

EARLY MODERN SPECULATIVE ANTHROPOLOGY

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## Abstract

I argue seventeenth century social and political theory, while having the explicit goal of justifying new social, political, and economic arrangements, depended upon and demanded a division of the world into the distinct and separate ontological realms of nature and culture populated, respectively, by the non-human and the human. The explicit point of this move was to create a normative realm for the human free from the inhuman forces of nature. However, this division had severe normative consequences for both humans and non-humans. I focus on four sets of texts in order to demonstrate how this division and separation took place. First, I discuss Charles Butler's *The Feminine Monarchie*, first published in 1609, as an example of a transitional text which denies the split between nature and culture, but which draws upon concepts that demand such an ontological split. Second, I discuss Thomas Hobbes's political works (*The Elements of Law*, *De Cive*, and *Leviathan*) focusing upon how the movement from the state of nature to the commonwealth depends upon a transformation of the "human *animal*" into the "*human*

animal.” The production of both the human and the non-human is the primordial task of the sovereign. Third, I discuss Samuel Pufendorf’s *Elements of Universal Jurisprudence, Of the Laws of Nature and Nations*, and *On the Duty of Man and Citizen* focusing upon his distinction between physical entities and moral entities; the latter of which depend upon what he calls “properly human action,” but which does so inconsistently. Fourth, I discuss John Locke’s *Two Treatises of Government* focusing upon how his theory of property functions to legitimate the domination of the non-human by the human. Finally, I discuss how the modern division between the human and non-human is untenable, that it leads to perverse consequences, and suggest that the distinction between both human and non-human as well as nature and culture ought to be abandoned in favour of an ecological social science.

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The first debt to be registered is to Blythe Helman, my partner of fourteen years. I’m sorry it took me nearly a decade to complete this project and I am very thankful for your patience and understanding. Blythe also thoroughly copy-edited the final draft for which the dissertation is much improved. I love you very much.

Given that this dissertation is largely about the conceptualization of animals in

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# Contents

<b>Abstract</b>	<b>ii</b>
<b>Acknowledgements</b>	<b>iv</b>
<b>Table of Contents</b>	<b>vii</b>
<b>List of Figures</b>	<b>xi</b>
<b>1 Speculative</b>	<b>1</b>
1.1 Introduction . . . . .	1
1.2 Situating the Problem . . . . .	4
1.3 Why Early Modernity? . . . . .	13
1.4 Speculative Anthropology . . . . .	17
1.5 The Human as a Problem . . . . .	22
1.6 Epicureanism and Anthropocentrism . . . . .	32
1.7 Some Other Goals . . . . .	40

1.8	Outline . . . . .	50
<b>2</b>	<b>Similitude</b>	<b>58</b>
2.1	Introduction . . . . .	58
2.2	The Early Modern Problematic of Rule . . . . .	64
2.3	Nature and Government . . . . .	71
2.4	Honey and Silk . . . . .	73
2.5	Virtue, Order, and Economy . . . . .	77
2.6	From Monarch to Beekeeper and Back . . . . .	92
2.7	Conclusion . . . . .	95
<b>3</b>	<b>Denial</b>	<b>98</b>
3.1	Introduction . . . . .	98
3.2	The Natural Condition of Mankind . . . . .	106
3.3	Machines: Sovereign and Anthropological . . . . .	114
3.4	Humans and Animals . . . . .	127
3.5	Language and Knowledge . . . . .	132
3.6	The Natural State . . . . .	142
3.7	Animals: Social and Political . . . . .	146
3.8	Against Aristotle and Bees . . . . .	156
3.9	Conclusion . . . . .	161

<b>4</b>	<b>Sociality</b>	<b>164</b>
4.1	Introduction . . . . .	164
4.2	Textual History . . . . .	167
4.3	Methodological Principles . . . . .	169
4.4	Towards an Ontology of the Social . . . . .	172
4.5	Entities and Actions . . . . .	178
4.6	Matter, Plants, Animals . . . . .	185
4.7	Humans . . . . .	194
4.8	Moral Entities . . . . .	206
4.9	State of Nature and Natural Law . . . . .	210
4.10	Conclusion . . . . .	234
<b>5</b>	<b>Domination</b>	<b>238</b>
5.1	Introduction . . . . .	238
5.2	Brief Summary of the <i>First Treatise</i> . . . . .	243
5.3	Locke, Filmer, and Hobbes . . . . .	249
5.4	The Inhuman . . . . .	251
5.5	Nature . . . . .	254
5.6	The Species Problem . . . . .	267
5.7	Property . . . . .	277

5.8	Appropriation . . . . .	285
5.9	The Common . . . . .	292
5.10	The Problem of the Commons . . . . .	295
5.11	The History of Property . . . . .	299
5.12	Conclusion . . . . .	310
<b>6</b>	<b>Conclusion</b>	<b>313</b>
6.1	Introduction . . . . .	313
6.2	Review . . . . .	318
6.3	Speculative Misanthropology . . . . .	321
	<b>Bibliography</b>	<b>326</b>

## List of Figures

2.1	Butler’s Imagined Beehive . . . . .	85
4.1	Hierarchy of Activity/Passivity . . . . .	188
4.2	Voluntary and Non-Voluntary Action . . . . .	189
5.1	Locke’s Interpretation of Genesis 1:20–30 . . . . .	259
5.2	Locke’s Naturalistic Understanding of Animals . . . . .	263

# 1 Speculative

C'mon, professor. Speculation only becomes a problem when you confuse it for fact. You of all people should know that.

Scott Bakker, *Neuropath*, 2008

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## 1.1 Introduction

I argue that in the seventeenth century there was a widespread attempt in social and political theory to articulate a new relation between nature and culture, understood as mutually exclusive and antagonistic ontological domains, and to properly situate non-humans in nature and humans in culture. Some, such as Bruno Latour, have argued that this attempt to decisively separate nature from culture in both theory and practice is the paradigmatic characteristic of modernity. The reason why it was attempted to institute this division between nature and culture was to determine the grounds for membership in the state. That is, what sort of being was capable or worthy of being represented in the community and, therefore, able to exercise a rights-bearing subjectivity. We see this most strikingly in the generic

convention of the state of nature and the social contract where the human is created as the sort of subject able to live in communities. The outcome of this attempt to separate nature and culture seems obvious in retrospect: humans are the sort of beings who are not only capable of exercising political subjectivity, but merit such subjectivity on the basis of their common humanity. What is less obvious is that the human fit for communal life had to be made. The human who lives in the community is not naturally occurring, which is to say that the human must be *made* and the necessary by-product of this process is the production of the non-human. That is, there is a process of separating the human, a political and cultural creature, from its non-human background. More often than not, this process also resulted in the moral elevation of the human relative to the non-human. This is not simply a matter of, pace Foucault, instituting a regime of discipline on individual bodies in order to produce a regularized mass, or, pace Elias, cultivating civilized ways of acting in the presence of others so as not to act like a brute and thereby make your fellows uncomfortable, but it was a matter of systematically purging the non-human from the human and relegating that non-human element to and containing it within its proper ontological domain. I call this attempt to separate and immunize the human from the non-human and to isolate each in their proper domains a speculative anthropology. It is a speculative anthropology because, on the one hand, it is a theoretical account of the human and the human's relation

to the non-human (i.e., an anthropology—a discourse (*logos*) on the human (*anthropos*)) and, on the other hand, despite being a theoretical account, rationality does not act as a limit to that theorization—that is, the theory escapes the facts (i.e., it is speculative). As a result, it can be both accurate and imaginary. Hence, early modern speculative anthropology is akin to contemporary speculative fiction: based on rational foundations, but not limited by those rational foundations. The importance of this attempt to separate the human from the non-human has gone unnoticed and unappreciated in contemporary studies of early modern social and political theory. While other speculative distinctions, such as between the divine and the human, have received scholarly attention, we still do not have a clear sense of how the speculative distinction between the human and the non-human, especially between the human and the non-human animal, was elaborated in seventeenth century social and political theory. In short, if the distinction between the human and the animal is constitutive of the political, then it is necessary to be attentive to how this distinction is made, but also to the consequences—social, political, and moral—of such a distinction. In this chapter, I situate my argument in relation to contemporary theoretical interest in the non-human, discuss in general terms how the human came to be a problem in seventeenth century social and political theory, outline the concept of speculative anthropology, and, finally, present an overview of the dissertation as a whole.

