

SOCIAL PRINCIPLES AND THE DEMOCRATIC STATE

S. I. Benn and R. S. Peters

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By

S. I. BENN AND R. S. PETERS

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SOCIAL PRINCIPLES AND THE DEMOCRATIC STATE

S. I. BENN

*Australian National
University, Canberra*

R. S. PETERS

*Professor of The Philosophy of Education
University of London Institute of Education*

London
GEORGE ALLEN & UNWIN
Boston Sydney

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PREFACE

There are a great number of students who take Social Philosophy as part either of an Honours Degree or of a Diploma in Social Studies, Sociology, or Public Administration. The authors, in teaching such students, have been constantly embarrassed by the absence of a text-book which takes account of recent developments in philosophy without being too remote from the institutions of the modern welfare state. They therefore set to work with the limited intention of providing a text-book in this field, Richard Peters tackling the ethics and Stanley Benn the politics and institutional analysis. The hope was that there would be a kind of intellectual osmosis in the middle region of social principles.

But this was not how the plan eventually worked out. The chapters on Moral Theory and Justice and Equality were the first to be written and discussed, and they showed that the authors were thinking on remarkably similar lines. These chapters became a growing point for the rest of the book, which thus grew from the centre outwards. This has two results. Firstly, instead of merely 'covering the syllabus' in the mundane manner originally planned, the authors found themselves developing, in a concrete institutional setting, a few central social principles. Secondly, it became increasingly difficult, especially in the central part of the book, to disentangle the ideas of one of the authors from those of the other. They are both to blame, therefore, for whatever defects the book has. And if it be a defect for a modern book on Social Philosophy to have a definite point of view—a cautious Utilitarianism which takes full account of the principle of impartiality—they are equally responsible for that too. They do attempt, however, to give reasons for it. Indeed, this is in a way the theme of the book: the close relationship between what is implied in 'being reasonable' and the principles and institutions of the democratic state.

Thanks are due to Maurice Cranston for his comments on Ch. 15, to A. Phillips Griffiths for his comments on Ch. 11, to Dr Peter Richards and Professor W. E. Armstrong for their comments on Chs. 5, 6, and 7, and to Professor H. L. Hart for his comments on some of the material of Ch. 8 (a substantial part of which was published in an article in *Philosophy*, October 1958) and to Anthony Manser, on whom Stanley Benn tried out many ideas before ever they reached paper, and who helped to point a way out of many difficulties. The authors are especially grateful to Professor W. Harrison who made detailed comments on the completed MS. Thanks are due, too, to Mrs Dunn and Miss Rouse for typing the MS and to Miss Marshallsay for compiling the index. Miriam Benn did much to clarify the ideas, and laboured to

simplify the style of the book, in the face of every possible objection and obstruction from its authors. To her they owe their very special thanks, for this and for much besides.

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RICHARD PETERS

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PART ONE



SOCIETY: ITS RULES
AND THEIR VALIDITY

CHAPTER I

SOCIETY AND TYPES OF SOCIAL REGULATION

I. SOCIAL WHOLE

Man, said Aristotle, is a political animal. He lives in society and is thereby able to survive, to talk, and to develop a culture. This is no doubt true, but the initial difficulty in theorizing about society is to be clear what we are talking about. If an ornithologist says that woodpeckers live in trees there is little to puzzle us. For trees and birds are easily picked out; they have definite contours; they move about; they have parts which mutually influence one another so as to make them both recognizable wholes. But when a social theorist tells us that men live in society, the matter is more puzzling. We are not inclined to dispute what he says, but it is not quite clear what he is saying. For though men are recognizable wholes like birds, societies are not wholes of the same order at all. The way in which a man lives in a society is quite different from the way in which a woodpecker lives in a tree. For membership of a society does not necessarily imply residence in some larger spatial whole. What then does it imply?

The first and obvious observation to make is that there is no such thing as society. By this is meant, firstly, that men are members of various societies rather than of society, and, secondly, that societies are not things in the ordinary sense of 'thing'. The most obvious characteristic of a thing is that it is spatially extended with recognizable contours. Yet quite obviously such a criterion does not fit the Society for the Propagation of Christian Knowledge. Indeed, very few societies conform to this criterion. For all members would have to be present at a given place—a rare occurrence at even the annual general meeting of any society. The fact, however, that societies are not things in the obvious sense of the word 'thing' need not worry us unduly; for neither are minds, and yet we all think that we have got them—except, perhaps, behaviourists. People palpably are things—though, of course, things of a special sort—and when we speak of societies we are using language to pick out types of order which make an intelligible pattern of the activities

which people share with one another. As a matter of fact we have to be taught to recognize forms of order which seem obviously given to us, as the psychologists have shown. Language itself makes possible a new level of life; by initiation into it we are also introduced to the contours of our environment. We learn words for cats, cars and clouds. And the process of learning the word is part of the process of learning the type of order intimated by it.

The trouble, however, about societies is that they are *not* given for us to recognize in the obvious way in which trees, toads, and turnips are. What we call a social whole is largely a matter of our construction; for the conventions of our language mirror the social forms which we develop. Of course, our selectivity and constructiveness enter into all our classifications, but in the case of social wholes much less is given and much more is constructed.

Consider, for instance, the case of social classes about which so much has been written since Marx popularized this way of grouping people together. His notion of class presupposed a highly sophisticated theory about the relation of people to the means of production. The proletarian class, for example, where those who sold their labour but owned none of the means of production. Yet others, who did not share Marx's theory about the significance for social life of people's relationship to the means of production, held that it was more fruitful to define a social class in terms, perhaps, of people's education or occupation. The point is that such ways of grouping people together presuppose all sorts of assumptions which are highly disputable.¹ If there are such wholes, they obviously are not palpable wholes.

It is, as a matter of fact, a cardinal mistake to assume that just because we have terms like 'nations', 'state', and 'social class', there need be any one type of order that is properly referred to by the word. People still hotly dispute about whether any recognizable type of order is referred to by the term 'nation' at all.* Words are only tools for communication. Provided that we understand what other people mean when they use words, it is idle, unless we are writing a dictionary, to insist that one way of using the words is alone correct. For students of society an interest in terminology should take the form of asking what theory about society the terms are being used to state. This, as a matter of fact, is a very difficult attitude to maintain. For our hopes and fears, our desires and dreads, are much more easily aroused by theories about man than by theories about Nature. It is significant that the sciences which were the first to develop were those which dealt with the stars—the bodies most remote from man. And even astronomy itself developed

* See discussion in Ch. II.

in the face of strong opposition because of the emotional and religious significance of the behaviour of the heavenly bodies. It was not until the nineteenth century that men achieved the degree of detachment necessary to study themselves scientifically. So when we talk about states, nations, social classes, and other such postulated types of order, it is very difficult to detach our emotions from our analysis; for holding on to a definition of 'social class' or 'nation' is too often a way of defending our valuations rather than of getting clearer about the facts.

