Viorel ȚUȚUI
"Alexandru Ioan Cuza" University of Iași (Romania)

A Critical Analysis of David Hume's Theory of Justice as an Artificial Virtue[1]

Abstract: The main objective of this article is to present and to analyze David Hume's theory of justice as an artificial virtue. I will argue that he developed his moral view as a reaction to the dominant conception, defended by previous prominent thinkers, and especially by Cartesian and Post Cartesian philosophers, who believed that reason is the main faculty of the human mind, a faculty that governs over the passions and guarantees the possibility of an autonomous moral life. Hence, he stated that the role of rationality is only a minor one and that our passions and emotions play the central role. Moreover, he provided a different description of our will and its freedom and offered a more complex explanation regarding the foundations of morality. According to this account, morality originates from the natural feelings of approval or disapproval towards the character of others, but it gradually evolves to a superior and artificial level associated with our social life within large political communities. That is why, he will affirm that, while some virtues are natural, other virtues, like justice, are artificial and cannot exist outside the environment which is specific to our social life. In the final section of the paper, I will try to demonstrate that, although Hume's theory is more sophisticated than the views of his predecessors and represents a more realistic description of human morality and its evolution, it faces serious difficulties when it comes to explaining the normative dimension of our moral life.

Keywords: David Hume, justice, artificial virtue, free will, foundations of morality

---

1. Introduction

The thesis according to witch the most important contribution of Modern philosophy was the discovery of subjectivity has become a commonplace of the exegesis regarding this stage in the evolution of Western philosophy. However, I believe that even the most frequently visited commonplaces can still turn out to be worthy of our attention. And I will try to argue that this is precisely the case with the theme of the "subjective turn", which is commonly associated with Modern philosophy, and is responsible for shifting the focus from the theological and metaphysical problems that dominated the medieval way of thinking to the epistemological, social and political issues.

The subjective turn is a process that seems to follow a pattern which is opposite to the one described by Plato in his dialogue *The Republic.* While the Greek philosopher tried to define justice as a virtue of the human soul by investigating its "projection" in the institutions and practices of the ideal city state and, eventually, on the metaphysical realm, the most prominent modern thinkers seem to take the opposite path: they are trying to clarify the concept of metaphysical, social and political justice by analyzing its "projection" in the human soul and by characterizing it in terms of the features which are specific to the most important human faculties and their relations.

In this article, I will analyze a theory which is representative for the subjective turn and, in the same time, very original and remarkable: the theory of justice as an artificial virtue, developed by the great Scottish thinker David Hume. However, I believe that, in order to better understand Hume's view about justice, it is necessary to underline the main differences between his doctrine and those advanced by his predecessors, and especially by René Descartes and Nicolas Malebranche, concerning the faculties of human mind and their role in the social and political life.

2. The relation between reason and passions

In my opinion, we have to begin our investigation by stating that Hume's moral philosophy is part of his comprehensive project to reform the philosophy of his time and to develop a new "science of man" from an empiricist perspective, a doctrine that, in his opinion, was meant to

revolutionize virtually all the branches of philosophy[2]. But, in the spirit of the subjective turn specific to Modern philosophy, he believed that explaining the human nature involved explaining the human mind and discovering its most secret "springs and principles" (Biro 1993, 34). The view presented in his most important work, *A Treatise of Human Nature,* is indeed a very systematic and coherent one: his empiricist theory of knowledge is directly relevant to his account of the human passions and their relation to reason, to his theory of human nature and personal identity, and, finally, to his moral and political philosophy. However, because presenting all the details of this system is a task which exceeds the objectives of this paper, I will focus on the relation between his theory about the artificial virtue of justice and his conception about the human mind, based on a particular relation between reason and passions, which is also associated with a distinctive view regarding the freedom of the will.

Moreover, I believe that we have to take into consideration the main differences between Hume's conception and that of his predecessors, because he developed his epistemology and moral philosophy as a reaction to the dominant doctrine regarding the relation between reason and passions. As it was mentioned by Jane McIntyre in her article *Hume's "New and Extraordinary" Account of the Passions*, the conception of the Scottish philosopher is very different from that accepted by most Scholastic and Modern thinkers, and especially by Cartesian and Post Cartesian authors, according to whom there was a clear hierarchy of human mind or of human soul in which reason played the role of the superior and dominant faculty that allowed humans the ability to control their passions. Reason was conceived as having the function of "governing the passions" and therefore as being capable of directing the force of the passions towards good or evil, a capacity that was essential for explaining the possibility of moral choice (McIntyre 2006, 201-204).

To be sure, there were also significant differences between those who held the aforementioned view. For example, as Jane McIntyre points out, in Descartes work *The Passions of the Soul* the occurrence of the passions is explained by appealing to the motions of the animal spirits in the brain. He offered what Desmond Clarke calls a "psycho-physiological account" of the passions which associates them with the states of the body, a theory that refers to the "animal spirits that flow from the heart to the brain and,

---

[2] See also Viorel Țuțui, "Este 'știința naturii umane' a lui Hume o antimetafizică". In *Natură și ierarhie. Metamorfoze și discontinuități*, edited by Florin Crîșmăreanu and Cristian Moisuc, 83-108. Al. I. Cuza University Press. Iași. 2019.

through the nerves, to relevant muscles elsewhere in the body" (Clarke 2005, 109). Hence, the genesis of the passions was understood in a natural and quasi-mechanical manner: they were explained in a similar way in which the movements of a clock or other automaton followed from the disposition of its counterweights and wheels (Clarke 2005, 112).

