

NEW YORK • WESTPORT, CONNECTICUT • LONDON

To Hans-Georg Gadamer,

en signe de profonde amitié
et de grande reconnaissance

Library of Congress Cataloging-in-Publication Data

Madison, Gary Brent.

The logic of liberty.

(Contributions in philosophy, ISSN 0084-926X ; no. 30)

Bibliography: p.

Includes index.

1. Liberty. I. Title. II. Series.

B105.L45M25 1986 323.44'01 85-27278

ISBN 0-313-25018-9 (lib. bdg. : alk. paper)

Copyright © 1986 by G. B. Madison

All rights reserved. No portion of this book may be reproduced, by any process or technique, without the express written consent of the publisher.

Library of Congress Catalog Card Number: 85-27278

ISBN: 0-313-25018-9

ISSN: 0084-926X

First published in 1986

Greenwood Press, Inc.

88 Post Road West, Westport, Connecticut 06881

Printed in the United States of America



The paper used in this book complies with the Permanent Paper Standard issued by the National Information Standards Organization (Z39.48-1984).

10 9 8 7 6 5 4 3 2 1

Copyright Acknowledgements

We gratefully acknowledge permission to reprint extracts from the following sources:

Jacques Ellul, *The Technological Society*, translated by John Wilkinson. Copyright by Alfred A. Knopf, Inc. Reprinted with permission.

Frank H. Knight, *Freedom and Reform: Essays in Economics and Social Philosophy*. Copyright 1947 by Harper & Row, Publishers, Inc.

There is no higher principle of reason than that of freedom. . . . No higher principle is thinkable than that of the freedom of all, and we understand actual history from the perspective of this principle: as the ever-to-be-renewed and the never-ending struggle for this freedom.

—Hans-George Gadamer

CONTENTS

INTRODUCTION	ix
PART ONE: PROBLEMS	
1 DEMOCRACY AND THE NEW DESPOTISM	3
2 TECHNOCRACY AND THE PROMETHEAN URGE	13
3 EGALITARIANISM AND TECHNOCRACY	35
4 THE FUTURE OF FREEDOM	55
PART TWO: PRINCIPLES	
5 THE MEANING OF FREEDOM	71
6 LIBERTY AND LAW	87
7 FREEDOM AND VIRTUE	113
8 THE CONSTITUTION OF LIBERTY	129
9 LIBERTY AND DEMOCRACY	167
10 THE PHILOSOPHY OF LIBERTY: AN EXPOSITION	201
11 THE PHILOSOPHY OF LIBERTY: A DEFENSE	247
CONCLUSION	275
BIBLIOGRAPHY	281
INDEX	289

conceptual distinction between legislation and government (the latter sometimes being referred to as the executive branch of government or the administration). Only if this distinction is recognized and respected is there any guarantee that the rule of law, and thus freedom, will prevail.

If the powers are, or should be, separate, it is because they have, in principle, different functions. That of the legislative body is not that of government or administration. While it is the function of the latter to make concrete decisions in regard to specific situations, to, in effect, determine specific strategies in regard to specific ends and to issue orders to this effect, the function of the former is to establish the overall framework of rules and procedures which will be binding on government in its day-to-day activities. As we saw in Chapter 6, there is an essential difference between laws and decrees, and as a legislative as opposed to a regulatory body, the function of the legislature is not to resolve specific conflicts of interest but to determine the overall rules of just conduct which will in turn be used in the resolution of all such conflicts. In legal positivism this distinction is ignored, with the consequence that government by legislators replaces the rule of law. Laws become nothing more than the expression of the majority will, which is to say that they serve to promote special interests and cease to be truly general and universal.⁵⁸

That calculative, strategic reasoning in regard to specific issues presupposes contractarian or communicative agreement as to general principles is confirmed when we consider the kinds of arguments that are likely to produce agreement among parties who find themselves in disagreement on a specific issue or course of action to be taken. They are ones that appeal to general principles on which the parties are already in agreement, and argument will here consist in attempting to show that such and such a specific issue falls under such and such a general rule and that one must accordingly opt for such and such a course of action if one is to remain faithful to the spirit of the rule, if, in other words, one is to be consistent, which is to say rational.

An argument of this kind is not logical (calculative) but communicative; it is what rhetoric (which from its beginning was an attempt to articulate on a theoretical level the basic principles of communicative rationality) has traditionally called inventio: locating the common ground or presuppositions (*loci commune*) shared by the discussants to which appeal can be made in order to secure agreement on a specific issue. Locating the common ground is not a matter of logistics but of ingenium: the insightful grasping of a universalizable principle (in contrast to the theoretical reasoning characteristic of the natural sciences, this mode of understanding is what has come to be called "hermeneutical").

The reason for insisting on the fact that the object of communicative agreement is general principles is that, by revealing thereby something about the nature of such agreement, it is possible on this basis to refute the charge that in substituting "agreement" for "truth" one is eliminating the objectively valid in favor of the subjectively arbitrary. There may be no place in communicative rationality for the notion of "objective truth"—truth which supposedly exists prior to or in-

dependent of intersubjective agreement—but this does not mean that what people collectively agree upon is merely arbitrary. For according to the essential requirements of communicative rationality (if it is to exist at all), an agreement, to count as "reasonable," must be one which, being general, is also, to that degree, generalizable. This is to say that when a group of people assert something as a general principle, they are in effect recognizing that the principle is as binding on them as on anyone else. The reasonable person is therefore one who recognizes that no agreement can lay claim to argumentative validity which favors some at the expense of others. What could be called the *reciprocity principle* or the *principle of universalizability* is the core of all rational argument aiming at general agreement.

This can be readily appreciated if we consider the kind of argument we would use with someone whom we deem to be acting in an unreasonable fashion. The object of our reasoning with him will be to get him to act reasonably himself, that is, to make him see that he cannot, without inconsistency, favor himself or discriminate against others without thereby denying the general principle which he invokes in his own favor.

Thus, to a man who claims that, as a human being, he enjoys certain basic rights but who would refuse these rights to women, we might respond: "You claim, as a human being, such and such a right. Women are also human beings. On what grounds can you therefore deny to them what you claim for yourself? If you deny them their rights, as human beings, are you not denying your own?" Our interlocutor will have to accord us his agreement and will have to allow equal rights to women—if he wishes to be considered a rational human being himself, without which, obviously, his own claim to certain human rights would lose its persuasive power, that is, its validity.

It is true that one argumentative option is still open to him: He can seek to withhold agreement by arguing that the principle of equal rights does not apply in the case of women. He might, for instance, want to argue that women are not human beings at all. It is, however, hard to see what rational arguments he could bring forth to deny humanity to women (although Aristotle did maintain that slaves were not human). The more prudent tactic would be for him to argue that they are not rational human beings and, therefore, as an exception to the general rule, are not entitled to the rights he claims for himself. This argument would have some plausibility—some chance of winning our agreement—if he could make out a case to the effect that, as a matter of fact, women simply do not behave in a reasonable way. Even so, the argument would be a weak one and even if—as men formerly did—we conceded that women are not inclined to act reasonably and can therefore legitimately be discriminated against, we would, if we claimed to be reasonable ourselves, have to be prepared to reverse our stand at some future date if and when women could show that they can indeed behave in as reasonable a fashion as anyone else. (This indicates that while the form of communicative rationality is always and everywhere the same, the actual content of what is rationally agreed upon may vary without ceasing thereby to be rational.)⁵⁹

Another example: In 1800 a group of some 1,000 black slaves who had been as much caught up with the idea of liberty as their white American brethren organized an armed revolt whose first stage was to be the capture of Richmond. The uprising was swiftly foiled, and a number of the conspirators were executed. In his defense, one rebel simply argued that he had done no more than George Washington would have done had he been taken by the British. After saying, "I have adventured my life in endeavoring to obtain the liberty of my countrymen, and am a willing sacrifice to their cause," he asked to be led at once to his execution.⁶⁰ Had he been provided with an adequate defense, his counsel might have invoked the reciprocity principle. "You claim as a basic principle," he would have said to his fellow Americans, "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just Power from the consent of the governed,—that whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government'. Blacks are also men. How then can you deny to them the rights that, as men, you claim for yourself? How, when you claim that all men are created equal, can you deny them their equal rights? How, when their unalienable right to liberty is violated by other men, can you deny them the right to revolt that you claim for yourselves?"

As a matter of fact, numerous arguments of precisely this sort were voiced in the eighteenth century, early on in the revolutionary struggle. Consider, for instance, the following:

Would we enjoy liberty? Then we must grant it to others. For shame, let us either cease to enslave our fellow-men, or else let us cease to complain of those that would enslave us. Let us either wash our hands from blood, or never hope to escape the avenger.⁶¹

With what a very ill grace can we plead for slavery when we are the tyrants, when we are engaged in one united struggle for the enjoyment of liberty; what inconsistency and self contradiction is this! Who can count us the true friends of liberty as long as we defend, or publicly connive at slavery.⁶²

From the point of view of communicative rationality, only those agreements are agreements in the proper sense of the term that are rational or reasonable, and the test for this is universalizability. This does not mean that for an agreement to be rational it must be shared by everyone, that it be universally accepted in point of fact.⁶³ An agreement reached by a majority will be universalizable, and thus rational, if the advantages it confers and the obligations it imposes concern as much the majority as they do the dissenting minority. The majority decision that is universal in this sense is necessarily a "just" one, and, accordingly, although the minority may have preferred a different decision, they can have no legitimate grounds for opposing its implementation. They can only hope, by means of further communicative discourse, to convince the majority to revise

its decision (herein lies the meaning of the expression "the loyal opposition"). Since in communicative rationality there is no such thing as a final truth in any event, peaceful dissent (including non-violent civil disobedience) must be considered a fundamental right of all rational beings; it is itself fully rational inasmuch as it appeals to a future common agreement (and, accordingly, eschews all violence).

The essential link between the reasonable and the universalizable is well-stated by one leading theoretician of persuasive argumentation, Chaim Perelman:

A principle of action which others would consider acceptable and even as reasonable cannot arbitrarily favor certain people or certain situations: What is reasonable must be able to be a precedent which can inspire everyone in analogous circumstances, and from this comes the value of the generalization or the universalization which is characteristic of the reasonable.⁶⁴

Thomas Jefferson was putting the matter another way, but was also alluding to the core principle of universalizability when in his First Inaugural Address he reminded his fellow citizens of "this sacred principle": "That though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possess their equal rights, which equal law must protect, and to violate would be oppression." He was, moreover, emphasizing the principle of reciprocity when he stated: "We lay it down as fundamental, that laws, to be just, must give a reciprocation of right: that, without this, they are mere arbitrary rules of conduct, founded in force, and not in conscience."⁶⁵

A common agreement which is universalizable is by definition reasonable, and, because it is reasonable, it is, in so far forth, true or just. It is, accordingly, the basis of all obligation; no one can deny it without denying their own rationality. In the realm of human affairs, there can be no more ultimate criterion of truth or justice than this form of agreement. Moreover, it can reasonably be expected that people will actually make reasonable decisions when these decisions have for their object general principles or rules which are binding on all alike. The reason for this is that if it is indeed recognized by everyone that these rules will be universally binding, no one will have any interest in making biased decisions when the adverse effect of these may in the future and in unforeseeable circumstances (in the long run, as an economist might say) fall on themselves as well as on others. In this case, people can indeed be expected to do unto others (or not do unto them) as they would have them do unto them (or not do unto them). Enlightened self-interest dictates as much. This indicates something of the greatest importance to which we shall return: Communicative rationality effects the reconciliation of private interest and the public good.

Many of Rousseau's basic ideas begin to make good sense when they are divorced from his unfounded metaphysical belief in the intrinsic goodness of human nature and are instead reset in the context of the theory of non-dogmatic,

communicative rationality—when, that is, one argues for them not, as in Rousseau's case, by appealing to the passions (to man's ability to feel compassion or pity for his fellows) but by appealing to reason (to man's ability to act as a reasonable being). This is true even of what to many people is perhaps his most outlandish assertion: "The general will is always right [*droite*] and always aims at the public good."⁶⁶

This statement, which the liberal theorist endorses completely, would be manifest nonsense or, even worse, a justification for legal positivism and, in fact, for one of the worse forms of despotism, if Rousseau were saying that whatever a majority of citizens happens to decide on is always right. But he is not saying anything like this. For Rousseau, there is a fundamental difference between what a man wills simply as an individual man or simply as a member of a group of men and what he wills as a citizen, a member of the sovereign body.⁶⁷ The characteristic of the individual will, according to Rousseau, is that it is oblivious to the "common interest"; it pursues in fact its own private interest ("La volonté particulière tend par sa nature aux préférences"⁶⁸), which is often inimical to the common good. The "general will" must not even be equated with the "will of all," for the people can make collective mistakes and in fact, as Rousseau points out, "there is often a sizable difference between the will of all and the general will."⁶⁹ What, then, differentiates the general will from a simple collection of individual wills, such that, unlike the latter, the former is always right?

The essential difference is that the general will always has for its express object the general or the common good, not the good of any number of individuals purely as individuals. In terms of our theory of rationality we would say: The general will has for its object only general principles or rules which are equally binding on all ("Tout acte authentique de la volonté générale oblige ou favorise également tous les citoyens").⁷⁰ Even though the sovereign power is "absolute," "sacred," "inviolable," it "cannot go beyond the limits of general convention." When it does so, when it seeks to determine the distribution of particular goods to particular individuals, it loses all legitimacy.⁷¹

There can in fact be no general will if citizens merely conspire among themselves to further their own particular interests. Like Madison, Rousseau was extremely apprehensive of "the spirit of faction," of the conspiracy of "sinister interests," and he believed that that society would be best in which no special interest groups existed. But, with the same realism as Madison, he says that if such groups do exist, it is best that they should exist in large numbers so "as to prevent inequality."⁷²

Rousseau's main point is that when people deliberate together, they should do so with the aim of determining what is in the general interest and not in any particular interest. If they do so, the common agreement they arrive at in this way will be an expression of the general will and will necessarily be right. The reason for this is the same as was pointed out above: the universalizability of the agreement. If, in an agreement having to do with general principles, everyone places himself under the same constraints and accords to all others the rights he

accords to himself, such an agreement is fully just. Rousseau is in effect saying that what makes such agreements right and just is that they conform to the principle of reciprocity; the obligations they impose are, as he says, "mutual."⁷³

As we also did, Rousseau emphasizes the distinction between legislation and government. Because legislation is the prerogative of the sovereign (i.e., the people) and expresses the general will, it can deal only with general concerns, never particular ones: "The object of the law is always general";⁷⁴ there is "no general will in regard to particular objects."⁷⁵ The function of government is to administer these laws, to make particular decisions in regard to particular situations, to devise concrete strategies of action. But because government decisions are strategic, they do not follow the logic of communicative rationality and can therefore never claim to express the general will.