II. NATURE AND CONVENTION

So far it has been shown how much human constructiveness helps to form the contours which we recognize in our social environment, and it has been intimated how difficult it is to separate our valuations from an analysis of society. These two difficulties in achieving a detached description of society may both be in part due to one of the outstanding differences between our social and physical environments. The order discernible in the natural world—the constitution of a crystal or a sponge, the rotation of the earth round the sun, the way in which lead melts at a certain temperature—is universal and not dependent on human desire or decision. Human decision enters, of course, in the choice of an order, in the way in which we select and group what is given. The laws of nature, after all, are human utterances or human marks on paper. Nature is what is the case—concrete particular facts; it does not consist in generalizations made about such occurrences. But whether or not these laws are true depends upon facts which are independent of human decision. No Act of Parliament can alter the constitution of a crystal or the laws of planetary motion. The order of society, on the other hand, is only maintained because of certain rules or norms which are very variable and which depend upon human desire and decision. This is not to say that all such rules have been consciously thought out and instituted; for what we call customs quite obviously have not. It is to say, rather, that such rules are expressive of human desires and aversions and that they are the sorts of things which can be altered by human decision. If men cease to think that divorce is always wrong, then marriage laws, which introduce a form of order into a certain area of human behaviour, can be changed. The vital difference between these forms of order is concealed by the fact that in English we use the word 'law' for both. We speak of marriage laws and of the laws of planetary motion. This often obscures the crucial point that whereas laws, in the legal sense, *prescribe* what ought to be, laws of Nature only *describe* what is invariably the case.

This distinction is a trifle over-simplified, but, perhaps a consideration of one or two complications will make it clearer. It will be said that the distinction is not clear because we can, on the one hand, alter the course of Nature, and on the other hand, we can develop laws about social orders. Both these assertions are true but they do not affect the crux of the distinction. Of course, we can tinker with Nature and introduce alterations. We do this every time we make a table, build a bridge or dam a river. But in making these alterations what we can do is limited by the properties and modes of change of the objects which the laws of Nature describe and explain. We cannot suddenly introduce large quantities of arsenic into an organism and expect the organism to live unless, because of our further knowledge of the properties of arsenic and organisms, we also introduce an antidote. When we adopt the interventionist attitude to Nature we are only successful if we have a thorough knowledge of the things with which we are dealing. Scientific laws tell us what we cannot do. Now psychologists and social scientists attempt to discover similar properties of human nature—the limitations imposed on our decisions by the material with which we have to work. Every system of social order grows up on a foundation of human nature. The problem is to discover which properties of human nature are universal and unalterable. Similarly, we can try, like the sociologists, to develop descriptive laws about the conditions under which normative orders of a certain sort develop, just as psychologists can make generalizations about the conditions under which people tend to conform to rules, or to deviate from them, about the different ways in which rules can be handed on from parents to children, and about the various ‘needs’ which rule-following satisfies. These laws resemble those in any natural science; but they just happen to be laws *about* rule-following. In the same way the sociologist can try to develop laws about the conditions under which scientific laws tend to emerge. But the admissions do not affect the basic distinction between natural laws which hold because of facts independent of human decision and normative laws which can cease to hold if human beings so decide.

This distinction between normative rules and scientific laws, which is here regarded as basic in our understanding of society, was made explicit comparatively late in the history of thought—probably in Europe in the eighteenth century. In primitive thought not only are these forms of order lumped together, but the sort of order discernible in our social environment is taken as the universal type. The regularities of Nature are laid down or ordained in the same kind of way as social codes. We still hear relics of this more primitive way of thinking when people speak of the laws of motion *governing* the movement of the

planets. To the primitive mind Nature is peopled with gods and spirits who are responsible for different departments. If there is a storm at sea, Poseidon is angry. If the crops fail, Ceres must be placated. Elaborate rituals are performed to ensure that the customary order of Nature is maintained. When, with the development of abstract thought, all-pervasive forms of order are discerned, then men tend to suppose that this is instituted by some all-powerful agent. Plato, for instance, conjectured that in everything some kind of geometrical order was manifest, and added that God everywhere does geometry. The implicit assumption of this mode of thought is that any form of order presupposes an orderer. Hume's *Dialogues Concerning Natural Religion*, published in 1779, were a landmark in the history of thought in that Hume emphasized that there were different forms of order—that of a vegetable, of a house, of a commonwealth, of a mind—and showed conclusively that just because some forms of order presuppose an orderer, it cannot be inferred that all forms of order do. The order of the world, he suggested satirically, is just as likely to have developed spontaneously like that of a vegetable as to have been consciously instituted like that of a house.

In the light of this distinction,² which took so long to develop, between what is natural and what is normative, we can become clearer about what constitutes a human society. Men, of course, like the rest of Nature, have certain natural ways of behaving. Psychological theories about universal, unalterable and, perhaps innate, tendencies (e.g. doctrines of human instincts) are attempts to sketch what these ways of behaving are. But imposed on these tendencies and providing the social conditions under which they operate are all kinds of normative rules which introduce order of a different kind. This order can only persist if it does not violate the unalterable properties of human nature. Indeed a frequent criticism of revolutionary reforms is that they take no account of human nature. What we call a human society is a number of individuals bound together by such an order of normative rules. They behave predictably in relations to one another because of this normative system. These rules define the rights and duties which they have towards one another, the ends which they may pursue, and the ways in which it is legitimate to pursue them.*

Men, then, are rule-following animals; they perform predictably in relation to one another and form what is called a social system to a large extent because they accept systems of rules which are variable and alterable by human decision. Indeed we cannot really bring out what we mean by a human action without recourse to standards laying down what are accepted as ends and what are efficient and socially appropriate

* For fuller discussion of various types of social whole, see Ch. 11.

ways of attaining them. Actions like buying a watch or signing a contract are not just movements of the body; they are movements which we make to bring about ends which are defined largely in terms of man-made standards. They can be performed more or less intelligently as well as more or less correctly, which implies standards of social appropriateness.³ They are not just things that happen like the blowing of the wind or the falling of the snow.

III. AUTHORITY AND OTHER FORMS OF SOCIAL REGULATION

Rules and standards are passed on and originated to a large extent by means of speech, which has a most important regulatory function in the life of men, and which makes possible a quite distinctive form of life. The artifice of speech introduces systems of order into human life which make no sense in the forest or the farm-yard. For what human beings do can be described as 'right' or 'correct', and things are done just because they are right or correct. And together with the notion of 'rightness' develops the necessity of *procedures* for deciding what these standards are and whether or not they are being conformed to. And this is very closely linked with the idea of 'authority'. For such standards being man-made, alterable, and, to a certain extent, arbitrary, procedures are necessary in some spheres at least, for deciding what standards are to be maintained, who is to originate them, who is to decide about their application to particular cases, and who is entitled to introduce changes. Where we find such an arrangement for originators or umpires in the realm of rules, we are in the sphere of 'authority'. For the concept of 'authority' is obviously derived from the old concepts of 'auctor' and 'auctoritas', which referred to a producing, inventing or cause in the sphere of opinion, counsel or command.⁴

