

## Atomism

I would like to examine the issue of political atomism, or at least to try to clarify what this issue is. I want to say what I think atomist doctrines consist in, and to examine how the issue can be joined around them – that is, how they might be proved or disproved, or at least cogently argued for or against, and what in turn they may be used to prove.

The term 'atomism' is used loosely to characterize the doctrines of social contract theory which arose in the seventeenth century and also successor doctrines which may not have made use of the notion of social contract but which inherited a vision of society as in some sense constituted by individuals for the fulfilment of ends which were primarily individual. Certain forms of utilitarianism are successor doctrines in this sense. The term is also applied to contemporary doctrines which hark back to social contract theory, or which try to defend in some sense the priority of the individual and his rights over society, or which present a purely instrumental view of society.

Of course, any term loosely used in political discourse can be defined in a host of ways. And perhaps one should even leave out of philosophical discourse altogether those terms which tend to be branded as epithets of condemnation in the battle between different views. One might well argue that 'atomism' is one such, because it seems to be used almost exclusively by its enemies. Even extreme individualists like Nozick don't seem to warm to this term, but tend to prefer others, like 'individualism'.

Perhaps I am dealing with the wrong term. But there is a central issue in political theory which is eminently worth getting at under some description. And perhaps the best way of getting at it is this: what I am calling atomist doctrines underlie the seventeenth-century revolution in the terms of normative discourse, which we associate with the names of Hobbes and Locke.

These writers, and others who presented social contract views, have left us a legacy of political thinking in which the notion of rights plays a central part in the justification of political structures and action. The central doctrine of this tradition is an affirmation of what we could call the primacy of rights.

Theories which assert the primacy of rights are those which take as the fundamental, or at least a fundamental, principle of their political theory the ascription of certain rights to individuals and which deny the same status to a principle of belonging or obligation, i.e., a principle which states our obligation as men to belong to or sustain society, or a society of a certain type, or to obey authority or an authority of a certain type. Primacy-of-right theories in other words accept a principle ascribing rights to men as binding unconditionally,<sup>1</sup> binding, that is, on men as such. But they do not accept as similarly unconditional a principle of belonging or obligation. Rather our obligation to belong to or sustain a society, or to obey its authorities, is seen as derivative, as laid on us conditionally, through our consent, or through its being to our advantage. The obligation to belong is derived in certain conditions from the more fundamental principle which ascribes rights.<sup>2</sup>

The paradigm of primacy-of-right theories is plainly that of Locke. But there are contemporary theories of this kind, one of the best known in recent years being that of Robert Nozick.<sup>3</sup> Nozick too makes the assertion of rights to individuals fundamental and then proceeds to discuss whether and in what conditions we can legitimately demand obedience to a state.

1 The words 'conditional/unconditional' may mislead, because there are certain theories of belonging, to use this term for them, which hold that our obligation to obey, or to belong to a particular society, may in certain circumstances be inoperative. For instance, medieval theories which justified tyrannicide still portrayed man as a social animal and were thus theories of belonging in the sense used here. But they allowed that in certain circumstances our obligation to obey that authority by which our society cohered was abrogated, and that when the ruler was a tyrant he might be killed. In this sense we could say that the obligation to obey was 'conditional'. But this is not the same as a theory of the primacy of right. For in theories of belonging it is clear that men *qua* men have an obligation to belong to and sustain society. There may be a restriction on what kind of society would fulfil the underlying goal, and from this a licence to break with perverted forms; but the obligation to belong itself was fundamental and unconditional; it held 'by nature'. In primacy-of-right theories the notion is that simply by nature we are under no obligation to belong whatever; we have first to contract such an obligation.

2 This may not be true of all doctrines which found a political theory on an affirmation of natural right – a point which is particularly relevant in the context of this collection. For the new doctrine of human rights which Professor Macpherson envisages in, for example, *Democratic Theory: Essays in Retrieval* (Oxford, 1973) 236, and which would free itself of 'the postulate of the inherent and permanent contentiousness of men' would seem to involve an affirmation of individual rights which presuppose society, rather than merely setting the boundary conditions of its possible legitimacy.

3 *Anarchy, State and Utopia* (Boston, 1974)

Primacy-of-right theories have been one of the formative influences on modern political consciousness. Thus arguments like that of Nozick have at least a surface plausibility for our contemporaries and sometimes considerably more. At the very least, opponents are brought up short, and have to ponder how to meet the claims of an argument, which reaches conclusions about political obedience which lie far outside the common sense of our society; and this because the starting point in individual rights has an undeniable *prima facie* force for us.

This is striking because it would not always have been so. In an earlier phase of Western civilization, of course, not to speak of other civilizations, these arguments would have seemed wildly eccentric and implausible. The very idea of starting an argument whose foundation was the rights of the individual would have been strange and puzzling – about as puzzling as if I were to start with the premise that the Queen rules by divine right. You might not dismiss what I said out of hand, but you would expect that I should at least have the sense to start with some less contentious premise and argue up to divine right, not take it as my starting point.

Why do we even begin to find it reasonable to start a political theory with an assertion of individual rights and to give these primacy? I want to argue that the answer to this question lies in the hold on us of what I have called atomism. Atomism represents a view about human nature and the human condition which (among other things) makes a doctrine of the primacy of rights plausible; or to put it negatively, it is a view in the absence of which this doctrine is suspect to the point of being virtually untenable.

How can we formulate this view? Perhaps the best way is to borrow the terms of the opposed thesis – the view that man is a social animal. One of the most influential formulations of this view is Aristotle's. He puts the point in terms of the notion of self-sufficiency (*autarkeia*). Man is a social animal, indeed a political animal, because he is not self-sufficient alone, and in an important sense is not self-sufficient outside a polis. Borrowing this term then we could say that atomism affirms the self-sufficiency of man alone or, if you prefer, of the individual.