Malebranche, on the other hand, argued in his main work *The Search after Truth*, that there was no necessary relation between the movement of animal spirits and blood and the genesis of human emotions. In his view, the animal spirits were only the natural or occasional causes of the passions, but not their real causes (McIntyre 2006 201). Their authentic cause was only the powerful will of the Author of nature:

> For I cannot understand how certain people imagine that there is an absolutely necessary relation between the movements of the spirits and blood and the emotions of the soul. A few tiny particles of bile are rather violently stirred up in the brain-therefore, the soul must be excited by some passion, and the passion must be anger rather than love. [...] How can they convince themselves that the one depends on the other, and that the union or connection of two things so remote and incompatible as mind and mater could be caused and maintained in any way other than by the continuous and all-powerful will of the Author of nature? (Malebranche 1997, 338-339).

While Descartes described passions as a consequence of the union between our body and our mind, and believed that they originated from the influence of the body over the mind, Malebranche depicted them as impressions from God, the Author of Nature: "The passions of the soul are impressions from the Author of nature that incline us toward loving our body and all that might be of use in its preservation - just as the natural inclinations are impressions from the Author of nature that primarily lead us toward loving Him as the sovereign good and our neighbor without regard for our body" (Malebranche 1997, 338). Moreover, as Cristian Moisuc notices, Malebranche's view regarding the *cogito*, is significantly different from that of Descartes: if, in Descartes view, it possessed the features of intellectual intuition and self-determination, for Malebranche the cogito is described in a much more passive and receptive way and its features are explained by relation to the central role played by God in the process of human knowledge (see Moisuc 2015, 74-110).

Nevertheless, setting aside the aforementioned differences between the doctrines of Cartesian and post Cartesian thinkers, the dominant view remained that of the supremacy of reason over the passions. On the other hand, we have to notice that, for David Hume, this relation is conceived in very different terms, if we take into consideration the well-known statement from his main work *A Treatise of Human Nature*: "Reason is, and ought only to be the slave of the passions, and can never pretend to any other office than to serve and obey them" (Hume 1960, 415). And, he argues that this status of inferiority derives from the fact reason alone cannot produce any action and is not able to produce any volition. Moreover, it is incapable of opposing or retarding the impulse of passions. Only a contrary impulse of the passion is capable of doing that (Hume 1960, 415).

Hence, Hume rejects the previous view about the governance of reason over the passion. And, this thesis is directly associated with his paradoxical conception about the human mind. As I argued in a previous paper, in his opinion, our mind should not be depicted as a clear hierarchy of faculties, as was the case in the medieval way of thinking, and neither as a unique and unitary substance, as was conceived by Cartesians. It is rather a complex entity composed by different perceptions which are held together only by the principles of similarity, causality and sympathy (Țuțui 2019, 73-74). By referring to this issue he stated in his *Treatise* that:

> Our thought is still more variable than our sight; and all our other senses and faculties contribute to this change; nor is there any single power of the soul, which remains unalterably the same, perhaps for one moment. The mind is a kind of theatre, where several perceptions successively make their appearance; pass, re-pass, glide away, and mingle in an infinite variety of postures and situations. There is properly no *simplicity* in it at one time, nor *identity* in different; whatever natural propension we may have to imagine that simplicity and identity (Hume 1960, 252-253).

In his article dedicated to Hume's moral psychology, published in *The Cambridge Companion to Hume*, Terence Penelhum argues that the Scottish thinker combines the philosophical and the psychological description of the mind in "a special blend of his own" that seems to duplicate the Newtonian description of the physical realm, affirming that the ultimate corpuscular units of mental life are perceptions (impressions and ideas), held together by the force of the principle of association which is similar to gravitational attraction (1993,119-121).

Hence, as McIntyre points out, Hume describes the human mind as a causal system and the passions as its parts (McIntyre 2006, 211). The passions themselves are conceived as a special type of impressions: secondary impressions which should be distinguished from the "original" sensory impressions involved in the knowledge process. And there are direct passions which arise immediately from pain or pleasure and indirect passions, like pride humility, love and hatred, which require a distinction between their causes and their objects: between the qualities that occasion them and the persons who have them (Penelhum 1993, 126).

But, this conception has to face some serious problems: How can he explain the relatively orderly manner in which we are able to act if we take into consideration the supremacy of the passions over the reason? How can they avoid the disorder that could be induced by the conflict of the passions? And these issues are even more challenging if we notice the fact that, in Hume's view, there is no hierarchy of passions that could account for the organized course of our actions. Moreover, we have to take into consideration the fact that passions are not capable of acting as autonomous rulers of individual human minds because they are social and people are also influenced by the passions of others through sympathy (McIntyre 2006, 212).

Furthermore, I believe that we must add to the objection mentioned above another problem that is closely related to it: How can his theory account for the notion of *personal identity*? If human mind is nothing else than a theatre or a flow of different perceptions, if there is no unique power of the human soul, how are we to understand our personal identity? As Annette Baier observes, Hume's theory of the mind and of personal identity is confronted with a paradox: "Hume needs both the claim that our perceptions are constantly changing, and so display succession, diversity and some discontinuity, and also that the 'action' of our imagination is resistant to discontinuity, predisposed to find constancies, reluctant to make the 'effort of thought' needed to attend to a succession of diverse objects, taken as such" (Baier 1991, 124). That is why, the metaphors he uses to refer to the mind are "a heap", "a bundle" "a river", "a perpetual flux of perceptions", "a train of perceptions", "a republic" and so on, in order to capture both the changing nature of the content of our mind and its relative stability over time: "Thus as the nature of a river consists in the motion and change of parts ; tho' in less than four and twenty hours these be totally alter'd; this hinders not the river from continuing the same during several ages" (Hume 1960, 258).

But, when it comes to explaining the source of this relative stability, Hume speaks, once again, about the role played by the relations of resemblance, contiguity and causality. However, if we take into consideration his famous critic of causality, we will come to the conclusion that it is very unlikely that the aforementioned relations are strong enough to guarantee a sufficiently robust notion of personal identity. And Hume seems to acknowledge this fact and even to accept it when he states in in *Treatise* that: " 'Tis, therefore, on some of these three relations of resemblance, contiguity and causation, that identity depends; and as the very essence of these relations consists in their producing an easy transition of ideas; it follows, that our notions of personal identity, proceed entirely from the smooth and uninterrupted progress of the thought along a train of connected ideas, according to the principles above explain'd" (Hume 1960, 260).