Now in some spheres of social life it is imperative to have such 'auctores' who are producers or originators of orders, pronouncements, and decisions. It is also the case that in social life, whether we like it or not, there are such 'auctores' to whom commands, decisions and pronouncements are to be traced back in any factual survey of how social regulation is brought about. The authority structure is very much part of what we mean by terms like 'a social system', and, to a large extent, accounts for its continuance as a whole while its members pass away. It would be difficult to understand what is meant by an army, a state, or the Roman Catholic Church without an understanding of the concept of 'authority'. Indeed Hobbes relied on the notion of 'authority' to give an analysis of how it comes about that there is a social system rather than a multitude of men,⁵ and recently de Jouvenel has seen in

'authority' in all-pervasive bond that integrates men into purposeful groups.⁶

But in spite of the pervasiveness of authority and of the indispensability of the concept in the analysis of social systems, we think it important to stress that the concept is itself rather a complex one. Hobbes and de Jouvenel, for instance, were using it in different ways. It is also important to guard against making the sphere of authority co-extensive with that of social regulation, as is done by de Jouvenel amongst others. In our view the use of authority should be clearly distinguished from other techniques of social regulation like the use of moral guidance on the one hand and the use of various forms of power on the other. Let us briefly consider each of these points in turn.

(a) *Types of authority*

We must first of all note that 'authority' is used both as a *de jure* and as a *de facto* concept. (Hobbes illustrates the first use, de Jouvenel the second.) In its *de jure* sense it implies a set of procedural rules which determine who shall be the 'auctor' and about what—as when we speak of those 'in authority', 'the authorities', or 'an authority'. In its *de facto* sense it involves reference to a man whose word in fact goes in some sphere—as when we say 'he exercised authority over his men'.

One of the great services done by the sociologist Max Weber has been to stress the *different* types of normative systems which are connected with different types of authority *de jure*. For legitimacy may be bestowed in different ways on the commands or decisions or pronouncements issuing from an 'auctor'. In what Weber called a legal-rational system the claim to legitimacy rests on 'a belief in the "legality" of patterns of normative rules and the right of those elevated to authority under such rules to issue commands'.⁷ There is also traditional authority 'resting on an established belief in the sanctity of immemorial traditions and the legitimacy of the status of those exercising authority under them'. There are most important and interesting differences between these types of authority—but in both cases to speak of 'the authorities' or 'those in authority' is to proclaim that on certain matters certain people are entitled, licensed, commissioned or have a right to be 'auctores'. And the right is bestowed by a set pattern of rules.

This type of authority is to be distinguished carefully from other types of authority where the right derives from personal history, personal credentials, and personal achievements, an extreme form of which Weber took account of when he dealt with 'charismatic authority'—'resting on devotion to the specific and exceptional sanctity, heroism

or exemplary character of an individual person, and of the normative patterns or order revealed or ordained by him'.⁸ Weber, of course, was thinking primarily of the outstanding religious and military leaders like Jesus and Napoleon. He therefore pitched his account rather high and personal authority was decked with the trappings of vocation, miracles, and revelation. Nevertheless there is something distinctive about the charismatic leader which he shares in an exaggerated form with other natural leaders who exercise authority in virtue of personal claims and personal characteristics. For the reference to personal characteristics is a way of establishing that a man has a right to make pronouncements and issue commands because he is a special sort of person. And, although in some societies a man who sees visions and goes into trance states is in danger of electric shock treatment, in other societies pointing to such peculiarities of personal biography are ways of establishing man as *an* authority in certain spheres.

We usually speak of a man being 'an authority' in the sphere of pronouncements rather than that of commands and decisions where reference to 'the authorities' or 'those in authority' is more natural. Thus we speak of a man being 'an authority' on art, music, nuclear physics, or the Bible. Such a man has not been put in authority; he does not hold authority according to any system of rules. But because of his training, competence, and success in this sphere, he comes to be regarded as an authority. He has a right to make pronouncements. And his right derives from his *personal* history and achievements in a specific sphere. These more mundane cases of where we speak of a man being 'an authority' are similar, in this respect, to Weber's charismatic authority, where the legitimacy also is regarded as grounded in personal characteristics.

(b) *Authority and Power*

So far we have distinguished the different grounds of entitlement which are involved in speaking of a man being 'in authority' or 'an authority'. But we also speak of a man exercising authority over another man in a purely *de facto* sense. And although as a matter of fact he usually does this because he is in authority over him or because he is regarded as an authority, this is not necessarily the case. There is the Admirable Crichton situation, for instance. Or we might say that a man exercised authority over others if, during a crisis like a fire in a cinema, he rose to his feet and told everyone to file out quietly, and everybody in fact obeyed him, even though he was not the cinema manager or a fireman and was a complete stranger to all present. In such a case a man would exercise authority even though he was not in authority.

We are inclined to say that this would be an exercise of authority because the basic features of the concept fit even this situation. The audience files out just because he says so. Equal weight must here be given to the 'he' and the 'says'. To exercise authority over another is to get him to do things by giving orders to him, or by making pronouncements and decisions. It is inseparable from the use of *speech*. Hens, it is said, have a pecking order; but there is no hen *in* authority over other hens, neither does one hen *exercise* authority over other hens. Their system looks like a pure power system. They give no orders, make no pronouncements, and have no rules bestowing legitimacy. The main function of the term 'authority', when it is used in its *de facto* sense of 'exercising authority', is therefore to stress the regulation of behaviour by means of speech and symbolic gesture as distinct from the use of power. In other words it has its meaning by contrast with other ways of regulating behaviour that do make sense in the forest or farmyard.

This is to reject the more usual attempts to analyse 'authority' in terms of power as exemplified, for instance, by Weldon, who claimed that 'authority' means power exercised with the general approval of those concerned.⁹ For often, what we want to bring out when we say that men are 'in authority' or 'exercise authority' over other men is that they get their way or ought to get their way by means other than those of force, threats, propaganda, and other ways of exercising power. It is only when a system of authority breaks down or a given individual loses his authority that there must be recourse to power if conformity is to be ensured.¹⁰ The ability to exercise power may, of course, be a necessary condition for the exercise of authority under certain circumstances. It may also be a ground of entitlement as in the old saying 'no legitimacy without power'. But a necessary condition for the exercise of authority or a ground of entitlement to it should not be confused with what 'authority' *means*.

(b) *Authority, science, and morality*

We have claimed that the implication of saying that a man is 'in authority' or 'exercises authority' is that others do what he says just because he says so. The stress so far in our elucidation of this has been on 'says'. But in other contexts it is equally important to stress the 'he', the existence of an 'auctor' or originator in the sphere of decision, pronouncement or command. For in some such spheres the notion of there being an 'auctor' is anathema; not all decisions or pronouncements are authoritative. Perhaps commands must always be authoritative, the very concept of 'command' or 'order' implying this. For commands,

roughly speaking, are the sorts of regulatory utterances for which no reasons need be given. Questions of course can be raised about a man's right to issue commands; but granted that he is entitled to give them and is not straying from his field of competence, there is no further question of justifying them. Indeed the tone of voice in which they are given bears witness to this.

