action”. And we keep this linguistic tradition: when we talk about “proper behavior” or “to act with propriety” we refer to a moral conduct approved by society. In other words, the meaning and understanding of property has an ethical underpinning. It is even related to sympathy through the Greek concept of *oikeiosis*, something that Smith knew well.

[David Hume](#) - and a fortiori Smith - knew that “there is no conception of justice until there is property”. Justice is a social phenomenon, an artificial virtue that evolves. This evolution is social. And justice evolves as we socialize. In this sense, as Brianne reminds us, the role of sympathy is evident. [Sympathy](#) is the human principle that defines ethics. Yet the sympathetic process requires sentiments and deliberation. For that very same reason, in her brief but consistent “Affective Foundations of Property, Justice and Political Judgment” we feel and

understand the value of ideas. If civil society rests upon justice and property, without sympathy there would be no society. But without justice and property there would be no society.

Inspired by Vernon Smith's first essay, Peter Onuf takes us into progress and civilization. Caroline Breashears, into persuasion, and Brianne Wolf to the world of classical liberal ideas through John Locke's concept of property. In a way, society and human nature emerge through the lens of Adam Smith's sympathy and self-interest. What a great and consistent way to celebrate his 300th birthday.

References

Montes, L. (2019) "Adam Smith's foundational idea of sympathetic persuasion", *Cambridge Journal of Economics*, Vol. 43(1).

DOING JUSTICE TO ADAM SMITH

by Caroline Breashears

[Adam Smith](#) would have loved how this forum modernizes the virtual public sphere of the Enlightenment. His personal library—with its copies of [Joseph Addison](#) and Richard Steele's *Spectator* papers—attests to his interest in how we improve society through civil debates. Smith engaged in such conversations in his clubs, his letters, and of course his books, where he responded to numerous philosophers from [Francis Hutcheson](#) to [David Hume](#). Our forum does justice to that tradition and the enduring value of Smith's ideas.



Francis Hutcheson

Professor Montes expands on an earlier discussion with our own Professor Vernon Smith about the complex meaning of "fair" in [The Wealth of Nations](#). He connects this point with "a kind of marketplace of persuasion," arguing, "if the word 'sympathy' does not appear in WN, the sympathetic process is present as moral exchange." Professor Montes demonstrates how rational trade and the moral basis of exchange rest on "fairness and persuasion," drawing our attention to the uniquely human process:

Nobody ever saw a dog make a fair and deliberate exchange of one bone for another with another dog. Nobody ever saw one animal by its gestures and natural cries signify to another, this is mine, that yours; I am willing to give this for that. ([WN I.ii.2](#))

As Professor Montes observes, Adam Smith taught us that "fair and deliberate exchange" is the basis of a liberal order. Ultimately, "reason and sentiment interact, even when we think about justice and the market." Yet, he observes, linguists have shown that the term "fair" is complex and perhaps untranslatable.

It is possible that Adam Smith used "fair" in the passage quoted above precisely *because* of the richness of its eighteenth-century English connotations. Smith was fascinated by language, as evident in his "Essay on Languages," and his systematic approach informs his review of [Samuel Johnson's Dictionary for the Edinburgh Review](#) (1755-56). While Smith admired Johnson's

accomplishment, he regretted that the dictionary was insufficiently "grammatical."

While Smith's review does not analyze Johnson's definitions of "fair," he kept the two folio volumes of the *Dictionary*, where Johnson identifies a range of meanings, including "pleasing to the eye"; "clear; pure"; "favourable; prosperous"; "likely to succeed"; "equal; just"; "not effected by any insidious or unlawful methods; not foul"; "not practicing any fraudulent or insidious arts"; "open; direct"; "gentle; mild; not compulsory"; "pleasing; civil"; "equitable; not injurious"; "gently, decently; without violence"; "civilly; complaisantly"; "happily; successfully"; "on good terms"; "honesty; just dealing"; and "an annual or stated meeting of buyers and sellers."