## 1.2 Situating the Problem

The study of the divide between the human and the non-human has been an area of growing interest for academics in recent years.<sup>1</sup> This interest has emerged out of both activist and scholarly circles with the result that there is a concerted attempt to bring the non-human under the fold of the social sciences and the humanities and has been variously called (critical) animal studies, science and technology studies, the inhumanities, ecological or environmental humanities, post-humanities, object oriented ontology, and speculative realism.

This attempt to include the non-human in academic study is more than a mere structuralist or deconstructionist point, which would say that  $x$  is defined and understood in and through its structural location in relation to  $y$  and  $z$ ; thus, the human is understood in relation to, say, animals and trees. In this case, as  $x$  changes in meaning, so too do  $y$  and  $z$  such that there is no permanent, stable meaning for any of these terms, either in isolation from one another or in relation to one another. That is, the point here isn't just some conjunction between language as a system of differences and the way in which language structures and represents the world in a socially or culturally mediated fashion.

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1. When I started my doctoral program in 2004 there were a few books, mostly on animal ethics, and some work in science and technology studies that took up the non-human within the social sciences and humanities. Now there are regular conferences, journals, book series, post-doctoral positions, tenure track jobs, and even undergraduate degree programs focusing on the non-human. This is not to say that the problematic is mainstream, but it does point to a rapid movement from the extreme fringe to, at least, some semblance of academic respectability.

The “non-human turn”—be it through the study of the relation between animals and human societies, science and human societies, or the environment and human societies—argues for much more than this. Bruno Latour, and others working in science studies (generally) and actor-network theory (more specifically), have called for a study of the “missing masses” of the social.<sup>2</sup> Their argument is that the social does not merely exist in and through the relations that obtain between and among humans, but also includes, or potentially includes, every other conceivable object, be they “human-made” technologies or “naturally occurring” things: technologies, tools, rocks, trees, cows, shoes, computers, and so on. Thus, a sociology which limits itself to the relations between and among humans and which ignores the “missing masses” has not provided an account of the social or the set of relations that constitute the social for the simple reason that the census is discriminatory: it completely ignores the existence and significance of the infinite multitudes that comprise the social. The social is not merely a more or less permanent assemblage of human beings following more or less permanent patterned sets of behaviours. Thus, the “non-human turn” extends beyond the discursive construction of the human to an ontological and material analysis of how certain beings relate to one another.

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2. Bruno Latour, “Where are the Missing Masses? The Sociology of a Few Mundane Artifacts,” in *Shaping Technology/Building Society: Studies in Sociotechnical Change*, ed. Wiebe E. Bijker and John Law (Cambridge: MIT Press, 1992), 225–58.

Margaret Archer, who has developed the most rigorous general social theory in contemporary sociology, argues there are three unique characteristics of the social:

1. “It is inseparable from its human components because the very existence of the social depends in some way upon our actions.”
2. It is “characteristically transformable; it has no immutable form or even preferred state.”
3. “Neither are we immutable as social agents, for what we are and what we do as social beings are also affected by the society in which we live and by our every efforts to transform it.”<sup>3</sup>

Archer is correct that humans are *a* necessary condition for the existence of society, but humans are not the *only* necessary condition. The concept of the social seems to imply the human, but that is not sufficient.<sup>4</sup> Humans must walk on the earth, breath air, eat food, clothe themselves, make and use tools, and have shelter and warmth. That is, humans are absolutely dependent on a non-human world and this non-human world is not simply a given horizon of immediacy. This non-human world is inseparable from the human world, which is to say that a distinction

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3. Margaret S. Archer, *Realist Social Theory: The Morphogenetic Approach* (Cambridge: Cambridge UP, 1995), 2.

4. Indeed, as more is learnt about animals, it could become the case that humans are not a necessary condition for the social or social relations at all. That is, the relations between non-human animals are as social as the relations between humans.

between human and non-human can only ever be analytical—that is, speculative—and never ontological. Even the simplest societies are already a chaotic mélange of the human and the non-human; the more complex the society, the more chaotic is its mélange.<sup>5</sup> In making this argument, Archer follows a script first drafted in the seventeenth century: nature exists outside the human and it can be dominated and exploited by the human; society exists because of the human and can be transformed by the human; and divine, transcendental reality exists above and beyond the human and is not amenable to humane intervention.<sup>6</sup> While Archer and other critical realists emphasize different details, they are essentially telling the same story about humans that was written some four hundred years ago.

In my view, Archer’s humanism and anthropocentrism is at once thoroughly modern and completely wrong.<sup>7</sup> It is modern insofar as it demands the absolute separation of the human and non-human in order to create a realm of human freedom. That is, Archer asserts the ontological divide between nature and culture.<sup>8</sup> It

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5. But, it is seemingly only moderns who are bothered by this admixture of the human and the non-human.

6. Archer, *Realist Social Theory*, 1. Many contemporary social and political theorists would reject the third claim, but accept the other two without hesitation.

7. Archer’s anthropology is presented in detail in Margaret S. Archer, *Being Human: The Problem of Agency* (Cambridge: Cambridge UP, 2001).

8. There has been some push-back against this view in critical realist social theory. See Dave Elder-Vass, *The Reality of Social Construction* (Cambridge: Cambridge UP, 2012), Andrew Sayer, *Why Things Matter to People: Social Science, Values, and Ethical Life* (Cambridge: Cambridge UP, 2011), and Christian Smith, *What is a Person? Rethinking Humanity, Social Life, and the Moral Good from the Person Up* (Chicago: University of Chicago Press, 2010).

is completely wrong insofar as the speculative anthropology Archer's theory rests upon requires the explicit separation of these two ontological domains while tacitly violating that separation when necessary or convenient. To make analytical distinctions is justified for the sake of theoretical clarity, but it is an error to confuse an analytical distinction with an ontological distinction. Of course, Archer would say, humans eat, they wear clothes, they live in shelters, they use tools, and they do much, much more. But, she would also say, the non-human is *never* sociologically (or culturally, or politically, or economically, or ...) relevant—except when it is. This is precisely the problem, both with the modern attempt to divide the world into separate and distinct ontological realms and with contemporary social and political theory. As a result, critical realists have been very hostile to theoretical traditions such as actor-network theory which emphasize the imbrication of the human and the non-human.<sup>9</sup>

The response to this is that the non-human is *always* sociologically (or culturally, or politically, or economically, or ...) relevant—except when it isn't. The social involves all socially significant relations. This claim appears to be tautological, but I don't mean it to be. Here we are seeing the failure of our social scientific concepts—which originate in seventeenth century social and political theory—to adequately

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9. For examples, see Margaret S. Archer, "Foreword," in *Relational Sociology: A New Paradigm for the Social Sciences*, by Pierpaolo Donati (London: Routledge, 2011), xiii, Nick Crossley, *Towards Relational Sociology* (London: Routledge, 2011), 42–5, and Pierpaolo Donati, *Relational Sociology: A New Paradigm for the Social Sciences* (London: Routledge, 2011), 20.

represent reality, not only as we humans experience it, but also as it actually is. Socially significant relations exceed the human and include non-human things of all sorts, be they matter, vegetables, animals, technologies, or a combination of these. The presence (or existence) of certain things enables some relations and constrains other relations—this is *prima facie* sociologically significant (or it should be). It follows from this that many sociologically significant relations do not *involve* humans at all, even if they *concern* humans. For instance, take telephonic metadata and algorithms designed to search this data in order to reveal networks of relations, the human is but one minor datum in the interaction of a multitude of daemons, bots, algorithms, chipsets, and various electrical and communications grids.<sup>10</sup> What is relevant to “national security” agents is not only the individual humans, but the technologically mediated relations between people—which device is in which city, which device communicates with another, and so on.<sup>11</sup> Indeed, the way in which these non-humans interact with one another not only shapes the possible range of human actions, but also enable means of regulating humans with minimal knowledge of those actual humans. Humans are an afterthought.<sup>12</sup>

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10. For an analysis in these terms using the electrical power grid, see Jane Bennett, *Vibrant Matter: A Political Ecology of Things* (Durham: Duke UP, 2010).

11. Heidi Boghosian, *Spying on Democracy: Government Surveillance, Corporate Power, and Public Resistance* (San Francisco: City Lights Books, 2013).

12. Monitoring this data, in turn, leads others to orient their behaviour towards this knowledge by coming into new relations with the technologies they use: for instance, encrypting data, avoiding cloud storage systems, using secure networks, and so on.

