

Phil 104, October 12, 2010
Hume, *Treatise*, III:ii:1

The virtue of justice is not “natural,” but “artificial”

Overview:

- (1) What makes an action virtuous is that it is produced by a motive of which we approve.
 - (2) What is the motive that produces just actions? Not self-interest, public benevolence, or private benevolence. These motives would sometimes lead one to break the rules of justice.
 - (3) Thus, the motive that produces just actions is the motive to do something that is approved of.
 - (4) There is something puzzling about (3). If the question is, “Why do we approve of just actions?” then what kind of answer is it to say, “Because they are approved of”?
 - (5) This puzzle is resolved if justice is an “artificial” virtue: if we approve of just actions, because we approve of a convention.
- (2) The motive that we approve of when we approve of just actions cannot be self-interest, public benevolence, or private benevolence.
- (A) Why the motive cannot be “private interest or reputation” (480): Self-interest, left on its own, would probably motivate one *not* to repay the loan.
 - (B) Why the motive cannot be “regard to the public interest” (480–1): (i) The connection between just acts and the public interest is mediated by a convention. (ii) If the loan is secret, then only the lender’s interest, not the public interest, is affected by the borrower’s not repaying it. (iii) Typically, when people repay loans, they do not think in such abstract terms.
 - (C) Why the motive cannot be “regard to the interests of the party concern’d,” e.g., concern for the lender (482–3). (i) If the borrower views the lender as an enemy, or evil, or a miser who won’t use the money for anything, or a “profligate debauchee” who will waste it all; or if the borrower and his family are starving, then concern for the lender will not motivate him to repay the loan. (ii) “A rich man lies under a moral obligation...” A somewhat obscure point: We have duties of justice and duties of benevolence. Duties of justice say that we should not take what someone already has. Duties of benevolence say that if we have a lot, and someone else a little, then we should give him a bit of what we have. Duties of justice are generally *stronger* than duties of benevolence. We tend to think that we have a duty of justice not to *take* X from someone even if we would not have a duty of benevolence to *give* X to him. For example, if I make \$35,000 and my neighbor makes \$35,000, I am required not to steal \$5,000 from him. If I made \$40,000 my neighbor made only \$30,000, however, I would not be required to give him \$5,000. If the motive of justice were private benevolence, then duties of justice and duties of benevolence would have the same strength. (iii) “A man’s property is suppos’d to be fenc’d...” The rules of justice are supposed to be absolute and unyielding; they are *always* supposed to be respected, regardless of the particular situation. But feelings of benevolence toward particular people, in particular situations are highly variable. So benevolence cannot be what motivates people to abide by the rules of justice.

(3) This seems to suggest that the motive that we approve of in calling an action “just” *is* a regard to justice: a concern to act justly for its own sake. First, as we just saw, only a concern to act justly for its own sake could motivate people to act justly, given that they have other motives not to. Second, justice, unlike benevolence, is a self-conscious virtue. When people act benevolently, their motive does not involve the concept of benevolence. The thought that runs through their minds is not, “This would be benevolent,” but rather (e.g.) “That person is suffering.” When people act justly, however, their motives do involve the concept of justice. The thought that runs through their minds is: “This is what justice demands.”

(4) The fundamental problem is this seems to leave it inexplicable *why* we approve of justice, what *makes* justice a virtue. Why is justice approved of? Because of its motive. What is its motive? That justice is approved of. Justice is approved of because justice is approved of—not a very illuminating explanation.

(5) We approve of a just action not because of something good about a person’s performing that action *in particular*, but instead because of something good about that people performing those actions *in general*: a convention, social practice, or system of rule-governed behavior to which that action belongs.

How does justice arise?

People first need to be motivated to act in the relevant ways. The initial motivation is self-interest.

- (1) Individual humans have great needs, but insufficient means to satisfy them (484–5).
- (2) To meet their needs, humans have to join together in society. (Society allows us (a) to pool our efforts, (b) to specialize, and (c) to have some insurance against individual bad luck) (485).
- (3) Factor 1: People care about (a) themselves, and (b) their loved ones more than they care about other people. (The “qualities of the mind,” “selfishness” and “limited generosity” (486–7).)
- (4) Factor 2: People need external, physical objects. These are (a) scarce relative to human need and (b) easily taken by other people (487–8). The “situation of objects,” “scarcity” and “easy change.”
- (5) Problem: Because of factors 1 and 2, people realize that others will be tempted to take their stuff, and so are wary of entering society (488–9).
- (6) So before they enter into society, people need some assurance of certain rules (488–9).
- (7) This assurance cannot be provided by a promise (490).
- (8) Instead: Person A recognizes that person B thinks it is in her interest to abide by the rules, so long as person A does the same. And person B recognizes that person A thinks it is in her interest to abide by the rules, so long as person B does the same. So they both realize that so long as they abide by the rules, the other will too. An assurance game (490).

Justice only arises when factors 1 and 2 obtain. Otherwise there is no need for it (492–5).

The impressions that give rise to the sense of justice are not natural to the human mind, but instead arise from a convention. Again, *particular* just actions, viewed in isolation, are often against the agent’s and society’s interests. It’s only when we consider the whole convention, the

entire system of justice, that we recognize how it serves our own interests and those of society and thus come to approve of it (496–8).

But how exactly does this work? In particular, how and why do we come to approve or disapprove of just or unjust acts that do not affect us? Via *sympathy* (498–500).

Review Questions:

1. Why, according to Hume, can't the obligation to follow the rules of justice be explained by a promise?
2. What does Hume mean when he calls justice an “artificial” virtue? What makes it “artificial”?
3. Why does Hume think that justice would have been unimaginable in the Garden of Eden?