Finally, let us note how with his theory of the general will Rousseau resolves the problem of reconciling private interest with the common good, as we claimed the liberal theory of communicative rationality does. Because all communicative agreements involve the principle of reciprocity or are "mutual," "their nature is such that in fulfilling them one cannot work for others without also working for oneself."⁷⁶ In other words, in adhering to universalizable agreements which confer equal rights on all, one is securing one's own rights and is actually serving one's own interests. Why, Rousseau asks, is the general will always right and why does everyone desire the happiness of everyone if it is not because everyone is thinking of himself in voting for all? All of which goes to show, as he goes on to say, that equal rights and the justice they make possible derive from the interest everyone has in himself. What makes the general will general or universal is not so much the number of voices which go to make it up (most general agreements will be the result of simple majority decisions), as it is the common benefits which result from it. Because in adhering to such an agreement everyone necessarily submits to the conditions he imposes on others, an "admirable accord" is realized between "interest" and "justice."⁷⁷

Principles or rules arrived at through communicative reason are meant to apply to all regardless of their specific interests and situations, and they impose the obligation, when the occasion arises, of making the same decision or rendering the same verdict in all cases which are similar (unless further universalizable reasons can be adduced to show why this should not be the case). Thus, the logic of communicative rationality necessarily prescribes a *theory of justice*. Only that common agreement will be rational and just which prescribes analogically uniform treatment of all regardless of their particular situation. To be considered rational, any agreement upon rules of action must recognize the reciprocity of rights and duties. In addition to being the only means for determining what shall count as true or good in human affairs, dialectical, communicative reason is also the sole means for determining what shall count as just.

If some people are inclined to object to the theory of communicative rationality on the grounds that it opens the door to pure arbitrariness, it is no doubt because

they are tacitly confusing communicative or contractarian agreements with negotiated agreements or, again, legislation (in the ideally proper sense) with government. The former have, however, nothing to do with the latter for the simple reason that negotiated settlements usually are not, and are not intended to be, universalizable, and their express object is usually not the common good but the advancement of private interest (of those who are party to the agreement). In a typical bargaining process, two parties seek to reconcile their divergent, private interests through an agreement which is indifferent, and sometimes even inimical, to the interests of a third party or the public at large (the general interest).

Thus, in labor-management negotiations, one party seeks to obtain the maximum in wages and benefits, the other to accord the minimum, and the purpose of deliberation is to reach a compromise agreement which, while satisfying fully neither party, is yet mutually acceptable. In the process, no concern is paid to the common good, that of the public at large, in any direct way. The public good is served only indirectly through the constraint on management to keep the price of the goods it produces competitive. Often, though, management can pass its increased costs on to the public (in the short run, that is; in the long run it must go bankrupt, if it cannot pressure government to pass special monopolistic or protectionist laws in its favor), and nothing then serves to moderate the excessive demands of labor. In time of rapid inflation, nothing is more inimical to the common good (the only amount of reasonableness one can expect a powerful union to have stems from pure self-interest: the knowledge that by forcing the company they work for to become uncompetitive they may end up with no job at all—a consideration which is often ignored, in fact, since large unions are mainly motivated by greed and are notoriously lacking in the virtue enlightened self-interest).

Similarly, most legislation is not legislation in the proper sense of the term but simply a matter of bargaining for votes. More often than not, the legislator's prime concern is not the common good but his own private good; desirous above all of being re-elected, he will seek to have "laws" passed which confer special benefits on his constituency, notably in the matter of government spending. To this end, he will strike a deal with a number of his colleagues; in exchange for their support for his pet measure, he will promise to support them in securing similar deals for themselves ("log-rolling"). That the public interest is not served in this way, that, in fact, it is seriously harmed through the government overspending that results, is none of his concern. When this state of affairs prevails, majority rule becomes nothing more than the conglomerate rule of the more powerful and well-organized of special interest groups and true justice ceases to exist altogether. As Rousseau would say: "Then there is no longer any general will, and the opinion which prevails is but an individual opinion."⁷⁸

One important function of non-dogmatic reason in its critical form is to expose the hypocrisy of all such situations. Critical reason will denounce false resem-

blances and, in particular, all attempts to pass off what is rational from merely an instrumental point of view, that is, the merely expedient in the pursuit of private interest, for an instance of communicative rationality, whose concern is always the common good and whose results are always just. This is not to say that the pursuit of private interest is immoral (as socialists seem to be saying when they castigate the pursuit of profit), simply that it is, from a socio-political point of view, amoral and cannot, for this reason, lay any claim to public "virtue." There must be no confusion between what may be mutually advantageous for any given number of people within a society and what is truly just, and what will always serve as a means of distinguishing between the two is the test of universalizability. No matter how much a government may seek to justify the granting of special privileges to particular groups (in the form, for instance, of entitlement programs) by appealing to noble-sounding epithets like "affirmative action" or "social justice," no such deals are universalizable. They may be rational, but only in the limited sense of being an effective means of securing a desired end, in this case the preservation of the government in power. They are, however, not reasonable when, as is usually the case, those responsible for the decision or those who pressure for it seek to transfer the burden it imposes onto others. It is clearly unreasonable when a majority is led to make decisions that cost society more than they benefit it (in terms, for instance, of loss in the GNP) and that in any particular instance would not be desired by individuals making up the majority—or even approved by them—if they knew their true costs, both in monetary terms and in terms of the social havoc they wreak, such as when certain welfare programs contribute directly to the destruction of family life among a significant proportion of the population. This is a clear sign that the agreement is not rational but is a matter of mere bargaining, an attempt to maintain a coalition of private interests by making pay-offs to each separate group composing it.⁷⁹

When unreasonableness invokes liberal principles (such as the promotion of equal rights or equal opportunity), the result is a thorough mystification leading directly to a corruption of the body politic. In such a situation the first duty of the liberal believer in communicative rationality becomes that of critically denouncing the hypocrisy and of exposing the false consciousness created by governments which appeal to traditional liberal principles only in order to confer a semblance of legitimacy on themselves while in fact they operate in a thoroughly arbitrary fashion and are but the plaything of powerful special interest groups.

As Hayek remarks, traditional liberal principles have been so much forgotten "as their traditional verbal expression deprived of meaning by a gradual change of the key words used in them."⁸⁰ It was mentioned above how one of the essential tasks of thinking is to preserve and, when necessary, to retrieve the elemental power of words. By necessity, this involves exposing and attacking their systematic misuse, such as, as we have seen, the misuse of the words "freedom" and "liberation" by socialists (the advocates of "positive" freedom) in their attempt to solicit general acceptance of their altogether illiberal programs.

When liberal slogans are used in an ideological fashion to justify mere power politics, it becomes the task of critical reason to denounce the mystification. Although negative in character, the purpose of such a critique is eminently positive, for it operates in the service of the ideal of free, communicative reason.

When the actual behaviors of government and citizenry in what are called the liberal democracies are, as they are today, far from conforming to the ideal of a liberal society—a society in which communicative rationality prevails and in which common agreement has for its object the common good—the exercise of critical reason becomes a call for what James Buchanan has termed “constitutional revolution,” that is, renewed contractarian discussion aiming at a fundamental reform of the deliberative and decision-making institutions of society.⁸¹

Although it is manifestly an ideal, no doubt the greatest one ever to motivate humanity, a concern for the ideal of a communicative rational society should not, however, be allowed to fall prey to pure and simple idealism. It must not be thought that reality can be so transformed that people will cease to be motivated by self-interest and will in some marvelous way (as Aristotle would say) become pure altruists and cease to pursue their own private interests whenever they can. To put the matter another way, it must not be thought that for reason or justice to prevail over passion or interest, it is necessary that the discussants have no special interests or, what comes down to the same, be unaware of them. This is, nonetheless, the error that John Rawls makes in his highly influential work, *A Theory of Justice*.

In this work Rawls revives the traditional concept of the social contract. While this is a welcome development in present-day political theory, it is hard to see any great relevance in what Rawls has to say on the subject of contractarian agreement to any actual situation in which people seek to reason together. For Rawls explicitly states that in what he calls “the original position” (a situation which in Rawls’s treatment is as mythical as the “state of nature” of eighteenth-century theorists) those who seek to formulate a contract operate under “a veil of ignorance.” In other words, Rawls assumes that, for people to behave reasonably and in an unbiased way, they must have no knowledge of their own personal interests. He writes:

It is assumed, then, that the parties do not know certain kinds of particular facts. First of all, no one knows his place in society, his class position or social status; nor does he know his fortune in the distribution of natural assets and abilities, his intelligence and strength, and the like. Nor, again, does anyone know his conception of the good, the particulars of his rational plan of life, or even the special features of his psychology such as his aversion to risk or liability to optimism or pessimism. More than this, I assume that the parties do not know the particular circumstances of their own society. That is, they do not know its economic or political situation, or the level of civilization and culture it has been able to achieve. The persons in the original position have no information as to which generation they belong. . . . They must choose principles the consequences of which they are prepared to live with whatever generation they turn out to belong to.⁸²

Apart from criticisms one might wish to address to the actual notion of justice Rawls’s contractarians arrive at, it is this hypothetical, counter-factual notion of an original position of ignorance which deprives Rawls’s theory of any real empirical relevance, as well as any conceptual value. In regard to empirical relevance, one cannot resist asking, in the words of Anthony Flew, “Can there be, by the way, any legal system in the world which would allow such necient zombies—we can scarcely rate them persons—to be minimally competent to make a contract?”⁸³ The reason why people in fact resort to communicative rationality is that they do have different opinions, interests, and backgrounds, and they perceive this to be the only peaceful way in which to transcend their differences in a common agreement. If people were the kind of lobotomized entities Rawls conceives them to be, no social contract and no system of justice would be necessary. People are not, however, dispassionate calculating machines; they are creatures of passion, who may or not behave reasonably. And as Buchanan so aptly remarks: “Passionate men must be reasonable.”⁸⁴

The name that properly designates the reasonable social behavior of passionate men is *politics*.⁸⁵ Politics is the means by which group differences are reconciled through peaceful, rational discussion or argumentation aiming at mutually agreed-upon, universally binding rules. Man, the rational, communicative animal, is, as Aristotle said, the political animal. In fact, not all men are rational or political. Politics exists only in those societies in which people seek to reconcile their differences in a communicatively rational way (and, conversely, only such societies are truly rational). There would be no need for politics and for social contracts if men were not, as they in fact are, interested, passionate, opinionated beings. Rawls’s great contractarian predecessor, Rousseau, revealed much more good sense than Rawls when he wrote: “If different interests did not exist, one would hardly have a feeling for the common good which would never encounter any obstacle; everything would go smoothly, and politics would cease to be an art.”⁸⁶ Thus, Rawls’s way of viewing contractarian agreement actually deprives it of any political significance.

Nor does Rawls’s idea that contractarian discussions must proceed under a veil of ignorance have any more conceptual interest than it does empirical relevance. Madison said as well that given the fact that men are not angels, politics being necessary if they are to live as civilized beings, the important thing is to supply “by opposite and rival interests, the defect of better motives.”⁸⁷ Kant made much the same point a few years later. He too rejected the idea that, as he said, “a republic would have to be a nation of angels [Rawls’s nescient zombies], because men with their selfish inclinations are not capable of a constitution of such a sublime form.” The truth of the matter is that “precisely with these inclinations nature comes to the aid of the general will established on reason.” Thus, like Madison before him, he insisted:

It is only a question of a good organization of the state (which does lie in man’s power), whereby the powers of each selfish inclination are so arranged in opposition that one

moderates or destroys the ruinous effect of the other. The consequence for reason is the same as if none of them existed, and man is forced to be a good citizen even if not a morally good person.

Kant is very far indeed from a Rawlsian recourse to innocence when he goes on to say that however hard a problem it may be to organize properly a State, it "can be solved even for a race of devils, if only they are intelligent." The problem is:

Given a multitude of rational beings requiring universal laws for their preservation, but each of whom is secretly inclined to exempt himself from them, to establish a constitution in such a way that, although their private intentions conflict, they check each other, with the result that their public conduct is the same as if they had no such intentions.⁸⁸

The philosophical significance of the concept of communicative reason we have been defending lies in the fact that it is capable of solving the problem Kant refers to. In contrast to theoretical-instrumental reason which requires that the reasoners already share a certain common ground of beliefs, interests, and presuppositions (or what, as in Rawls's case, amounts to the same, be not in disagreement on them) and which, moreover, claims to discover "truths" existing independently of the reasoning process itself, communicative reason is the only mode of reason possible in situations where people do not as a matter of fact share the same conditions, beliefs, and interests, when, in other words, their "original position" is one of inequality of conditions. When people engage in communicative rationality, they do so not out of ignorance of their differences but in spite of them—the difference is all-important. The most important feature of communicative or contractarian theory is that it allows for agreement or consensus among people who are not *de facto* equals at the stage of deliberation.

People are likely to overcome their differences and reach a common agreement when (1) they restrict their agreement to general principles and (2) they have agreed in advance that whatever agreement they come to will be quasi-permanent. The importance of generality was underlined by one American writer in 1774 at a time when the topic of social contracts and common agreements was in the forefront of public discussion: "And if the maxims adopted by the majority are general, both in their nature and extent, it is to be supposed, they will prove as salutary to the members of the minority as to those of the majority, and, consequently, to the whole body."⁸⁹

To overcome the divisive force of self-interest, it is not necessary that people be clothed with a "veil of ignorance" (impossible in any event); it suffices that they be encouraged to distinguish between their short-term and long-term interests. In the long run, as Rousseau in effect noted, the private interests of all are best served by the promotion of the public interest, and all people are capable of realizing this.⁹⁰ People can be expected to behave reasonably (with the common good in mind) when they do not know how future turns of events will affect

their private interests (something no one can know) and when they know that the agreement they come to will be binding on all alike for the foreseeable future. This is why, as we saw in Chapter 8, it is a necessary characteristic of constitutions that they express long-term agreements and, accordingly, be difficult to amend. The importance of the distinction between short-term and long-term interests and the quasi-permanency of the contract has been noted by James Buchanan, who writes:

The prospects for achieving consensus on basic changes in rules are much wider than a simplistic application of the unanimity requirement might suggest. In the first place we must keep in mind that we are concentrating on genuine constitutional rules, which are known to be quasi-permanent and which, once changed, are predicted to remain stable over a whole sequence of time periods. To the extent that the modifications under consideration are treated as quasi-permanent by those who participate in the discussion and debates, the position of any one person is necessarily uncertain. An individual cannot know just what specific rule will benefit him under a particular set of future circumstances.⁹¹

In order to provide for the reconciliation of private and public interest, the truly essential thing is that discussion be of a "communicative" and not of an "instrumentalist" nature, and it can be such only when it takes place under strict constitutional rules. This means that the powers of government must be clearly separated and that, in particular, legislation not be confused with administration. As John Adams correctly observed some 200 years ago: "If a majority are capable of preferring their own private interest or that of their families, counties, and party to that of the nation collectively, some provision must be made in the constitution in favor of justice to compel all to respect the common right, the public good, the universal law, in preference to all private and partial considerations."⁹²

Because communicative reason is not instrumental reason, because, in other words, it is not a form of negotiation in which the discussants simply seek to maximize their own private interests of the moment, and because its object is always general (the overall rules of the game) and never particular (determining a specific distribution of goods among the players of the game), it is the only conceivable form of reasoning by which it is possible to determine the common good. Because the common good is not merely the addition of private goods, it is not something that can be determined by a utilitarian (instrumentalist) calculation of private pleasures. The common good is not even what is good for a majority of people. It is nothing other than the social contract arrived at through contractarian discussion, which is to say that it is the commonwealth or republic itself, the universal all-embracing institutional context which accords individuals and groups the freedom to pursue their own particular and varying interests within the limits dictated by a respect for the interests of others. The common good is fairly well described by Hayek when he says: "The only common values

of an open and free society [are] not concrete objects to be achieved, but only those common abstract rules of conduct that [secure] the constant maintenance of an equally abstract order which merely [assures] to the individual better prospects of achieving his individual ends but [gives] him no claims to particular things."⁹³

In conclusion, it scarcely needs emphasizing that a society in which communicative rationality prevails—a truly rational society—is by definition a truly just society. For justice has nothing to do with the conferring of special benefits on special interest groups and does not dictate any formula for the distribution of goods within a society but, conceived of as fairness, is simply the demand that everyone be treated according to the same, general, universally applicable rules. As Hayek observes:

Our whole conception of justice rests on the belief that different views about particulars are capable of being settled by the discovery of rules that, once they are stated, command general assent. If it were not for the fact that we often can discover that we do agree on general principles which are applicable, even though we at first disagree on the merits of the particular case, the very idea of justice would lose its meaning.⁹⁴

The communicatively rational is the truly just and, as Rousseau would say, brings about an admirable reconciliation of "interest" and "justice"; for all reasonable people must recognize that while a generally agreed-upon system of rules of just behavior may not, in any particular instance, promote their immediate, private interest, it is nevertheless in their long-term, overall interest that such rules should exist. While passionate men may not be able to reach agreement on any particular measure, they can usually agree upon general rules, and such rules, which constitute the common good, are in their own interest.