To an extent, anthropology has recognized the importance of the non-human far more than sociology has, but for the anthropologist, what is at issue is how these *symbolically* relate to one another in an ideal schema taken to represent the cultural system as a whole rather than the interaction between real human and non-human objects. My point here is twofold. First, anthropologists do not go far enough—the point is not the *representations* of objects in human thought, but the objects themselves: that objects enter into relations with one another without the involvement of human agency or consciousness and that these relations between objects have consequences—sometimes for humans, but not always. (An NSA designed algorithm monitoring a Google designed algorithm leads to a FBI counter-terrorism team showing up at your front door.) The point here is that human societies are not limited to humans and the relations between those humans, but includes an unknowable plenitude of invisible objects and a great number of visible objects.<sup>13</sup> Indeed, in many ways, it makes as much sense to ask what are “human” societies for trees as it is to ask what are trees for “human” societies. That is, there are no certain or necessary grounds for privileging the sorts of relations one type of object is capable of entering into over those any other object is able to enter into. Thus, the language of association, alliance, assemblage, and collective

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13. Craig McFarlane, “Relational Sociology, Theoretical Inhumanism, and the Problem of the Nonhuman,” in *Conceptualizing Relational Sociology*, ed. François Dépalteau and Christopher Powell (New York: Palgrave Macmillan, 2013), 45–66.

has become preferable to the language of society and the social because social and society are taken to refer to humans and the relations they enter into with one another rather than the monstrous assemblage formed by humans, animals, plants, roads, garbage dumps, machines, and infinite other things.<sup>14</sup> Second, the attempt to include these various non-humans can only be legitimately performed when it is an analysis of pre-modern cultures or, rather, it is incorrectly believed that moderns are not amenable to total ethnographic analyses. Anthropological analysis of this sort cannot be performed on moderns because moderns believe that they have constructed a valid ontological distinction between nature and culture whereas they think premodern cultures confusedly mix-up these two distinct domains.<sup>15</sup>

The “non-human turn” must also be an “anti-anthropocentric turn.” Humans are not and can not be the primary reference point in social scientific and, indeed, humanistic research. After all, what do our colleagues in literature study if not books? What do our colleagues in history study if not archival documents? They do not directly study humans, but, rather, humans as mediated by a series of non-human technologies. Sociologists, in comparison, are confused: they believe they

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14. Manuel DeLanda, *A New Philosophy of Society: Assemblage Theory and Social Complexity* (New York: Continuum, 2006); Bruno Latour, *Reassembling the Social: An Introduction to Actor-Network-Theory* (Oxford: Oxford UP, 2005); and Bruno Latour, *An Inquiry Into Modes of Existence: An Anthropology of the Moderns*, trans. Catherine Porter (Cambridge: Harvard UP, 2013).

15. Philippe Descola, *Beyond Nature and Culture*, trans. Janet Lloyd (Chicago: University of Chicago Press, 2013) and Bruno Latour, *We Have Never Been Modern*, trans. Catherine Porter (Cambridge: Harvard UP, 1993).

directly study humans, but what they actually study are social relations. The human must be put in its place and it needs to accept that anthropocentrism is, at best, an unavoidable collective delusion that results from the inhuman influence of evolution on our cognitive constitution. That it is unavoidable in no way effects the fact that it is delusional. To understand the social, we, as sociologists, must study all the objects that contribute to the social—including, but not limited to, humans. While most sociologists will want to limit themselves to a sociology *for* humans and *about* humans, we ought to recognize that theoretically, methodologically, and even politically, the idea of a sociology “*for* humans” and “*about* humans” is becoming as quaint as garden gnomes.<sup>16</sup>

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16. Even Bruno Latour and the majority of his followers remain within the orbit of anthropocentrism insofar as their studies are *for* humans even if they are *about* or *concern* non-humans. In other words, they have not drawn political or ethical conclusions from their work except that non-humans ought to be included in social scientific and humanistic studies. My point here is that much work that can be labelled “post-human” admits the *relevance* of the non-human to the human (hence, *post*-human), but it remains humanist insofar as it rejects consideration of the political or ethical consequences of the non-human (hence, *post-human*). For instance, Ian Bogost, after making an impassioned attack on anthropocentrism, immediately turns to an explicit denial of the political and ethical relevance of anti-anthropocentrism: “The risk of falling into anthropocentrism is strong. Indeed, I’ll take things farther: anthropocentrism is unavoidable, at least for us humans. The same is true of any unit (for the bats, chiropteracentrism is the problem). The subjective nature of experience makes the unit operation of one of its perceptions amount always to a caricature in which the one is drawn in the distorted impression of the other. This is true not only of the encounter itself but also of any account of the encounter, which only further distances the one from the other by virtue of the introduction of additional layers of mediation.” Ian Bogost, *Alien Phenomenology, Or What It’s Like To Be A Thing* (Minneapolis: University of Minnesota Press, 2012), 64-5. The point, as far as it goes, is correct: anthropocentrism does not describe reality, but the perception of reality by humans and, thus, the human is trapped in anthropocentrism epistemologically just as the bat is trapped in chiropteracentrism epistemologically. That humans experience the world as humans do and that bats experience the world as bats do does not elevate one form of experience over the other in any way. That is, they are ontologically equal. Hence, epistemologically, we are trapped in anthropocentrism, but we shouldn’t draw any metaphysical conclusions from this fact. The same holds for the bat. While Bogost

### 1.3 Why Early Modernity?

An important influence on my argument is Bruno Latour, especially his book *We Have Never Been Modern*, which argues that early modernity instituted a new epistemological and ontological regime such that there was a hard, non-porous division between culture and nature and between the human and the non-human that rested upon a hidden foundation where the human and non-human could freely hybridize.<sup>17</sup> Similarly, political theorist Paolo Virno, in his short book *A Grammar of the Multitude*, argues that our political concepts (the argument seems equally applicable to our sociological concepts as well) have expired; they have lost their explanatory force and political usefulness. Consequently, new concepts must be forged.<sup>18</sup> While Latour and Virno are making their arguments for significantly

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rejects the metaphysical significance of anthropocentrism, he happily re-asserts anthropocentrism when it comes to politics and ethics: “An object enters an ethical relation when it attempts to reconcile the sensual qualities of another object vis-à-vis the former’s withdrawn reality. Perhaps counterintuitively, ethics is a self-centred practice, a means of sense making necessitated by the inherent withdrawal of objects. It is a filing system for the sensual qualities of objects that maps those qualities to internal methods of caricature, a process often full of struggle. Here we find the limits of metaphorism and a good reason to respect anthropomorphism’s frontier. [...] It is not the relationship between piston and fuel that we frame by ethics but our relationship to the relationship between piston and fuel.” Bogost, *Alien Phenomenology*, 77-8. If ethics is, as Bogost maintains, an aesthetic relation between two objects, it follows that it is an aesthetic relation between *any* two objects, regardless of whether or not a human is one of those objects or if there is a human to witness the relation between those objects. We should also note the slippage between *anthropocentrism* and *anthropomorphism* in Bogost’s argument.

17. Latour, *We Have Never Been Modern*. See also Descola, *Beyond Nature and Culture*, Bruno Latour, *Politics of Nature: How to Bring the Sciences Into Democracy*, trans. Catherine Porter (Cambridge: Harvard UP, 2004) and Latour, *Modes of Existence*.

18. Paolo Virno, *A Grammar of the Multitude: For An Analysis of Contemporary Forms of Life* (New York: Semiotext(e), 2003).

different reasons (Latour wishes to understand the invention of modernity and find a way out that includes the non-human; Virno wishes to uncover an alternative and suppressed modernity that is more human), they both locate the invention of modernity in the works of Thomas Hobbes. While Latour would like to inaugurate a new “non-modernity,” he would agree with Virno’s call for “a new seventeenth century.”

Both Virno and Latour make Hobbes central to their argument, but they oppose Hobbes to different problems. According to Virno, there was an immense struggle within political theory between Thomas Hobbes, understood as the advocate of “the one” and the People, and Benedict de Spinoza, understood as the advocate of “the plural” and the multitude.<sup>19</sup> Latour, on the other hand, opposes Hobbes, who subjects the production of knowledge about the natural world to sovereign authority because disputes about how the world really is necessarily have political effects and threaten the stability of the community, to Robert Boyle, the defender of the experimental method verified by reputable peers, who articulated a conception of the production of knowledge about the natural world that could not and should not be constrained by political considerations. In other words, in both natural philosophy and political philosophy there is a conflict regarding the autonomy of

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19. We should note that Virno is not claiming Hobbes is a democrat. On the contrary. He is claiming that “the People” entails a union of wills subsumed under a single will which directs them all. In comparison, the multitude preserves the singularity of each will.

the non-human from the human. The result of this was a double separation: on the one hand, a political distinction between the human and the non-human, called “purification” by Latour, and, on the other hand, a suppressed mixing of the human and the non-human operating “below” the human/non-human distinction, called “hybridization” by Latour.