Commands, however, are not the only sort of authoritative utterance. There are also decisions and pronouncements. And, as we have pointed out, not all these are authoritative. Indeed there is a long tradition which stresses the incompatibility between authority and certain specific human enterprises like science and morality. For it would be held that in science the importance of the 'auctor' or originator is at a minimum, it never being justifiable in scientific institutions to set up an individual or body who will either be the originator of pronouncements or who will decide finally on the truth of pronouncements made. The procedural rules of science lay it down, roughly speaking, that hypotheses must be decided on by looking at the evidence, not by appealing to a man. There are also, and can be, no rules to decide who will be the originators of scientific theories.

In a similar way, as we shall maintain later, a rule cannot be a moral one if it is to be accepted just because someone has laid it down or made a decision between competing alternatives. Reasons must be given for it, not originators or umpires produced. Of course, in both enterprises provisional authorities can be consulted. But there are usually good reasons for this choice and their pronouncements are never to be regarded as final just because they have made them. In science and morality there are no appointed judges or policemen. This is one of the ways in which life in the laboratory differs from life in the army and law courts.

IV. THE DEVELOPMENT OF TYPES OF SOCIAL REGULATION

So far we have distinguished between natural laws and normative rules and have suggested that what we call societies are individuals bound together by varying patterns of normative rules. We have also suggested that the concept of 'authority' is intimately connected with the regulation of behaviour by means of such rules in a social system. For in certain spheres of social life it is imperative to have originators or umpires, men whose pronouncements and decisions determine what rule is to be followed or what interpretation of a rule adopted. In considering the different rules of *procedure* from which men derive their right to be 'auctores' in different spheres we had occasion to

mention Weber's distinction between legal and traditional rules; we also made a contrast between the fields where authorities are appropriate and the fields of scientific pronouncements and moral decisions, where there can be no authorities. More must now be said about the distinctions implicit in our account of these different types of social regulation.

In some simple and cohesive types of social system a man's behaviour is regulated almost entirely by the roles deriving from his status in society—as a father, a husband, a warrior, or a hunter. But in our modern type of social system our duties are not all so derivable from our station in life. There are, in addition, rules of an all-pervasive character like those relating to non-injury, respect for property, veracity, gratitude to benefactors, unselfishness, and fair play. These very general rules which are binding on all who live in a given area are usually referred to as social codes.

But we do not regard such social codes as being all of a piece; for we distinguish between customs and traditions, laws, moral rules, and religious rules. We would say, for instance, that it is traditional or customary for a man to walk on the outside of a woman on a pavement; but this is not a law, neither is it a moral duty. Primitive people make no such distinctions, as social regulation in pre-literate societies is comparatively undifferentiated. Indeed, if an anthropologist were to ask one of his subjects whether the prohibition on incest were a moral, legal, religious, or customary rule, he would be greeted with blank incomprehension.

How then do we make these distinctions? Surely, they presuppose, on the part of the people who make them, a certain degree of consciousness of *procedures*, of differences in formal rules by means of which substantive rules like 'contracts ought to be kept' or 'debts ought to be paid' are decided upon. It is, surely, such differences in procedures that lie behind the distinctions, which obviously are not simply in terms of the content of the rule. The prohibition on incest, for example, is a moral, legal, religious, and customary rule, and the fact that we can say that it exemplifies all these different types of rule shows that it is not the content alone which decides its status.¹¹ What, then, is the criterion of distinction?

(a) *The emergence of law*

Perhaps the best way of arriving at a general understanding of these distinctions is to say very briefly how they probably arose. In small, preliterate or semi-literate, self-contained societies norms tend to be quite undifferentiated. The lives of the people are regulated by a

system of rules which are thought to have been handed down from time immemorial. The question of justifying the rules does not arise. They are part of the order of the world like the movement of the sun or the properties of fire. When, however, social change or social expansion develops—perhaps in a society by the sea that trades with other societies, or in a society that conquers or is conquered by others—the system of local rules proves inadequate either because new contingencies have arisen or because some over-all system of rules is necessary for societies to fuse with one another. At such times a system of what we call law tends to arise. This differs from custom in that it is usually written down, it issues from a determinate source like a king, and it is supported by determinate sanctions. Literate societies often hold in reverence someone who is assumed to have been their first great law-giver—Lycurgus of Sparta, Solon of Athens, and so on. Custom, of course, is not abrogated. Sections of it—usually those which are of most far-reaching social importance—are merely clarified and codified. But the life of the individual continues to be determined by countless customs which have not been converted into laws.

In our society right up to the seventeenth century custom was the predominant form of social control together with the Common Law which was intermediary between custom and law. A man's status and the roles which he had to play in the various departments of life were prescribed by rules handed down from time immemorial. Economic life was static and secure, regulated by the guild system which blocked undue competition and self-assertion. There was little social mobility, and the world view propagated by the Church assigned a proper place to everything in the divine order of things. But with the growth of international commerce in the fourteenth and fifteenth centuries, with the invention of printing and the improvement of communications, a new individualistic order gradually began to take shape. Social life became more and more characterized by acquisitiveness, the pursuit of power, and the striving for honour.¹² Life, indeed, became rather like a race, as the great seventeenth century philosopher, Thomas Hobbes, pictured it. Thrift, efficiency, and hard work became virtues of the rising middle class. Individual effort and initiative, as well as traditional status, came to determine a man's place. In the religion of Protestantism much was made of the priesthood of all believers; the individual was confronted with God without the intermediaries of the Church hierarchy; he had to make his lonely way in quest of salvation by his own individual effort.

The rise of individualism brought about great gains in the field of liberty, self-discipline, and personal responsibility. But these were

achieved, to a certain extent, by the loss of the sense of security that goes with a small close-knit traditional society. The need for a new kind of security was almost universally met by the development of a new form of social control—the strengthening and extension of the powers of the king. The nation state emerged with the increase in statute law as the method of social control appropriate to it. And in most countries acute controversy developed about the proper relationship between the individual and this new form of social control which Hobbes aptly dubbed ‘Leviathan’.¹³ What rights had the king over his subjects or the subjects against the king? What made his authority legitimate? On what grounds were they justified in resisting his decrees? How could the insistent demands for the liberty of the subject be reconciled with the obvious need for security? These are the crucial questions of social philosophy. They tend to arise acutely only at a time of social change and intellectual bewilderment; for philosophy is intellectual unrest made explicit. In periods like that of the seventeenth century in England men were confused and undecided about how they stood in relation to this new form of social control that was developing. And it was at this period that the distinctions between the major forms of social control began to be hammered out.