APPENDIX: A HISTORICAL NOTE ON THE DISTINCTION BETWEEN THEORETICAL- INSTRUMENTAL RATIONALITY AND COMMUNICATIVE-CRITICAL RATIONALITY

Many readers will be aware of the fact that this distinction which we have insisted upon as being absolutely crucial to the development of liberal theory (which in the past has often, and with disastrous results, taken as its model of rationality the utilitarian calculus of optimal maximization) also plays a prominent role in the thought of certain members of the so-called Frankfurt School, J. Habermas and K.-O. Apel in particular. In his recent book, *Theorie des kommunikativen Handelns* (1981), Habermas criticizes Max Weber for having conceived the role, scope, and goal of reason too narrowly, indeed, for having equated reason with instrumental reason and for having ignored communicative rationality. He also remarks that it was M. Horkheimer, another member of the school who gave to Weber's "purposive rational action" the name "instrumental rationality."

While these thinkers, Habermas in particular, are to be commended for drawing the attention of much of the public to this important distinction, they should not be credited with having been the first to arrive at it or to perceive its crucial significance.

The distinction was already fully operative in much of the phenomenological critique of objectivistic or scientific thought, in phenomenological hermeneutics, as well as in the theory of argumentation or new rhetoric as represented by Chaim Perelman. One of the earliest conscientious attempts to draw attention to the distinction and its importance for political theory was in fact made in the 1920s and 1930s by a liberal thinker, the noted Illinois economist Frank H. Knight. As Knight's contribution to this issue is still widely ignored, it is worth taking explicit note of it.

In the following text (originally published in 1929), Knight clearly distinguished between three levels of rational discussion: the scientific-theoretical, the technological-instrumental, and, most important (since it is the form of rationality which is usually ignored or passed over in silence), the communicative-critical:

Human behavior may be conceived and studied in either of these two ways: either as scientific data in which the only problem can be to discover "uniformities of coexistence and sequence,"—in more modern terms, stable configurations in space-time—or as a problem of "economy," the adaption of means to ends. The ends are data, but not physically existent data, nor yet values; they are purely personal desires. Discussion on this second level, however, involves something over and above the description of actual events. It involves a judging of conduct, but only from the standpoint of the intelligence displayed. The norm is that of efficiency.

On the third level, ends and not merely means are problematic, and are to be discussed and judged.⁹⁵

Knight explicitly spoke of "intelligence in the instrumental sense."⁹⁶ He in fact saw quite clearly that science and technology or theory and (instrumental) practice are but two sides of the same coin, two aspects of only one form of reason, i.e., theoretical-instrumental rationality: "Science is instrumental knowledge—knowledge of facts about the properties and behavior of things (including persons) with reference to using them as instruments for given ends."⁹⁷ Not only, therefore, is the ultimate assessment of ends the subject matter for a quite different and higher form of rationality than the scientific-instrumental (viz., the critical-communicative), so also is the question as its own nature and proper limits: "As the deeper problems of science have to do with method, they are critical and philosophical; the noninstrumental interest in truth is a philosophical and an ethical interest."⁹⁸

Some of Knight's best observations on instrumental rationality (and its limits) are to be found in a critical article (originally published in 1936) on John Dewey's *Liberalism and Social Action* (a work to which any genuine liberal cannot but take great exception). Knight attacked Dewey precisely because of Dewey's

highly restrictive, instrumentalist conception of reason. Knight characterized it as a

crude instrumentalism, which may be summed up in the formula, "knowledge is power," really meaning physical power. In particular, this is the meaning of taking "scientific" activity as the type illustration of intelligence, which is Dewey's regular practice. But as far as problems of human relations are concerned, knowledge as technique or power means individual power, over other individuals or society as a whole, and is definitely an antisocial force. The habit of thinking of life problems in terms of means and end, power and technique, is necessary in our relations, individual or group, to the physical environment; but it must be *prevented* from carrying over into the social field itself if ethical society—which is to say any true society—is to exist. And this prevention is perhaps the main or prior practical social problem. No *social* interest of the individual (or of society in the sense in which society can be said to have social interests) can be promoted by scientific knowledge or technique, and any attempt to do so must have the opposite effect.⁹⁹

Speaking of Dewey's own version of liberalism, he said:

He seems to confuse the unquestionable fact that scientific and technological knowledge is in a fundamental sense social in genesis and transmission with the view that this style of intelligence is applicable to social problems, which is the antithesis of the truth. What is the matter with [Dewey's] liberalism in connection with the use of intelligence is especially the fact that in its view of society it has taken intelligence in the instrumental-scientific sense.¹⁰⁰

Knight insisted that the only form of rationality suitable to social reality is the one we have called "communicative," aiming not at "objective" truth but intersubjective agreement:

In my view, only the problem of agreement upon ends and upon modes of cooperation is really social. . . . the social problem for intelligence is exclusively that of finding the right ends and the right organization for their pursuit. A scientific problem in so far as it is relative to action at all, is one of control; but a social problem is one of *consensus*, especially on rules of action and forms of cooperation, both of which in political society are matters of "law."¹⁰¹

In another article he wrote:

Social action is not a problem of manipulation of an inert object-matter, by any subject, and hence is not one of "technique" in the proper sense of the word. That is, instrumentalist categories do not apply. In social action—action by any group, as a group—the really social activity, the solution of a social or group problem, consists in the establishment of agreement or consensus among the individuals who make up the group, as to what action is desirable. Consequently, the process is essentially that of discussion of values. . . . in the field of politics in the broad sense, it consists in reaching a decision

in and by the group in question, upon the desirability of some change in its own character as a group.¹⁰²

Just as we have, Knight insisted that "intelligent choice between ends is a very different thing from 'science' which adopts means to ends."¹⁰³

"Objectivity"—i.e., truth—means something quite different in the realm of communicative rationality than it does in scientific reason:

The problem of control (over nature by man) has not been solved. But the social problem, for those interested in freedom, is the very different one of securing consensus *without* control. It is a problem of discovery and definition of values; . . . and, Professor Dewey notwithstanding, the relation of the procedure of attack on such problems to intelligence in the scientific sense is primarily one of contrast. As already suggested, the two do have in common a moral attitude of recognition that there is a problem, which has a solution, or better and worse solutions, which must be sought and found, and not arbitrarily chosen and imposed. In other words, social problems must be solved by *discussion*, which implies a kind of objectivity in the result pursued. But it is the objectivity of "valid value" which contrasts sharply with that of either logically demonstrated or experimentally discovered and verified truth.¹⁰⁴

Elsewhere, Knight spoke of "the danger that social problems will be viewed exclusively or primarily in scientific terms, and effort be directed to solving them by 'the scientific method'." He went on to say:

This is the antithesis of the concept of democracy, or political freedom. And individual liberty must be the first principle of rational political ethics. It is a necessary requirement for complete human status to be a free agent, possessing the necessary power, in promoting or realizing them. . . . And it is an implication of any public discussion of social problems . . . that they are "of right" to be solved by discussion, by all the parties concerned. The contrary principle, of one-sided control, is justified only to the extent that those subject to it are explicitly denied the full status of human beings. . . .

In the social field the natural function of knowledge and thinking, in the scientific meaning, is either to give every individual power over every other, which is a prescription for the war of all against all, or to give "the government," meaning some individual or group, power over the mass of the population. Even as a matter of correct definition, the social problem, as a problem for society as well as of society, is one of rational *consensus*, as to desirable change, not of *control* in the correct meaning of manipulation. The application of positive or instrumental categories by any subject to itself is a self-contradictory expression. . . .

. . . All "control" relations, in the proper meaning of the word, between human beings are "ideally" immoral, though they may be necessary, and in that sense right, under the un-ideal conditions of real life, especially where biologically human units are real human individuals in variously limited degree. In the right view of the problem it is a matter not of control but of arriving at a rational consensus.¹⁰⁵

To reject the application of scientific rationality to human affairs is not to reject rationality altogether; it amounts, rather, to a demand that we revise our

ideas as to what rationality or intelligence in this case actually consists, or should consist, in:

The position here taken does not imply that there is no place for the use of intelligence in the solution of social problems. What I mean is that intelligence in the selection of ends is fundamentally different from intelligence in the use of means, and that intelligence in establishing agreement on common ends—and on common, cooperative, procedure in the pursuit of individual ends—is considerably different still. This is admittedly negative and unsatisfactory, but as far as I can go here. The task of indicating the nature of the differences and the positive meaning of intelligent procedure in the field of social problems is certainly difficult, not to say forbidding. I would suggest, however, that some progress would have been made if writers in philosophy and social science clearly recognized that the following three things, among others, are *not* discussion: (a) talking machines grinding out sound waves at each other; (b) "economic men" confronting each other with propositions beginning with, "I want"; and (c) "prophets" uttering divergent dicta beginning, "God says." But my point here is simply that the discussion of social problems, and of ends generally, requires and presupposes norms of validity other than those of natural science; and I maintain that we must, and can, and do discuss ends, including social problems.¹⁰⁶

It is interesting to note as well that Knight, unlike Rawls, did not fall into the trap of thinking that, in order to arrive at "right" conclusions, communicative reasoning (social action) requires an absence of differences of interest; communicative reasoning is rather the very means by which such differences are reconciled. Knight says, for instance:

Political discussion properly so called . . . centers in the problem of what the law "ought" to be—how existing law ought to be changed, if at all—what law is "right," or most right, or best. . . . discussion can arise only through difference of opinion, backed up by conflicting individual interests in the various opinions, but accompanied also by a common interest in establishing the truth. Political discussion generally originates on the side of conflict of interests rather than difference of opinion; but discussion is possible only on the question of right—which is to say opinion as to the truth "about" what is right. No discussion is possible in propositions beginning with the words "I want," just as discussion is different from mechanical process. It must be a cooperative quest for truth—about facts or about values, including truth itself.¹⁰⁷

It is unfortunate that these fundamental insights of Knight should have been ignored for so long by liberal thinkers. Greater progress in the articulate development of liberal theory might well have been made hitherto if the distinctive character of rationality as it applies to the social and political realms had been sufficiently realized and if more attention had been directed to what Knight referred to as the "discussion community" (intellectual association at the various levels—art, science, and philosophy, and also morals and politics, apart from mechanical organization and ritual¹⁰⁸). It is, for instance, unfortunate that that justly acclaimed defender of liberal ideas, and a celebrated economist in his own

right, Ludwig von Mises should have ignored the distinction between the two forms of rationality that Knight so clearly perceived and that, accordingly, he should have tended to reduce political reason to mere scientific-instrumental rationality. Thus, although Mises rightly insisted that "all that man is and all that raises him above the animal he owes to his reason," he nevertheless maintained (in a very Deweyesque sort of way) that "problems of social policy are problems of social technology, and their solution must be sought in the same ways and by the same means that are at our disposal in the solution of other technical problems."¹⁰⁹

Interestingly enough, Knight, who fully recognized that questions having to do with rational social action are a matter for philosophical rather than scientific reason, bemoaned (in 1944) the failure of academic philosophy to even so much as take note of the genuine elements of the problem.¹¹⁰

NOTES

1. "Though we cannot decide the desirability or undesirability of any actual or proposed government intervention by mechanical reference to one or another of them, they provide a set of principles that we can use in casting up a balance sheet of pros and cons." Milton and Rose Friedman, *Free to Choose* (New York, 1981), p. 25.

2. The author of the document, George Mason, stated elsewhere, alluding no doubt to Machiavelli: "It has been wisely observed by the deepest politician who ever put pen to paper, that no institution can be long preserved, but by frequent recurrence to those maxims on which it was formed." See Gerald Stourzh, *Alexander Hamilton and the Idea of Republican Government* (Stanford, 1970), pp. 33–34.

3. Baron de Montesquieu, *De l'esprit des lois* (Paris, 1949, 1951), Bk. XIV.

4. For a contemporary treatment of the significance of some of the factors alluded to here, see Thomas Sowell, *The Economics and Politics of Race* (New York, 1983).

5. Giovanni Sartori, "Liberty and Law," in K. S. Templeton, Jr., ed., *The Politicization of Society* (Indianapolis, 1979), p. 310.

6. This thesis is developed by, among others, Jacques Ellul in *The Betrayal of the West* (New York, 1978). See, for instance, the following remarks: "The essential, central, undeniable fact is that the West was the first civilization in history to focus attention on the individual and on freedom" (p. 17). "The point is that the West originated values and goals that spread throughout the world (partly through conquest) and inspired man to demand his freedom, to take his stand in the face of society and to affirm his value as an individual" (p. 18). "At the beginning of Western history we find the awareness, the explanation, the proclamation of freedom as the meaning and goal of history" (p. 20). "The West discovered what no one else had discovered; freedom and the individual, and . . . this discovery later set everything else in motion" (p. 29).

7. "Men have sought freedom in the political realm, and western liberalism achieved it." Ellul, *The Betrayal of the West*, p. 21.

8. Ibid., p. vii. This, among other reasons, is why it makes perfect sense to say, as does Igor Shafarevich, that socialism is basically nihilistic and is animated by a death wish. See Shafarevich, *The Socialist Phenomenon* (New York, 1980). Shafarevich says: "The death of mankind is not only a conceivable result of the triumph of socialism—it

THE PHILOSOPHY OF LIBERTY: A DEFENSE

It is crucial to any philosophy that, in addition to presenting a coherent view of things, it be able to defend itself against conflicting, perhaps equally coherent views and, indeed, be able to argue for its correctness or superiority as a systematic account of things. In other words, it must be able to "justify" itself. Hitherto we have sought mainly to discern the logical coherence of Liberalism as a philosophy and to see how, from political theory and economics to anthropology and epistemology, liberalism represents a distinct, systematic, and comprehensive theory of human reality. What we must now do is to attempt a justification or defense of the liberal philosophy.

A number of reasons for the superiority of liberal over non-liberal regimes comes readily to mind, the principal ones being of an economic and political nature.

From an economic point of view, the lesson of history would seem to be that freedom is not only its own reward but that it usually also brings with it material prosperity. This is something that Machiavelli already noted.