But, even if we would admit that this *thin* notion of personal identity would accurately describe our mental process, it would be very difficult to accept that it could provide him the necessary foundation for explaining our moral life. In other words, he would have to explain how this feeble notion of personal identity could be associated with a strong enough concept of human agency that would account for our common notion of personal responsibility. As I will argue in the next section, Hume's solution to this issue would be to provide a reinterpretation of the liberty of human will.

3. Hume's paradoxical view about the liberty of the will

Hume's doctrine regarding the human will and its powers should be, once again, interpreted as a reaction to the dominant rationalist account described in the previous section, according to which reason represents the most important faculty of the human soul which plays an essential role not only from an epistemic perspective, but also from an ethical point of view. Because, reason was understood as the superior faculty which, in association with our free will, allowed us the capacity to transcend the driving force of the passions and to live a moral life.

But, once more, there were significant differences between the doctrines held by the followers of this perspective. For example, in Descartes conception, the will was understood as a power of self-determination which made human action an adequate object of moral appraisal. In his work, *Descartes's Theory of the Mind*, Desmond Clarke underlines the fact that, in the view of the French philosopher, the will is

conceived as a distinctive power or ability that human agents have and in virtue of which some of their actions are subject to moral evaluation. And he adds that, for Descartes, the freedom of our will is self-evident and it's one of our most common innate notions and it is consistent with God's principle of universal causality (Clarke 2005, 139). However, he had to face the "well-known difficulty of explaining how voluntary actions that take place in the soul might affect motions of the body and vice versa" (Clarke 2005, 135).

On the other hand, Malebranche tries to solve the problems of Cartesianism by adopting his famous Occasionalism: the view according to which men are only the occasional causes of their action, God being the authentic efficient cause of any change and of any choice. And, as Patrick Riley notices, in Malebranche view, there is little place for the freedom of the human will. It is simply reduced to the act of *consenting* or *suspending the consent* to the inclination we feel toward the good and the order, which is something that God predetermined in us: "According to Malebranche, people are free and hence possibly responsible in the sense that they must 'consent' to a 'motive'; God inclines people through Augustinian *délectation* toward *le bien* or order *en général*, and one must feel this delight before consent is possible" (Riley 2000, 254). And indeed, this is the manner in which he describes human will in his work *The Search after Truth*: "But again, as matter can conceivably exist without any motion, likewise can the mind conceivably be without any impression of the Author of nature, leading it toward the good; and consequently it can be without any volition, for the will is nothing but the impression of the Author of nature that leads us toward the good in general, as has been explained at length in the first chapter of this work" (Malebranche 1997, 199).

As it was argued in the previous section, Hume's doctrine regarding the relation between reason and passions and his theory of the human mind does not allow him to take the same argumentative path and to affirm that the governance of reason over the passions is the key element for understanding the nature of free will and the possibility of moral choice. Referring to this issue which affected Hume's theory, Terence Penelhum affirmed: "If reason is thus shown to be incapable of originating our choices and inclinations, then on those occasions when we make choices in opposition to a passion, it cannot be reason that moves us: reason cannot provide the necessary contrary 'impulse' itself" (Penelhum 1993, 128).

Therefore, he needed a different explanation of the human will, one that wouldn't make reference to the aforementioned dominance of reason over the passions. And this is precisely what he will provide: a description of the volition and its role that would be quite paradoxical for a follower of the rationalist conception depicted above. It is a version of *compatibilism*, a thesis that "there is no inconsistency in holding that human actions are caused and yet are free" (Penelhum 1993, 129).

Moreover, at it is remarked by Tony Pitson in his article *Liberty, Necessity and the Will*, for Hume the will is just an *impression of the reflection*, and although it is not accurately speaking a passion, it shares with the direct passions its characteristic of representing an immediate effect of pain and pleasure and, with the indirect passions, the feature of being a simple and simple and unanalyzable impression (Pitson 2006, 217-218.). And that is how he explains the nature of the human volition in his *Treatise*: „I desire it may be observ'd, that by the will, I mean nothing but the internal impression we feel and are conscious of, when we knowingly give rise to any new motion of our body, or new perception of our mind". (Hume 1960, 399).

And, as I argued in another paper (Țuțui 2019, 76) this view about the will is associated with his particular doctrine regarding human freedom, based on the distinction between two types of liberty: *liberty as spontaneity* and *liberty as indifference* (Hume 1960, 407). The first kind of freedom is opposed to violence and it is possessed by anyone who is not the victim of violent constraint able to restrict his capacity of choosing a particular course of action. The second kind is opposed to necessity and it would presuppose the inexistence of any causal influence or necessity. In Hume's conception, human freedom can be characterized only as liberty of *spontaneity*: "By liberty, then, we can only mean *a power of acting or not acting, according to the determinations of the will*; that is, if we chuse to remain at rest, we may; if we chuse to move, we also may. Now this hypothetical liberty is universally allowed to belong to every one, who is not a prisoner and in chains" (Hume 2007, 69).

And, he believes that the common view according to which freedom should presuppose independence from any type of causality is determined by the confusion between the two aforementioned types of freedom and by the "false sensation of indifference" generated by the fact that we can imagine that we could have choose to act differently and that our will is not affected by any influence[3]. However, the only experience that matters

---

[3] For a more detailed analysis of Hume's paradoxical conception concerning the freedom of the will and its relation with his theory of knowledge see Viorel Țuțui. "The

is not this illusory sensation of indifference: it is the more objective viewpoint of the neutral observer who could infer our actions from our motives and character (Hume 1960, 407-408).