That the primacy-of-rights doctrine needs a background of this kind may appear evident to some; but it needs to be argued because it is vigorously denied by others. And generally proponents of the doctrine are among the most vigorous deniers. They will not generally admit that the assertion of rights is dependent on any particular view about the nature of man, especially one as difficult to formulate and make clear as this. And to make their political theory dependent on a thesis formulated in just this way seems to be adding insult to injury. For if atomism means that man is self-sufficient alone, then surely it is a very questionable thesis.

What then does it mean to say that men are self-sufficient alone? That they would survive outside of society? Clearly, lots of men would not. And the best and luckiest would survive only in the most austere sense that they would not succumb. It would not be living as we know it. Surely proponents of the primacy of rights don't have to deny these brute facts. Just because one would fail a survival course and not live for a week if dropped north of Great Slave Lake with only a hatchet and a box of (waterproof) matches, does one have to stop writing books arguing for the minimal state on the basis of the inviolable rights of the individual?

Under the impact of this rhetorical question, one might be tempted to conclude that the whole effort to find a background for the arguments which start from rights is misguided. They don't seem to have anything to do with any beliefs. If we take the widely held view that normative questions are autonomous and not to be adjudicated by factual considerations, then why shouldn't a normative position in which rights are the ultimate standard be combinable with any set of factual beliefs about what men can and cannot do, and what society does or does not do for them?

From this point of view it would be a matter of uninteresting historical accident that the great classical theorists of atomism also held to some strange views about the historicity of a state of nature in which men lived without society. Indeed, one could argue that even they were not committed to the self-sufficiency of man as we defined the issue in the above paragraph. It was not only Hobbes who saw man's life in the state of nature as nasty, brutish, and short. All social contract theorists stressed the great and irresistible advantages that men gained from entering society. And in the case of Locke, one could claim that even his state of nature was not one of self-sufficiency in the sense of our survivor north of Great Slave Lake; rather it was clearly a condition of exchange and fairly developed and widespread social relations, in which only political authority was lacking.

Perhaps then we shouldn't look for a background at all, and the whole enterprise of this paper is misguided. Readers who are convinced by this argument should, of course, stop here. But I am convinced that there is a lot more to be said.

To begin with, what is at stake is not self-sufficiency in the Great Slave Lake sense, but rather something else. What has been argued in the different theories of the social nature of man is not just that men cannot physically survive alone, but much more that they only develop their characteristically human capacities in society. The claim is that living in society is a necessary condition of the development of rationality, in some sense of this property, or of becoming a moral agent in the full sense of the term, or of becoming a fully responsible, autonomous being. These variations and other similar

ones represent the different forms in which a thesis about man as a social animal have been or could be couched. What they have in common is the view that outside society, or in some variants outside certain kinds of society, our distinctively human capacities could not develop. From the standpoint of this thesis, too, it is irrelevant whether an organism born from a human womb would go on living in the wilderness; what is important is that this organism could not realize its specifically human potential.

But, one might argue, all this too is irrelevant to the individual-rights argument. Such argument is as independent of any thesis about the conditions of development of human potential, whatever this is, as it is of the conditions of survival in the wilderness. The argument simply affirms that justification of political authority ought to start from a foundation of individual rights. The proof of this independence is usually taken to be this: that plainly we do not deny rights to beings born of woman who lack the fully developed human potential, for instance infants. And if one objects that these are on the way to develop to full humanity, the reply is that we accord rights to lunatics, people in a coma, people who are irreversibly senile, and so on. Plainly, in our ordinary attribution of rights, we accord them to human beings as such, quite regardless of whether they have developed such potential or not. And so why should any thesis about the conditions for developing such potential be relevant to arguments about such rights?

The answer is that the question is not closed by the reflection that we attribute rights to idiots. It can nevertheless be the case that our conception of the human specific potential is an essential part of the background of our ascription of rights. Why, for instance, do we ascribe them to human beings, and not to animals, trees, rocks, and mountains? Someone might reply that some people do want to ascribe them to animals. Nozick himself is among their number, in fact. But an examination of this position will help make the case I want to plead.

Why ascribe rights to animals? Or if this sounds too bizarre, why claim that it is wrong to kill or inflict pain on animals? The answer commonly given is that they are sentient beings. But this concept of sentience is not as simple as it looks, as those who have argued this position readily acknowledge. We can't take it to mean simply 'capable of feeling pain', and argue from that common factor that we ought not to inflict pain on any sentient being; because in fact we want to claim more: we would not agree, if there were some utterly painless way of killing, say by a laser-ray, that vegetarians ought to drop their objections to killing cattle for food, let alone that it would be licit to kill people for the convenience of others or for the demands of progress (though in the human case, the argument would be complicated by the anxiety about being a potential victim of the laser-ray).

'Sentience' here has to mean something more; it has to mean something

like 'capable of enjoying life and one's various capacities', where 'enjoying' has something like its old-fashioned or legal sense, as in 'enjoying the use of one's limbs', rather than its narrower colloquial sense of having a good time. Sentience in this sense involves some kind of self-awareness or self-feeling; and the intuition underlying a prohibition on killing animals is that this capacity ought to be respected wherever it exists and that one ought not to snuff it out or seriously impair it in beings who have it.

The point that emerges from this reflection is that attributing rights to animals is bound up with discerning in them a capacity which we sense we must respect, in the sense of 'respect' used in the previous paragraph, i.e., that it is something which we ought to foster and which we are forbidden to impair. Nor is the relation simply this, that the content of the rights we accord (e.g., to life or to the unimpaired use of limbs) restricts them to these beings, since others (e.g., rocks and mountains) couldn't exercise these rights. For that a given being has capacity *c* is not a sufficient condition of our according it a right to *c*. The sand on certain beaches tends to form in dunes, but no one would claim that in levelling it out for the tourists we are violating any rights.

Rather the intuition, if we want to call it such or whatever we want to say lies behind the conviction that certain beings have rights to *A*, *B*, or *C*, is that these beings exhibit a capacity which commands respect, which capacity helps determine the shape of the rights, or what the rights are rights to. Once we accept that beings with this capacity command respect, then indeed, it is sufficient that we identify *A* as possessing this capacity to make *A* a bearer of rights. And it is clearly always a necessary condition as well of bearing those rights, if only because what the rights are to will be defined in relation to the capacity. But the mere possession of the capacity will have no normative consequences at all for us if we do not share the conviction that this capacity commands respect.