All towns and all countries that are in all respects free, profit by this enormously. . . . One observes . . . how riches multiply and abound there, alike those that come from agriculture and those that are produced by the trades. For everybody is eager to acquire such things and to obtain property, provided he be convinced that he will enjoy it when it has been acquired. It thus comes about that, in competition one with the other, men look both to their own advantage and to that of the public; so that in both respects wonderful progress is made. The contrary of this happens in countries which live in servitude; and the harder the servitude the more does the well-being to which they are accustomed, dwindle.¹

It appears that Machiavelli anticipated Adam Smith by over 250 years. As was mentioned in Chapter 7, there is every reason to believe that the freest of peoples will also be the wealthiest of nations. Apparent exceptions to the rule actually confirm it. Thus, although after the discovery of America, Spain became immensely rich, it was destined soon to become and remain to this day one of the poorest of Western nations, since its wealth was derived not from the productivity of its citizens engaged in the free pursuit of their own affairs (in Spain free enterprise was positively discouraged) but from confiscated Indian gold and silver. Today certain Arab oil-producing countries are among the wealthiest in the world, and for the same sort of reason. Their current windfall profits will not, of themselves, prevent them from slipping back into poverty in the future. The mere possession of gold, petro-dollars, natural resources, or any other form of "unearned" wealth cannot secure prosperity. This is a fundamental fact of economics, and it merits being emphasized at a time when demands are being voiced by many a so-called "third world" country and from their lobbyists among Western, guilt-ridden intellectuals for a "global redistribution of wealth." A radical redistribution of wealth might serve to make the rich nations poorer (which is no doubt one of the aims of the egalitarian socialist politics of resentment), but it cannot serve to transform poor nations into rich ones (although it can and does serve to raise the living standard of the rulers of politically and economically backward countries, affording them a style of life far above that of most Westerners, and to insure, as well, the continued livelihood of officials of international aid organizations, much as social welfare expenditures profit handsomely the administrators of welfare programs). If Westerners are genuinely concerned with the plight of the less prosperous nations of the world, they will seek to encourage them to adopt the liberal political and economic arrangements which they themselves enjoy and which it is legitimate to assume are responsible for their own well-being and will discourage them from pursuing the ideologically fashionable but economically counter-productive policies of socialist collectivism and centralized planning. If there is any reason for the present-day West to feel guilt towards its former colonies, it is for not having actively enough impressed on them the merits of Western liberalism.² The point at issue here is simply that liberalism can defend itself on purely economic grounds. The wealthiest countries in the world are, on the whole, those which have adopted a liberal form of government.

The superiority of liberalism can also be argued for from a political point of view, in the strict or narrow sense of the term. Order and stability are natural goods, and that society which can better provide for them is, from a purely natural or empirical point of view, a better society. Now, as we argued in Chapter 9 and as Machiavelli recognized as well, liberal regimes are intrinsically more stable than illiberal ones.³ This is not because they are exposed to less change (indeed, no societies in the history of the world have experienced as much radical, developmental change as have the liberal democracies in the last 200 years) but because of the way they are designed to cope with change. The very essence of

liberalism is that it expressly allows for peaceful, orderly change, in that it allows people to resolve their social, economic, and political differences and to deal with the tensions which are always emerging among them by means of rational argumentation and peaceful persuasion instead of by means of the coercive imposition from on high of a formula deemed by a select group to be the only acceptable one. Thus, although in regard to its empirical make-up a liberal society may be significantly different after a period of twenty-five or fifty years, it will be, in regard to its inner form, essentially the same. From a sociological point of view, the United States of today is without resemblance to the newly liberated thirteen colonies of the eighteenth century; from a political point of view, however, it is one and the same republic as was then constituted and is actuated by the same basic principles now as it was then. In contrast, a despotic regime (whose principle is not reason but, as Montesquieu pointed out, fear) can maintain order and self-identity only by means of coercive force (the most outstanding example of this to date being the Soviet gulag system), and it cannot change in significant ways without running an almost inevitable risk of self-destruction. Whereas liberal regimes are necessarily dynamic, illiberal ones are essentially static.

In contrast to liberal regimes whose legitimacy is based on procedural consensus and whose institutional make-up is deliberately designed so as to promote consensus, the communist regimes of both Russia and China have never succeeded in devising established procedures (such as free elections) which would automatically confirm the legitimacy of their leadership and provide for the orderly transfer of power. The demise of a leader who has succeeded in establishing his authority has inevitably resulted in governmental crises.⁴ If by political theory we mean a theory of power, its uses and abuses, the means of legitimizing and controlling it, Marxism would seem to be a poor substitute for political theory.

When illiberal regimes do undergo important changes, as in the modern, industrialized world they invariably must, they run the risk of collapsing altogether. There is every reason to believe that, having decided to confront the same socio-economic realities as the West, the Soviet regime, a system of government based on the Marxist-Leninist principle of the dictatorship of the proletariat and the supremacy of the vanguard party, has a limited lease on life (which is perhaps the main factor allowing for hope in the present situation of nuclear stalemate between it and the West).⁵ It is precisely because a free society is naturally pluralist and diverse that it is more stable than an autocratic society which, for good reason moreover, is always at pains to suppress the free expression of diverse opinions and interests. This, too, Machiavelli noted:

A republic has a fuller life and enjoys good fortune for a longer time than a principality, since it is better able to adapt itself to diverse circumstances owing to the diversity found among its citizens than a prince can do. For a man who is accustomed to act in one

particular way, never changes, as we have said. Hence, when times change and no longer suit his ways, he is inevitably ruined.⁶

From a strictly political point of view, therefore, it is in a society's best self-interest to opt for liberalism, since, as traditional philosophy tells us, the first principle of every entity is that it seeks to preserve its existence, and the survival-value of liberal societies is, in a changing world, higher than that of illiberal ones. (Note the converse of this: In a changing world, totalitarianism can maintain itself only with great difficulty and at enormous cost—both in simple monetary terms and in terms of economic efficiency.)

These would seem to be good reasons for maintaining that a liberal society is the best of all possible societies. Are they good enough, however? That is to say, are they of such a sort that when confronted with them a person would be rationally compelled to endorse liberalism over all other political philosophies? Indeed, are they even, properly speaking, reasons—philosophical, rationally compelling reasons—at all? What exactly does it mean to say that a liberal society is “better” because it is richer or more long-lived? What exactly does “better” mean here? A powerful, aggressive country is quite capable of annihilating a less powerful, though more civilized one. Does the fact that in terms of sheer power politics it is more successful mean that it is therefore “better”? Does might make right? Does wealth make right? Does talk about what constitutes a “good” society not necessitate recourse to a form of discourse in which the concept of quality, as opposed to mere quantity (wealth, life-years), is a meaningful one? Is not there something more to life than merely making money and living longer than others? We would certainly not want to say that just because one man is richer than another, more powerful, or longer-lived, he is for this reason a better man than the other. There must be more to “giving reasons” than simply appealing to quantitative facts.

It must be admitted that to date liberal theory has not been remarkably successful in devising such reasons. Indeed, one of the, so to speak, standard arguments employed by many liberals fails miserably in this regard. Consider, for instance, the major argument used by Ludwig von Mises in his defense of freedom. Although Mises rightly shuns having recourse to natural law theory (though this would indeed constitute a philosophical argument, it is not a good philosophical argument, since it is unacceptably “metaphysical”),⁷ what argument does he use in its stead? It is in effect nothing other than the “economic” argument set out above: Liberal societies are “better” than nonliberal ones since, because of their commitment to freedom, they are richer! “What we maintain,” Mises says in an attempt to defend freedom in general, “is . . . that a system of freedom for all workers warrants the greatest productivity of human labor and is therefore in the interest of all the inhabitants of the earth.”⁸ Mises's defense of freedom rests solely on “the magnificent economic developments of the last hundred and fifty years” and on the fact that free labor “is able to create more wealth.”

The only argument Mises can come up with (and in this he is typical of a great many other liberal theorists, especially those who are economists by profession) is one which appeals to material criteria, namely, material standards of living. It is not at all obvious, however, that material comfort and well-being are synonymous with the “good life.” To be sure, this might be the case, but, in any event, it is itself a philosophical thesis that would have to be argued for.

However the thesis might fare in this regard, the fact remains that it can never generate a truly convincing argument for freedom. Why is it, after all, that socialist policies have such a widespread appeal—even to people who are prepared to admit that socialism is, economically speaking, a less efficient system than capitalism? It seems fairly obvious that it is because socialism appears to be nobler and more high-minded. That socialism's morality is in fact a mere sham morality is a matter which need not be taken up here. The point is that a satisfactory argument for the principles of liberalism must likewise base itself in the end on moral considerations. That something works, and works well, is, in and of itself, no proof that it is, intrinsically or morally speaking, any better than something else. If freedom is to be argued for successfully, it must be shown that it is a supreme value in its own right and that it is, in this sense, self-justifying. If it is a “good,” it cannot simply be because it is useful in achieving things other than itself, such as wealth. Utilitarianism or instrumentalism is no substitute for natural law theory. Indeed, it is not even, properly speaking, a philosophical position at all.⁹

A properly philosophical argument for the superiority of liberalism would, it would thus appear, have to be one which could argue for it not on quantitative but on qualitative grounds. As liberal theorists, our ultimate task must be to demonstrate rationally the moral or intrinsic superiority of liberal principles. Is this possible?

Throughout all of the modern period, ever since Machiavelli, the difficulty of justifying themselves in moral terms has been the central problem confronting political philosophies. In the ancient or classical period, political theory was universally considered to be a moral science, and it was generally thought that an adequate, rational justification for political institutions—the criteria for rationally determining what constitutes a “good society”—must be of a moral nature. For the Platonist, that society is best which most closely approximates to the ideal form of “the good” or “justice” as determined by theoretical reason; for the Stoics and medieval Christians, it is that society which in its own laws best conforms to the laws of nature as determined by human reason or divine revelation. With Machiavelli political theory underwent a radical shift in focus and a radical change in its mode of discourse.¹⁰

This fundamental change was mainly the result of the revolutionary new approach Machiavelli brought to bear on political questions. Instead of seeking, like classical theory, to determine rationally the best form of society, Machiavelli proposed simply to describe political reality as it actually is—in complete ab-

straction from which it ideally ought to be. Both the main features of his new method and some of its far-reaching consequences are evident in the following passage from *The Prince*:

My intention being to write something of use to those who understand, it appears to me more proper to go to the real truth of the matter than to its imagination; and many have imagined republics and principalities which have never been seen or known to exist in reality; for how we live is so far removed from how we ought to live, that he who abandons what is done for what ought to be done, will rather learn to bring about his own ruin than his preservation. A man who wishes to make a profession of goodness in everything must necessarily come to grief among so many who are not good. Therefore it is necessary for a prince, who wishes to maintain himself, to learn how not to be good, and to use this knowledge and not use it, according to the necessity of the case.¹¹

Like modern scientific theorists in general, Machiavelli does not propose to waste his time in fanciful metaphysical speculations; he wants "to write something of use" for people who have a real interest in politics. His approach will be, therefore, strictly empirical; he will endeavor to describe "the real truth of the matter," how men actually live, as opposed to how they say they ought to live, for it is surely evident that if one cannot distinguish between solid facts and groundless theories, one will inevitably come to grief when one acts.

Machiavelli's shattering methodological innovation lies in this radical distinction between "what is" and "what ought to be," between *fact* and *value*. Not only does he draw a distinction between "is" and "ought"—a distinction that was to become paradigmatic for modern thought which took it to be axiomatic that normative values cannot be derived from mere facts—and not only does he say that political theory should concentrate on the former and ignore the latter, he actually maintains that the latter has no real or intrinsic significance at all. To Machiavelli it is quite apparent that the way men actually behave has very little to do with their professed moral theories as to how they ought to act. In fact, his empirical study of human behavior convinces him that the principal motivating factor in human action is self-interest. If "goodness" is defined as disinterested altruism, it is more than apparent to any disinterested observer that people for the most part are not "good."

In contrast to the classical tradition which he displaces, Machiavelli is a political "realist." When he says that people are not good, he does not mean to pass a moral judgment on them. How could he, when, like any disinterested scientist, he deliberately refrains from adopting any moral or religious perspective? To be bad is not to be sinful; it is simply to be what human beings naturally and as a matter of fact are. So, too, when he counsels princes to "learn how not to be good," he is not advocating immorality. He is simply stating the necessary qualifications for a successful prince.

What above all makes Machiavelli a revolutionary political writer is not that he is, as his critics down through the ages have maintained (including that most

hypocritical of critics Frederick the Great), immoral, but rather that, like any good scientist, he is systematically and conscientiously *amoral*.

However, the consequence of this new realism is a kind of political cynicism to which others would attach the label "Machiavellian." For once one takes up a purely empirical, "value-free" approach to political matters, and, in addition, once one takes the defining characteristic of politics to be power—something which we tend to do today as a matter of course but which no political thinker before Machiavelli had done (with the possible exception of St. Augustine)—any "useful" political theory can consist solely in ascertaining the most effective means of exercising power, irrespective of any moral considerations. *The Prince* is just such a technical manual on the means of obtaining and preserving power. Moreover, from this matter-of-fact perspective, power must be conceived of as the ability to manipulate people's self-interest to one's own advantage. This is above all why the Machiavellian ruler must know how "not to be good." His own self-interest dictates that he master the techniques of manipulating people so as best to promote his own interests. Machiavelli is the first theoretician of *Realpolitik* and a pioneering founder of modern political science which can recognize no other criterion for assessing political regimes than their ability to hold their subjects in check. He is also at the origin of modern ideology, in that in the modern world ideologies are the means of imposing some kind of seeming moral authority or rational justification on brute power politics (for if it is important, as Machiavelli pointed out, for a prince to know "how not to be good," it is equally important for him to know how to seem to be "good").¹²

A pivotal figure in the history of political thought, Machiavelli is also an ambiguous one. He is the author not only of *The Prince* but also of *The Discourses*, and it is quite clear to any reader of the latter that Machiavelli did have his own personal, non-empirical, non-value-free political preferences which transcended considerations of mere power politics. It is clear that he thought that republicanism, or what today we tend to call liberal democratic government—government respecting the freedom and sovereignty of the people—is the best form of government.¹³

In a republic people obey the laws—a republic is indeed a government of laws and not of men—because of the moral authority they accord the State, which is to say that authority itself exists only because the people believe that it is morally appropriate to obey the law, not simply because it is in their self-interest, narrowly construed, to do so (the only reason they do so in despotic regimes). Whereas the logic of non-democratic government ("principalities") is one of power politics, fear, and submission, that of democracy is one of authority, justice, virtue—and Machiavelli clearly believes that the latter qualities are more noble than the former.

This, however, gives rise to a most serious philosophical problem. How, given his "value-free" approach to politics, can Machiavelli possibly accord supreme value to republicanism? Having radically separated fact and value, has he not in fact prevented himself from arguing rationally for the superiority of one

wertfrei

NO.

political belief over another (on any grounds other than mere power politics)? A belief in the supreme value of republicanism would seem to be a purely subjective and arbitrary preference bereft of rational justification. Machiavelli's new form of political discourse—matter-of-fact and value-free—simply does not allow one to argue that any form of government is intrinsically better than any other. Perhaps, unlike traditional philosophers, he did not care to do so and, accordingly, felt no loss in not being able to do so. Nevertheless, it remains that this inability to provide a rational grounding to his belief in republicanism leads directly into a ruinous political cynicism: It does not matter if it cannot be rationally demonstrated that republicanism is intrinsically the best form of government; all that matters is that people believe—or are made to believe—that it is. All that matters is appearance and illusion. Machiavelli's value-free science of political power calls forth as its inevitable complement the modern phenomenon of ideology and propaganda (the means of securing belief and agreement or consent in the absence of rational persuasion).

The problem that this poses is, in fact, Machiavelli's chief legacy to modern political theory, and it is one which to this day remains largely unresolved. The problem is that of finding a means of reuniting politics and ethics, or again, power and authority, force and reason. The problem is actually a dilemma, for what Machiavelli did by instituting a radical distinction between what is and what ought to be, fact and value, was to fracture the unity or coherence of political discourse. After him, it would seem that the only serious form of political discourse is that which concerns itself solely with empirical fact and which shuns all ethical or normative considerations as so much personal, subjective, "un-verifiable" preference, a preference which, moreover, can itself be explained in purely empirical terms (one "explains" people's moral-political beliefs by relating them to social, economic, biological, or other "objective" factors). After Machiavelli, it seems that the only truly compelling form of reason in politics is that of amoral *raison d'état*.