Although focusing on different aspects of Hobbes’s thought, both Latour and Virno agree that Hobbes was largely successful against his opponents.<sup>20</sup> In other words, modernity is profoundly Hobbesian. He managed not only to defend an ontological divide between nature and culture, but also to define the sorts of beings proper to each ontological domain: non-humans belong in nature while humans belong in culture. While both agree that Hobbes won, they also maintain that this victory ultimately led to terrible results and consequences. Thus, on the one hand, we have the genesis of our present in seventeenth century social and political theory and, on the other hand, we have an archive of forgotten and suppressed debates where the outcome was completely unknown and open to a variety of different possibilities.

In what follows, I re-open some of the foundational texts of early modern political and social theory with an eye to how they theorize—or fail to theorize—the human/non-human distinction. Thus, I pay particular attention to how the op-

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20. With the proviso that Boyle won in the domain of scientific epistemology.

position between nature and civil society is mobilized by Thomas Hobbes, Samuel Pufendorf, and John Locke. While all these theorists attempt to articulate a qualitative difference between humans and all other beings, they do so on different grounds and to different ends. None the less, they all construct a concept of the human and attempt to immunize the human from the non-human. The concept of immunize is borrowed from Roberto Esposito who juxtaposes the ideas of community and immunity.<sup>21</sup> According to Esposito, community points to the common, that which we all share, to which we owe an obligation, and to which there is the structure of the gift. Community exceeds the individual and the particular, extending into the collective and the common. Meanwhile, immunity is not the outside of the community, but is co-extensive with the community: while some members are bound to the communal obligations, others are immunized from these obligations. That is, that which is immune from the community is denied the collective benefits of the community. Immunity then shields both the community from the immune object and separates the immune object from the community.

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21. Roberto Esposito, *Bíos: Biopolitics and Philosophy*, trans. Timothy Campbell (Minneapolis: University of Minnesota Press, 2008), Roberto Esposito, *Communitas: The Origin and Destiny of Community*, trans. Timothy Campbell (Stanford: Stanford UP, 2010), Roberto Esposito, *Immunitas: The Protection and Negation of Life*, trans. Zakiya Hanafi (Cambridge: Polity, 2011), and Roberto Esposito, *Third Person: The Politics of Life and Philosophy of the Impersonal*, trans. Zakiya Hanafi (Cambridge: Polity, 2012). For an excellent introduction to Esposito's thought, see Timothy Campbell, "Bios, Immunity, Life: The Thought of Roberto Esposito," *Diacritics* 36, no. 2 (2006): 2–22.

## 1.4 Speculative Anthropology

The term “speculative anthropology” may seem foreign, especially given that there is a similar and more familiar term; *viz.*, “philosophical anthropology.” Immanuel Kant provides one of the standard views on the meaning of philosophical anthropology when he distinguishes between a “physiological knowledge of the human being,” that is, the human as a physical, organic thing, and the “pragmatic” knowledge of the human being, that is, “of what *he* [as opposed to nature] as a free-acting being makes of himself, or can and should make of himself.”<sup>22</sup> Kant comments, “the most important object in the world to which he can apply them [knowledge and skill] is the human being: because the human being is his own final end.”<sup>23</sup> Thus, for Kant, philosophical anthropology does not concern that which unites the various sorts of beings in their commonalities (for instance, their physiology or their mutual limitation by the physical laws of the universe), but in the difference between one type of beings (humans) and all other types of beings (non-humans). This difference, according to Kant, is that one is free and self-determining (humans) while the other (non-humans) is not. In other words, Kant presents a world divided between natural determined beings and free human beings. Humans, a single species, possesses humanity, while the other millions of animal species are united in their sheer

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22. Immanuel Kant, *Anthropology from a Pragmatic Point of View*, ed. and trans. Robert B. Loudon (Cambridge: Cambridge UP, 2006), 3.

23. *ibid.*

difference through their shared animality—something that humans must overcome or have overcome or, possibly, never possessed at all.<sup>24</sup> The gap between humanity and animality is absolute: it radically separates humans and animals such that humans are free, autonomous, self-determining beings who can take themselves as their own ends while animals are instinctual, heteronomous, determined beings who serve as nothing but potential instrumental means for humans.

Regardless of the merits of developing one’s humanity as an end, Kant assumes a speculative distinction—humans are qualitatively different from non-humans in a way that groundhogs are not qualitatively different from non-groundhogs—and then proceeds to elaborate a “philosophical” anthropology on the basis of that speculative distinction. That is, having assumed the speculative distinction between humans and non-humans, including the view that such a distinction is tenable, useful, and coherent, Kant proceeds to develop that distinction philosophically. For instance, given the constraints of an ordered and law-like natural world, how can humanity be free from the chain of necessarily caused events? From a false premise, anything follows—including humanity.

The problem with philosophical anthropology, however, is twofold. First, in seventeenth century social and political thought, there is no clear distinction be-

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24. On Kant’s views of the human overcoming the animal, see Immanuel Kant, “Conjectures on the Beginning of Human History,” in *Kant: Political Writings*, ed. H.S. Reiss, trans. H.B. Nisbet (Cambridge: Cambridge UP, 1991), 221–34.

tween the physiological and the pragmatic in Kant's sense. Rather, the divisions between human and animal, human and vegetable, human and mineral, and human and divine are porous, shifting, and unstable. There is no necessary sense, as with Kant, that the natural concerns the heteronomous while the human concerns the autonomous. Indeed, Kant's view is an outcome of these seventeenth century debates. Second, in seventeenth century social and political theory, the point of the anthropological exercise is not pedagogical as it is with Kant. For Kant, the point of philosophical anthropology is to develop the human *qua* human; to achieve enlightenment, which is "man's emergence from his self-imposed immaturity."<sup>25</sup> Thus, for the seventeenth century theorists, this anthropology is not philosophical in Kant's sense, but is speculative because for them the human community does not have the purpose of realizing lofty final ends, but in securing much more pragmatic goods such as the security of the body and property.

Speculative might be seen as a term of derision—"You're just speculating!" one might accuse. Some might quote the philosopher saying, "Whereof one cannot know, one cannot speak." Perhaps, but one can speculate. If a lion could speak, we might not be able to understand, but there is no harm in trying. That is, there is no harm in speculating. It is thus worthwhile to develop this concept of speculative anthropology—an anthropology which is not scientific or philosophical, but which

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25. Immanuel Kant, "An Answer to the Question: 'What is Enlightenment?'," in *Kant: Political Writings*, ed. H.S. Reiss, trans. H.B. Nisbet (Cambridge: Cambridge UP, 1991), ?

freely and inconsistently draws upon both. This isn't a call for ignorance, nihilism, or wilful error, but a call for not only seeing, but also enacting, other relations between the human and the non-human.<sup>26</sup> In other words, speculative anthropology starts to look a lot like science fiction, or as its more literary practitioners prefer, speculative fiction:

Speculative fiction: stories whose objective is to explore, to discover, to *learn*, by means of projection, extrapolation, analogue, hypothesis-and-paper-examination, something about the nature of the universe, of man, of 'reality.' [...] I use the term 'speculative fiction' here specifically to describe the mode which makes use of the traditional 'scientific method' (observation, hypothesis, experimentation) to examine some postulated approximation of reality, by introducing a given set of changes—imaginary or inventive—into the common background of 'known facts,' creating an environment in which the responses and perceptions of the characters will reveal something about the inventions, the characters, or both.<sup>27</sup>

In this widely quoted definition of speculative fiction, Judith Merrill could as much be talking about Margaret Atwood's literary "ustopias" as seventeenth century accounts of the "natural condition of mankind." We might chide Merrill for equating speculation with the scientific method, but we can find some value in her brief outline of the term. This means that science fiction is much more "philosophical" than is widely recognized and theory is much more "fictional" than is widely

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26. In the final chapter I will argue that speculative anthropology ought to be replaced with a speculative *misanthropology*. But, for the purposes of this chapter, we can allow these two concepts to remain undifferentiated.