Law, in the order that was passing, was closely related to custom in that it was thought to be a *declaration* of existing custom. *The law* was there to discover—a kind of appurtenance of the people—as it applied to particular circumstances. With the development in England of Common Law or the King’s law this view still persisted. The king and his courts never *made* laws; they declared what the law was. Common Law was intermediary between custom and law in that the judges, in declaring the law, did so by attempting to make explicit the customs of the realm. Parliament itself was regarded as only a kind of court rather than as a law-making body. But when James I claimed that law was simply his command and that customary law was only valid because his silence denoted his assent, and when later on in the seventeenth century the Long Parliament indulged in an unprecedented amount of legislation, it became increasingly clear that laws were not simply declarations of existing custom. For where was the precedent for a Parliament prolonging its own life by statute? Was law then, as Hobbes suggested, ‘the word of him that by right hath command over others’? Our analysis of ‘authority’ helps to explain this suggested connection between ‘authority’ and ‘command’. For commands, roughly speaking, are the sorts of regulatory utterances for which no reasons need to be given. A man can only give a command if, like a king, he is in a position of authority or if he exerts authority in a *de facto* sense. For as an occupant

of an office or as a status holder he has a right to make decisions which are binding and to issue orders. Authority, however, is not exercised *only* in the giving of commands. There are also the spheres of making pronouncements and decisions. Behaviour or opinion in these spheres is regulated by the utterance of a man which carries with it the obligation for others to accept, follow, or obey. The claim put forward by Hobbes that law is command is right in stressing the connection between law and authority but wrong in conceiving of commands as the only form of authoritative utterance. A law is obviously an *authoritative* utterance; but it does not follow that it is a command. Further clarifications of such problems about the status of law must, however, await our third chapter.

(b) The emergence of morality

The rise of individualism was also manifest in another distinction which was as old as Socrates and those others who had been the mouthpieces of the individualist movement in Greece in the fifth and fourth centuries BC. This was the difference between a moral rule on the one hand and a custom or law on the other. Socrates and his followers insisted that the individual should accept only those rules which he himself could justify. It was not enough to adopt traditional standards secondhand because they were sanctified by immemorial custom or laid down by some authority. After all, times change, and authorities disagree. Even the law might be unjust and, although in general the individual should obey the laws of his state, these laws might conflict with his conscience, his own reasoned conviction about what was right and wrong.

This critical rejection or acceptance of custom or law is what is distinctive of morality, just as the critical attitude to theories about Nature is what is distinctive about science. The germ of both morality and science emerged at about the same time; they were manifestations of the emergence of individualism. For, with the development of trade and the interchange of ideas between societies, it came to be realized (and made explicit by writers like Herodotus) that men lived under a bewilderingly different number of laws and customs just as they accepted quite different theories of Nature. The individual like Socrates or Protagoras who reflected on this diversity was thrown back on himself; authorities had to be challenged and the truth arrived at. Men began to proclaim that, whatever their civic allegiances, there was a bond between them as reasonable beings. The concept of the individual and respect for the individual as an individual developed. In the dispute about Nature and convention, which can be found in the writings of Plato and Protagoras, this distinction was implicit;¹⁴ for

it was held by some that all men shared in a certain common 'nature' whatever conventions they happened to live under. Later on, with the breakdown of the autonomous city states and the consequent decline in the importance of man's duty as a citizen, the notion developed of a universal system of rules binding on all men in virtue of their nature as rational beings. This universal system of rules or law of nature¹⁵ as it was called was contrasted with the laws and customs of particular states. The Stoics, who were the first to formulate this conception of natural law with explicitness, spoke of man as a citizen of the world as well as of a particular state. As rational beings men occupied a cosmic status and were equal, whatever their civic status; and as rational beings they could not doubt that contracts ought to be kept, life and property respected, and that justice should prevail between men. These were the sorts of rules that could be justified in any society whatsoever. Thus the Stoics, who flourished after the conquests of Alexander and the cosmopolitan tendencies which he fostered, developed with greater explicitness the implications of the Socratic tradition. They began to systematize what we now call a moral code. For the characteristic of a moral rule is that it should be regarded as universally applicable and rationally acceptable to the individual.

The notion of such an ideal universal code persisted in Rome through the influence of the Stoics. It exerted a simplifying and humanizing influence on the Roman law of nations—a practical system of law developed to regulate dealings with those foreign cities with which Rome was brought into contact through her commercial and military expansion. With the coming of Christianity, cosmopolitanism and egalitarianism found a more dynamic and emotional form of expression. Later, with the development of theology, the system of natural law came to be regarded by Aquinas as a selection from God's rules which could be rationally discerned and which did not need to be supernaturally revealed. It was appealed to by the more philosophically minded of the clergy to humanize, and often to condemn, current laws and customs.

The heyday of natural law, however, was the post-Renaissance growth of individualism.¹⁶ The Renaissance, as has often been said, focused interest on man as an individual. The law of Nature was thought to be rooted in man as an individual rather than derivative from his ecclesiastical or civic status. Hence its appeal at this time. Also, at a time of acute religious controversy it appealed to reasonable men, like Grotius in Holland, who wanted peace and toleration; for it suggested a set of rules which were rationally acceptable and unaffected by the revelations and authoritative claims of rival religious sects. The law of Nature was also a godsend to those rising representatives of the middle

class who feared the absolutist ambitions of the rulers of the developing nation states; for the law of Nature provided a system of universal principles binding on king and subject alike to which appeal could be made in calling in question the justice of laws.

It was in this kind of context that moral philosophy grew and flourished. For moral philosophy is the attempt to find criteria in virtue of which rules can be rationally justified.¹⁷ It presupposes a critical attitude to rules and the refusal to equate what is right with what is laid down by custom, law or any other authoritative source. This attitude is only possible in an individualist era where the distinction is made between man as a citizen of a state and man as an individual belonging to other societies and able to criticize the laws and customs in which he has been nurtured. In our second chapter we shall give a brief outline of the criteria suggested for distinguishing a moral rule from a custom. So far we have claimed only that a moral rule differs from a custom in that it has been critically examined in accordance with some criterion other than the degree to which it is generally accepted or the competence of the authority prescribing it. In the same way scientific laws become differentiated from a mass of heterogeneous assumptions about the world. They emerged as those assumptions which stood up to observational tests. The task of moral philosophy is to make explicit the test in the sphere of normative rules which corresponds to that of the observational test in the sphere of descriptions of Nature. For what we call moral rules are those that have emerged from an undifferentiated mass of normative rules after a certain kind of test has been applied to them.

(c) Morality and religion

Of course, the distinction between man as an individual and man as a member of a state was enormously helped by Christianity with its stress on the brotherhood of man and the distinction between man as a subject of temporal authorities and man as a child of God. Indeed, the very existence of the Church institutionalized this distinction. Protestantism especially emphasized the conscience of the individual in his endeavour to find out what was right by searching the Scriptures and his own heart. Catholicism inhibited the development of morality by its stress on the authority of the church hierarchy in matters of right and wrong. This raises the question of how moral rules are to be distinguished from religious ones—a very difficult question in view of their similarity of content. Probably the answer would be that a rule is specifically religious if it is thought to have been laid down by some divinely inspired individual or group of individuals or if the individual

himself regards the rule as revealed to him personally by God, and if the divine nature of its origin is thought to be the justification for obeying it. A religious rule does not have the same connection with man's reason as is usually claimed for moral rules; it depends much more on the authority of a man. This suggested criterion raises the fundamental question of the existence of God and of the criteria possible for claiming that God's will has been revealed. As this book makes no attempt to enter the field of the philosophy of religion, the problems connected with this suggested criterion of distinction will not be further explored.