Hobbes was the first to attempt a coherent political theory on the basis of the Machiavellian dichotomy between fact and value, and contemporary political science continues to speak the same value-free, mutilated language. However, all such discourse which accepts the fact-value dichotomy and which speaks only the language of power leads to an impasse which was already apparent to critics of Hobbes's would-be systematic science of power. Such a form of political discourse is simply incapable of doing what any genuinely satisfactory discourse ultimately must do: legitimize power. Based as it is on the fact-value dichotomy, it cannot reconcile politics and ethics and establish, by means of rational argument, the moral authority of any regime. At the most, the value-free language of power can, as in Hobbes, appeal to people's self-interest: People can be made submissive and the power of government secured if they are persuaded that by this means public order and private well-being will be provided for (this is, in actual fact, the basic way in which the Soviet Union legitimates itself, its official Marxist-Leninist ideology having now lost most of its persuasive force).

This, however, is a very insecure basis on which to erect any government, for its survival is thereby made directly contingent upon its ability to maintain the conditions for general well-being. When, as in times of great economic hardship, these conditions no longer prevail, it is no longer in people's self-interest to submit, and, lacking any higher form of moral authority, the regime loses all support and can continue to maintain itself only by brute force. This criticism of Hobbes's science of power is not merely academic. It is directly relevant to the situation of today's liberal democracies which have sought to legitimize themselves on the basis of their economic performance and which to an increasing degree are failing to establish their moral authority, both in the eyes of their own citizens and in those of the underdeveloped countries of the world.

Many contemporary political scientists, aware of the shortcomings of any merely factual discourse in the realm of politics, have recourse to what to all appearances are value judgments. If they are, temperamentally, of a conservative nature, they will speak of the need to cultivate respect for tradition, to encourage religion, and so forth. If, for personal reasons, they are of a more "progressive" bent, they will speak of "social justice" and other such ill-defined notions. Because, however, they accept, along with their other scientific colleagues, the notion of "value-free" science, they have no rational basis for invoking these or any other values. To maintain with modern science that there is a logical dichotomy between empirical fact and moral values and to maintain that the latter are somehow merely "subjective" is to condemn oneself, when one does speak in moral terms, to mere "emotivity" and subjective whim. It is to condemn oneself to mere ideology. To the fact-value dichotomy corresponds that between science and ideology.

Both value-free science and biased ideology are modern developments, and they are strictly complementary. Far from overcoming the split between politics and ethics, ideology merely perpetuates it, for, as Machiavelli himself well knew, ideology is itself the ultimate instrument of value-free, power politics. Instilling in people the illusion of authority and making them believe in the legitimacy of power is a most effective means of securing and maintaining power. Far from being a form of rational persuasion, ideology is simply a way of coercing people by means of a form of discourse whose rationality is itself purely illusory.

The crucial problem confronting political theory remains, therefore, that of overcoming the fact-value dichotomy in such a way as to reunite politics and ethics, establishing in this way, and as an alternative to both the science and the ideology of power, a rational, universally valid, and morally binding political philosophy. Of the three main political philosophies in the modern world, only liberalism is capable of resolving the problem. Before seeing how it is able to do so, let us see why it is that both conservatism and socialism are for their part incapable of accomplishing this task.

It really should come as no surprise if conservatism is unable to provide a rational grounding for ethical discourse in political matters, since one of its most

fact-value
solution

A

conservat.

salient characteristics ever since Burke has been a profound, almost visceral distrust of reason. This is normal, given the fact that it emerged as a negative reaction to the liberalism of the French Revolution and the Enlightenment confidence in the powers of human reason. If throughout its history liberalism has been bound up with radical, revolutionary thinking, conservatism from its inception has been deliberately anti-progressive and counter-revolutionary and, to that degree, reactionary (the reactionary aspect of the movement becoming fully apparent in Burke's French disciple, Joseph de Maistre). One of the things Burke objected to the most in liberalism was precisely its attempt to formulate a coherent, all-inclusive philosophy of human affairs which would have universal validity (this is the reason for his hostility to liberalism's insistence on such "abstractions" as the "rights of man"). For Burke, philosophical abstraction has no place in either the business or the philosophy of politics.

Against unaided human reason, conservatism extols tradition, custom, precedent, "prejudice"—in short, what Burke called "the inherited wisdom of the species." Not rationality but what Burke called "prudence," that is, something more akin to cultivated instinct, should serve as mankind's guide in everything having to do with human affairs. Better to let things evolve gradually according to the inherent laws of their own nature than to attempt to change political and social institutions (whose inner resorts are at best only obscurely understood) in the light of novel, rationally elaborated ideas. Being opposed to all "new fancied and new fabricated republics," he insisted that constitutions cannot be "made" but must "grow" and cannot be the work of attempts on the part of individuals to reason things out (notwithstanding the fact that the longest-lived constitution which "fabricated" the world's greatest republic was "made" in his own times by Madison and a few other "individuals," and which, having been written down, still survives, whereas the English "Constitution" that Burke so much vaunted has long since disappeared from the surface of the earth and from the memories of living men, whatever relics of it that might still exist being religiously preserved in the British Museum).

Conservatism is quite right in objecting to modern, so to speak, Cartesian rationalism—the technocratic mentality—which seeks to effect radical transformations in human affairs in the light of scientific-technological rationality, but it is wrong in equating reason with nothing more than this and in failing to see that there is a higher form of reason—the one we have called communicative-critical—and in not recognizing that to the degree that any society fails to embody reason in this sense, it falls below the level of what is properly human. The fact remains that there is nothing much particularly philosophical about the way Burke seeks, in the last analysis, to legitimize authority. For him, its sole basis is the prescriptive and traditional structures of society which have (as he said of the English "Constitution") "existed time out of mind." This is pretty much the way conservatives have continued to view the matter over the years. In contrast to both socialism and liberalism, conservatism has for the most part not been unduly burdened with intellection.

This is not to say that it has not been able to count among its defenders a number of thinkers of considerable intellectual merit. Given the nature of the conservative mind, however, it is not surprising that their theorizing consists mainly in attempting to resurrect certain cherished relics of ancient or medieval philosophy. Among these the most cherished and venerated of all is no doubt the notion of natural law. Only if, the conservative philosopher argues, there is a law of nature transcending all man-made law and having its own objective, independent existence is it possible to pass valid ethical judgments on human action. In the absence of such an absolute, transempirical, metaphysical, superhuman standard, everything becomes merely relative and we are plunged into the dreadful abyss of nihilism. This, for instance, is the line of argument taken by Leo Strauss, a widely acknowledged spokesman for "the traditional point of view."¹⁴

Although he thinks that Burke misinterpreted his own conservatism, Strauss does say that "Burke's 'conservatism' is in full agreement with classical thought."¹⁵ He argues, quite typically, that unless there exists some such absolute, objective standard discoverable by reason, "our ultimate principles have no other support than our arbitrary and hence blind preferences."¹⁶ That this is not the only alternative, that in fact it is a thoroughly misleading way of posing the issue, we will attempt to show when we consider liberalism's way of dealing with the modern fact-value dichotomy.

For the time being, we should simply note that appeals to natural law or right presuppose a definite (and fittingly archaic or "traditional") ontology or world-view. Strauss's characterization of it is as good as any:

Natural right in its classical form is connected with a teleological view of the universe. All natural beings have a natural end, a natural destiny, which determines what kind of operation is good for them. In the case of man, reason is required for discerning these operations: reason determines what is by nature right with ultimate regard to man's natural end.¹⁷

The world-view to which conservatism appeals when it seeks to legitimize itself philosophically is that of classical Aristotelian-Thomistic metaphysics. According to this pre-scientific form of theoretical explanation, everything which exists is what it is because it embodies or participates in a specific generic "essence" all its own which prescribes the laws of its constitution and operation (Aristotelian-Thomistic theory incorporates the Platonic theory of forms and its metaphysics of participation). Since, according to this view, what a thing does (its observable behavior) is rigidly determined by what it is (its essence, nature, or entelechy), explanation takes place in terms of intelligible forms. Moreover, because an entity's essential nature determines not only what it is but what it is to become, and because becoming characterizes all worldly, "sub-lunary" beings (as everyone knows), essential natures are also determinate ends which entities strive after in the attempt to realize them to the fullest degree. The ultimate

Strauss—
nihilism
relativism

explanation for why things act in the way they do is therefore teleological: They do so in order that they might realize their essential nature, becoming thereby what they are supposed to be. Noumenal essences are both formal and final causes, and explanation in terms of form and finality is the highest form of explanation. Finally, it should be noted how in this world-view there is (as yet) no split between what is and what ought to be. Existence is synonymous with goodness (*bonum* is one of the transcendentals of *ens*); to the degree that something exists, it is, *ipso facto* (as the saying goes), good.¹⁸

To say that the idea of natural law rests on or presupposes a particular ontology or world-view is to say that its validity is directly dependent on the validity of this ontology itself. Thus, it is not necessary to repeat here our criticisms of natural law.¹⁹ This notion is utterly vacuous, having about as much determinate content as the nebulous notion of "social justice" appealed to by socialists. Not only is the notion of natural law of dubious validity (even as ardent a defender of it as Leo Strauss admits this, since if its validity were not in question, it would not, as he says, have to be argued for in the first place), it is, as was pointed out above, plainly useless. We need not, however, repeat here these criticisms. It suffices to discredit the notion to point out the untenability of the classical metaphysics it presupposes.

Not only is this form of metaphysical explanation a blatant manifestation of dogmatic reason (in that it endows with a rarefied existence what no man, woman, or child has ever actually experienced, namely, "essences"²⁰), and thus objectionable on these grounds alone, it is a form of rationality which has been thoroughly discredited by modern science. If today the crucial problem of political philosophy is that of providing a rational justification for ethical norms and principles (such as those enumerated in the eighteenth-century declarations of the rights of man), it is precisely because after the rise of modern science it is no longer possible, that is to say, no longer rationally valid, to attempt to explain the factually existing world in terms of entelechies and teleological causes.

There is no place for teleology in the realm of scientific discourse.²¹ That the rise of mechanistic science is what has rendered problematic the whole notion of natural law or right in the first place is recognized by Strauss himself: "The fundamental dilemma, in whose grip we are, is caused by the victory of modern natural science. An adequate solution to the problem of natural right cannot be found before this basic problem has been solved."²² Conservatism may understand the cause of the problem, but it cannot solve it. To the degree that it seeks simply to rehabilitate in the modern world the classical view of things, to that very degree it has not come to grips with the problem caused by the emergence of modern science—the is-ought, fact-value dichotomy—but has merely retreated in the face of it and reverted to wishful thinking. It serves no useful purpose to castigate "modernity" and to seek to return to an earlier time when the problems of modernity did not yet exist. A radical solution to the problems caused by the emergence of value-free science must be one which does not seek

Natural Law

he is not value-free.

simply to return to a pre-scientific exercise of reason but which instead overcomes the problem by providing for a higher form of rational grounding than is to be found in either classical metaphysics or modern science. We shall attempt later on to show how, on the basis of the theory of rationality discussed in the preceding chapter, liberalism is capable of effecting this solution.

It suffices here to note that to the degree that conservatism merely juxtaposes to the scientific, "value-free" view of the universe an archaic, teleological view of it, it reveals its bankruptcy as a valid form of reason in the modern world. Not only does it fail to resolve the fact-value dilemma, but, precisely because it so fails, it itself becomes merely another rationally groundless, subjective world-view resting on nothing more (to use Strauss's own words) than "arbitrary and hence blind preference." In short, it becomes yet another modern ideology, one, moreover, which, in its appeal to tradition and presumption, serves the interests of established privilege. The following words of Jefferson could serve as a fitting description of conservatism:

This doctrine is the genuine fruit of the alliance between Church and State; the tenants of which, finding themselves but too well in their present condition, oppose all advances which might unmask their usurpations, and monopolies of honors, wealth, and power, and fear every change, as endangering the comforts they now hold.²³

It might at first appear that Marxian socialism constitutes an almost perfect antithesis to Burkean conservatism—and in many ways it does indeed. Whereas conservatism is essentially backward-looking and, in its extreme forms, reactionary, Marxian, revolutionary socialism is expressly forward-looking, and radical socialists insist on calling themselves "progressives." Although both conservatism and socialism are forms of utopian thinking, the one is a utopianism of the past whereas the other is an utopianism of the future. In any event, both set their course by the never-never land of the ideal society as they envisage it. In their radical and, as one might say, pure forms, conservatism and socialism occupy the opposite ends of the political spectrum. However, there may not be as much of a fundamental difference between the two as is readily thought. A time-honored adage of conventional wisdom has it that extremes tend to meet. As we shall see, conservatism and socialism are, in fact, strictly complementary.

It is true that, unlike conservatism but like liberalism, socialism claims to be an all-inclusive, systematic view of things, a philosophy having universal validity. And, like liberalism, it not only does not distrust reason but seeks actively to bring into being a rational society. These, however, are merely superficial resemblances and differences, for socialism's view of reason or rationality is not the liberal view discussed in the preceding chapter but is actually the same as that upheld by conservatism on those rare occasions when it seeks to articulate itself philosophically.

Both socialism and conservatism hold to a dogmatic view of reason: Reason is that special faculty enjoyed by man by means of which he is able to discover

"objective truth," the laws of nature itself. To be sure, the two construe these laws quite differently. For conservatism, they are none other than what go to make up the God-given natural law, while for Marxian socialism they are nothing more than the evolutionary laws of a God-less, materialist universe. Just as conservatism, in its more philosophical moments, invokes "the wisdom of the ages" and claims to be but a re-articulation of the one, eternally valid *philosophia perennis*, orthodox Marxian socialism insists that it is, in the strongest sense of the term, a science.

A rather peculiar sort of science, it must be admitted. Although, like modern science, it affects a deterministic mode of discourse, and although it claims that the laws of historical, economic development are as iron-clad as those treated in (what it considers to be) the lower-level sciences of geology and biology, the underlying world-view of this "science" is not at all that of the modern, mechanistic natural sciences. Marxism is not empirical, value-free science at all. If it is a science, it is one in the pre-modern sense of the term, in the same sense in which Aristotelian-Thomistic metaphysics would claim to be a "science." Indeed, as one contemporary neo-Marxist quite rightly observes, orthodox Marxism "adheres more or less avowedly to the classical Aristotelian-Thomistic postulate of a teleological ontology, according to which what exists, if understood correctly, is identical with what is good."²⁴

Like conservatism, Marxian socialism responds to the value-fact dichotomy by reverting to a pre-scientific world-view which ignores it, a world in which teleology still reigns supreme. To the *ens-bonum* couplet of classical metaphysics corresponds the reality-rationality couplet that Marxism takes over from Hegelianism: The historically real is the rational, and the rational is what is real. The modern dichotomy between what is and what ought to be is thereby overcome (at least in appearance), since the evolution of the real is by definition the progressive unfolding of reason. Here there is no need of finding a way of rationally grounding ethical judgments (in order to assess the worth of what happens to be the case in point of fact), the problem which has plagued political theory since Machiavelli. In fact, Marxism can (and does) dispense with ethics altogether, believing as it does that the value-fact dichotomy is sublated in the totality of historical reality interpreted teleologically as the progressive realization of reason.