27. Judith Merrill, "What Do You Mean: Science? Fiction?," in *SF: The Other Side of Realism*, ed. Thomas D. Clareson (Bowling Green: Bowling Green University Popular Press, 1971), 60. Emphasis in original.

recognized.<sup>28</sup>

By speculative anthropology, I mean the practice of constituting the world in thought in the absence of certain knowledge and, when certain knowledge is available, integrating that knowledge into our constitution of the world in thought. This runs the risk of privileging authors as world-builders, whether those authors are philosophers, sociologists, novelists, or screenwriters. But this is not necessarily the case. A built world requires inhabitants—they must be written into the world, but once present they can have unforeseen consequences. Authors cannot control their characters and philosophers cannot control their concepts—they have a life of their own. Plus, the fan-base loves fan-fiction or, in an academic context, writing commentaries and interpretations. The audience feeds-back into the world. World-building and speculation are thus equivalent—we see the world how it is, how we believe it is, and how it could be.<sup>29</sup> We can speculate about Martian colonies and ancient astronauts—just as cats can speculate that a ball of foil is a mouse. Speculation and play are closely related, but that doesn't mean that it is all fun and

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28. The state of nature is as “ustopic” as Atwood’s Gilead in her *The Handmaid’s Tale*. Atwood uses the term ustopia to refer to the mutual implication of the utopian and the dystopian. This in part accounts for why the state of nature can range from absolutely terrible (Hobbes) to pretty nice (Rousseau) to absolute perfection (pre-lapsarian Eden). Margaret Atwood, “Dire Cartographies: The Roads to Ustopia,” in *In Other Worlds: SF and the Human Imagination* (Toronto: Signal, 2011), 66–96.

29. A promising development in recent sociology is Erik Olin Wright’s “Real Utopias” project. However, as presently practiced, these real utopias are not only surprisingly undaring—Wright’s primary example is a guaranteed minimum income—but also exceedingly humanist and anthropocentric. Erik Olin Wright, *Envisioning Real Utopias* (London: Verso, 2010).

games—a mere lark—it’s as serious as cancer. Speculative anthropology, then, is not just something that early modern theorists did in the absence of a properly philosophical or scientific anthropology. These are different beasts and the existence of one does not negate the need for the other. (“Now we are scientific, we can finally leave speculation behind!”) Nor does one reduce to the other. (“Speculation is science done poorly in the absence of true knowledge about the world.”) Speculation is not simply guessing. It is a guess insofar as it exceeds the available evidence, but it is also more than this: it is a proposal. As a proposal about the world and how beings relate (or not) to one another in that world, the possibility that things could be otherwise resides within it.

## **1.5 The Human as a Problem**

With these preliminary matters settled, I can turn to the problematic I will explore in the chapters that follow. Namely, why and how did early modern social and political theory develop a speculative anthropology which would persist, with only minor refinements, until the recent past? The seventeenth century was a period of rapid and distinct change. In order to recognize these significant changes, the term “early modern” has been invented to describe this period, one which falls between the so-called Renaissance (still more medieval than modern) and modernity (more modern than early modern). The result is that the early modern period is

strongly contested and very malleable because it has no clear or obvious temporal and geographical boundaries.<sup>30</sup> As a result, periodization is always a discursive artefact more than a lived experience. Boundaries are always permeable, shifting, never agreed upon, and were not experienced as such by those living in them. As a result, we can legitimately ask if there was, for instance, a Renaissance for women or was the Renaissance, as a historical period, only experienced by men?<sup>31</sup> In other words, as a means of dividing up historical time, “eras” or “periods” do not apply universally to those who, technically, lived in them. What makes something “early” early modern rather than late medieval? What makes something “late” early modern rather than modern? Can one part of a country be in the Renaissance while another is in early modernity? In part, these questions are unanswerable because it confuses a continuous variable with a discrete variable—stylistically and rhetorically it is nice to say “Yes, early modernity began on this day with this event,” but this is nothing more than mere rhetoric and stylistic flourish.

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30. For an informative discussion of “early modernity” as a period and as a concept, see Jeffrey Jerome Cohen, “In the Middle of the Early Modern,” *Journal for Early Modern Cultural Studies* 13, no. 3 (2013): 128–32; Helen Cooper, “The Origins of the Early Modern,” *Journal for Early Modern Cultural Studies* 13, no. 3 (2013): 133–37; Mitchell Greenberg, “The Concept of ‘Early Modern,’” *Journal for Early Modern Cultural Studies* 13, no. 2 (2013): 75–9; Laura Mandell, “Digitizing the Archive: The Necessity of an ‘Early Modern’ Period,” *Journal for Early Modern Cultural Studies* 13, no. 2 (2013): 83–92; Andrew McConnell Stott, “Yr ysgol Gymraeg,” *Journal for Early Modern Cultural Studies* 13, no. 2 (2013): 80–2; and Nancy Bradley Warren, “In Praise of Messiness, or What is Gained by Losing Strong Periodization?,” *Journal for Early Modern Cultural Studies* 13, no. 3 (2013): 138–43.

31. Joan Kelly-Gadol, “Did Women Have a Renaissance?,” in *Becoming Visible: Women in European History*, ed. Renate Bridenthal and Claudia Koonz (Boston: Mifflin, 1977), 137–64.

Rather than pursuing a rigorous definition and demarcation of these points, I'm happy to say—fuzzily and tentatively—that I'm concerning myself with social and political theory in the period beginning in 1600 and ending in 1699 produced in the geographic region now called Western Europe. I select this period because it is at once distinct from the medieval era and from the modern era, while bearing important similarities to both. This period is significant because it saw new ways of organizing people and territory, developed new modes of economic production, and saw important developments in science, technology, and philosophy. All of these—and other important events, such as the colonization of the New World and the Atlantic slave trade—had significant consequences for how humans were understood to be and how humans were understood to differ from non-humans. I could have chosen others and I encourage others to do so, but I don't believe that had I focused on other texts, concepts, debates, and polemics I would have arrived at significantly different conclusions.<sup>32</sup> I could have written on Michel de

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32. The following cover periods before, during, and after the one I have chosen to study and largely cover theorists I do not discuss: Kelly Oliver, *Animal Lessons: How They Teach Us to Be Human* (New York: Columbia UP, 2009); Laurie Shannon, *The Accomodated Animal: Cosmopolity in Shakespearean Locales* (Chicago: University of Chicago Press, 2013); Hasana Sharp, *Spinoza and the Politics of Renaturalization* (Chicago: University of Chicago Press, 2011); Justin E.H. Smith, *Divine Machines: Leibniz and the Sciences of Life* (Princeton: Princeton UP, 2011); Justin E.H. Smith and Ohad Nachtomy, eds., *Machines of Nature and Corporeal Substances in Leibniz* (Dordrecht: Springer, 2011); Justin E.H. Smith, ed., *The Problem of Animal Generation in Early Modern Philosophy* (Cambridge: Cambridge UP, 2012); Karl Steel, *How to Make A Human: Animals and Violence in the Middle Ages* (Columbus: Ohio State UP, 2011); and Nathaniel Wolloch, "Adam Smith's Economic and Ethical Considerations of Animals," *History of the Human Sciences* 26, no. 3 (2013): 52–67. As pointed out by my supervisor, Brian Singer, there was an extensive fantastical and science fictional discourse in the seventeenth century which advocated something akin to the speculative misanthropology I call for in the final chapter. Cyrano de

Montaigne, Hugo Grotius, Gottfried Leibniz, and Benedict de Spinoza or I could have written on John Selden, Richard Cumberland, and Isaac Newton. Instead, I wrote on Charles Butler, Thomas Hobbes, Samuel Pufendorf and John Locke. Each and any of these thinkers—and many others—would have brought up the same or a similar set of problems, such as the relation of nature to culture, the (de)politicization of nature, the distinction between human and non-human, and the connection between the passions and reason among many other interesting and important issues. I chose to focus on Hobbes, Pufendorf, and Locke because they were considered to be important thinkers by their contemporaries and remain important thinkers for us in the twenty-first century.