Hence, Hume thinks that, if it is rightly understood as liberty of spontaneity, our freedom is compatible with other determinations like those which derive from our character, passions and emotions. Moreover, in his work *An Enquiry Concerning Human Understanding* he affirmed that our actions are, by their very nature, temporary and perishing and if they were not caused by something more durable in the character or disposition of the person, they could not be related to any moral value:

> Actions are, by their very nature, temporary and perishing; and where they proceed not from some cause in the character and disposition of the person who performed them, they can neither redound to his honour, if good; nor infamy, if evil. The actions themselves may be blameable; they may be contrary to all the rules of morality and religion: But the person is not answerable for them; and as they proceeded from nothing in him, that is durable and constant, and leave nothing of that nature behind them, it is impossible he can, upon their account, become the object of punishment or vengeance (Hume 2007, 71).

Although Hume's reinterpretation of the concepts of "will" and "liberty" fits well with his "naturalistic understanding of the notion of responsibility" (Pitson 2006, 225-226), I believe that is not very compelling when it comes to guarantee that humans possess a sufficiently robust freedom as to allow them to be really accountable for their action. Because, as I argued in the aforementioned paper, if the freedom of our action consists only in the fact that they are not derived form an external force, but from the internal forces imbedded in our nature, than it is very questionable that this "freedom" would be compatible with the common view regarding the meaning of the term "voluntary action". Moreover, his theory would fare no better than Malebranche's Occasionalism: if, in the view of the French thinker, God is the only authentic agent that acts *through* us, in Hume's conception this role is played by our nature (Țuțui 2019, 79-80). But, in order to avoid this objection, Hume will shift the focus once again, in his unique style, from the natural realm to the social domain and will try to argue that the real nature of morality and justice is an artificial one.

4. Justice as an artificial virtue

In the section dedicated to justice from his work *An Enquiry Concerning the Principles of Morals*, Hume begins his analysis by noticing that the value of justice is closely linked to its *social utility*. And, in order to demonstrate this thesis he argues that, in a society blessed with a plenitude of resources, justice would be useless and, therefore, inconceivable:

> Let us suppose, that nature has bestowed on the human race such profuse *abundance* of all *external* conveniencies, that, without any uncertainty in the event, without any care or industry on our part, every individual finds himself fully provided with whatever his most voracious appetites can want, or luxurious imagination wish or desire. [...] It seems evident, that, in such a happy state, every other social virtue would flourish, and receive tenfold encrease; but the cautious, jealous virtue of justice would never once have been dreamed of. For what purpose make a partition of goods, where every one has already more than enough? Why give rise to property, where there cannot possibly be any injury? Why call this object mine, when, upon the seizing of it by another, I need but stretch out my hand to possess myself of what is equally valuable? Justice, in that case, being totally USELESS, would be an idle ceremonial, and could never possibly have place in the catalogue of virtues (Hume 1983, 21).

However, he underlines the fact that justice would be also useless and inconceivable in a natural state of mankind which would be opposite to the one described above: a society dominated by such a level of poverty that no measures could prevent the starvation and death of a great number of people. He believes that, in such a desolating state, the laws of justice would be suspended, giving place to the stronger motives of necessity and self-preservation. And, a similar problem would arise in a society dominated by war, violence, robbery and crime: justice would be deemed inutile and even the most virtuous man should arm himself to protect his life and property (1983, 22-24).

Even the fact that people are not autonomous creatures has a direct bearing on the utility and necessity of the concept of justice: a perfect and solitary man would be incapable of justice. Hence, the very existence of justice as a virtue and even as a concept is directly linked to its social utility and to the *moderate scarcity of resources*, which was a perpetual

feature of human society and constituted the foundation for social cooperation with the aim of mutual benefit. It originated on our particular nature and historical circumstances that made possible the progress of human sentiments which evolved from their initial natural state until they became the "artificial" virtue of justice (1983, 25-26). And that is why, he also strongly rejects the idea supported by the defenders of various theodicies, like Malebranche or Leibniz, according to which morality is somehow imbedded in the very structure of our world by its infinite, omnipotent and benevolent Creator:

> In a perfect theocracy, where a being, infinitely intelligent, governs by particular volitions, this rule would certainly have place, and might serve to the wisest purposes: But were mankind to execute such a law; so great is the uncertainty of merit, both from its natural obscurity, and from the self-conceit of each individual, that no determinate rule of conduct would ever result from it; and the total dissolution of society must be the immediate consequence. Fanatics may suppose, that dominion is founded on grace, and that saints alone inherit the earth; but the civil magistrate very justly puts these sublime theorists on the same footing with common robbers, and teaches them by the severest discipline, that a rule, which, in speculation, may seem the most advantageous to society, may yet be found, in practice, totally pernicious and destructive (1983, 27).

And he states that the practical usefulness is the adequate standard used in order to assess the value of civil laws established for the regulation of property. Paraphrasing the famous Latin maxim attributed to Cicero (De Legibus), *Salus populi suprema lex esto*, Hume affirms that public safety is the supreme law and every particular law should be subordinated to it. However, he doesn't think that a unique set of regulation would be appropriate for every society. On the contrary, he follows Montesquieu in stating that the laws should reflect and express the specific circumstances of each society:

> The laws have, or ought to have, a constant reference to the constitution of government, the manners, the climate, the religion, the commerce, the situation of each society. A late author of genius, as well as learning, has prosecuted this subject at large, and has established, from these principles, a system of political knowledge, which abounds in ingenious and brilliant thoughts, and is not wanting in solidity (1983, 29).

However, in the same footnote in which he mentions the theory of Montesquieu, he explicitly rejects his interpretation of the laws as fixed relations or rapports, a rationalist conception that he believes was initially developed by Malebranche:

> This illustrious writer, however, sets out with a different theory, and supposes all right to be founded on certain rapports or relations; which is a system, that, in my opinion, never will be reconciled with true philosophy. Father Malebranche, as far as I can learn, was the first that started this abstract theory of morals, which was afterwards adopted by Cudworth, Clarke, and others; and as it excludes all sentiment, and pretends to found every thing on reason, it has not wanted followers in this philosophic age (1983, 29).