I apologize to the non-vegetarian for this long excursus into the rights of animals. But perhaps it will help us to make clear the point about the rights of man, that they too are ascribed in virtue of a capacity which also helps to determine their shape. Even the strongest defenders of animal rights will agree that men have different rights – e.g., the right to free choice of their religious or metaphysical convictions, to will their property, and so on. And it is not a sufficient explanation of this difference that animals cannot do these things; most animals cannot scratch themselves in the small of their backs, but this doesn't induce us to inscribe this capacity in the UN Charter. Rather, the intuition that men have the right to life, to freedom, to the unmolested profession of their own convictions, to the exercise of their moral or religious beliefs, is but another facet of the intuition that the

life-form characterized by these specifically human capacities commands our respect.<sup>4</sup>

Beings with these capacities command our respect, because these capacities are of special significance for us; they have a special moral status. And from this we can see why the schedule of rights is what it is: life, of course, is protected, because these beings are life-forms, and so are integrity of limb and freedom protected from molestation for the same reason. But the schedule also includes protection for those activities which realize the specifically human capacities; and hence we have a right to our own convictions, the practice of our religion, and so on.

In other words, our conception of the specifically human is not at all irrelevant to our ascription of rights to people. On the contrary, there would be something incoherent and incomprehensible in a position which claimed to ascribe rights to men but which disclaimed any conviction about the special moral status of any human capacities whatever and which denied that they had any value or worth.<sup>5</sup>

But, an opponent might object, what if we do admit that in asserting a right we affirm that a certain form of life or certain capacities command our respect? What are we allowing over and above the conviction that these capacities are the basis of right? What else does this commit us to? For surely,

4 I don't pretend to have given a satisfactory formulation here to what it is in human beings which commands our respect. That is far from an easy task. Cf. the interesting discussion in *ibid.*, chap. 3, 48–51, and also the discussion preceding. But while a satisfactory general formulation eludes us, we can readily agree on some of the specifically human capacities, and this is enough to state my argument.

5 There is indeed a position which is approached by utilitarians which makes sentience the ground of right (or rather its weak utilitarian analogue, the status of a being whose desires and interests are to be weighed in moral calculations) and thus would in its extreme form deny any special consideration to humans as against other animals. But this is linked to the conviction that sentience commands our respect, that it enjoys this special moral status. And indeed, in a position of this kind the incoherence will break out elsewhere, in the schedule of human rights which will be difficult to square with the reduction of human beings and animals to the same level. How to justify the assertion of the right to one's own moral or religious convictions? Perhaps with drugs of a certain kind people could be made very happy, even euphoric, while they were induced to profess almost anything to please whomever they were with. We would still feel that injecting them with these drugs was a violation of their rights. Cf. an analogous point by Nozick – 'the experience machine' in *ibid.*, 42–5. But this right to one's own convictions cannot be squared with the notion that sentience alone is the basis of right. And this difficulty of extreme utilitarianism shows how the affirmation of rights is bound up with the conviction that certain capacities are of special worth.

the normative consequences in either case are the same: viz., that we should refrain from violating the rights of any beings with these capacities.

But in fact the normative consequences are broader, and this is what the second formula brings out. To say that certain capacities command respect or have worth in our eyes is to say that we acknowledge a commitment to further and foster them. We do not just acknowledge people's (and/or animals') right to them, and hence the negative injunction that we ought not to invade or impair the exercise of these capacities in others. We also affirm that it is good that such capacities be developed, that under certain circumstances we ought to help and foster their development, and that we ought to realize them in ourselves.

It is true, of course, that the scope of this affirmation of worth will not be very great in the limiting case where we take sentience as the basis of right, because sentience is a capacity which, broadly speaking, either exists or does not in a given being; it is not a potential which needs to be developed and which can be realized to greater or lesser degree. Even here, however, the affirmation of worth still says something more than the assertion of right; it says, for instance, that other things being equal it is good to bring sentient beings into the world.

In the case where we are dealing with the full schedule of human rights, the scope of the affirmation of worth becomes significantly greater. To affirm the worth of the human capacity to form moral and religious convictions goes far beyond the assertion of the right to one's convictions. It also says that I ought to become the kind of agent who is capable of authentic conviction, that I ought to be true to my own convictions and not live a lie or a self-delusion out of fear or for favour, that I ought in certain circumstances to help foster this capacity in others, that I ought to bring up my own children to have it, that I ought not to inhibit it in others by influencing them towards a facile and shallow complaisance, and so on. This is because we are dealing with a characteristically human capacity which can be aborted or distorted or underdeveloped or inhibited or, alternatively, can be properly realized or even realized to an exemplary degree.

The claim I am trying to make could be summed up in this way: 1/ To ascribe the natural (not just legal) right of *x* to agent *A* is to affirm that *A* commands our respect, such that we are morally bound not to interfere with *A*'s doing or enjoying of *x*. This means that to ascribe the right is far more than simply to issue the injunction: don't interfere with *A*'s doing or enjoying *x*. The injunction can be issued, to self or others, without grounds, should we so choose. But to affirm the right is to say that a creature such as *A* lays a moral claim on us not to interfere. It thus also asserts something about *A*: *A* is such that this injunction is somehow inescapable.

2/ We may probe further and try to define what it is about A which makes the injunction inescapable. We can call this, whatever it is, A's essential property or properties, E. Then it is E (in our case, the essentially human capacities) which defines not only who are the bearers of rights but what they have rights to. A has a natural right to x, if doing or enjoying x is essentially part of manifesting E (e.g., if E is being a rational life-form, then A's have a natural right to life and also to the unimpeded development of rationality); or if x is a causally necessary condition of manifesting E (e.g., the ownership of property, which has been widely believed to be a necessary safeguard of life or freedom, or a living wage).