Weltgeschichte ist Weltgericht: That is good and "right" which, at any given moment, is an integral part of historical reality and which serves, in whatever degree, to facilitate the progress of history towards its teleologically determined goal. Conversely, that is "bad" which frustrates the development of the real (as in classical ontology, in Marxism the existence of evil in the world is accounted for by human perversity—"counter-revolutionism").

As an exercise in theoretical reason, Marxian socialism constitutes a fairly coherent (even if absurd) metaphysics. However, more coherence does not amount to rational validity. To demonstrate somehow its validity or to justify itself rationally, it would have to show that it is not only a coherent world-view but

that it is, in fact, the true view of things. This it cannot do, however. Nor is this a failing of it alone. As the skeptical critique of all forms of dogmatic reasoning has shown,²⁵ no theoretically elaborated world-view or metaphysics is capable of being proven, of demonstrating that it is "true." In this respect, dialectical materialism and natural law theory are on a par, epistemologically speaking. They are complementary in that they are based on the same classical ontology, but they are also incompatible in that they represent two different and irreconcilable versions of this ontology. Given the alternative, one must choose either one or the other. But—and this is sufficient grounds for rejecting both—this choice cannot be a rational one (since neither metaphysics can demonstrate that it is true). The choice amounts at bottom to no more than a blind leap of faith, a matter of "arbitrary and hence blind preference." This is itself enough to discredit rationally both of these theories.

There is, however, an even more serious reason for rejecting Marxian socialism. The fact of the matter is that, unlike other metaphysical systems which are relatively innocuous, the practical application of Marxian theory leads to outright immorality. Let us see why. To postulate an equivalence between the real and the rational and to seek to explain reality teleologically as the movement towards the full realization of reason is to assert, with Hegel, that *Weltgeschichte ist Weltgericht*. What this theoretical proposition means when translated into practice is that *the end justifies the means*. It thereby serves to justify the repressive behavior of Marxists who, because they can claim to have a scientific knowledge of the way history must unfold, can claim also the right to suppress all movements which are not, according to their reading of things, in "the line of history."²⁶ When translated from the realm of speculative theory to that of practical action, the metaphysical belief in "the totality" (the belief that the fully real is also the fully rational) spells totalitarianism, and totalitarianism spells terror.²⁷ Thus, the metaphysical principle *Weltgeschichte ist Weltgericht* boils down to the time-honored prescription of power politics: Might makes right.

In those societies which have not yet emerged from their "pre-history" (as the Marxists like to say), it furnishes a license for terrorism, that is, the forceful attempt to speed history along its supposedly predetermined path, and, in those societies which have accomplished their socialist revolution, it justifies institutionalized terrorism, that is, the brutal and systematic repression of dissent ("counter-revolutionary" behavior, i.e., behavior contrary to the thrust of history).

Thus, far from reconciling power and authority or force and reason, Marxian socialism simply reduces the latter to the former. Although it may be unfashionable nowadays in Western intellectual circles to remind people that "communists can't be trusted," the fact is that they cannot be. As the entire history of Soviet Marxism amply demonstrates, the only categorical imperative that the Marxist knows is that of expediency: Anything goes (even friendship treaties with Nazism) so long as it serves to promote somehow the teleological unfolding of history in the direction of the communist society. This is ethical relativism,

or ethical naturalism, at its best (or worst). The patently immoral behavior of Marxists is due not to a personal failing on their part (as if they were by nature evil men), but stems directly from something more serious in fact, the fact, namely, that there is absolutely no place in the Marxian universe of discourse for ethical considerations, certain superficial appearances to the contrary notwithstanding.

Marxianism actually perpetuates the Machiavellian split between ethics and politics. Like Machiavelli's "good" (i.e., effective) prince, the good communist must "learn to be bad." Like conservatism, Marxian socialism is yet another post-Machiavellian, modern ideology, a pseudo-science in fact, which, in those countries where it has implanted itself, serves the interest of technocratic elites. Or, as the former Marxist Leszek Kolakowski puts it: "Marxism neither interprets the world nor changes it; it is merely a repertoire of slogans serving to organize various interests."²⁸

Both conservatism and socialism fail to overcome the fact-value dichotomy and to reunite politics and ethics, thereby revealing themselves to be no more than ideologies, that is, theoretical systems resting on no more than arbitrary preference. It remains to be seen if liberalism is also but another ideology, on a par, epistemologically speaking, with conservatism and socialism or whether it is indeed capable of justifying itself rationally. To do so, it would have to show that the basic principles from which it derives a coherent philosophy are ones which compel assent on purely rational grounds. And since the failure of both conservatism and socialism to justify themselves stems from the fact that they are modes of dogmatic, theoretical reason, it would appear that the only way liberalism can justify itself—if it can—is by explicitly developing the implications of its own concept of non-dogmatic, communicative reason according to which truth is a matter not of conformity to so-called objective reality but of intersubjective agreement. It would have to be shown that, to the degree that people seek mutual understanding and agreement, they are, by that very fact, committing themselves to the basic principles of liberalism. Liberalism would thereby be shown to be the only political philosophy which can be adhered to rationally by any and all rational beings.

Before turning to this crucial issue, we should perhaps indicate why in the above discussion of modern political thought we omitted speaking of socialism in its non-Marxian varieties. The basic reason for doing so is that Marxian socialism represents a much purer and more coherent view of things than does what is called democratic socialism. The latter is, in fact, a hybrid, impure, and, as was argued in Chapter 9, unstable combination of Marxist and liberal notions. Democratic and Marxian socialism share the same goal—an egalitarian, socialist, or collectivist society—but democratic socialists, who sometimes call themselves egalitarian liberals, believe that such a society should be achieved by democratic, which is to say liberal, means, in full respect for "human rights" and the various civil or individual liberties proclaimed and defended by liberalism, such as, in particular, freedom of thought and speech. Democratic socialism explicitly rejects

the claim of Marxian socialism to be a science and seeks instead to base itself on moral considerations (which is no doubt one of the main reasons accounting for its widespread appeal).

Precisely herein lies its fatal weakness, however. For whereas Marxian socialism is based on a philosophy which, in theory at least, is not plagued by the modern is-ought dichotomy, democratic socialism, in rejecting the claim of socialism to be scientific (and in rejecting the metaphysics which lends support to this claim), deprives itself of any rational grounding for moral discourse (for speaking of what ought to be the case and for criticizing existing institutions and states of affairs). If it is the case, as we hope to show, that liberalism can reunite politics and ethics and can demonstrate the rational and universally binding character of the values it defends and embodies, this would serve automatically to discredit democratic socialism in its claim to be a universally valid philosophy (and would dispense us of the need to formulate a specific critique of it), since, by definition, only one philosophy can be universally valid.

The task confronting us, then, is that of discovering the way in which liberalism can and must seek to justify itself philosophically, effecting thereby the synthesis of politics and ethics. We should note that the problem facing us is not that of articulating or discovering the basic values of liberalism, for these values are today known to everyone (even if they are often misinterpreted), having been proclaimed and fought for for over two centuries. It is the immensely more difficult one of justifying them rationally. As far as the proclamation of human rights and freedoms ("The Rights of Man and the Citizen") is concerned, the latter part of the eighteenth century, the Age of the Democratic Revolution, as it has been called, was an epoch-making, decisive era.²⁹ Not all that much can be added to what was then accomplished, nor need it be, except by way of refinement and systemization. The major philosophical task assigned to the latter part of the twentieth century is the different one of justifying rationally these values, for it must be admitted that this is something which liberalism has yet, on the whole, failed to do, in a convincing way. The case of that most outspoken advocate of liberal rights, Thomas Jefferson, is instructive in this regard.

While the American Declaration of Independence must forever rank as one of the greatest pronouncements of the rights of the human individual, its failure to justify philosophically the principles it enunciated cannot be denied. Although Jefferson recognized that social action, to be deemed rational and justifiable, must be able to give reasons for itself ("When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another . . . a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation"), he did not succeed in furnishing fully adequate, sufficiently fundamental reasons or "causes." To be sure, he appealed to the principle that "all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness." Jefferson's tactic

Jefferson
Self-justification

Jefferson

was to argue for American independence by basing this on the supposed right of all men to self-determination and by asserting that since men have certain "unalienable" rights, they have a right to dispose of any government which systematically violates these rights. All well and good.

But that men have certain inalienable rights is precisely what needs to be argued for in a convincing fashion. Philosophically speaking, it does not suffice to assert simply that they do; merely saying so does not make it so (unless one is to lapse into positivism for which the criterion of what is "right" is simply what one wills). The closest Jefferson came to grounding rationally these rights was when he referred to man's "Creator" and spoke of "the Laws of Nature and of Nature's God." And this is where he failed as a theorist.³⁰

For to invoke such metaphysical entities is to lapse into a form of dogmatic reasoning which is incompatible with the theory of rationality which, as we have maintained, is that of liberalism. In terms of its own inner logic, there is and can be no place in liberal theory for the notion of natural law. It is one thing to realize, as Jefferson fully did, that any action which lays claim to rational validity must pay "a decent respect to the opinions of mankind" and must be such as to appeal to a universal audience (to borrow an expression from Chaim Perelman),³¹ it is another thing to solicit the agreement of others by invoking divine right on one's own side. Far better in the last analysis not even to attempt to ground rationally the rights of man, and of the American patriots, but simply to declare them to be "self-evident," as Jefferson finally did. This, at least, was simply a rhetorical way of saying that these are values in regard to which the members of his community, and the enlightened community of the world, found themselves in basic agreement.

No doubt, the critic of liberalism will argue that this is precisely where liberalism reveals its inner bankruptcy. He will perhaps admit that the notion of natural law is more properly conservative than liberal and that, in fact, it can have no place in liberal thinking, which rests on human reason alone. But he will argue that this only points up all the more clearly the deficiencies of liberalism as a philosophy, for in rejecting, as it must, appeals to natural law it leaves itself with no other option than to base rights on mere human, that is, "subjective," whim.

This is the type of objection that would be made by a conservative like Leo Strauss. Significantly enough, it is also the objection made by a neo-Marxist like K. -O. Apel. The latter argues that liberalism leads in effect to an impasse in that by insisting on the separation of Church and State, "Western liberalism first of all made religious belief less binding and then, correspondingly, increasingly restricted the binding character of moral norms to the sphere of private decisions of conscience."³² The result, Apel says, is a thoroughgoing "conventionalism," mere "decisionism," meaning thereby that liberalism leaves itself no other ground than individual conscience, effectively ruling out the possibility of intersubjectively valid norms.

In classical, pre-Machiavellian political philosophy, the synthesis of politics

and ethics was sought by arguing that there is an objective moral order and purpose to things, called the "cosmos," which is the order of justice itself and which comprehends both the State and the individual. Transgression of this cosmic order renders one objectively culpable. "Sun," Heraclitus asserted about two and a half millennia ago, "will not overstep his measures; otherwise the Erinyes, ministers of Justice, will find him out."³³ The same sort of argument, with suitable biblical dressings-up, is used by religious fundamentalists today. Whatever might be its instinctive appeal to the uneducated masses (and its effectiveness in keeping people in their proper place), liberalism nonetheless rejects this solution as an instance of groundless metaphysical speculation.

The problem confronting liberal theory should be fully apparent by now. If, as it must, liberalism abandons recourse to the notion of natural law in an attempt to justify its basic principles, it must find another means of doing so—in order to avoid the snares of a thoroughgoing, amoral relativism. Liberalism must find a means of steering a safe course between the Scylla of ethical absolutism and the Charybdis of ethical relativism. The liberal cannot rationally justify his belief in freedom by saying merely that this is a personal, individual preference on his part, for, to count as fully rational, a belief must be such as, in principle, to secure the consent of all rational beings. In other words, it must be universalizable. Thus, the crucial question is: Is it possible, even when liberalism rejects all transcendent grounds for ethical norms or principles (by appealing to what transcends human experience, such as nature's law or nature's God), for it nonetheless to discover, within experience itself, by appealing to nothing more than certain facts of experience, an immanent justification for such principles? What we must do is to work out a conception of rational validation which does not involve an appeal to "objective," transcendent, or eternal values. If this attempt proves successful, the fact-value dicotomy will, by that very fact, have been overcome decisively, and liberalism will have demonstrated that it is not only a rational philosophy (and not a mere ideology) but the only philosophy which, in the absence of hypocrisy, must be adhered to by all rational human beings.

What we must do is to find a way of somehow "deriving" values from facts, of discerning what people "ought" to do by considering what they do as a matter of fact. The place to begin is by asking what the most significant facts are. The answer is not difficult to come by. The most salient, characteristically human fact about human beings is that they engage in communicative rationality. To be sure, they, like the brutes, do at times relate to each other by means of sheer force; however, the reason why they are called human beings is that they also relate to one another by means of reason, the logos. This is the unique fact about human beings which most impressed the great rhetorician Isocrates. The logos or the "art of discourse" is, he said in a passage we have already alluded to, "the one endowment of our nature which singles us out from all living creatures."³⁴

Then discovery is to
when discover basic values!

For in the other powers which we possess, . . . we are in no respect superior to other living creatures; nay, we are inferior to many in swiftness and in strength and in other resources; but, because there has been implanted in us the power to persuade each other and to make clear to each other whatever we desire, not only have we escaped the life of wild beasts, but we have come together and founded cities and made laws and invented arts; and, generally speaking, there is no institution devised by man which the power of speech has not helped us to establish.³⁵

Were we to reflect on this fundamental fact about human existence, we would, perhaps, be able to discover the ultimate principles of a properly human existence, the ultimate values which should regulate human affairs. The following overall tactic thus recommends itself. We shall argue that the various values defended by liberalism are not arbitrary, a matter of mere personal preference, nor do they derive from some natural law existing independently of the reasoning (communicative) process, such that they would be discernible only by metaphysical insight into the "nature of things." Rather, they are nothing less and nothing more than what could be called the operative presuppositions or intrinsic features and demands of communicative rationality itself. In other words, they are values that are implicitly recognized and affirmed by everyone by the very fact of their engaging in communicative reason. This amounts to saying that no one can rationally deny them without at the same time denying reason, without self-contradiction, without in fact abandoning all attempts to persuade the other and to reach agreement.

Frank H. Knight remarked: "Values arise out of conflicts between interests, and out of reflection and discussion about these conflicts—the essential and distinctive feature of human social life."³⁶ What we wish to suggest is that were we to reflect on which is involved in the discussion process by which people arrive at particular agreements as to particular goods (values), we should be able to determine the universal values which could be said to make up the content of a universally binding ethics of social action.

All that would be necessary to accomplish this would be to thematize what could be called the operative or procedural presuppositions of communicative rationality. The values determined in this way would be truly universal values, for they would be ones that are implicitly affirmed by all human beings, of all times and places, whenever through communicative reason they arrive at an agreement with regard to any particular issue.

Consider, for instance, what is perhaps the supreme demand—the ultimate "ought"—of liberalism: that conflicts of interest and differences of opinion should be resolved through free, open, peaceful discussion aimed at consensus and not by recourse to force. The important thing to note is this: By the very fact that people engage in discussion, they commit themselves to the principle that this is the way social issues should be resolved. That is, it is logically impossible for them, as discussants, to deny this principle. Thus, to the degree that a person engages in discussion (abstaining, by that very fact, from the use

Conflict free
cooperative
etc.

of force), he is, whether he likes it or not, affirming a fundamental, universal norm, one on which the whole liberal philosophy rests. The affirmation may be hypocritical (the person may simply be attempting to buy time), but it is an affirmation all the same. From our point of view this is all that counts.