Nevertheless, he also rejected the skeptical position according to which justice lacks any real foundation and real meaning and can be easily confused to a simple superstition. That is why, he insists that there is a significant difference between the two: "But there is this material difference between superstition and justice, that the former is frivolous, useless, and burdensome; the latter is absolutely requisite to the well-being of mankind and existence of society" (1983, 31).

Hence, as David Fate Norton affirms in his article *Hume and the Foundations of Morality*, Hume's position should be understood in the context of the main controversy of his time, between *rationalist thinkers* who believed that the foundation of morality should be laid in Truth or nature or in Things themselves or in God's plan and the divine ideas[4], and *skeptical philosophers* who assumed that humans do not have a natural moral sense or natural moral sentiments and that human morality lacks a real foundation, other than self-interest (Fate Norton 1993, 153-157). And, while he rejects the confusion between justice and a simple original and natural instinct, he also denies it any rationalist foundation arguing that justice could not be based on argument or reflection: "The dilemma seems obvious: As justice evidently tends to promote public utility and to support civil society, the sentiment of justice is either derived from our reflecting on that tendency, or like hunger, thirst, and other appetites,

---

[4] The paradigmatic expression of this view can be found in Malebranche work *The Search after Truth*. For example in the *Elucidation ten* to this book he affirmed: "Perhaps, then, we can now see the nature of the immutable order of justice and how this order has the force of law through the necessary love that God has for Himself. We can conceive how this law is universal for all minds as well as for God Himself, why it is necessary and absolutely without exception" (Malebranche 1997, 619-620).

resentment, love of life, attachment to offspring, and other passions, arises from a simple original instinct in the human breast, which nature has implanted for like salutary purposes. If the latter be the case, it follows, that property, which is the object of justice, is also distinguished by a simple, original instinct, and is not ascertained by any argument or reflection" (1983, 32).

But, if in his view, morality cannot be traced to the transcendental or the supernatural and neither to bodies, forces, and motions, where can he place its foundations? As David Fate Norton argues, he will base it in human nature, echoing Grotius, Shaftesbury, and Hutcheson, which means that for him "human nature is a primitive element, an ultimate fact, beyond which explanation cannot go" (Fate Norton 1993, 158). Consequently, because, in his view, reason was conceived as inert and unable to motivate our action, Hume based his moral theory on human feelings of *approval*, described as a type of pleasure, and *disapproval* described as a type of pain, emotions which are experienced when people are contemplating the character of others: "In giving a reason, therefore, for the pleasure or uneasiness, we sufficiently explain the vice or virtue. To have the sense of virtue is nothing but to feel a satisfaction of a particular kind from the contemplation of a character" (Hume 1960, 471). And, the character must be understood as a "durable" feature of the mind of the others that will be capable of constantly generate in us the experience of pleasure or pain (Fate Norton 1993, 161). Or, as Jacqueline Taylor explains, "character consists of what Hume refers to as 'durable mental qualities', settled habits of feeling and dispositions to respond and act in certain ways" (Taylor 2006, 279).

Therefore, in Hume's opinion, our sense of virtue is never purely natural and always has a social dimension (Hume 1960, 477). However, some virtues like love of one's children, beneficence, generosity, clemency, moderation, temperance, and frugality, could arise even in the smallest communities like families and groups, and could be labeled as *natural virtues*. On the other hand, *artificial virtues* like justice, fidelity, international justice, obedience and loyalty, chastity, modesty and good manners require a relatively large and well-organized political community for their very existence. Hence, as I argued in a previous paper, although the social context is essential for our moral life, there is a great difference between the form it takes when we live in families and small groups and the form manifested in large social and political communities. And, on this difference he based his distinction between natural and artificial virtues (Țuțui 2019, 82).

Returning to his explanation of the way in which artificial virtues are generated, and especially justice, we must underline that *sympathy* plays a central role in their "invention". An explanation of the way in which he understands sympathy is offered by Jacqueline Taylor in her paper *Virtue and the Evaluation of Character*: "Hume describes sympathy as a principle of the imagination that makes it possible for us to communicate our passions, sentiments, and even our opinions to one another. Sympathy can work in an immediate way, like a contagion, causing us to laugh, for example, just because someone else is laughing. More typically, though, sympathy allows us to interpret and respond to the passions of others" (Taylor, 2006 281-282). Moreover, as David Fate Norton argues, it has an important role in extending our motivational circle from our family and friends to others placed outside this small group of people: simple strangers with whom we have no close relations. So, it makes us sensible to the qualities of others from which we expect no direct benefit. Nevertheless, we experience approval or disapproval towards that persons character by means of sympathy as if we were strings of the same length which resonate in the same way to the same tension: "This approbation - suitably qualified by considerations of impartiality, generality, and distance in time and place - turns out to be nothing else than the unique moral sentiment by which we mark the presence of virtue,- disapprobation, mutatis mutandis, is the sentiment by which we mark the presence of vice" (Fate Norton 1993, 165).

Yet, Hume aims to explain how free individuals, who are not constrained or obliged in any way, could acquire the artificial virtue of justice. And, his account is based on the fact that the motives of our actions cannot be derived from our natural approval of that action, because, if it were so, we could not avoid the following vicious circle: „For if the virtue-imparting motive of the action were the agent's sense of the action's virtue – if that were why he did it, and why we approved it – then we would be reasoning in a vicious definitional circle" (Cohon 2006, 261). And, if our particular pleasures and interest are different, they cannot constitute the foundation for people's agreement when it comes to their moral judgments and sentiments. That is why, he argues in his *Treatise* that the standard of our moral evaluation is a *common point of view* that we share and from that perspective we assess the character of others in a similar manner (Hume 1960, 591).