3/ The assertion of a natural right, while it lays on us the injunction to respect A in his doing or enjoying of x, cannot but have other moral consequences as well. For if A is such that this injunction is inescapable and he is such in virtue of E, then E is of great moral worth and ought to be fostered and developed in a host of appropriate ways, and not just not interfered with.

Hence asserting a right is more than issuing an injunction. It has an essential conceptual background, in some notion of the moral worth of certain properties or capacities, without which it would not make sense. Thus, for example, our position would be incomprehensible and incoherent, if we ascribed rights to human beings in respect of the specifically human capacities (such as the right to one's own convictions or to the free choice of one's life-style or profession) while at the same time denying that these capacities ought to be developed, or if we thought it a matter of indifference whether they were realized or stifled in ourselves or others.

From this we can see that the answer to our question of a few pages ago (why do we ascribe these rights to men and not to animals, rocks, or trees?) is quite straightforward. It is because men and women are the beings who exhibit certain capacities which are worthy of respect. The fact that we ascribe rights to idiots, people in a coma, bad men who have irretrievably turned their back on the proper development of these capacities, and so on, does not show that the capacities are irrelevant. It shows only that we have a powerful sense that the status of being a creature defined by its potential for these capacities cannot be lost. This sense has been given a rational account in certain ways, such as for instance by the belief in an immortal soul. But it is interestingly enough shared even by those who have rejected all such traditional rationales. We sense that in the incurable psychotic there runs a current of human life, where the definition of 'human' may be uncertain but relates to the specifically human capacities; we sense that he has feelings that only a human being, a language-using animal can have, that his dreams and fantasies are those which only a human can have. Pushed however deep, and however distorted, his humanity cannot be eradicated.

If we look at another extreme case, that of persons in a terminal but long-lasting coma, of the kind exhibited by the recent plight of Karen Quinlan, it would seem that the sense that many have that the life-support machines should be disconnected is based partly on the feeling that the patient herself, should she *per impossibile* be able to choose, would not want to continue, precisely because the range of human life has been shrunk here to zero.

How does the notion then arise that we can assert rights outside of a context of affirming the worth of certain capacities? The answer to this question will take us deep into the issue central to modern thought of the nature of the subject. We can give but a partial account here. There clearly are a wide number of different conceptions of the characteristically human capacities and thus differences too in what are recognized as rights. I will come back to this in another connection later.

But what is relevant for our purposes here is that there are some views of the properly human which give absolutely central importance to the freedom to choose one's own mode of life. Those who hold this ultra-liberal view are chary about allowing that the assertion of right involves any affirmation about realizing certain potentialities; for they fear that the affirming of any obligations will offer a pretext for the restriction of freedom. To say that we have a right to be free to choose our life-form must be to say that any choice is equally compatible with this principle of freedom and that no choices can be judged morally better or worse by this principle – although, of course, we might want to discriminate between them on the basis of other principles.

Thus if I have a right to do what I want with my property, then any disposition I choose is equally justifiable from the point of view of this principle: I may be judged uncharitable if I hoard it to myself and won't help those in need, or uncreative if I bury it in the ground and don't engage in interesting enterprises with it. But these latter criticisms arise from our accepting other moral standards, quite independent from the view that we have a right to do what we want with our own.

But this independence from a moral obligation of self-realization cannot be made good all around. All choices are equally valid; but they must be *choices*. The view that makes freedom of choice this absolute is one that exalts choice as a human capacity. It carries with it the demand that we become beings capable of choice, that we rise to the level of self-consciousness and autonomy where we can exercise choice, that we not remain enmired through fear, sloth, ignorance, or superstition in some code imposed by tradition, society, or fate which tells us how we should dispose of what belongs to us. Ultra-liberalism can only appear unconnected with any

affirmation of worth and hence obligation of self-fulfilment, where people have come to accept the utterly facile moral psychology of traditional empiricism, according to which human agents possess the full capacity of choice as a given rather than as a potential which has to be developed.

If all this is valid, then the doctrine of the primacy of rights is not as independent as its proponents want to claim from considerations about human nature and the human social condition. For the doctrine could be undermined by arguments which succeeded in showing that men were not self-sufficient in the sense of the above argument – that is, that they could not develop their characteristically human potentialities outside of society or outside of certain kinds of society. The doctrine would in this sense be dependent on an atomist thesis, which affirms this kind of self-sufficiency.

The connection I want to establish here can be made following the earlier discussion of the background of rights. If we cannot ascribe natural rights without affirming the worth of certain human capacities, and if this affirmation has other normative consequences (i.e., that we should foster and nurture these capacities in ourselves and others), then any proof that these capacities can only develop in society or in a society of a certain kind is a proof that we ought to belong to or sustain society or this kind of society. But then, provided a social (i.e., an anti-atomist) thesis of the right kind can be true, an assertion of the primacy of rights is impossible; for to assert the rights in question is to affirm the capacities, and granted the social thesis is true concerning these capacities, this commits us to an obligation to belong. This will be as fundamental as the assertion of rights, because it will be inseparable from it. So that it would be incoherent to try to assert the rights, while denying the obligation or giving it the status of optional extra which we may or may not contract; this assertion is what the primacy doctrine makes.

The normative incoherence becomes evident if we see what it would be to assert the primacy of rights in the face of such a social thesis. Let us accept, for the sake of this argument, the view that men cannot develop the fullness of moral autonomy – that is, the capacity to form independent moral convictions – outside a political culture sustained by institutions of political participation and guarantees of personal independence. In fact, I don't think this thesis is true as it stands, although I do believe that a much more complicated view, formed from this one by adding a number of significant reservations, is tenable. But for the sake of simplicity let us accept this thesis in order to see the logic of the arguments.