We have, in this introductory chapter, suggested that the important respect in which society differs from Nature is that its order is largely the product of systems of normative rules. We then showed how the concept of 'authority' is intimately connected with the regulation of behaviour within such a social system. We claimed, however, that the sphere of authority is to be distinguished from the sphere of power on the one hand and the sphere of moral regulation on the other. We then embarked on a brief description of the contexts in which the distinction between law, custom, and morality arose. We can now proceed to examine in more detail the criteria assumed in making these distinctions.

CHAPTER 2

MORAL THEORY

I. MORALITY AND RATIONAL JUSTIFICATION

When we speak of 'morality' we can be using the term in a very general way to speak of a system of rules that are not legal rules but which nevertheless have a widespread application in our conduct. Indeed, some moral philosophers speak of 'customary morality'. Or we can be using the term in a more specific sense to indicate that these rules are not merely customs but rules which have had certain special criteria applied to them. In this second and more specific sense of 'moral' we would not say that a child was a moral being who simply did what he was told without thinking about the rightness of the general principle implicit in his behaviour. The Swiss psychologist, Piaget, maintained that children as a matter of fact remain in this 'transcendental' stage for some time.¹ They never question the rightness or wrongness of rules like 'Thou shall not steal' any more than they question the rules of games like marbles. Of course, they may follow their inclinations or their selfish interests, just as people under an authoritarian Catholic regime often followed their inclinations rather than the authoritative commands of the Church. But they do not challenge the rightness or wrongness of the rules. Standards are regarded as authoritatively ordained by some external agency. It is only later, at about the age of seven or eight, that they begin to see that rules of games and rules of social life have some *point* to them and that they can therefore be changed by common consent if they no longer have any point. In this way, if Piaget is right, the development of a child in an open society mirrors the development of man's consciousness from the authoritative ties of a traditional society.

We are here concerned with morality only in the second and more specific sense of the term in which morality is distinct from custom. Our problem is to suggest criteria in the light of which a rule becomes a moral rule. This sort of enquiry is usually known as ethics or moral philosophy. Historically speaking moral philosophers have often been the mouthpieces of a social movement in which this distinction between custom and law on the one hand and morality on the other hand was of cardinal importance. They have attempted to state clearly and explicitly

criteria which were implicit in judgments made on social practices. Immanuel Kant, for instance, excited by the spectacle of the French Revolution, claimed that he was making clear what was presupposed in the judgments of ordinary men who were standing on their own feet and condemning existing social regulations as being unjust. Others, like David Hume, whilst deploring violent departures from tradition, have tried to show the grounds on which it can be held that what is traditional is also moral.

In our view moral philosophers, in so far as they have sought seriously to make explicit the criteria implicit in calling a rule a moral rule, have already in an embryonic form committed themselves to two of the basic criteria for which they have sought. For, as was indicated in our first chapter, morality arises when custom or law is subjected to critical examination. Now if a person like Socrates asks *seriously* whether a particular rule is right, whatever the traditional authority for it, or attempts *seriously* to decide between the demands of different authorities, then he must, as a rational critical individual accept certain normative standards or procedure. He must respect truth at all costs. Now respecting truth, as Socrates held, involves being prepared to admit that we are mistaken. Just because it is *our* opinion, or anyone else's for that matter, it need not necessarily be correct. Issues, in other words, must be decided in the light of *arguments*, and not because of the authority or personality or religion or social class of the person who propounds them. Socrates held that he could reason with a slave. And surely he was right. For what has a man's social position to do with the truth or falsity of what he says? It may be that because he is a slave he is also ignorant and is therefore likely to put forward false statements. But this connection is purely contingent. He may be ignorant in general and yet be quite correct in what he says about a particular matter. Logically speaking, the fact that he is a slave is quite irrelevant to the truth or falsity of what he says. For this is decided in terms of *evidence*, and the fact that he is a slave is usually quite irrelevant. The very idea of searching for truth takes for granted, then, a norm of *impartiality* which holds that issues should be decided according to the *relevant* criteria and that exceptions should not be made on irrelevant grounds. Of course, the difficulty often is to decide, in particular contexts, what *are* relevant grounds. But in this context, when the question at issue is the truth of an assertion, it is manifestly irrelevant to decide it by reference to the personal or social characteristics of the person who puts forward the assertion. In the context of the search for truth impartiality amounts to being prepared to admit one's own fallibility and being prepared to **admit** that the other person may be right although one may dislike him

personally or object to his religion, colour, social class, voice, or any other such irrelevant attributes. This criterion can be put more strongly in terms of *respect for persons*. For if we are prepared to attend seriously to what another person has to say, whatever his personal or social attributes, we must have at least a minimal respect for him as the source of an argument.*

But, it might well be argued, respect for people as sources of arguments is a far cry from the sort of criteria that are needed to justify a rule as a moral rule. Science deals only with the truth of assumptions; morality is concerned with the rightness or wrongness of rules. A man might be quite reasonable in a scientific discussion yet eminently unreasonable when any question of duty arose. He might be reasonable enough in deciding between the claims of different 'authorities' on scientific matters, but refuse to discuss rationally the suggestions of anyone whom he regarded as an 'authority' on moral matters. He might reason when in a laboratory; but his life outside might be directed by authorities and by irrational taboos.

This is quite a possible situation; indeed it may well be a common one in countries where conduct is predominantly regulated by custom and political or religious authorities. But we are conceiving of a situation where a man is really doing moral philosophy, where he is really seriously worried about the justification of rules. He is demanding *reasons* for rules. Now to say that he is demanding reasons for rules is to say that he has rejected the appeal to the authority of a man or of a custom. And, surely, the only sorts of reasons that count when such a demand is made are those that refer to the effect of the rule on someone or other's interests. Discussions about the rightness of rules do not take place in a social vacuum. They occur when people are worried about rules because somebody's claims are being neglected or somebody's interests damaged or disregarded. Notions like 'harm', 'injury', 'advantage', 'benefit', and so on are surely not accidentally associated with the discussion of the rightness of rules. For what other sorts of reasons could there be that would count?

Given, then, that the context of the justification of rules is one where people's interests are adversely or beneficially affected by their change or continuance, it is surely illogical for a man who is seriously interested in giving reasons for rules to consider any particular person's interests as being any more important than anyone else's unless good reasons can be shown for making such a distinction. There may well be a gap between considering another man merely as a source of arguments and

* The substance of this argument derives from Prof. K. R. Popper who once developed it in a series of seminars.

as a source of interests and claims. But surely both are cases of impartiality, and we would call a man unreasonable if he disregarded other people (or himself) in either of these respects.