But, how did people acquire this shared point of view and how did the artificial virtues evolved from the natural ones? As David Fate Norton affirms, they evolved gradually and over a long period of time, and they

were "developed on the base of human nature as humans interact with one another and their environment" (1993, 165). And, when it comes to the artificial virtue of justice, it should be noted that, in Hume's opinion, it is directly associated with the *conventions* that govern the administration of property. The way in which the aforementioned conventions were generated has to do with the human need to cooperate for our survival and our prosperity. In Hume's opinion, humans are creatures that are naturally disadvantaged, because they have various needs which can be satisfied only by means of social cooperation. Only the social life and cooperation makes them able to overcome this natural infirmity and even to become superior to other creatures by enhancing the force, the abilities and the security of each of them:

> 'Tis by society alone he is able to supply his defects, and raise himself up to an equality with his fellow-creatures, and even acquire a superiority above them. By society all his infirmities are compensated; and tho' in that situation his wants multiply every moment upon him, yet his abilities are still more augmented, and leave him in every respect more satisfied, and happy, than tis possible for him, in his savage and solitary condition, ever to become. [...] By the conjunction of forces, our power is augmented: By the partition of employments, our ability encreases: And by mutual succour we are less expos'd to fortune and accidents. 'Tis by this additional force, ability, and security, that society becomes advantageous (Hume 1960, 485).

The experience of cooperating within small groups teaches them that a greater prosperity could be obtained by extending their cooperation to those who are not their relatives or friends. Nevertheless, this type of cooperation gives rise to various conflicts caused by the scarcity of the resources. For this purpose, humans have created property rules in order to satisfy their avidity for possession, for avoiding conflict and for maintaining social cooperation. But, in his view, these rules were not established by a social contract. They were developed gradually from a primitive system used for signaling our intentions to abstain from taking another man's possession, with the condition that he would respond in a similar manner. And the rules evolved slowly into a more elaborate set of conventions about the way in which things can initially become the property of someone and can be transferred by consent. And these conventions will be *moralized* by educational means, and, later, when the political community is created, by means of rules and regulations

introduced by politicians. But the creation of the conventions themselves does not depend to any promise or contract (Cohon 2006, 263-264).

Analogously, the artificial virtue of justice does not originate in any abstract concept of justice that could be perceived as a natural principle which would inspire the process of human cooperation. As he argues in his *Treatise*: „The idea of justice can never serve to this purpose, or be taken for a natural principle, capable of inspiring men with an equitable conduct towards each other. That virtue, as it is now understood, wou'd never have been dream'd of among rude and savage men." (1960, 488). The rules referring to justice and property are created only after the convention to abstain from taking another man possession is in place. And, it is developed step by step, starting from the aforementioned system of signaling our intentions: "After this convention, concerning abstinence from the possessions of others, is enter'd into, and every one has acquir'd a stability in his possessions, there immediately arise the ideas of justice and injustice ; as also those of *property, right* and *obligation*" (1960, 490-491).

Consequently, although he starts by placing the foundations of *natural morality* in the human nature and in the basic emotions of approval and disapproval, when it comes to the *artificial morality* associated with artificial virtues, like justice, its real foundation is placed on its *social utility*, which becomes the most important motivational force of this higher type of moral life:

> "The necessity of justice to the support of society is the SOLE foundation of that virtue; and since no moral excellence is more highly esteemed, we may conclude, that this circumstance of usefulness has, in general, the strongest energy, and most entire command over our sentiments. It must, therefore, be the source of a considerable part of the merit ascribed to humanity, benevolence, friendship, public spirit, and other social virtues of that stamp; as it is the SOLE source of the moral approbation paid to fidelity, justice, veracity, integrity, and those other estimable and useful qualities and principles" (Hume 1983, 34).

Hence, Hume's solution is indeed ingenious and more complex than those provided by his predecessors. Nevertheless, I believe that it still has to face another very serious objection: does his theory allow for a normative interpretation of what is morally valuable or only for descriptive one? Did he offered a standard for our moral evaluation, which expresses *what we should value* from a moral point of view, or his theory is only a description of *what we do value* as a result of the

historical evolution of our morality? To the analysis of this problem I will dedicate the next section of the paper.

5. Hume's conception of justice: is it normative or descriptive?

In the previous section I argued that the invention of the virtue of justice and its use as a standard for our moral judgments are the effects of a gradual process of historical evolution, from the "natural" state of social life in small groups and families, to the "artificial" state of social life in large political societies. But, the moral status of this standard is not natural either: justice is initially just a name for the instruments we use for the purpose of social cooperation and it is developed later as a set of conventions. *The moralization* of these conventions, and, consequently, of the concept of justice itself, is just a latter result of this historical process.

However, I believe that Hume has to face, once again, the objection according to which his theory is only a description of the aforementioned historical process and does not allow for a normative interpretation of it[5]. In other words, we must ask if this invention of justice has any normative value: if justice could still function as a normative standard for our moral judgements concerning how people *should behave*, or it is only a consequence of the way in which our view about justice *has evolved*. Moreover, we should also ask if this view could have evolved in a significantly different way, leading us to a concept of justice that would be opposite to the existing one. But, wouldn't this mean that any such artificial concept of justice, like the one described by Hume, would lack any normative foundation? A similar objection is mentioned by Rachel Cohon when she noticed about Hume's theory that: "He leaves us with a tantalizing ambiguity: whether all evaluations or norms are on his view reducible to approval and disapproval, or whether instead there is some standard by which our approvals (our moral judgments themselves) can be justified or corrected" (Cohon 2006, 271).