The matter can be put another way. He who engages in discussion is thereby renouncing, at least by implication, the legitimacy of violence. This is why, as Paul Ricoeur says, it is absolutely impossible for anyone who claims to be rational, which is to say human, outrightly to defend violence. Ricoeur writes:

If we . . . ask the philosopher why he cannot undertake the apologia of violence, seeing that he recognizes its indelible mark on political history, if we ask him whether violence is always wrong, even when it is a lesser evil as in the case of wars of liberation or legitimate popular revolts, his answer is not in doubt: violence is the opposite of discourse. . . . Violence is always the interruption of discourse; discourse is always the interruption of violence. A violence that speaks is already a violence that is trying to be in the right, that is exposing itself to the gravitational pull of Reason and already beginning to renege on its own character as violence. The prime example of this is that the "tyrant" always tries to get discourse on his side. . . . But in order to succeed tyranny has to seduce, persuade, flatter; it has never been the dumb exercise of brute force. Tyranny only puts itself across to the public by perverting language. . . .

This misuse of discourse by violence gives food for thought. It means that violence forces its way into history only by seducing its opposite, discourse. It is the task of the philosopher to denounce such a miscegenation and restore the fundamental truth that violence and discourse are the most fundamental opposites in human existence. It is because we, as men, have chosen discourse—that is discussion, seeking agreement by means of verbal confrontation—that the defense of violence for violence's sake is forever forbidden us.

Discourse

It is indeed the case that the "misuse of discourse by violence gives food for thought," but this food needs to be digested properly. Given the ambivalent nature of human beings, as recognized and actually insisted upon by liberalism itself, it is not to be denied that people have a certain tendency to pursue their perceived interests by means of violence and that such violence is usually conjoined with a perversion of discourse, of which ideological propaganda is perhaps the supreme example. It is a fact that is plainly obvious to any candid observer of the human situation that discourse is often used as a camouflage for the pursuit of selfish interest (the discourse of the seducer being the archetypal example).

This is an aspect of discourse that has been much emphasized by members of the so-called Frankfurt School of *Ideologiekritik*, such as Habermas and Apel. Their observations on this matter notwithstanding, it is a matter of secondary importance from a philosophical point of view. Everyone has always known that, as La Bruyère said, every vice falsely resembles some virtue and it always takes advantage of the resemblance. The fact remains that even the misuse of discourse affirms the supreme liberal principle. Even those who engage in communicative reason hypocritically affirm it, hypocrisy being, as another great

French moralist, La Rochefoucauld, remarked, the tribute vice pays to virtue. As Ricoeur points out, it remains the task of argumentative reason in its critical form to expose such hypocrisies.³⁸

What all of this serves to indicate is that it should be possible to derive in a strictly systematic fashion all of the necessary universal values. For instance, one logical entailment of the priority of discourse over violence is that, according to its traditional Kantian formulation, people ought to be treated as ends in themselves and never merely as means. This is the principle of *human dignity*. It is discernible not by some kind of mysterious intuition into the nature of things (in Kant's case, the "categorical imperative") or by esoteric metaphysical speculation, but by a straightforward, phenomenological reflection on the procedural presuppositions of communicative rationality. To the degree that one seeks to obtain the agreement of another through discourse rather than violence, one is recognizing the other as an end in himself, in that his agreement is felt to count for nothing unless it is given freely.

From the principle of human dignity follows immediately the liberal principle of *freedom from coercion*. It is on this basis that "negative" freedom should be argued for and not by having recourse to arguments of a utilitarian sort. In fact, there is perhaps nothing more damaging to the liberal cause than the attempt to justify liberal values on utilitarian grounds. To argue that freedom is a good because it is something that is useful or pleasurable to a person is (to employ an expression of Frank Knight) the most "self-stultifying" of arguments. By making "utility" or "pleasure" the criterion of what is supposed to be a value, one is in effect denying that value any universal status, and thus any genuine normative status at all, for what is useful or pleasurable to one person need not be such to another. The result is pure arbitrariness and ethical relativism. If individual liberty is a fundamental value, it is not because it contributes to an individual's private "happiness" or "pleasure," but because it is the necessary condition for implementing the principle of human dignity. Freedom from coercion is simply the principle of dignity under a different aspect, since it amounts to the stipulation that people should not be treated as instruments but as ends in themselves.³⁹

We might note that from this it follows that freedom from coercion is "good" for people even if they do not happen to "value" it themselves. Whatever one's personal preference in the matter, it is unquestionably better to be a freeman than a slave. In themselves, values have nothing to do with subjective likes and dislikes. Anyone who would prefer slavery to freedom (for the security it offers, perhaps) would thereby demonstrate, not that freedom is not a supreme value, but only his own deficiency as a human being. Thus, the essential business of a liberal State is to educate people in those values which are the condition for a properly human existence. As Lord Acton trenchantly observed: "Liberalism wishes for what ought to be, irrespective of what is."⁴⁰

Because recourse to discussion or communicative rationality necessarily involves a renunciation of violence and is the attempt to secure the uncoerced agreement of the other, it amounts as well to a recognition that the other has a

right to his own opinions. It is, in this way, the basis of the principles of *tolerance* and *respect*. To engage in free discussion with the aim of arriving at agreement means that one in fact recognizes the other as an intelligent, rational being whose opinions one respects (otherwise one would not be appealing to them and soliciting his agreement). It amounts to a recognition of the other as an equal partner in the discussion process.

Herein lies, precisely, the justification for the supreme principle of the *equality* of all men. Since, likewise, this recognition of the other as a moral equal is inseparably an appeal to him to recognize oneself as a being with rights to be respected (as Knight repeatedly observed, it is only in the form of rights that conflicts of interest can be discussed), the essential mutuality of communicative rationality is the basis for the principle of *fraternity*. The justification for speaking of the universal brotherhood of all men comes not from the fact that they possess in common certain biological, sociological, or cultural characteristics. This would only mean that, like other animal species, they are closely alike in certain respects; it certainly would not mean—in a purely naturalistic sense it could not possibly mean—that they are all, in a very definite sense, brothers and sisters. What justifies our speaking of universal brotherhood is the fact that, when they so choose, people are capable of mediating their innumerable and unending differences in a communicatively rational way.

Finally, it goes without saying that the fact that people engage in communicative rationality is the source of the overriding value of *freedom* in all its forms: freedom of speech, of thought, of conscience, of religion, of association, and so on. If communicative-critical reasoning is not only the highest form of rationality, but if, in addition, it is an actual reality in the world, then, by that very fact, it is without question the highest of values. That freedom is the highest of values is not a contingent but a necessary fact of experience.

By spelling out in this way various conceptual necessities or entailments, it should be possible to derive an entire system of ultimate values and to justify, as well, the notion of "inalienable" rights of man, overcoming in this way the fact-value dichotomy. It would then become apparent that the notion of *universal human rights and liberties* is not an "*a priori*," arbitrary value, a matter of mere personal preference; neither is it a requirement of some natural law existing independently of the reasoning process and discernible only by metaphysical insight into the "nature of things." On the contrary, it is nothing less and nothing more than the operative presupposition or intrinsic feature and demand of communicative rationality itself. The ultimate basis for the ethics of social and political life is not some objective moral order underlying human being-in-the-world but the experiential fact itself that, as the "speaking animal," man engages in communicative rationality. This is perhaps why, in the last analysis, Thomas Jefferson chose simply to call these rights "self-evident."⁴¹ In the absence of a developed theory of human rationality, this is all that he could do.

The great outstanding task confronting liberal theory is that of furnishing a detailed defense of the values it advocates. Our preceding remarks were meant

to indicate the way in which liberalism must seek to accomplish this task. It must not attempt to do so by falling back on natural law theory, however attractive this philosophical tactic might at first appear. This was recognized by the well-known historian of liberalism Guido de Ruggiero earlier in this century. Observing how modern liberals have once more been led "to the fundamental problem of the *Declaration of Rights*" and "effectively deny that the problem is a thing of the past," he very penetratingly remarked:

But the justification of these immortal principles must not be that offered by the old jusnaturalism [natural law theory], when it asserted an imaginary and pseudo-historical priority of the individual to the State. A priority there is; but its character and significance are ideal; and thus, in place of a right of nature, Liberalism postulates a rational right, over and above all positive right, in which the individual and the State, which in the order of history arise simultaneously, find the definition of their limits and mutual relations.⁴²

As Ruggiero so aptly observes, the rights liberalism defends are "rational" rather than "natural" ones. But, as he also points out, the "reason" of modern liberals is not "the mythical eighteenth-century *raison*" of Enlightenment rationalism. While this naively optimistic, technocratic view of reason is, as he says, retained by modern socialism, liberalism's view of reason is tempered by a moderate skepticism.

Thus, from a methodological point of view, we should note that a "derivation" of ultimate values of the above-mentioned sort is, properly speaking, a justification and not what is often referred to as a grounding. The procedure for "validating" ethical values usually reverted to is that of "grounding" ethics in metaphysics; that is, one seeks to demonstrate the validity of certain ethical beliefs by arguing that they are "true" or "right" because they correspond to or derive from some objective demand of nature. This is, precisely, the tack taken by natural law theory. Given the skeptical critique of all theoretical forms of reason involved in the overall liberal theory of reason, this approach to the ethical problem is forever prohibited to the liberal thinker. When liberal theory explicitly rejects this approach, it undergoes, as Ruggiero would say, a thoroughgoing "refonte" or recasting, a kind of theoretical purification, and becomes a much more consistent and defensible position.

The liberal who is faithful to the inner dynamism of the logic of liberty will not seek to demonstrate the "objective" validity of his belief in freedom. Rather, he will seek to justify his adherence to this belief by showing how it is the undeniable presupposition of all discussion aiming at collective agreement as to what "ought" to be done in any given situation. As was said above, the liberal will seek to show how the value of freedom is a necessary fact of experience.

For, in spite of the modern dogma that one cannot derive values from facts, it is a fact which cannot be rationally denied that some facts carry with them, so to speak, their own necessity and are to be contrasted with merely contingent ("Humean") facts. Such, for instance, is Descartes's *cogito*. From the fact that

NATURAL
LAW

undeniable
truth

Derivation
Justification
Grounding
VAL 20.

Critical
Reason

I think, I do not deduce my existence (the "ergo" in Descartes's celebrated formula, "Cogito ergo sum," is misleading). This is not an instance of theoretical-metaphysical speculation (one falls into metaphysical speculation only when one attempts to state what the "I"—whose "existence" is indeed indubitable—actually is, i.e., when one transforms it into an "essence" or, like Descartes, unquestioningly assumes that it exists in the mode of substance). Rather, the fact that I am thinking (a fact which is self-evident and undeniable) means that I am existing. It is in this sense that my existence can be said to be "necessary." It simply cannot be doubted (to claim otherwise is to utter undiluted nonsense). To be sure, precisely because my existence is a fact (and not an eternal, self-evident truth like the truths of mathematics), it is not necessary that I should exist in the first place (it is not necessary that I should be thinking at all). In this sense, my existence is contingent and totally non-necessary. However, given the fact that I do exist, and am thinking that I exist, I cannot rationally doubt the fact of my existence (by thinking that it may only be a subjective illusion, for instance).

A similar sort of argument is appropriate to the issue of freedom. Freedom is as "necessary" a fact as is existence. If it is a fact that people engage in communicative rationality, then that very fact means that freedom is the highest value. It is an absolutely necessary, indubitable truth that men ought to be free. To be sure, this does not mean that freedom has always existed and will always continue to exist. In opposition to Kant, it must be stressed that freedom has no objective guarantee in the nature of things; it is not assured by "the mechanism of nature" or a "secret plan of Nature," i.e., divine Providence, the philosophical *deus ex machina* of Enlightenment deism. Instead, it depends for its existence on the uncertain good will of men. Although it is an indisputable fact that liberal society is the best society, and although this value judgment has nothing merely "subjective" about it, there is no reason why it should have emerged in the course of history, just as there is no reason why men should have turned from myth to reason. The emergence of freedom in the Western world can, like the emergence of reason in ancient Greece, be viewed as a "miracle."

Let us note, finally, that the rational derivation of liberal values is an exercise in what we have termed critical reason. "Criticism" can be either specific or general; that is, it can have as its object particular acts or beliefs, on the one hand, or, on the other, general principles. In the first instance, it is a way of arguing for or against certain beliefs or practices by showing how they conform to or conflict with certain higher principles or norms to which the parties to the dispute are already in common agreement; they are thereby shown to be rationally acceptable or unacceptable. In the second instance, critical reason or intelligence is a way of arguing for certain fundamental principles or norms by showing how, as we have done above, they are the necessary presuppositions of anyone engaging in communicative rationality, that is, seeking to reach agreement on a particular issue. In this case, critical reason performs a genuinely heuristic or

innovative function. As the means whereby one "discovers" ultimate truths, it is itself the highest form of reason and thus the highest possible court of appeals in human affairs.

NOTES

1. Niccolo Machiavelli, *The Discourses* (Harmondsworth, 1970), II, 2, p. 280. In their defense of liberty, the American patriots also frequently pointed to the relation between freedom and prosperity.

2. See in this regard the following works of P. T. Bauer: "The Third World and the West: An Economic Perspective" (with B. S. Yamey), in W. S. Thompson, ed., *The Third World: Premises of U.S. Policy* (San Francisco, 1978); *Equality, the Third World, and Economic Delusion* (Cambridge, Mass., 1981); *Reality and Rhetoric: Studies in the Economics of Development* (Cambridge, Mass., 1984).

3. See, e.g., Machiavelli, *The Discourses*, I, 58.

4. See in this regard Richard Lowenthal, "Beyond Totalitarianism?" in Irving Howe, ed., *1984 Revisited* (New York, 1983), pp. 229-46.

5. Since they are based on philosophies which are diametrically opposed, and thus fully incompatible, there can, in the long run, be no accommodation between the free world and the Soviet empire. In terms of geo-politics, the situation is that of a clear either-or: either freedom or slavery on a world scale. The logic of liberty dictates that the defense of liberty must be a universal one, that if freedom is a value, it is a value for all men. The liberal cannot in good conscience tolerate or condone oppression anywhere in the world. Liberalism is irreducible to any kind of lackadaisical "live-and-let-live" position. See in this regard the penetrating observations of Karl Jaspers in his book, *The Future of Mankind* (Chicago, 1961), especially Ch. 16. Jaspers says, for instance: "If we deceive ourselves about the radical either-or of freedom and totalitarianism, we practically give up our own freedom." (p. 272).

This is not to deny the overriding importance of diffusing tensions which, were they to get out of control, could very well spell the end of the human race. In this sense, the West has no viable option other than that of pursuing "détente." The important thing is that the West not delude itself into confusing détente with genuine peace, which will exist only when the cause of freedom triumphs throughout the world.

6. Machiavelli, *The Discourses*, III, 9.

7. Mises very pertinently remarks: "We liberals do not assert that God or Nature meant all men to be free, because we are not instructed in the designs of God and of Nature, and we avoid, on principle, drawing God or Nature into a dispute over mundane questions." *Liberalism: A Socio-Economic Exposition* (Kansas City, 1978), p. 22.

8. Ibid., pp. 22-23.

9. See in this regard the remarks addressed to members of the Mont Pelerin Society in my paper, "The Role of the Academic Community in Communicating the Ideas of a Free Society," in "Challenging Complacency," *Focus No. 10* (Vancouver, 1983), especially pp. 76-79 (owing to an editorial error, the term "instrumentalism" is generally used in the place of what should be "utilitarianism").