It might be said that often questions about what ought to be done are prudential questions. A person can give reasons for what ought to be done purely in terms of what is likely to be advantageous to himself. But we understand, surely, the difference between this sort of 'ought' and a moral 'ought'. As Hume put it, if the question 'Is this right?' were the same question as 'What is this to me?' It would seem very odd that this quite distinct way of speaking has emerged. A man who is seriously producing reasons to support the view that a rule is *right* may give reasons in terms of his own interest, but not *only* his own interest. He has to show *reasons* why his interests rather than anyone else's have priority; and it is not a reason to say that they have priority just because they are *his* or anyone else's. For this is like an irrational appeal to authority. He has to give reasons for placing himself or anyone else in such a special category. The presumption, surely, of the reasonable man, in the discussion both of the truth of assumptions and the rightness of rules, is that people shall be treated impartially as sources of arguments or of interests. In other words reasons must be given for treating anyone as being more or less important than any other.

In our view the impartial consideration of the interests affected by rules is basic to morality. This is a purely procedural criterion; for it does not dictate which rules are right or wrong, only how to set about deciding whether a rule is right or wrong. What counts as a good reason for putting a person into a special category will vary from circumstance to circumstance; and there are all sorts of disagreements about what is detrimental or beneficial to people whose interests are affected by rules. Nevertheless, as a procedural criterion it distinguishes morality from reliance on custom and from the acceptance of authority in the fields of law and religion. And in so far as men are philosophers they are implicitly committed to some such procedural rule; for philosophy itself is pre-eminently an exhibition of reason in action. In so far as men are serious in their search for justification and for making explicit the criteria of such justification, they must be committed to a minimal degree of impartiality. For without this, rational discussion could not proceed. Ethics, or moral philosophy, is the attempt to make explicit how moral rules are justified. Our contention, therefore, is that moral philosophers, in so far as they think and demand that reasons can be given for rules, and discuss rationally what sorts of reasons count, have already assumed in a minimal degree the criteria which they are looking for when they do moral philosophy—provided, that is, that they do it

seriously, and not merely as an intellectual exercise. The crucial distinction is between those who are prepared to discuss rules rationally and those who are content to rely on the external authority of custom, leader, Pope or book. In comparison with this cleavage the differences in the criteria suggested by moral philosophers are differences of emphasis within a fortress of agreement. Kant was fundamentally right in holding that the criteria of morality are implicit in the concept of a rational being—provided, that is, that ‘rational’ is used in the sense of ‘reasonable’, and not in the stricter sense of ‘unable to accept logical contradictions’.

An exposition of the different ethical theories in so short a space as one chapter must necessarily be from a point of view. For how else could a selection be made from the mass of details connected with each of the theories? But in adopting our particular point of view we feel that we are not only bringing out those features of morality which distinguish it from custom and law, but we are also stressing the kernel of morality in so far as it affects questions of rights, justice, equality, and other such concepts which we are to discuss later in this book. Our point of view explains certain omissions—those thinkers in the Christian tradition, for instance, who have suggested a specifically Christian foundation for conduct. This implies no adverse judgment on the historical importance of these theories; for obviously the way of life preached by Catholics, Puritans, Calvinists, and other such Christian sects, were of very great historical importance. But in so far as such systems of conduct had a specifically Christian foundation, they were based on some kind of divine authority or revelation. They must therefore be regarded as religious codes rather than as moral ones. Of course, a code of behaviour, like that of the Sermon on the Mount, could be accepted because there seemed to be good reasons for it. But such rational acceptance must be distinguished from acceptance on the grounds that the code issued from a man who was God, or divinely inspired. There is a distinction between accepting what Jesus said because he said it, and accepting what he said because there are good reasons for it. If religious codes are to be distinguished from ethical ones, they must surely be regarded as having as their basis faith in a particular man or in other sources of revelation rather than the acceptance of rules for reasons that any rational being might suggest.

II. INTUITIONISM

We have already explained in our first chapter how moral philosophy began to gather momentum after the Renaissance when reflective people

were casting round for a basis of conduct which any rational man could accept whatever his religion or country. The Dutch thinker, Grotius, was particularly interested in finding a rational basis for international law by means of which trade could be facilitated. He fell back, naturally enough, on the old tradition of the law of nature which had been passed down from the Stoics.²

In Stoic thought there had always been a close connection between the concept of a rational being and that of the law of nature. All men, it was said, had reason or the divine spark within them. The possession of this would lead them to accept the law of nature and, in so far as men had reason, all men were equal and should be treated with respect. There was no place for slavery in a life 'according to nature'. This connection between man's reason and natural law was present in all attempts to formulate it, as, for instance, in the Catholic conception of natural law. Grotius' importance consisted not so much in the content of the rules which he suggested, but in his conception of 'rationality' in virtue of which men must accept them. For, in this respect, he may be regarded as one of the earliest exponents of the ethical theory known as 'intuitionism'.

The period at which Grotius wrote was one of revolt against the prevailing Aristotelian tradition. Men were impressed by the advances made in the mathematical sciences of astronomy, mechanics, and optics, which were being pioneered by Copernicus, Kepler and Galileo.³ It was thought that their success had been obtained because they had made a fresh start. They had cleared their minds of Aristotelian clutter and had used a different method of thought. Instead of beginning with careful observations and working gradually up to a knowledge of essences by reference to which they could explain the behaviour of things, they had followed the methods of Euclid. The works of Archimedes, for instance, had become available in translation in the sixteenth century, and exerted a great influence on the school of Padua where Galileo worked. In this geometrical method a situation had to be analysed or resolved into components which seemed intuitively simple, which permitted no further analysis. The ball rolling down an inclined surface, for instance, was resolved into its simple elements of extension, figure and motion, which were quantifiable. If these simple concepts were held together in the mind certain relations could be intuitively grasped as holding between them. These could be formulated as axioms and a deductive system developed by means of which the behaviour of the ball could be explained. The 'intuition' of these primitive elements and their inter-relations, together with the deductions or 'demonstrations' that could be derived from them, were regarded as the work of

reason. Descartes held that all men possessed reason and, as rational beings, they were all on an equal footing. They had only to learn the method of geometry and they could not fail to understand the structure of the world. For God, according to the Pythagorean-Platonic tradition which these early physical scientists inherited, was a great geometer and had constructed the world according to geometrical principles. Descartes generalized the method of geometry and held that *all* knowledge must be of this type. The truth of physical theories depended, on his view, on the self-evidence of the clear and distinct ideas from which reasoning started.

It was not, therefore, surprising that this picture of the acquisition of knowledge was transferred to the sphere of rules. And Grotius was one of the first to make this move. He tried to do for international law and morality what Galileo was alleged to have done for physics—to provide an axiomatic basis from which all subordinate principles could be derived. Grotius conceived of the law of nature as a set of moral axioms which any rational being must accept, like ‘contracts ought to be kept’. Given these basic axioms, all the duties of man could be regarded as applications of them to particular social conditions which varied from state to state. On Grotius’ view man’s rationality was a necessary but not a sufficient condition for acceptance of these axioms. For man was also a social animal ‘by nature’, as Aristotle and Plato had taught, and it was because of his unalterable regard for his fellows and his need for some kind of social order, that his rationality led him to accept such principles as self-evident.