Now if we assert the right to one's own independent moral convictions, we cannot in the face of this social thesis go on to assert the primacy of rights, that is, claim that we are not under obligation 'by nature' to belong to and sustain a society of the relevant type. We could not, for instance, unreser-

vedly assert our right in the face of, or at the expense of, such a society; in the event of conflict we should have to acknowledge that we were legitimately pulled both ways. For in undermining such a society we should be making the activity defended by the right assertion impossible of realization. But if we are justified in asserting the right, we cannot be justified in our undermining; for the same considerations which justify the first condemn the second.

In whatever way the conflict might arise it poses a moral dilemma for us. It may be that we have already been formed in this culture and that the demise of this mode of society will not deprive us of this capacity. But in asserting our rights to the point of destroying the society, we should be depriving all those who follow after us of the exercise of the same capacity. To believe that there is a right to independent moral convictions must be to believe that the exercise of the relevant capacity is a human good. But then it can't be right, if no over-riding considerations intervene, to act so as to make this good less available to others, even though in so doing I could not be said to be depriving them of their rights.

The incoherence of asserting primacy of rights is even clearer if we imagine another way in which the conflict could arise: that, in destroying the society, I would be undermining my own future ability to realize this capacity. For then in defending my right, I should be condemning myself to what I should have to acknowledge as a truncated mode of life, in virtue of the same considerations that make me affirm the right. And this would be a paradoxical thing to defend as an affirmation of my rights – in the same way as it would be paradoxical for me to offer to defend you against those who menace your freedom by hiding you in my deep freeze. I would have to have misunderstood what freedom is all about; and similarly in the above case, I should have lost my grasp of what affirming a right is.

We could put the point in another way. The affirmation of certain rights involves us in affirming the worth of certain capacities and thus in accepting certain standards by which a life may be judged full or truncated. We cannot then sensibly claim the morality of a truncated form of life for people on the ground of defending their rights. Would I be respecting your right to life if I agreed to leave you alive in a hospital bed, in an irreversible coma, hooked up to life-support machines? Or suppose I offered to use my new machine to erase totally your personality and memories and give you quite different ones? These questions are inescapably rhetorical. We can't take them seriously as genuine questions because of the whole set of intuitions which surround our affirmation of the right to life. We assert this right because human life has a certain worth; but exactly wherein it has worth is negated by the appalling conditions I am offering you. That is why the offer is a sick joke, the lines of the mad scientist in a B movie.

It is the mad scientist's question, and not the question whether the person in the coma still enjoys rights, which should be decisive for the issue of whether asserting rights involves affirming the worth of certain capacities. For the latter question just probes the conditions of a right being valid; whereas the former shows us what it is to respect a right and hence what is really being asserted in a rights claim. It enables us to see what else we are committed to in asserting a right.

How would it do for the scientist to say, 'Well, I have respected his right to *life*, it is other rights (free movement, exercise of his profession, etc.) which I have violated'? For the separation in this context is absurd. True, we do sometimes enumerate these and other rights. But the right to life could never have been understood as excluding all these activities, as a right just to biological non-death in a coma. It is incomprehensible how anyone could assert a right to life meaning just this. 'Who calls that living?' would be the standard reaction. We could understand such an exiguous definition of life in the context of forensic medicine, for instance, but not in the assertion of a right to life. And this is because the right-assertion is also an affirmation of worth, and this would be incomprehensible on behalf of this shadow of life.

If these arguments are valid, then the terms of the argument are very different from what they are seen to be by most believers in the primacy of rights. Nozick, for instance, seems to feel that he can start from our intuitions that people have certain rights to dispose, say, of what they own so long as they harm no one else in doing so; and that we can build up (or fail to build up) a case for legitimate allegiance to certain forms of society and/or authority from this basis, by showing how they do not violate the rights. But he does not recognize that asserting rights itself involves acknowledging an obligation to belong. If the above considerations are valid, one cannot just baldly start with such an assertion of primacy. We would have to show that the relevant potentially mediating social theses are not valid; or, in other terms, we would have to defend a thesis of social atomism, that men are self-sufficient outside of society. We would have to establish the validity of arguing from the primacy of right.

But we can still try to resist this conclusion. And this in two ways. We can resist it first of all in asserting a certain schedule of rights. Suppose I make the basic right I assert that to life, on the grounds of sentience. This I understand in the broad sense that includes also other animals. Now sentience, as was said above, is not a capacity which can be realized or remain undeveloped; living things have it, and in dying they fail to have it; and there's an end to it. This is not to say that there are not conditions of severe impairment which constitute an infringement on sentient life, short of death. And clearly a

right to life based on sentience would rule out accepting the mad scientist's offer just as much as any other conception of this right. But sentient life, while it can be impaired, is not a potential which we must develop and frequently fail to develop, as is the capacity to be a morally autonomous agent, or the capacity for self-determining freedom, or the capacity for the full realization of our talents.

But if we are not dealing with a capacity which can be undeveloped in this sense, then there is no room for a thesis about the conditions of its development, whether social or otherwise. No social thesis is relevant. We are sentient beings whatever the social organization (or lack of it) of our existence; and if our basic right is to life, and the grounds of this right concern sentience (being capable of self-feeling, of desire and its satisfaction/frustration, of experiencing pain and pleasure), then surely we are beings of this kind in any society or none. In this regard we are surely self-sufficient.

I'm not sure that even this is true – that is, that we really are self-sufficient even in regard to sentience. But it certainly is widely thought likely that we are. And therefore it is not surprising that the turn to theories of the primacy of rights goes along with an accentuation of the right to life which stresses life as sentience. For Hobbes our attachment to life is our desire to go on being agents of desire. The connection is not hard to understand. Social theories require a conception of the properly human life which is such that we are not assured it by simply being alive, but it must be developed and it can fail to be developed; on this basis they can argue that society or a certain form of society is the essential condition of this development. But Hobbesian nominalism involves rejecting utterly all such talk of forms or qualities of life which are properly human. Man is a being with desires, all of them on the same level. 'Whatsoever is the object of any man's desire ... that is it which he for his part calleth good'.<sup>6</sup> At one stroke there is no further room for a social thesis; and at the same time the right to life is interpreted in terms of desire. To be alive now in the meaning of the act is to be an agent of desires.

