

SMITH AT 300: NEGATIVE JUSTICE AND POLITICAL WISDOM

BY

MARIA CARRASCO 

Adam Smith is known as a liberal thinker. The political system that he promotes and describes as one of “perfect justice, perfect liberty, and perfect equality” (*Wealth of Nations* [1776] 1981; *WN* IV.ix.17:669) is characterized by the primacy of the rights of non-interference and the protection of a private sphere where every individual directs her life according to her own decisions. The moral justification for the primacy of negative justice is in the second book of *The Theory of Moral Sentiments*, where he unambiguously states: “Mere justice is, upon most occasions, but a negative virtue, and only hinders us from hurting our neighbor” ([1759] 1982; *TMS* II.i.1.9:82). For the same reason, the first time I read that book, the following paragraph struck me as an inexplicable contradiction, an incomprehensible lapse in Adam Smith’s thoroughly revised text:

A superior may, indeed, sometimes, with universal approbation, oblige those under his jurisdiction to behave, in this respect, with a certain degree of propriety to one another. ... The civil magistrate is entrusted with the power not only of preserving the public peace by restraining injustice, but of promoting the prosperity of the commonwealth, by establishing good discipline, and by discouraging every sort of vice and impropriety; he may prescribe rules, therefore, which not only prohibit mutual injuries among fellow-citizens, but command mutual good offices to a certain degree. ... Of all the duties of a law-giver, however, this, perhaps, is that which it requires the greatest delicacy and reserve to execute with propriety and judgment. To neglect it altogether exposes the commonwealth to many gross disorders and shocking enormities, and to push it too far is destructive of all liberty, security, and justice. (*TMS* II.ii.1.8)

How can he claim that there exist “duties of beneficence” if in those same paragraphs he is also saying that “[b]eneficence is always free, it cannot be extorted by force, the mere want of it exposes to no punishment” (*TMS* II.ii.1.3)? What spectator could approve of a superior who arrogates the right to punish that which does not excite natural sympathetic resentment? My surprise increased as the chapters progressed and successively

Maria Carrasco: Universidad de los Andes, Chile. Email: mcarrasr@uc.cl

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confirmed Smith's insistence on claiming that while justice is essential for society to subsist, beneficence is just an ornament (cf. *TMS* II.ii.3.3).

After many years and a similar number of rereadings, I realized that a deep understanding of this passage reveals the impressive resourcefulness, anti-reductionism, and moderation of the Smithian political proposal, together with its profound connection with his moral theory. Duties of justice can be obligatory even before the institution of the civil government (*TMS* II.ii.1.7) because they are clear, precise, always the same, and equal for everybody ("not causing positive harm to an equal out of improper motives"). On the contrary, duties of beneficence cannot be extorted by force before the institution of civil government because they are context-dependent and thus different for each society. However, when politically organized societies do not enforce duties of beneficence, they are like societies of "robbers and murderers" (cf. *TMS* II.ii.3.3), meaning that type of association set up for reasons of convenience—associations created for the fulfillment of specific ends, in which members use each other, where the only social bond is personal interest, and where people are allowed to participate and benefit as long as they contribute with their share. There are multiple associations of this kind, and they play an essential function in common life and joint action. Even the market may be interpreted in this way. But that is not Adam Smith's political ideal, since, as he says, "All constitutions of government ... are valued only in proportion as they tend to promote the happiness of those who live under them. This is their sole use and end" (*TMS* IV.1.11). A society in which there are no duties of beneficence is a society "upheld by a mercenary exchange of good offices according to an agreed valuation" (*TMS* II.ii.3.3). That cannot be a happy society.

Our intrinsically social nature, which manifests itself in the desire for mutual sympathy as the engine of Smith's moral theory, makes us feel not only the pain and resentment of the victims of injustice but also the happiness and gratitude of the objects of beneficence. Beneficence is also a natural tendency, although Nature does not recommend us to care equally for all individuals. Still, regarding the political sphere, Smith claims: "He is not a citizen who is not disposed to respect the laws and to obey the civil magistrate; and he is certainly not a good citizen who does not wish to promote, by every means in his power, the welfare of the whole society of his fellow-citizens" (*TMS* VI.ii.2.11). The good citizen cares for his fellow citizens, hence the legislator must establish the appropriate channels to take care of everybody's welfare. Moreover, as we are all vulnerable and unproductive at least during some periods of our life and might not qualify to participate in an "association of convenience," it would seem barbaric to us that society discards us, like infanticide in ancient Greece (*TMS* V.2.15) or newborns drowned as puppies in China (*WN* I.viii.24), which Smith describes with horror. That is why, although justice is essential to society, "to neglect [duties of beneficence] altogether exposes the commonwealth to many gross disorders and shocking enormities."

However, Smith also warns that this is the most complex task of the sovereign. Despite that beneficence is also indispensable for society, how much, when, and how to grant assistance depends on infinite circumstances. In contrast to justice, there are no precise rules of beneficence, and whatever may be appropriate in one case may not be in another. Even worse, unlike private beneficence, the one carried by the political power makes use of resources that in principle belong to the taxpayers, who might perfectly disagree with such public spending (concerning the amount, efficiency, receivers, etc.).

This is the reason why Smith warns that when these duties are exceeded, they may become “destructive of all liberty, security, and justice.”

COMPETING INTERESTS

The author declares no competing interests exist.

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