This rejuvenated conception of the law of nature was employed in a political context by John Locke, the apologist of the Bloodless Revolution of 1688, who followed Grotius closely.⁴ The Stuarts, in the view of those whose demands he made explicit, had violated the Common Law tradition of England by extending their prerogative into its sphere. They had, for example, raised a tax on property without the consent of Englishmen through their appointed representatives in Parliament. But Locke, instead of quoting precedents from the Common Law and the traditional sphere of the king’s prerogative, claimed that this invasion of property was against the law of Nature. For according to this universal law all men had a natural right to life, liberty, and estate. King and subjects alike were bound by this law of Nature which consisted of a self-evident set of rules which any rational, social being must accept. Moral knowledge, said Locke, was demonstrable knowledge like mathematics.

There were others who used the law of nature somewhat differently, but they all followed Grotius in connecting it with man’s reason. Thomas Hobbes⁵ for instance, denied that men were by nature sociable.

But he nevertheless maintained that the law of nature was the foundation of civil society. For men, driven solely by their desire for power and their fear of death, were pictured as being led by their fear of death to rational acceptance of rules like 'that men perform their covenants made'. The law of nature was a set of 'conclusions or theorems, concerning what conduceth to self-conservation and defence'. The fundamental law of nature was that 'every man ought to endeavour peace as far as he has hope of attaining it'.

In the eighteenth and nineteenth centuries many onslaughts were launched on this conception of the law of Nature—for instance by Hume and Bentham. But in moral philosophy its major claims survived—that there was a universal set of rules binding on all men and that these rules were self-evident truths like mathematical axioms. Richard Price defended this view with great ingenuity and ability in the eighteenth century and anticipated many of the arguments of the twentieth century intuitionists like G. E. Moore and W. D. Ross. The Utilitarian systems of Bentham and Mill, although hostile to the natural law tradition, were nevertheless explicitly based on the self-evident axiom that happiness ought to be promoted.

This ethical theory, which is often called 'rationalism' rather than 'intuitionism', is defensible, in our view, only up to a point. It is acceptable in so far as it distinguishes between custom and morality and in so far as it holds that moral rules are singled out in some way by what is popularly called the use of reason. But, in our view, the picture it presents of rational justification is quite unacceptable; for saying that a whole set of rules are self-evident or intuitively known to be true is another way of saying that no further justification of them is possible. Reference to some alleged power of the mind called 'intuition' is a way of making the *logical* point that no further reasons can be given for the rules in question.

Of course, it is true that many rules can be exhibited as deductions from simpler and more universal rules. Hence the interest of natural law theorists in the contractual theory of the state; for they could then exhibit the duty of allegiance to government as derivative from the self-evident rule that contracts ought to be kept. But once it has been established—if it ever could be established—that, in some sense, men have contracted to obey government, how does this self-evidence theory help? For a man might be convinced that he had contracted to obey the government but might still doubt whether, on this occasion, he ought to keep his contract. And it is just this sort of situation of doubt about a principle that leads people to seek for a justification of a principle. In such a situation it is absurd to say that the general principle

that contracts ought to be kept is self-evident. For his own doubt on this occasion is a standing refutation of the view that the general principle that 'contracts ought to be kept' is a self-evident principle. For how can it be self-evident if on one of the occasions to which the principle applies he can doubt its truth? For not only is it no *justification* of a principle to say that it is self-evident; it is also palpably false that it *is* self-evident if a person finds himself doubting it and looking for a justification. And, although a case can be made for saying that a very general principle like 'happiness ought to be promoted' is self-evident in the sense that no further justification of it can be given, this seems quite untrue about lower-order principles like 'contracts ought to be kept'. For all sorts of reasons can surely be produced to support such principles. Dogmatic intuition, as Sidgwick called it,⁶ which holds that lower order principles are self-evident, is thus a much less plausible theory than what he called philosophical intuitionism, which holds that only very high-order principles 'like pleasure alone is good' are self-evident.

In our view, the root of the mistake in this theory is the assumption, descending from Descartes and the early rationalists, that the self-evidence of an assumption guarantees its truth. This view developed at a time when there was only Euclidean geometry and when it was thought that space was Euclidean and that the intuitively grasped relations which form the basis of geometry were the underlying formal structure of the world. Thus, the view that the axioms of geometry were self-evident had a degree of plausibility because they worked well for extended objects having figure and moving about, which we meet with at the level of ordinary unsophisticated perception. But later, with the development of non-Euclidean systems of geometry, it came to be realized that deductive systems need not start from self-evident axioms, the choice of axioms being mainly a matter of convenience. Also, the work of Locke, Hume, Kant and others emphasized the difference between formal sciences like geometry and the empirical sciences—a difference which had formerly been obscured. Mathematical systems may generate statements that are necessarily true, simply because they are derivable from definitions of terms like 'triangle' and 'straight'. But they need not apply to the world at all. The postulates of the empirical sciences, on the other hand, are established by comparing their deduced consequences with observations. As a matter of fact, Galileo differed in this respect from Descartes; for he insisted on observational confirmation of his rationally conceived expectations. In the empirical sciences the self-evidence of postulates has little to do with their truth. Indeed, the history of science is littered with self-evident assumptions that had later to be discarded. It may be the case, however, that many true assump-

tions come to seem self-evident because they are so obviously true. A metallurgist may come to regard the statement that 'metals expand when they are heated' as self-evident because its truth has been so often confirmed. But it has become self-evident because it is so obviously true and he is so used to assuming its truth. It is not true *because* it is self-evident. Indeed, self-evidence is more an index of our habituation to an assumption than of its truth.

Thus, those who held that certain lower-order principles like 'contracts ought to be kept' were self-evident may just have been registering their psychological inability to doubt them. After all, people like Locke were so imbued with the Common Law tradition that it must have been psychologically very difficult for them to doubt that property ought to be respected. Or it might have been the case that there were such good reasons for these simple rules that they came to seem self-evident to them because the point of them was too obvious to mention. Our suggestion is that a readiness to accept simple social rules like 'contracts ought to be kept' and 'property ought to be respected' seemed almost part of what was meant by being 'rational' —i.e. being the sort of man who was presumed to reflect on such rules. For, as we have indicated, Grotius and Locke were the mouthpieces of those who wanted a rational justification of rules rather than an appeal to their traditional or supernatural authority. Such rational justification presupposes a minimum degree of impartiality and respect for persons. A man who is prepared to admit his own fallibility and to respect another person as a source of argument is likely to extend his respect to his life and, under certain historical conditions, to his property. For disputes about rules can perfectly easily be settled by violence. It is not everyone who demands rational justification. The model of the acceptance of mathematical axioms was thus a historically conditioned vehicle of expression for making explicit the demands of a reasonable being who is dissatisfied with the appeal to tradition or supernatural authority and who demands that social claims as well as theories about the world should be settled by reasonable discussion. The norms of natural law which they held to be self-evident axioms on which civil society must be based were really implied in a loose manner by their quest for a rational basis. They were the sort of rules that anyone concerned to settle disputes by reasonable discussion would more or less take for granted at that period.

III. THE MORAL SENSE OR EMOTIVE THEORY

The likening of moral rules to the axioms of geometry was unfortunate not only because of the self-evidence theory of truth which it presup-