So we can escape the whole argument about self-sufficiency, it would seem, by making our schedule of rights sparse enough. Primacy-of-rights talk tends to go with a tough-mindedness which dismisses discussion of the properly human life-form as empty and metaphysical. From within its philosophical position, it is impregnable; but this doesn't mean that it is not still open to objection.

For the impregnability is purchased at a high price. To affirm a right for man merely *qua* desiring being, or a being feeling pleasure and pain, is to restrict his rights to those of life, desire-fulfilment, and freedom from pain.

<sup>6</sup> *Leviathan*, I, chap. 6

Other widely claimed rights, like freedom, enter only as means to these basic ones. If one is a monster of (at least attempted) consistency, like Hobbes, then one will be willing to stick to this exiguous conception of rights regardless of the consequences. But even then the question will arise of what on this view is the value of human as against animal life; and of whether it really is not a violation of people's rights if we transform them, unknown to themselves, into child-like lotus-eaters, say, by injecting them with some drug.

In fact, most of those who want to affirm the primacy of rights are more interested in asserting the right of freedom, and moreover, in a sense which can only be attributed to humans, freedom to choose life plans, to dispose of possessions, to form one's own convictions and within reason act on them, and so on. But then we are dealing with capacities which do not simply belong to us in virtue of being alive – capacities which at least in some cases can fail to be properly developed; thus the question of the proper conditions for their development arises.

We might query whether this is so with one of the freedoms mentioned above – that to dispose of one's own possessions. This is the right to property which has figured prominently with the right to life in the schedules put forward by defenders of primacy. Surely this right, while not something we can attribute to an animal, does not presuppose a capacity which could fail to be developed, at least for normal adults! We all are capable of possessing things, of knowing what we possess, and of deciding what we want to do with these possessions. This right does not seem to presuppose a capacity needing development, as does the right to profess independent convictions, for instance.

But those who assert this right almost always are affirming a capacity which we can fail to develop. And this becomes evident when we probe the reason for asserting this right. The standard answer, which comes to us from Locke, is that we need the right to property as an essential underpinning of life. But this is patently not true. Men have survived very well in communal societies all the way from paleolithic hunting clans through the Inca empire to contemporary China. And if one protests that the issue is not under what conditions one would not starve to death, but rather under what conditions one is independent enough of society not to be at its mercy for one's life, then the answer is that, if the whole point is being secure in my life, then I would be at less risk of death from agents of my own society in the contemporary Chinese commune than I would be in contemporary Chile. The property regime is hardly the only relevant variable.

But the real point is this: supposing a proponent of the right to property were to admit that the above was true – that the right to property does not as

such secure life – would he change his mind? And the answer is, in the vast majority of cases, no. For what is at stake for him is not just life, but life in freedom. My life is safe in a Chinese commune, he might agree, but that is so only for so long as I keep quiet and don't profess heterodox opinions; otherwise the risks are very great. Private property is seen as essential, because it is thought to be an essential part of a life of genuine independence. But realizing a life of this form involves developing the capacity to act and choose in a genuinely independent way. And here the issue of whether a relevant social thesis is not valid can arise.

Hence this way of resisting the necessity of arguing for self-sufficiency (by scaling down one's schedules of rights to mere sentience or desire) is hardly likely to appeal to most proponents of primacy – once they understand the price they pay. For it involves sacrificing the central good of freedom, which it is their principal motive to safeguard.

There remains another way of avoiding the issue. A proponent of primacy could admit that the question arises of the conditions for the development of the relevant capacities; he could even agree that a human being entirely alone could not possibly develop them (this is pretty hard to contest: wolf-boys are not candidates for properly human freedoms), and yet argue that society in the relevant sense was not necessary.

Certainly humans need others in order to develop as full human beings, he would agree. We must all be nurtured by others as children. We can only flourish as adults in relationship with friends, mates, children, and so on. But all this has nothing to do with any obligations to belong to political society. The argument about the state of nature should never have been taken as applying to human beings alone in the wilderness. This is a Rousseauian gloss, but is clearly not the conception of the state of nature with Locke, for instance. Rather it is clear that men must live in families (however families are constituted); that they need families even to grow up human; and that they continue to need them to express an important part of their humanity.

But what obligations to belong does this put on them? It gives us obligations in regard to our parents. But these are obligations of gratitude, and are of a different kind; for when we are ready to discharge these obligations our parents are no longer essential conditions of our human development. The corresponding obligations are to our children, to give them what we have been given; and for the rest we owe a debt to those with whom we are linked in marriage, friendship, association, and the like. But all this is perfectly acceptable to a proponent of the primacy of rights. For all obligations to other adults are freely taken on in contracting marriage, friendships, and the like; there is no natural obligation to belong. The only involuntary associations are those between generations: our obligations to our parents and those to

our children (if we can think of these as involuntary associations, since no one picks his children in the process of natural generation). But these are obligations to specific people and do not necessarily involve continuing associations; and they are neither of them cases where the obligation arises in the way it does in the social thesis, viz., that we must maintain the association as a condition of our continued development.

Hence we can accommodate whatever is valid in the social thesis without any danger to the primacy of rights. Family obligations and obligations of friendship can be kept separate from any obligations to belong.

I don't think that this argument will hold. But I can't really undertake to refute it here, not just on the usual cowardly grounds of lack of space, but because we enter here precisely on the central issue of the human condition which divides atomism from social theories. And this issue concerning as it does the human condition cannot be settled in a knockdown argument. My purpose in this paper was just to show that it is an issue, and therefore has to be addressed by proponents of primacy. For this purpose I'd like to lay out some considerations to which I subscribe, but of which I can do no more than sketch an outline in these pages.