In what follows I limit myself to a very small subset of the texts that fall into this temporal (seventeenth century) and geographically (Western Europe) demarcated zone, which I am calling early modern as a term of convenience in order to distinguish it from both the late medieval and modernity. Because I am a sociologist and, thus, because this is a sociology dissertation, I have been forced to limit myself to texts that have a clear significance for social theory or which could be construed as something resembling social theory. However, as we will see, the theorists of the seventeenth century had no conception of “the social.” That is, they were talking

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Bergerac’s *Comical History of the States and Empires of the Moon* (1657) and *The States and Empires of the Sun* (1662), as well as Margaret Cavendish’s *The Description of a New World, Called The Blazing-World* (1666) are exemplary in this regard.

about what *we* would understand as sociological problems and developing what *we* would recognize as sociological concepts, but *they* would have no awareness of doing so.<sup>33</sup> Certainly, they understood themselves as engaged with a novel theoretical project and one that was aimed at diagnosing, addressing, and curing the problems of their day, but they understood themselves as natural philosophers—as giving a rational account of the world on the basis of accepted first principles—and, thus, in opposition to previous accounts which ascribed purpose to nature or reduced society to nature. They did not have hypotheses (null or otherwise) nor did they have rigorously collected and methodologically policed empirical data derived from controlled experiments. Rather, they believed they had something resembling a scientific method and proceeded to make arguments on the basis of either rational deduction or subjective introspection.<sup>34</sup> Either way, despite an ostensibly scien-

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33. On the “discovery of the social” in the eighteenth century social theory, see Brian C.J. Singer, “Montesquieu, Adam Smith and the Discovery of the Social,” *Journal of Classical Sociology* 4, no. 1 (2004): 31–57 and Brian C.J. Singer, *Montesquieu and the Discovery of the Social* (New York: Palgrave Macmillan, 2013).

34. More accurately, there were a variety of competing views as to what counted as science, its proper method, its relation to mathematics, and its relation to philosophy. The experimental method was but one possibility and its emergence *as* science was not a certain outcome of these debates. See Steven Shapin and Simon Schaffer, *Leviathan and the Air Pump: Hobbes, Boyle and the Experimental Life* (Princeton: Princeton UP, 2011). This is the meaning of Shapin’s gnomic claim that “There was no such thing as the Scientific Revolution, and this book is about it.” Steven Shapin, *The Scientific Revolution* (Chicago: University of Chicago Press, 1996), 1. The point here is that science didn’t have a single moment of invention which inaugurated a distinct and decisive break between two eras, one scientific and the other non-scientific, but that scientific practices slowly and on an accidental and ad hoc basis gradually culminated in a body of knowledge and practices that would come to be called science. “Such historians [of science] now reject even the notion that there was any single coherent cultural entity called ‘science’ in the seventeenth century to undergo revolutionary change. There was, rather, a diverse array of cultural practices aimed at understanding, explaining, and controlling the natural world, each with

tific point of departure, science did not limit their speculative tendencies—they repeatedly allowed and, occasionally, insisted on letting their arguments escape the bounds of the reason imposed on them by their method. In other words, they were blissfully unaware of Kant’s policing—the critical project—of speculation by reason. Regardless of how methodologically unsound and unscientific we find their results to be, these natural philosophers were none the less certain they were more or less right (even if they did not agree on the details with one another) and that their arguments, conclusions, and discoveries had universal applicability.<sup>35</sup> They did not make claims about educated English men in the seventeenth century, they were making claims they believed held universally across all times and all cultures. However, they did not admit the existence of a distinct realm or sphere of life called “the social” which was characterized by its (relative) autonomy from other similar spheres or realms (e.g., the political, the economic, etc) and which was organized by principles, mechanisms, or laws immanent to it. Thus, speaking of social or sociological theory is a bit of a misnomer, but it is important to study these texts because they are the immediate theoretical pre-cursors to the actual theorization of the social in the eighteenth century. That is, these texts form the horizon in which

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different characteristics and each experiencing different modes of change.” Shapin, *The Scientific Revolution*, 3.

35. On the “persona” of the natural philosopher, see Stephen Gaukroger, *The Emergence of a Scientific Culture: Science and the Shaping of Modernity, 1210-1685* (Oxford: Oxford UP, 2006), Chapter 6.

concepts of the social were first elaborated.

This is why the seventeenth century is interesting and important: it saw significant change in social and political structures culminating in the modern state system; the beginnings of capitalism; an expansion of the colonial project that brought an infusion of more or less “ethnographic” data back to Europe; natural philosophy made important discoveries in chemistry, biology, physics, and mathematics among others; and it was a period of radical exploration and theoretical innovation in what would eventually become the social sciences. One could interpret these changes in a nearly infinite number of ways, but I’ll focus on one: all of these developments resulted in a radical re-thinking of the foundational relation between “the human” and the “non-human.”

Such an orientation is not the usual way these texts are approached. These texts are normally read as establishing what would become the vocabulary of modern social and political theory. That is, these texts attempted to not only theorize the emergence of the modern state system, new approaches to social, political and economic organization, and the proper ends or goals or purposes of the community, but to intervene in these debates such that particular normative ends could be achieved. For instance, who properly constitutes the state? The people? The king? Someone else? Does the people include the poor? The nobility? Or is the people co-extensive with the middle classes? What is the proper end of government?

Security? Protection of property? Poor relief? Prosperity? Can the citizens of a state overthrow the legally constituted sovereign? Does consent generate the sovereign? Does coercion and force generate the sovereign? Does God generate the sovereign? In many ways, these questions are the primary manifest content of debates in early modern social and political theory.

However, these texts can also be read with an eye to their latent content. That is, in order to ground these new concepts—e.g., the people, the state, etc—it was necessary to articulate a new conception of nature; one which was distinct from civil society, the state, the community, and culture (each of which, in turn, themselves had to be articulated). By making a distinction between nature (that is, everything that is “outside” culture) and culture (that is, everything that is “outside” nature), it was possible to situate a new division between the non-human (it belongs in nature) and the human (it belongs in culture) and, thus, compartmentalize these beings in their proper domains. The human could only be fully human when it was removed and immunized from nature. That is, an ontological distinction had to be articulated such that humans could be removed from the domain of physical laws and beastly passions, leaving them free to (more or less) construct their states as they saw fit.

In the following chapters, I will return to some of the fundamental texts of early modern social and political theory in order to show how the distinct ontological

realms of nature and culture, each with their own exclusive sets of beings, were created. Reading these texts with an eye to the consequences of these early modern debates, I look at how these concepts were made, how they were argued—and how this was done very inconsistently, not only between two theorists, but also within the arguments of individual theorists. This requires that I return to familiar thinkers, but in an unfamiliar way. I propose to study the successive attempts by Thomas Hobbes, Samuel Pufendorf, and John Locke to isolate the human from the non-human and thereby immunize the human from the threat of the non-human. For it is only through the isolation of the human from the non-human that the modern concept of the atomistic, rational, self-determining agent—the agent of sociology, economics, psychology, and political science—could emerge. These three thinkers draw upon the generic trope of the state of nature, which has a number of recurrent features:

1. It accepts that the world was created by God for man;
2. It accepts that the world has certain permanent, immutable features;
3. It accepts that humans also have certain permanent, immutable features;
4. It accepts that humans, despite their grounding in the laws of nature, also exceed those laws of nature;

5. It attempts to then relate this “natural” condition of the world and humans to the “artificial” condition of civil society.

As a result, these three thinkers develop a speculative anthropology of the human and attempt to derive society, politics, authority, law, order, religion, culture, and so on from this speculative anthropology.

As with all concepts, the concept of human, along with its “others,” which we can label as “non-human” for the sake of convenience, had to be made. Categories and concepts are not neutral, but relate to social organization and political struggle. Concepts are a particular representation of the world and are thereby mediated by the very relation to the world they represent. Likewise, because concepts and categories are made (even if this making is unconscious or unintentional), they are malleable and changing. That is, concepts and categories are not fixed.<sup>36</sup> The significance of early modernity for the concepts of human and non-human is that this period sits between two “fixings” of these concepts where they achieved a relative degree of stability. Early modern social theory is important because it is the point at which theorization ceases being “medieval” and starts to become

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36. Georges Canguilhem, *A Vital Rationalist: Selected Writings from Georges Canguilhem*, ed. François Delaport, trans. Arthur Goldhammer (New York: Zone Books, 1994); Emile Durkheim, *The Elementary Forms of Religious Life*, trans. Karen E. Fields (New York: Free Press, 1995); Emile Durkheim and Marcel Mauss, *Primitive Classification*, trans. Rodney Needham (Chicago: University of Chicago Press, 1963); Elder-Vass, *The Reality of Social Construction*; Michel Foucault, “Nietzsche, Genealogy, History,” in *The Foucault Reader*, ed. Paul Rabinow (New York: Random House, 1984), 76–100; Ian Hacking, *Historical Ontology* (Cambridge: Harvard UP, 2002); and John R. Searle, *The Construction of Social Reality* (New York: Free Press, 1995).

recognizably “modern” without being either of these: it challenges what came before it while setting the stage for what comes after it. As a result, early modernity saw many attempts to articulate new conceptions of the human and non-human.