I believe that one answer he could offer to the aforementioned questions would be to admit that this evolution should be accounted for in a naturalistic way. From this perspective, the development of our concept of justice would take place without being guided by transcending moral ideals, but also without being completely arbitrary. It would be rather

---

[5] For a description of a similar problem that occurs in relation with his political philosophy see Viorel Țuțui. "The Reconsideration of Liberty and Political Order in Hume's Rejection of the Social Contract Theory". *Argumentum. Journal of the Seminar of Discursive Logic, Argumentation Theory and Rhetoric* 17 (1): 67-94, 2019.

guided by the famous pre-established harmony between the course of nature and the succession of our ideas, that is mentioned in his work *An Enquiry Concerning Human Understanding*:

> Here, then, is a kind of pre-established harmony* between the course of nature and the succession of our ideas; and though the powers and forces, by which the former is governed, be wholly unknown to us; yet our thoughts and conceptions have still, we find, gone on in the same train with the other works of nature. Custom is that principle, by which this correspondence has been effected; so necessary to the subsistence of our species, and the regulation of our conduct, in every circumstance and occurrence of human life (Hume 2007, 39-40).

This pre-established harmony functions as a natural instinct which is required for our subsistence. This instinct makes us desire the cooperation of our fellow men in order to survive and to prosper and latter develops in the form of rules and conventions that are necessary for the cooperation in large political communities. Thus, the invention of justice does nothing else but to continue and to supplement this natural instinct. And, I believe that this is the process described by Hume in his *Treatise*, when he states that "no principle of the human mind is more natural than a sense of virtue; so no virtue is more natural than justice". (Hume 1960, 484). Additionally, the artificial character of justice does not make its rules in any way arbitrary or hazardous: "Tho' the rules of justice be *artificial*, they are not *arbitrary*. Nor is the expression improper to call them *Laws of Nature* ; if by natural we understand what is common to any species, or even if we confine it to mean what is inseparable from the species" (Hume 1960, 484).

Hence, the invention of morality, in general, and of justice, in particular, seems to be the result of adaptive mechanism which is deeply rooted in human nature and is refined in the social and political stage of our evolution. So, the justification of our moral judgements and evaluation is based on its pragmatic and social utility: it is correct because it works. However, in my opinion, this reply does not succeed in completely eliminating the aforementioned objection. Because, we can conceive that the adaptive mechanism could lead to various social arrangements, which could be characterized by stability and functionality. Nevertheless, some of these political arrangements could be rightly labelled us unjust. Therefore, Hume's theory needs a different explanation of the normative character of our moral evaluations, one that should not be reduced to social utility and functionality.

Another suggestion for solving this issue is provided by Jacqueline Taylor in her article *Virtue and the Evaluation of Character*, where she describes Hume's view regarding moral justification in the following manner: "The identification and valuation of character traits is a social process, requiring conversation, and at times, negotiation and debate. On this view, moral knowledge about which characters are praiseworthy or blameworthy is a collectively established resource" (2006, 276-277). And, I agree that this interpretation of Hume's moral evaluation as a social practice and as a collective and deliberative process is a very interesting one. And, it places his theory in an intermediate position in the main controversy of his age, which in Jacqueline Taylor's opinion was the one between *moral intellectualists*, like Ralph Cudworth and Samuel Clarke, and *moral sense theorists*, like Francis Hutcheson and Anthony Ashley-Cooper Earl of Shaftesbury, while also rejecting the *selfish theory* defended by Thomas Hobbes and Bernard Mandeville. This is the reason why she believes that Hume accepts only a part of the doctrine held by the moral sense theorists, but does not accept the idea of an innate moral sense and underlines that we can correct and cultivate our moral taste and acquire moral knowledge by means of the social practice which includes shared reflection, scrutiny, and conversation (Taylor, 2006 277).

And, she mentions, as an evidence for the existence of this normative process of correcting the moral taste, Hume's statements regarding the three causes of error in moral evaluation: *the "remoteness" error* which occurs when the agent is located at a distance from us so that our sympathy is too weak to produce the right sentiment of praise or blame, *the error of "countervailing interest"* generated when our own interest is too powerful and we confuse our love or hate for someone with moral approval or disapproval, and *the "consequentialist" error* which derives from our evaluating the consequences of someone's actions, rather than her character (2006, 284). The solution to these errors has to do with the effort to transcend the distance by imagining the circle of acquaintances of that person and to sympathize with their perspective, to "loosen" the grip of our self-interest and make the moral picture more inclusive (the aforementioned common point of view) and to envision in imagination the fact that the consequences are nothing else than the effect of the traits of character (2006, 286-289).

Nevertheless, I believe that this correction process which is said to give authority to our moral judgements is not able to guarantee their normative status. Because, in my opinion, the corrective mechanism should be understood either as *a deliberative and rational procedure*

governed by our reason, or as *an emotional process* dominated by our passions. However, the first interpretation is not compatible with Hume's overall conception regarding the inferior status of reason, and its "inert" nature, which makes it unable to drive and motivate our choices and our actions. The second interpretation is also farfetched, because it would be very unlikely that a process of improving our moral taste driven by passions would lead us unmistakably to the right outcome. Acknowledging this fact, Jacqueline Taylor affirms that the process would not be guided by the strong and uncontrollable feelings, but by much calmer passions, like sympathy, which would act in a manner that is quite similar to traditional role associated with reason (Taylor 2006, 291). But, I believe that the problem will remain: if reason is inert and unable to guide the overall correction procedure of moral evaluation, than it would be random and unreliable to say the least, and the same could be said about a process guided by calm and "reason-like" passions. Moreover, they would lack not only the clear perspective regarding the sense, the finishing point and the objective of this corrective procedure (in the absence of an independent moral ideal or standard), but it would also lack the necessary driving force to complete it. And, to postulate that such an independent driving force exists, is to return to the natural instinct scenario which was already proven to be problematic. Consequently, I think that, although Hume's theory provides a very interesting and complex account of human morality, it has to face serious difficulties when it comes to explaining the normative character of our moral judgments.