The kind of freedom valued by the protagonists of the primacy of rights, and indeed by many others of us as well, is a freedom by which men are capable of conceiving alternatives and arriving at a definition of what they really want, as well as discerning what commands their adherence or their allegiance. This kind of freedom is unavailable to one whose sympathies and horizons are so narrow that he can conceive only one way of life, for whom indeed the very notion of a way of life which is *his* as against everyone's has no sense. Nor is it available to one who is riveted by fear of the unknown to one familiar life-form, or who has been so formed in suspicion and hate of outsiders that he can never put himself in their place. Moreover, this capacity to conceive alternatives must not only be available for the less important choices of one's life. The greatest bigot or the narrowest xenophobe can ponder whether to have Dover sole or Wiener schnitzel for dinner. What is truly important is that one be able to exercise autonomy in the basic issues of life, in one's most important commitments.

Now, it is very dubious whether the developed capacity for this kind of autonomy can arise simply within the family. Of course, men may learn, and perhaps in part must learn, this from those close to them. But my question is whether this kind of capacity can develop within the compass of a single family. Surely it is something which only develops within an entire civilization. Think of the developments of art, philosophy, theology, science, of the evolving practices of politics and social organization, which have

contributed to the historic birth of this aspiration to freedom, to making this ideal of autonomy a comprehensible goal men can aim at – something which is in their universe of potential aspiration (and it is not yet so for all men, and may never be).

But this civilization was not only necessary for the genesis of freedom. How could successive generations discover what it is to be an autonomous agent, to have one's own way of feeling, of acting, of expression, which cannot be simply derived from authoritative models? This is an identity, a way of understanding themselves, which men are not born with. They have to acquire it. And they do not in every society; nor do they all successfully come to terms with it in ours. But how can they acquire it unless it is implicit in at least some of their common practices, in the ways that they recognize and treat each other in their common life (for instance, in the acknowledgment of certain rights), or in the manner in which they deliberate with or address each other, or engage in economic exchange, or in some mode of public recognition of individuality and the worth of autonomy?

Thus we live in a world in which there is such a thing as public debate about moral and political questions and other basic issues. We constantly forget how remarkable that is, how it did not have to be so, and may one day no longer be so. What would happen to our capacity to be free agents if this debate should die away, or if the more specialized debate among intellectuals who attempt to define and clarify the alternatives facing us should also cease, or if the attempts to bring the culture of the past to life again as well as the drives to cultural innovation were to fall off? What would there be left to choose between? And if the atrophy went beyond a certain point, could we speak of choice at all? How long would we go on understanding what autonomous choice was? Again, what would happen if our legal culture were not constantly sustained by a contact with our traditions of the rule of law and a confrontation with our contemporary moral institutions? Would we have as sure a grasp of what the rule of law and the defence of rights required?

In other words, the free individual or autonomous moral agent can only achieve and maintain his identity in a certain type of culture, some of whose facets and activities I have briefly referred to. But these and others of the same significance don't come into existence spontaneously each successive instant. They are carried on in institutions and associations which require stability and continuity and frequently also support from society as a whole – almost always the moral support of being commonly recognized as important but frequently also considerable material support. These bearers of our culture include museums, symphony orchestras, universities, laboratories, political parties, law courts, representative assemblies, newspapers, publishing houses, television stations, and so on. And I have to mention also the

mundane elements of infrastructure without which we couldn't carry on these higher activities: buildings, railroads, sewage plants, power grids, and so on. Thus the requirement of a living and varied culture is also the requirement of a complex and integrated society, which is willing and able to support all these institutions.<sup>7</sup>

I am arguing that the free individual of the West is only what he is by virtue of the whole society and civilization which brought him to be and which nourishes him; that our families can only form us up to this capacity and these aspirations because they are set in this civilization; and that a family alone outside of this context – the real old patriarchal family – was a quite different animal which never tended to develop these horizons. And I want to claim finally that all this creates a significant obligation to belong for whoever would affirm the value of this freedom; this includes all those who want to assert rights either to this freedom or for its sake.

One could answer this by saying that the role of my civilization in forming me is a thing of the past; that, once adult, I have the capacity to be an autonomous being; and that I have no further obligation arising out of the exigencies of my development to sustain this civilization. I doubt whether this is in fact true; I doubt whether we could maintain our sense of ourselves as autonomous beings or whether even only a heroic few of us would succeed in doing so, if this liberal civilization of ours were to be thoroughly destroyed. I hope never to have to make the experiment. But even if we could, the considerations advanced a few pages back would be sufficient here: future generations will need this civilization to reach these aspirations; and if we affirm their worth, we have an obligation to make them available to others. This obligation is only increased if we ourselves have benefited from this civilization and have been enabled to become free agents ourselves.

But then the proponent of primacy could answer by questioning what all

<sup>7</sup> This is what makes so paradoxical the position of someone like Robert Nozick. He presents (cf. *Anarchy, State and Utopia*, particularly chap. 10) the model of an ideal society where within the framework of the minimal state individuals form or join only those associations which they desire and which will admit them. There is no requirement laid down concerning the over-all pattern that will result from this. But can we really do without this? The aim of Nozick's utopian framework is to enable people to give expression to their real diversity. But what if the essential cultural activities which make a great diversity conceivable to people begin to falter? Or are we somehow guaranteed against this? Nozick doesn't discuss this; it is as though the conditions of a creative, diversifying freedom were given by nature. In this respect the standard utopian literature, which as Nozick says is concerned with the character of the ideal community and not just with a framework for any community, is more realistic. For it faces the question of what kind of community we need in order to be free men, and then goes on to assume that this is given non-coercively.

this has to do with political authority, with the obligation to belong to a polity or to abide by the rules of a political society. Certainly, we could accept that we are only what we are in virtue of living in a civilization and hence in a large society, since a family or clan could not sustain this. But this doesn't mean that we must accept allegiance to a polity.