## 1.6 Epicureanism and Anthropocentrism

The distinction between human and non-human is foundational because it forms the basis for important concepts and social relations such as politics, society, morality, and culture. In effect, the political and social depend upon a distinction between the human and the non-human. In the tradition of political theory emerging out of the ancient Greeks, to be human was to be a political animal. This meant that only humans (= *homo sapiens*) who could engage in politics and who did engage in politics were fully human (=moral, political persons). Thus, seeming or apparent humans, such as slaves, barbarians, and women, were not human in the same way as male, adult, Greek-speaking citizens of the *polis*. That is, the problem was not the human versus the non-human, but how human were humans? The way different people were sorted in relation to the human affected the various roles they could fill in the community, their rights, how the law affected them, the sorts of power they were susceptible to, and so on. In other words, the degree to which you were human had severe consequences for the quality of your life. As a result, while we would be inclined to view all members of *homo sapiens* as humans, ancient Greek

political theorists were happy to exclude the vast majority of *homo sapiens* from the category of human.<sup>37</sup> My claim is that while a biological or evolutionary concept of human was not possible in the seventeenth century (because biology, including evolutionary theory, did not yet exist), precursors to this biological, scientific conception of humanity was established. None the less, the seventeenth century natural philosophers understood the physical constitution of the human body in a way that had significant consequences for its understanding in normative terms. The cause of the new approach to the human was forced by discoveries in natural philosophy, which both increased and reduced the apparent differences between humans and non-humans.<sup>38</sup> That is, seventeenth century natural philosophy saw a return to Epicureanism, which minimized the differences between the human and the non-human, so long as this was limited to each considered as natural entities, and which maximized the differences between the human and the non-human, so long as this was limited to normative concerns external to them as natural entities.

The flattening influences of Epicureanism were countered by a new anthropocen-

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37. The unexplored gap between the ancient problematic of the human and the modern problematic of the human is that of early Christianity, where the moral person is conflated with the physical person in the eyes of God: “There is no longer Jew or Greek, there is no longer slave or free, there is no longer male and female; for all of you are one in Jesus Christ.” Galatians 3:28–9.

38. This suggests a particular alliance between the sciences and politics in modernity such that science is able to claim a non-political or de-politicized nature as its domain while politics and, more generally, the social sciences, is able to claim society as its domain. Despite the distinction between the two domains, politics is none the less dependent upon non-political sciences and a de-politicized concept of nature.

trism. What is especially significant was that, in principle, this new concept of human was universal.<sup>39</sup> Unlike the ancients, all humans were in principle equally human.<sup>40</sup> This resulted in a radical separation of the human from everything else. This “everything else” became the non-human and it was internally divided into a series of equally abstract and universal categories: the animal, the vegetable, the material, and so on. In other words, the universality of the human was contingent on an anthropocentrism that radically separated the human from the non-human and licensed the human to dominate and exploit the non-human.<sup>41</sup> What should be obviously apparent is that each of these non-human categories is characterized by greater *internal* difference than the difference is between these categories and the human, but this is often overlooked. This is especially evident in the case of the human and the animal. While it makes intuitive sense to use the category “the human” because it consists of a single species, it is far less intuitive to include *all* animal species *except* humans in the category “the animal” because there is more in common between a wolf and a human than there is between a wolf and a giant squid. This internal difference is eradicated through abstraction. While I will speak, generally, of the distinction between the human and the non-human,

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39. Again, as a consequence of Christianity.

40. Note: this does not imply that all humans are or should be equal. Indeed, the hypothetical equality of all humans, naturally considered, was the driving force behind the inherent violent instability of the state of nature in Hobbes’s estimation.

41. However, it must be noted that this is not a necessary logical entailment, but a political and moral decision.

the decisive point of contestation—in both early modernity and the present—is the distinction between the human and the animal. While the impetus for the reformulation of these concepts in the seventeenth century was scientific, the result was an irrational anthropocentrism that attempted to separate humans from all other creatures and thereby justified the domination and exploitation of the non-human by the human in the name of universal dignity and humanity.

In light of scientific discoveries, early moderns began to rapidly question and challenge the pre-modern view of nature as purposive and teleological.<sup>42</sup> In place of this understanding of the world, the early moderns developed an understanding of the world as being comprised of atomistic matter in motion divorced from purpose and intention, aside from, perhaps, God's original creation of the world and putting that matter into motion in the first place.<sup>43</sup> The rediscovery of ancient Epicureanism was a major influence on early modern natural philosophy, including early modern social and political theory. According to Catherine Wilson,

The central premises of the Epicurean system were its denial that any supernatural agents engaged in the design, generation, maintenance, or moral regulation of the world; its assertion that self-moving, subvisible material particles acting blindly, without intention or purpose, bring

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42. This pre-modern view was, in very simplified terms, a combination of Aristotelean metaphysics and Christian theology.

43. This view was not *historically* unique—a version of it had been articulated by Democritus, Epicurus, and Lucretius, among others, at various points in antiquity. However, this Epicurean view of purposeless matter in motion was very influential on seventeenth century natural philosophers and had consequences for their understanding of not just matter and motion, but also their political and moral theories. Their critics quickly decried them as atheists for erasing God's agency from the world.

about all growth, change, and decline; and its insistence that the point of ethical discipline and self-denial could only be the minimization of mental and physical suffering. The philosophically and morally attractive features of Epicureanism were its integration of human beings into the natural, the postulate of human equality it implied, and the notion that pain and pleasure, both psychological and physical, mattered, regardless of who was experiencing them and what that person's status or merits might be. The Epicurean presentation of law and justice as needing legitimation in terms of the benefits to men submitting to authority was a rejection of de facto hierarchies.<sup>44</sup>

If the regularity of the world—including the moral, social and political world—had been guaranteed by divine providence and if this providence had been abandoned, a new source of regularity had to be articulated. This necessitated large scale revision of the accepted understanding of society, politics, and morality that would be congruent with the new concept of nature as matter in motion. One inescapable conclusion was that humans and other entities were equally composed of this purposeless matter.<sup>45</sup> Some embraced this view, although they were a distinct minority and ultimately lost the debate. However, this conflicted with humanity's sense of itself that humans were not just mere matter in motion. Consequently, it became an urgent need to articulate a new conception of “the human” in relation to “the non-human,” including animals, plants, and matter, which allowed humanity to

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44. Catherine Wilson, *Epicureanism at the Origins of Modernity* (Oxford: Oxford UP, 2008), 37.

45. In addition to the already cited *Epicureanism at the Origins of Modernity*, see Domenico Bertoloni Meli, *Thinking With Objects: The Transformation of Mechanics in the Seventeenth Century* (Baltimore: The Johns Hopkins UP, 2006), Chapter 5 on the revival of atomism in seventeenth century natural philosophy.

regain its exceptional status. That is, a key benefit of the teleological conception of nature was lost; *viz.*, the centrality of humans in the universe according to God's divine plan. Thus, while the idea of matter in motion was generally accepted among the natural philosophers (if not necessarily by anyone else), what was not accepted or what could not be accepted was the possibility that human political communities and social existence was also merely matter in motion for this would mean that human relations were no different than melting ice. Atomistic, purposeless accounts of nature implied that humanity was likewise without purpose and of no cosmic significance. After all, if one motion was caused by another previous motion *ad infinitum*, everything was determined and everything that happened *had* to happen. Not only is purpose removed from nature, but so too is God's presence except insofar as God was the one who originally set matter into motion through the creation of the universe. In other words, a natural, physical understanding of the universe potentially destroyed the foundations of freedom and free will. One cannot simultaneously be a mere billiard ball and a rational, free, self-determining agent. Hence, there was a new urgency in articulating why humans, although also matter in motion like all the other things in the universe, were not *just* mere matter in motion. While the concept and mathematics of probability "suddenly emerged" in the years "around 1660," which situates two of my chosen theorists (Butler and Hobbes) prior to this discovery and the other two (Pufendorf and Locke) after this

discovery, it does not seem to be the case that the mathematics of probability—unlike the mathematics of Newton’s physics and Euclidean geometry—had any significant influence on social, moral or political thought in the years surrounding its discovery.<sup>46</sup> Indeed, attempts to apply mathematics, beyond attempts to geometrically derive propositions deductively (as with Hobbes), to social or political phenomena were incredibly crude. Even William Petty’s “political arithmetick,” developed in the early 1660s, barely extended beyond extrapolation from simple means.<sup>47</sup> Hence, there was a theoretical conflict between the Epicurean theory that maintained humans were natural things like any other naturally occurring thing and thus subject to deterministic natural laws and the observational fact that humans could—and did—exercise freedom, including free actions in accordance with dispassionate reasoning. As a result, it became theoretically necessary to establish that humans were not *just* animals, that humans are free, that humans can perfect themselves and their communities—that animality and inhumanity could be purged, regulated, or dominated, especially through the free use of reason. As a

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46. Ian Hacking, *The Emergence of Probability: A Philosophical Study of Early Ideas About Probability, Induction, and Statistical Inference* (Cambridge: Cambridge UP, 1975), 1. While probability was articulated as a mathematical concept in the mid-seventeenth century, the world was still largely seen and understood in necessary and deterministic terms. It was not until the nineteenth century that “it became possible to see that the world might be regular and yet not subject to universal laws of nature.” Ian Hacking, *The Taming of Chance* (Cambridge: Cambridge UP, 1990), 1. An indeterminate understanding of nature would have to wait until the twentieth century.