6. Conclusions

In this paper I presented Hume's theory of justice as an artificial virtue, arguing that it can be better understood if we place it in the philosophical context in which it was developed: the subjective turn which is characteristic for the rise of Modern Philosophy and the different controversies between the most prominent thinkers of that age regarding issues like the relation between reason on passions, the description of human will and its freedom and the foundation of morality.

As a reaction to the dominant view supported by rationalist philosophers, and mainly by Cartesian and Post Cartesian philosophers, he stated that reason is not the most important faculty of human mind: it plays only a minor role, both in our knowledge process an in our moral life. He also rejects the closely related view according to which reason in

association with free will is essential for the control of our passions, guaranteeing the possibility of moral choice, and offers a different explanation of our volition and its freedom. Volition is described only as an impression of the reflection. It is not strictly speaking an autonomous faculty or power of our soul and it is deeply imbedded in the flow of various perceptions which is the nature of the human mind.

Also, in a quite remarkable way, Hume manages to provide a very complex moral theory that not only transcends the most important positions expressed by his predecessors in the controversy regarding the foundations of morality, but also seems to succeed in combining the most important qualities of these theories, while avoiding their limitations. For example, in a way which is analogous to Hobbes moral view, he rejects the idea, supported by Descartes or Malebranche, that morality could be based on a set of innate truths regarding God's plan for His creation, which could be understood by the natural light of our reason, or on a natural moral sense which would play a similar role. But, he does not accept Hobbes's sceptical conclusion that morality has no real foundation, other than self-interest. Agreeing with Grotius, Shaftesbury, and Hutcheson, he will state that the foundation of morality is human nature, an especially the feeling of approval or disapproval that we experience when we contemplate the character of others. However, he also admits, in a way which is similar to conventionalist thinkers like Hobbes, that the full story of morality does not end with the description of this natural state. On the contrary, he believes the most important virtues which are essential for our sense of morality, have gradually evolved in a social environment and developed into artificial virtues.

So, in his conception, morality could be described both as *natural* and based on human emotions directly associated with family and other close relations (in its earlier stages), and as *artificial* and founded on much more altruistic and impersonal feelings as sympathy (in its latter stages). And, he believes that, the conventions that define the virtue of justice are later "moralized" by means of education and legislation, rules that prescribe the types of behaviour approved or forbidden. Therefore, justice and other artificial virtues are social inventions which do not have an intrinsic normative value, without being arbitrary. Their foundation is a practical one: they are adaptive instruments which originate in our natural instinct for social cooperation and contributes to its development in our social and political life.

References

BAIER, Annette. 1991. *A Progress of Sentiments. Reflections on Hume's Treatise*. Harvard University Press Cambridge, Massachusetts, London.

BIRO, John. 1993. "Hume's New Science of the Mind". In *Cambridge Companion to Hume*, edited by David Fate Norton. Cambridge University Press, Cambridge.

BROUGHTON, Janet. 2006. „Impressions and Ideas". In *The Blackwell Guide to Hume's Treatise*, edited by Saul Traiger. Oxford: Blackwell Publishing.

CLARKE, Desmond. 2005. *Descartes's Theory of Mind*. Oxford, New York: Oxford University Press.

COHON, Rachel. 2006. "Hume's Artificial and Natural Virtues". In *The Blackwell Guide to Hume's Treatise*, edited by Saul Trager. Oxford: Blackwell Publishing.

HUME, David. 1960. *A Treatise of Human Nature*, reprinted from the original edition by L. A. Selby-Bigge. Oxford: Clarendon Press.

HUME, David. 2007. *An Enquiry Concerning Human Understanding*. Oxford: Oxford University Press.

HUME, David. 1983. *An Enquiry Concerning the Principles of Morals*. Cambridge, Indianapolis: Hackett Publishing Company, Inc.

HUME, David. 1994. "Of the Original Contract". In *Political Essays*, 186-201. Cambridge: Cambridge University Press.

FATE NORTON, David. 1993. "Hume, Human Nature and the Foundations of Morality". In *Cambridge Companion to Hume*, edited by David Fate Norton. Cambridge University Press, Cambridge.

MALEBRANCHE, Nicolas. 1997. *The Search after Truth*. Cambridge: Cambridge University Press.

McINTYRE, Jane.2006. "Hume's 'New and Extraordinary' Account of the Passions". In *The Blackwell Guide to Hume's Treatise*, edited by Saul Trager. Oxford: Blackwell Publishing.

MOISUC, Cristian. 2015. *Métaphysique et théologie chez Nicholas Malebranche*. Bucharest : Zeta Books.

PENELHUM, Terence. 1993. "Hume's Moral Psychology". In *Cambridge Companion to Hume*, edited by David Fate Norton. Cambridge University Press, Cambridge.

PITSON, Tony. 2006. "Liberty, Necessity, and the Will". In *The Blackwell Guide to Hume's Treatise*, edited by Saul Trager. Oxford: Blackwell Publishing.

RILEY, Patrick. 2000. "Malebranche's Moral Philosophy". In *The Cambridge Companion to Malebranche*, edited by Steven Nadler. Cambridge: Cambridge University Press.

TAYLOR, Jacqueline. 2006. "Virtue and the Evaluation of Character". In *The Blackwell Guide to Hume's Treatise*, edited by Saul Trager. Oxford: Blackwell Publishing.

ȚUȚUI, Viorel. 2019. "Este 'știința naturii umane' a lui Hume o antimetafizică". In *Natură şi ierarhie. Metamorfoze şi discontinuităţi*, edited by Florin Crîșmăreanu and Cristian Moisuc, 83-108. Al.I.Cuza University Press. Iași.

ȚUȚUI, Viorel. 2019. "The Reconsideration of Liberty and Political Order in Hume's Rejection of the Social Contract Theory". *Argumentum. Journal of the Seminar of Discursive Logic, Argumentation Theory and Rhetoric* 17 (1): 67-94.