Johnson thus associates "fair" with not only a place of exchange but justice, openness, civility, prosperity, and even beauty. These are all qualities Smith promotes throughout *The Wealth of Nations*, [The Theory of Moral Sentiments](#), and his [Lectures on Jurisprudence](#) and on [Rhetoric and Belles Lettres](#).

The absence of those qualities, as Professor Onuf's essay suggests, raised Smith's ire, particularly in Part IV of *The Wealth of Nations*. Smith there becomes more explicit in his assault on [mercantilism](#), or what Professor Onuf describes as "state-sanctioned capitalists." Smith's readers would have recognized in his descriptions of mercantilism the opposite of "fair" dealings—indirection, inequity, compulsion—with other countries and of course America.

Adam Smith's emphasis on justice does not stop there. In *The Theory of Moral Sentiments*, as Professor Smith observes, he associates justice with protection from murder, theft, and violation of contracts. As scholars such as Daniel Klein have [shown](#), Adam Smith also attends to distributive and estimative justice.

I am most struck by Smith's final observations on justice in the sixth edition of *TMS* (1790), which was published shortly before his death. He notes the challenge of achieving justice in all its manifestations, including in the sense Dr. Johnson defines first: "the virtue by which we give to every man that what is his due." What happens

when society misjudges us? What happens when our own impartial spectator, the man within the breast, is at odds with the judgment of others?

These were not abstract problems for Smith. He resented misjudgments about his friend David Hume, a religious skeptic, and collected pamphlets on the infamous case of Jean Calas, who was unjustly executed for the murder of his own son (a case Smith addresses in [TMS III.2.11](#)). Smith's library contained additional books that addressed the search for tranquility and justice. In his copy of George Anne Bellamy's *Apology* (1785), one heavily dogeared page concludes a passage in which the author bemoans the cruelty of others. She addresses "goodness" as that "sweet dictator of the human breast," which leads to "happiness here as well as *hereafter*," and is a "divine influencer of tranquillity [*sic*]." The hope for justice sustains her.

Justice and tranquility appear with new urgency in Smith's final revisions to *TMS* Part III. He discusses how society might misjudge a person who then begins to doubt the judgment of his own impartial spectator:

In such cases, the only effectual consolation of humbled and afflicted man lies in an appeal to a still higher tribunal, to that of the all-seeing Judge of the world. . . . A firm confidence in the unerring rectitude of this great tribunal, before which his innocence is in due time to be declared, and his virtue to be finally rewarded, can alone support him under the weakness and dependency of his own mind, under the perturbation and astonishment of the man within the breast, whom nature has set up as, in this life, the great guardian, not only of his innocence, but of his tranquillity [*sic*]. . . . That there is a world to come, where exact justice will be done to every man . . . is a doctrine, in every respect so venerable, so comfortable to the weakness, so flattering to the grandeur of human nature, that the virtuous man who has the misfortune to doubt it, cannot possibly avoid wishing more earnestly and anxiously to believe it. ([TMS III.2.33](#))

However unjust a society, Smith raises this possibility of a final "exact justice" for each individual. The expectation of this justice is a guardian of our tranquility. He depicts this hope with beauty and sympathy.

Sympathy is also essential in dealing with hard problems in the present. In *WN*, Professor Wolf observes, "Smith was very interested in the American case and especially the possibilities for sympathy and consequently moral and political judgment that were lost between the Americans and Britain because of the structure of empire." Rights matter, she observes, but a society must recognize and defend them through the sympathetic process.

The sympathetic process informs all of Smith's teachings, helping us to understand, judge, communicate, and act. It also runs throughout this forum, which extends the eighteenth-century virtual public sphere to the present. Whether we would meet Smith's criteria for good writing—"perspicuity of style," conveying our sentiments "by sympathy," regulating our exuberance and bringing it "to that pitch which will be most agreeable"—might be debatable, but I like to think that Smith would be pleased.