10. One notable exception to the classical tendency to conjoin politics and ethics was Saint Augustine. Because he rigidly distinguished between the City of God and the City of Man, and because for him the latter was nothing more than an expression of corrupted

men's desire to dominate and exploit one another, a realm of affairs totally lacking in "justice," Augustine came very close to articulating a Machiavellian view of secular society. For a typical statement of Augustine's views on the corrupt nature of human relations (outside of the action of grace), see *City of God* (New York, 1958), Part V.

11. Machiavelli, *The Prince* (New York, 1950), Ch. XV.

12. See *ibid.*, Ch. XVIII.

13. In his introduction to the Penguin edition of *The Discourses*, Bernard Crick observes that Machiavelli's "main substantive preoccupation, indeed his good obsession, was with the conditions for republican government." *The Discourses*, p. 13.

14. In the words of Jerome Kerwin. See Leo Strauss, *Natural Right and History* (Chicago, 1953), p. v.

15. Strauss, *Natural Right and History*, p. 318.

16. Ibid., p. 4.

17. Ibid., p. 7.

18. "Every being, as being, is good. For all being, as being, has actuality and is in some way perfect, since every act is some sort of perfection, and perfection implies desirability and goodness." St. Thomas Aquinas, *Summa Theologiae* (Alba, 1962), I, 5, 3.

19. See Chapter 8.

20. For a non-dogmatic account of "essences," see Madison, *Understanding: A Phenomenological-Pragmatic Analysis* (Westport, Conn., 1982), Ch. 4, et passim.

21. This is true even in biology where it has been realized that even though the traditional mechanistic form of explanation is not adequate to the phenomenon of life and even though it is indispensable for biology to speak in terms of "purposive behavior," there is still no place in biology for the ancient notion of teleology. Modern biology prefers to speak of "teleonomy" rather than "teleology." See Jacques Monod, *Le hasard et la nécessité* (Paris, 1970), as well as my article, "Le postulat d'objectivité dans la science et la philosophie du sujet," *Philosophiques*, Vol. 1, No. 1, April 1974, pp. 107-39.

22. Strauss, *Natural Right and History*, p. 8.

23. Thomas Jefferson, "Report of the Commissioners for the University of Virginia," in M. D. Peterson, ed., *The Portable Thomas Jefferson* (New York, 1981), p. 337.

24. K. -O. Apel, *Towards a Transformation of Philosophy* (London, 1980), p. 230.

25. See Madison, *Understanding*.

26. The task of "revolutionary justice" is to punish those who are "guilty before history."

27. See Madison, *Understanding*, p. 316.

28. Leszek Kolakowski, *Main Currents of Marxism*, trans. P. S. Falla (Oxford, 1978). Vol. II, p. 530. Kolakowski also observes: "Whenever Communism is in power, the ruling class transforms it into an ideology whose real sources are in nationalism, racism or imperialism" (p. 529).

29. See R. R. Palmer, *The Age of the Democratic Revolution* (Princeton, 1970).

30. It must be admitted that Jefferson's overriding purpose was not theoretical but practical and that he made no attempt at originality in drafting the Declaration of Independence. "Not to find out new principles," he said, "or new arguments, never before thought of, nor merely to say things which had never been said before; but to place before mankind the common sense of the subject, in terms so plain and firm as to command their assent, and to justify ourselves in the independent stand we are compelled to take."

Jefferson to Henry Lee, May 8, 1825, cited by Dumas Malone, *Jefferson the Virginian* (Boston, 1948), p. 220.

31. See, for instance, Chaim Perelman, *The New Rhetoric and the Humanities: Essays on Rhetoric and Its Applications* (Dordrecht, 1979).

32. Apel, *Towards a Transformation of Philosophy*, p. 235.

33. G. S. Kirk and J. E. Raven, *The Presocratic Philosophers* (Cambridge, 1966), p. 203.

34. Isocrates, *Pnegriscus* (Cambridge, Mass., 1966), 48.

35. Isocrates, *Antidosis*, 253–54.

36. Frank H. Knight, *Freedom and Reform* (Indianapolis, 1982), p. 280.

37. Paul Ricoeur, *Main Trends in Philosophy* (New York, 1979), pp. 226–67. That violence is the opposite of discourse means that it can never justify itself—and is therefore not justifiable—for only through discourse can anything be justified. As the theory of rational argumentation and discussion, liberalism amounts, therefore, to a rejection of power politics.

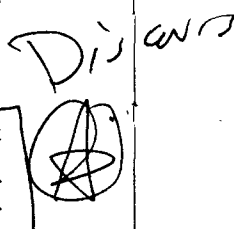
38. This is basically the tactic employed by Andrei Sakharov, perhaps the most formidable of all Soviet dissidents, in that his critique of the Soviet system is aimed directly at its most vulnerable spot: its own hypocritical profession of human rights and legal guarantees. For a collection of essays on Sakharov, see A. Babyonyshev, ed., *On Sakharov* (New York, 1982).

39. As Bertrand de Jouvenel observes: "Ce n'est point comme element du bonheur individuel que la liberte a été tellement vantée par les esprits les plus élevés, mais parce qu'elle retire l'homme du rôle d'instrument ou les volontés de puissance tendent toujours à le reduire, et consacre la dignité de sa personne." *Du pouvoir* (Paris, 1972), p. 388.

40. Gertrude Himmelfarb, *Lord Acton* (Chicago, 1962), p. 204, quoted by Murray N. Rothbard, *The Ethics of Liberty* (Atlantic Highland, N.J., 1982), p. 205.

41. Knight, who recognizes that "the essence of liberalism is the reliance on rational agreement or mutual consent for the determination of policy," says: "The only 'proof' that can be offered for the validity of the liberal position is that we are discussing it and its acceptance is a presupposition of discussion, since discussion is the essence of the position itself. From this point of view, the core of liberalism is a faith in the ultimate potential equality of men as the basis of democracy." *Freedom and Reform*, pp. 476, 473–74.

42. Guido de Ruggiero, *The History of European Liberalism* (Gloucester, Mass., 1981), p. 208.



CONCLUSION

The chief concern of this study has been to show how, as the politics of liberty, liberalism constitutes a unitary, coherent, and all-inclusive philosophy of human affairs. There is indeed a logic of liberty, and, in laying out this logic, liberalism shows itself to be a fully systematic philosophy with justifiable claims to universal validity.

Just as the basic political principles of liberalism—from the rule of law to constitutionalism to popular sovereignty—derive from a precise concept of freedom, so likewise, on a higher level, the value that liberalism accords to freedom itself derives from a unitary philosophy of human nature, the core of which is a specific concept of reason. The supreme merit of this view of reason is that it is *self-grounding*. That is, the idea of communicative-critical rationality cannot be argued against without the person so arguing cutting the ground out from his own feet by denying what is the only possible basis for the truth-value of what he is saying: rational-communicative agreement. In other words, anyone seeking to persuade another of the "rightness" of his position implicitly affirms, by that very fact, the supreme status of this form of reason. As that great pioneer in the liberal theory of rationality Frank H. Knight would say, freedom is "not discussable"—precisely because it is "the presupposition of discussion, and freedom in conduct is inseparable from that in communication."¹ If the basic fact about man is that he is the "speaking animal," then the most fundamental of human values is freedom. Or again: If freedom is presupposed by communicative rationality, and if, in addition, communicative rationality is the ultimate form of reason, then freedom is, quite simply, its own justification. In the realm of human affairs, no higher justification is possible than this.

Because the philosophy of liberty is self-grounding, it provides the only basis on which diverse peoples can live together in genuine peace. That is to say, it

is the only way in which people with different material interests, cultural values, and religious beliefs can yet reach agreement as to certain core values sufficient to constitute a *civil community* (the necessary condition for any community being the existence of shared values). There are bases other than that afforded by liberal principles on which civil communities can be erected, but they lack universal—or universalizable—validity.

One such alternative basis is *ideology*. The ideology which is increasingly dominant in the modern world and which both fascist and communist regimes alike increasingly rely on is *nationalism*. It goes without saying, however, that, by seeking to locate the ultimate source of meaningfulness in human life in the mores of a particular nation, nationalism is a divisive force in human affairs and cannot, without absurdity, lay claim to any sort of universal validity (to say that the ultimate value for each nation is simply itself amounts to saying that there is no such thing as ultimate value). This notwithstanding, certain nations may claim that the ideologies they propose are “internationalist” in scope. There may have been a time, in the rosy after-glow of their “revolution,” when the leaders of the Soviet Union were sincere in making a claim such as this. Today, however, when nationalism is a much more powerful force than the ideology of socialism—even within the Soviet Union—ideologies which have attached themselves to particular nation-states in the guise of universal missions are at bottom but smokescreens for nationalistic expansionism. The only form of universality that ideologies can provide is, in any event, a sham universality, for all ideologies are a form of dogmatic reasoning in which agreement is possible only if everyone adheres to the same metaphysical world-view and subordinates everything to some transcendent principle.

The universality offered by ideologies is either, as in the case of Soviet Marxism, illusory or is purely and simply reductionistic. This is the case with all ideologies based explicitly on cultural, religious, national, or, most manifestly of all, racial factors. Unity, which is to say community, is in this case achievable only by means either of the elimination or the subordination of all those cultural, national, or racial characteristics alien to the motive principle of the ideology in question. Here unity means the denial of the equality of all men, unless equality be taken to mean monistic homogeneity.

Ideology can make no claim, therefore, to rational validity; it is not genuinely universalizable. In its most common form, i.e., nationalism, it provides nothing more than a rationale for *tribalism*, which is obviously irrelevant to the problem of community in the modern era, which requires that civilization exist on a world scale or not at all. Tribalism is, for instance, the dominant characteristic of that ideology which is appealing increasingly to many third world countries, ones which have been unable to date to organize their own collective lives in the context of the twentieth century, an ideology which can draw on strong cultural and religious feelings which are all the stronger for having been deeply frustrated: Islamic fundamentalism.

Above all, ideology in no way serves to reconcile politics and ethics. Quite

the opposite. With the rise and spread of nationalism—the ersatz ideology of moderns—“Machiavellianism” is, as it were, institutionalized. For if the nation is held to be the embodiment of supreme ethical value, then the fulfillment of the individual is contingent upon the pre-eminence of his nation, which in turns means that the guiding principle of a nation’s dealings with other nations is pure self-interest and international politics is reduced to mere power politics. (Of course, not all nations can be superpowers; the lesser among them can at least bolster their self-image by thumbing their noses at the superpowers and by arguing that their socio-economic backwardness is precisely the mark of their unsullied moral superiority.)

Another alternative basis for community is *tradition*. By definition, however, traditions are always culturally and historically relative. A particular tradition may form an adequate basis for a given community, but it cannot serve as a universal model. This is why conservatism fails as a universal political philosophy and has little to contribute to the problem of establishing and maintaining community in the modern era of global civilization. It is no accident that Burke detested “abstractions” such as the notion of the universal rights of man. English conservatives should defend their liberties, he said, “not on abstract principles ‘as the rights of men’, but as the rights of Englishmen, and as a patrimony derived from their forefathers.”² Universal principles are indeed devoid of philosophical significance if the most one can appeal to is “tradition.”

In this instance again, the American example is eminently instructive. At the beginning of their revolutionary struggle, American patriots sought to justify their claims by appealing to their ancestral, inherited rights and liberties as Englishmen. All they were seeking to do, they argued, was to defend what, by reason of tradition, was rightfully theirs. With the Declaration of Independence, however, this argument was automatically denied them, since in abjuring their King they had thereby (according to traditional logic) ceased to be Englishmen. They had to find new grounds on which to base an argument, and the logic of liberty furnished them with one. The rights they laid claim to, they argued, were not particular birthrights; they were none other than the rights of human beings as such. They were universal rights, to which all men are entitled to lay claim. What was truly revolutionary about the American Revolution was the way in which it sought to justify itself: by appealing to the “self-evident” truth that all men are created equal and are endowed with “certain inalienable rights.” The philosophy of human rights and liberties—liberalism—is not only genuinely universal and universalizable, it is also, as we have sought to argue, self-grounding, for, in order to justify these rights, liberal theory need not appeal to any transcendent principle, such as natural law, but has only to spell out the implications of what it means to be rational, i.e., human.

In contrast, the appeal to “tradition” is not only not universalizable, it is incapable of generating self-justifying principles which can serve as the basis of a political community. The basis of community for the conservative is something standing over and above the mutual dealings of the members of the community

themselves. The unifying element, the glue which holds society together, is located in various historically and culturally relative institutions such as the throne or an established church.

Liberalism can and does dispense with all such transcendent factors, and this is why, incidentally, liberalism, in accordance with the logic of liberty, has strenuously insisted on the need to separate Church and State and to make of religion a matter of purely individual conscience. The liberal State does not seek to legitimize itself by invoking some divine, transcendent sanction. To do so would subvert its universal relevance, since all religions are culturally particular and relative. Moreover, it would be to undermine liberalism's claim to be fully justifiable in the light of human reason alone.

This is not to say that religion does not have a useful role to play in the eyes of the liberal. While throughout the ages religious organizations have performed the useful service of helping to keep people in their place, they have at the same time, from an interdenominational point of view, been a prime source of discord in human affairs. When, however, they endorse the basic principles of political liberalism (among which are to be counted tolerance and respect for the rights of individual conscience), they can, as Tocqueville in particular noted, perform an extremely useful function in the maintenance of liberal society. Because of the *moeurs* they inculcate in people (restraint, moderation, self-control, and the like), they serve to moderate the passion for liberty, thereby helping to keep liberty from degenerating into license and anarchy.³

At the very most, however, religion plays merely an auxiliary role in the foundation and maintenance of a liberal State. As Jefferson clearly stated: "Our civil rights have no dependence on our religious opinions."⁴ The true guarantee of the liberal State is not any particular cultural or religious tradition, purely as such, nor any abstract ideology. Nor does liberalism appeal to nationalistic sentiments to justify itself. Even though the modern nation-state is, as it were, a by-product of liberalism in that it is a consequence of liberalism's overthrow of feudalistic community based on local tradition, liberalism has from its inception been avowedly internationalistic and cosmopolitan, resting on the proclamation of universal human rights pertaining to individuals *qua* individuals and not merely as members of a particular community and on the ideal of the equal freedom of all. The essential internationalism of the liberal philosophy is well-reflected in Benjamin Franklin's assertion: "Where liberty is, there is my country."

The values which sustain liberalism are purely and simply those values which are immanent to reason and which reason is capable of discovering when it reflects on its own operations. The liberal State is therefore nothing other than the institutionalization of communicative-critical reason. This confers on it a universal vocation and makes its destiny coincide with that of civilization itself. Liberalism is not an ideology whose function would be merely that of rationalizing, legitimizing, and perpetuating a given state of affairs, but a philosophy whose task it is to discover, articulate, and defend socio-political values of enduring and universal validity. It is not, therefore, a subjective, arbitrary,

relative world-view, to be accepted or rejected on the basis of merely personal preference or community tradition. It is a rational theory having, as such, universal validity, one which must compel the assent of all those who choose to call themselves reasonable beings.

NOTES

1. See Frank H. Knight, *On the History and Method of Economics* (Chicago, 1956), p. 268.
2. Edmund Burke, *Reflections on the Revolution in France* (with T. Paine, *The Rights of Man*) (New York, 1973), p. 44.
3. See Alexis de Tocqueville, *De la démocratie en Amérique* (Paris, 1961), Vol. I, Pt. 2, Ch. 9.
4. Thomas Jefferson, "A Bill for Establishing Religious Freedom," in M. D. Peterson, ed., *The Portable Thomas Jefferson* (New York, 1981), p. 252.