To this there are two responses. First, there is something persuasive about this objection in that it seems to hold out the alternative of an anarchist civilization – one where we have all the benefits of wide association and none of the pains of politics. And indeed, some libertarians come close to espousing an anarchist position and express sympathy for anarchism, as does Nozick. Now it is perfectly true that there is nothing in principle which excludes anarchism in the reflection that we owe our identity as free men to our civilization. But the point is that the commitment we recognize in affirming the worth of this freedom is a commitment to this civilization whatever are the conditions of its survival. If these can be assured in conditions of anarchy, that is very fortunate. But if they can only be assured under some form of representative government to which we all would have to give allegiance, then this is the society we ought to try to create and sustain and belong to. For this is by hypothesis the condition of what we have identified as a crucial human good, by the very fact of affirming this right. (I have, of course, taken as evident that this civilization, could not be assured by some tyrannical form of government, because the civilization I am talking about is that which is the essential milieu for free agency.)

The crucial point here is this: since the free individual can only maintain his identity within a society/culture of a certain kind, he has to be concerned about the shape of this society/culture as a whole. He cannot, following the libertarian anarchist model that Nozick sketched,<sup>8</sup> be concerned purely with his individual choices and the associations formed from such choices to the neglect of the matrix in which such choices can be open or closed, rich or meagre. It is important to him that certain activities and institutions flourish in society. It is even of importance to him what the moral tone of the whole society is – shocking as it may be to libertarians to raise this issue – because freedom and individual diversity can only flourish in a society where there is a general recognition of their worth. They are threatened by the spread of bigotry, but also by other conceptions of life – e.g., those which look on originality, innovation, and diversity as luxuries which society can ill afford given the need for efficiency, productivity, or growth, or those which in a host of other ways depreciate freedom.

Now, it is possible that a society and culture propitious for freedom might arise from the spontaneous association of anarchist communes. But it seems

8 *Ibid.*, chap. 10

much more likely from the historical record that we need rather some species of political society. And if this is so then we must acknowledge an obligation to belong to this kind of society in affirming freedom. But there is more. If realizing our freedom partly depends on the society and culture in which we live, then we exercise a fuller freedom if we can help determine the shape of this society and culture. And this we can only do through instruments of common decision. This means that the political institutions in which we live may themselves be a crucial part of what is necessary to realize our identity as free beings.

This is the second answer to the last objection. In fact, men's deliberating together about what will be binding on all of them is an essential part of the exercise of freedom. It is only in this way that they can come to grips with certain basic issues in a way which will actually have an effect in their lives. Those issues, which can only be effectively decided by society as a whole and which often set the boundary and framework for our lives, can indeed be discussed freely by politically irresponsible individuals wherever they have licence to do so. But they can only be truly *deliberated* about politically. A society in which such deliberation was public and involved everyone would realize a freedom not available anywhere else or in any other mode.

Thus, always granted that an anarchist society is not an available option, it is hard to see how one can affirm the worth of freedom in this sense of the exercise of autonomous deliberation and at the same time recognize no obligation to bring about and sustain a political order of this kind.

The argument has gone far enough to show how difficult it is to conclude here. This is because we are on a terrain in which our conception of freedom touches on the issue of the nature of the human subject, and the degree and manner in which this subject is a social one. To open this up is to open the issue of atomism, which is all I hoped to do in this paper. I wanted to show that there is an issue in the 'self-sufficiency' or not of man outside political society and that this issue cannot be side-stepped by those who argue from natural rights. This issue, as we can see, leads us very deep, and perhaps we can see some of the motivation of those who have waited to side-step it. It seems much easier and clearer to remain on the level of our intuitions about rights.

For we can now see more clearly what the issue about atomism is, and how uncommonly difficult it is. It concerns self-sufficiency, but not in the sense of the ability to survive north of Great Slave Lake. That is a question whether we can fulfil certain causal conditions for our continued existence. But the alleged social conditions for the full development of our human capacities are not causal in the same sense. They open another set of issues altogether: whether the condition for the full development of our capacities is not that we

achieve a certain identity, which requires a certain conception of ourselves; and more fundamentally whether this identity is ever something we can attain on our own, or whether the crucial modes of self-understanding are not always created and sustained by the common expression and recognition they receive in the life of the society.

Thus the thesis just sketched about the social conditions of freedom is based on the notion, first, that developed freedom requires a certain understanding of self, one in which the aspirations to autonomy and self-direction become conceivable; and second, that this self-understanding is not something we can sustain on our own, but that our identity is always partly defined in conversation with others or through the common understanding which underlies the practices of our society. The thesis is that the identity of the autonomous, self-determining individual requires a social matrix, one for instance which through a series of practices recognizes the right to autonomous decision and which calls for the individual having a voice in deliberation about public action.

The issue between the atomists and their opponents therefore goes deep; it touches the nature of freedom, and beyond this what it is to be a human subject; what is human identity, and how it is defined and sustained. It is not surprising therefore that the two sides talk past each other. For atomists the talk about identity and its conditions in social practice seems impossibly abstruse and speculative. They would rather found themselves on the clear and distinct intuition which we all share (all of us in this society, that is) about human rights.

For non-atomists, however, this very confidence in their starting point is a kind of blindness, a delusion of self-sufficiency which prevents them from seeing that the free individual, the bearer of rights, can only assume this identity thanks to his relationship to a developed liberal civilization; that there is an absurdity in placing this subject in a state of nature where he could never attain this identity and hence never create by contract a society which respects it. Rather, the free individual who affirms himself as such *already* has an obligation to complete, restore, or sustain the society within which this identity is possible.

It is clear that we can only join this issue by opening up questions about the nature of man. But it is also clear that the two sides are not on the same footing in relationship to these questions. Atomists are more comfortable standing with the intuitions of common sense about the rights of individuals and are not at all keen to open these wider issues. And in this they derive support in those philosophical traditions which come to us from the seventeenth century and which started with the postulation of an extensionless subject, epistemologically a *tabula rasa* and politically a presupposition-less

bearer of rights. It is not an accident that these epistemological and political doctrines are often found in the writings of the same founding figures.

But if this starting point no longer appears to us self-evident, then we have to open up questions about the nature of the subject and the conditions of human agency. Among these is the issue about atomism. This is important for any theory of rights, but also for a great deal else besides. For the issue about atomism also underlies many of our discussions about obligation and the nature of freedom, as can already be sensed from the above. That's why it is useful to put it again on our agenda.

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