LAW, MARKET, AND NATION-STATE

by Peter S. Onuf

My co-respondents evoke a sympathetic and engaging image of [Adam Smith](#) (AS), the enlightened moral philosopher, in their responses to Vernon Smith's (VS's) provocative short essay. I am "persuaded" by Caroline Breshears's account of "Smith's rhetorical ideals," Brianne Wolf on his "sympathetic system" and Leonidas Montes on "fairness" and the "moral foundations" of his "account of human nature." The collective portrait rings true to my understanding of AS and the ethos and aspirations of an enlightened, improving age. But the historian wants to know where this "system" (in an era of proliferating systems) came from? VS convinces me that AS asked the same question. AS's brief comments on murder and capital punishment suggest the answer I

develop at much greater length than either he or, I'm guessing, VS, would have thought useful.

As the system-builder was focused on the present state of the British nation and its future prosperity. I'm not sure his "*main concern*...was improving the condition of the poor" (Montes, my emphasis), but I do agree with Wolf about his strong and inclusive conception of the "nation" or "people," their "emotional attachment to the law via their sympathy with each other" and their "thick emotional ties." This was AS's version of Benedict Anderson's "imagined community. Getting the history right would be of no great concern to the philosopher—or to the political economist who imagined the "nation" that had emerged with an expanding and increasingly integrated "market" and the "propensities" it mobilized and unleashed. For most purposes, AS could fall back on the stadial theory of historical development, dismissing fanciful notions of an original social contract. AS instead leaned into the future, seeking to enlighten policy-makers about impediments to market freedom and social and economic progress. Yet as his stray comments on crime and punishment in early Britain reveal, AS was a capacious thinker who also recognized the distinctive historical circumstances of contemporary Britain.

How did Britain become a modern, market-based commercial society? My fellow respondents rightly emphasize the importance of culture in sustaining and expanding the ambit of reciprocal recognition and trust in "the social field of communication," or what Montes calls "a kind of marketplace of persuasion." Emphasizing speech, they acknowledge the distance between past and present, between "very early times," when the meaning of words was "ambiguous" and misunderstanding fostered endemic conflict and the modern era, when (quoting AS), "the Introduction of Commerce...brings on the improvement of Prose" (Breshears). Responding to VS's emphasis on "resentment and punishment," Montes invokes AS's "evolutionary perspective," discovering in his famous formulation of "our [putatively universal] propensity to 'truck, barter and exchange,'" a teleology or "final cause" in its endpoint, "exchange." The "moral foundations" of human nature that animate

AS's moral philosophy and VS's experimental economics are thus realized in modern commercial society. For historians, "foundations" (or "pathways") come first. For AS's sympathetic interlocutors, they are immanent in human nature and revealed *through* history. "Since the eighteenth century," Montes hopefully concludes, "we have improved towards a much better living together."



David Hume

Wolf draws on [David Hume](#) as well as AS in developing her "spectatorial theory of property rights." Emphasizing the "conversational" rather than "contractual" origins of modern society, she questions VS's thesis that "our natural impulse for revenge" is foundational, suggesting instead that AS used "these passages to check this same impulse in his readers." Sociable modern people define themselves against their "barbarous" ancestors, *becoming* civil and enlightened by "interacting with people over time" and *arriving* "at the best rules for protecting property." Sympathetically engaging with her enlightened subjects, she joins them in discovering the "necessary foundations of civil society" and a "robust system of property rights" in the domain of "affective ties" and a common culture "*beyond* the legal enforcement of injury or infringement" (my emphasis). Until they are made "tangible for the average person," property and exchange are both "ephemeral economic concept[s]." To the skeptical historian these concepts might "seem arbitrary and relativist," self-evidently historically contingent, impossibly "foundational." But Wolf and her colleagues give us a valuable, ahistorical perspective on how Smith and his colleagues made sense of their emerging and supposedly improving world. Thinking (and feeling) with their subject, they give us "a different (and inspiring) understanding of liberalism" in its formative moment.

Yet there is also value in thinking historically and following AS's and VS's provocative, disquieting commentary on crime, punishment and the formation of modern, sovereign nation-states. For students of AS it is particularly important to keep in mind that the recently United Kingdom was becoming the dominant fiscal-military state of its time, demonstrating an extraordinary capacity to threaten and make war across the frontiers of its far-flung empire, on land and at sea. The efficacy of government at home, in the great British metropolis, may have depended on accommodating the power of public opinion and adhering to the principle of fair play (though we should never underestimate the important of coercive sanctions in preserving the King's peace), but the very visible hand of state power played a critical role in extending and sustaining empire. The wealth of the nation might promote the prosperity and welfare of the British people, but its primary role was to finance the insatiable demands of making war and keeping the King's peace—as AS very well knew.

ABOUT THE AUTHORS

[Vernon L. Smith](#) is a professor of economics at Chapman University's Argyros School of Business and Economics and School of Law in Orange, California. He was awarded the Nobel Prize in Economic Sciences in 2002 for his groundbreaking work in experimental economics. He is also a research scholar emeritus at George Mason University Interdisciplinary Center for Economic Science, a fellow of the Mercatus Center, and a senior fellow at the Cato Institute, all in Arlington, Virginia.

[Brianna Wolf](#) is Assistant Professor of Political Theory and Director of the Political Economy minor at James Madison College at Michigan State University (JMC). She specializes in the history of political thought with a focus on the Scottish and French Enlightenments, liberalism, moral judgment, and the interaction between economics and politics. She did her undergraduate work at JMC, has an M.A. from the University of Chicago, and a Ph.D. in political science from the University of Wisconsin-

Madison for her dissertation work on the relationship between freedom and aesthetic judgment in the modern age. She has published on Jean-Jacques Rousseau, Adam Smith, Alexis de Tocqueville, and Friedrich Hayek and this work can be found in *History of Political Thought, Review of Politics, Polity*, and edited volumes. Dr. Wolf is currently at work on a book length study of the role of taste in solving problems of individualism in the liberal tradition in the thought of David Hume, Jean-Jacques Rousseau, Adam Smith, and Alexis de Tocqueville titled “Beyond Rights and Price: Liberalism with Taste.” She is also working on other projects analyzing the connections between the history of political and economic thought.

Leonidas Montes is director of Centro de Estudios Públicos and Adam Smith Professor at Universidad Adolfo Ibáñez (www.uai.cl) in Chile. He is the author of “Adam Smith in Context”, co-edited “New Voices on Adam Smith” with Eric Schiliesser and has published some articles on Adam Smith, on Hayek and his visits to Chile (with Bruce Caldwell) and on Milton Friedman and his visits to Chile (with Sebastian Edwards)

Caroline Breashears is a Professor of English at St. Lawrence University. She studied English at Girton College, Cambridge, graduated Summa Cum Laude from the University of Arkansas, and earned her PhD at The University of Virginia. She has published scholarly articles on authors such as Adam Smith, Jane Austen, Elizabeth Inchbald, and Ayn Rand, as well as a book about the memoirs of eighteenth-century scandalous women. She has also written for outlets such as the Reading Room, Law & Liberty, AdamSmithWorks, and AIER.

Peter S. Onuf, Thomas Jefferson Foundation Professor Emeritus in the Corcoran Department of History at the University of Virginia and Senior Research Fellow at the Robert H. Smith International Center for Jefferson Studies (Monticello). His work on Thomas Jefferson’s political thought, culminating in *Jefferson’s Empire: The Language of American Nationhood* (2000) and *The Mind of Thomas Jefferson* (2007) grows out of earlier studies on the history of American federalism, foreign policy, and political economy. Onuf is coauthor with Annette

Gordon-Reed of *“Most Blessed of the Patriarchs”:* *Thomas Jefferson and the Empire of the Imagination* (2016) and author of *Jefferson and the Virginians: Democracy, Constitutions and Empire* (2018).

COPYRIGHT & FAIR USE STATEMENT

"Liberty Matters" is the copyright of [Liberty Fund, Inc.](http://libertyfund.org) This material is put online to further the educational goals of Liberty Fund, Inc. These essays and responses may be quoted and otherwise used under "fair use" provisions for educational and academic purposes. To reprint these essays in course booklets requires the prior permission of Liberty Fund, Inc. Please contact submissions@libertyfund.org if you have any questions.