47. Hacking, *The Emergence of Probability*, 102-10.

result, the natural philosophers became speculative anthropologists.

The early modern intervention into the divide between human and non-human was gradually solidified, if not because of any real consensus. Most agreed that humans were not animals, or billiard balls, or beech nut trees, but they had no clear and uncontroversial way to conceptualize these distinctions. Anthropocentrism was accepted and defended, but not on consistent grounds. The general trend was to assert that one characteristic or capacity radically separated humans from animals—whether communal living, language, art, morality, grieving—and new evidence always emerged to show that at least *some* animals possessed these capacities and that not *all* humans possessed these ostensibly distinctive human traits: in other words, some animals *should* be regarded as “human” and some humans *should* be regarded as “animals.” (This is why speculation is not and cannot be limited by reason, even if its basis is rational, insofar as it remains speculation.) However, this logical conclusion is rarely, if ever, followed. Rather than *abandon* the search for a certain difference and reject anthropocentrism, many doubled-down by constantly raising the stakes.<sup>48</sup> For whatever reason, for some it is preferable to raise the stakes than it is to admit defeat. The present, like the seventeenth century, is witnessing new challenges to the conceptual order of the world due to new technologies and sci-

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48. But, note, anthropocentrism can be elaborated in a variety of ways and with different effects. The same holds for anti-anthropocentrism. Thus, a non-anthropocentric ontology is not necessarily virtuous.

entific discoveries, along with new, emerging forms of social, political, and economic organization. As a result, our present period is facing a crisis with respect to the distinction between the human and non-human. We no longer know what a human is—if we ever really did—but, at least, we have the opportunity to avoid asserting a new reactionary humanism and to finally let go of anthropocentrism. In effect, the period between the seventeenth century and the present has been one very long interminable struggle and failure to come to grips with the fact that humanity has no cosmic significance and *sub species aeternitas* the face and significance of humanity is of no greater significance than that of *drosophila melanogaster*.

## 1.7 Some Other Goals

While the primary goal of this dissertation is to meet its express objective (*viz*, an outline of early modern speculative anthropology focusing upon some of the key texts of the period), I have two other implicit and less obvious aims.

First, I welcome the dissolution of the speculative anthropology developed by the early moderns and refined by their modern heirs because I think that it has had dangerous and pernicious consequences for all living beings—humans, animals, and even vegetables. However, the mere dissolution of this speculative anthropology is not sufficient to address these very real evils. The early moderns paved the way for the commodification and technification of life; the belief that life itself

can be economically exploited and transformed into sources of revenue and profit. Contemporary speculative anthropology—evolutionary psychology, neuroscience, synthetic biology, and trans-humanism among others—promises to complete the process of commodification and finally transform life itself into technology. The present, then, is in a moment comparable to that of the seventeenth century: new scientific developments are once again threatening the distinction between human and non-human. As with our forebears in early modernity, we do not and can not know how the human will be re-established on new grounds. This uncertainty regarding the human presents an ideal opportunity to intervene. A re-articulation of anthropocentrism in politics and ethics is a danger to all living beings, including humans. The singular existence that applies to each and every human also applies to all living beings. All lives are equally singular, equally alive, and have an equal stake in their own existence; that is, all living beings have precarious lives and it is this precarity which unites all living beings, both human and non-human.<sup>49</sup> As with the seventeenth century, the present is witnessing the feeding-back of the human/non-human distinction on itself within each of these categories: some humans have become as disposable as some non-humans and some non-humans have become as indisposable as some humans. Thus, my call is not Kant's call—I don't want to get rid of speculation, but to develop a new form of speculation capable of making

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49. James Stanescu, "Species Trouble: Judith Butler, Mourning, and the Precarious Lives of Animals," *Hypatia* 27, no. 3 (2012): 567–82.

the world a better place for all beings. Given that speculative anthropology has always unjustifiably favoured the human over the non-human, I call for a speculative misanthropology, which does not hate humans (the usual meaning of misanthropic), but which relegates the human to its proper place—as one sort of being among infinite other beings; a flat ontology that does not distinguish between human and non-human (because such a distinction is not only impossible, but undesirable), except where such a distinction is useful and informative, for there is much more non-human in the human than we are willing to admit and there is much more human in the non-human than we are willing to admit.<sup>50</sup>

Second, I want to challenge received opinions within the animal ethics and animal studies literatures, not because I do not agree with their aims and intent (I do), but because it rests upon a theoretical and historical error, largely for the sake of rhetorical convenience. An overwhelming number of scholars attribute too much causal force to Descartes's attempt to distinguish humans from non-humans on the basis of the possession of a soul and therefore miss out on the significant controversies in seventeenth century social and political theory regarding this distinction.<sup>51</sup>

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50. Donna Haraway calls this mutual imbrication of the human and non-human a “natureculture.” Bruno Latour calls it a “hybrid.” I prefer the much simpler term: ecological. See Donna Haraway, *The Companion Species Manifesto: Dogs, People, and Significant Otherness* (Chicago: Prickly Paradigm Press, 2003); Donna Haraway, *When Species Meet* (Minneapolis: University of Minnesota Press, 2008); and Latour, *We Have Never Been Modern*.

51. A brief sample of discussions of this passage or discussions implicitly relying upon this

It is routinely maintained that Descartes viewed animals as little more than clocks and that this view was *widely* shared among a group of people called Cartesians (although the membership list for this group is rarely circulated), but, depending on the source, it ranges from a few scientists to literally everyone alive in the seventeenth century. This view is derived from Descartes's claim that there are two types of substance: mind and body. According to Descartes, it is only in humans

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passage: "By restating this distinction in explicitly rationalist terms, however, and by turning nature into a master craftsman, Descartes made the human-animal divide a building block of Enlightenment thought. Descartes also went beyond a biblical understanding of the superiority of reason over instinct by implicitly extending humanity's right, in its quest for mastery over nature, to manipulate, exploit, and ultimately consume or discard nature's machines. An animal that is like a cuckoo clock can be discarded without the slightest guilt [...]" Richard W. Bulliet, *Hunters, Herders, and Hamburgers: The Past and Future of Human-Animal Relationships* (New York: Columbia UP, 2005), 45. "Some scholars dispute whether Descartes really believed that animals were not sentient, but if he did, he would have been unusual." Gary Francione, "Introduction," in *Animals as Persons: Essays on the Abolition of Animal Exploitation* (New York: Columbia UP, 2008), 3. "In Descartes's view, it is as senseless to talk about our moral obligations to animals, machines created by God, as it is to talk about our moral obligations to clocks, machines created by humans." Gary Francione, "Animals—Property or Persons?," in *Animals as Persons: Essays on the Abolition of Animal Exploitation* (New York: Columbia UP, 2008), 29. "Pain, for Descartes, is a cognitive event and animals do not have the rational capacities that humans have, and therefore they do not feel pain like humans. A history of human domination—in experimental practices, meat-eating, farming—emerges from and finds support in such a concept of animal lack, even as that lack [...] appears to be a benefit." Erica Fudge, *Pets* (Stocksfield: Acumen, 2008), 61-2. "As we know, for Descartes, animals are automata like machines that merely react to stimuli but do not have any true responses; because they don't have language, they don't have souls. They are the opposite of humans who are free, rational, and have souls. In the Cartesian scenario, the automatic reactions of animals assure us of the freedom of our own—we are not animals; therefore, we are not automata. Animals not only operate to assure us, but they also make us *certain* about what is clearly at and distinctly different between man and animal." Oliver, *Animal Lessons*, 26-7. "One very powerful and long-standing idea comes from Descartes. It is all too well known that it was at the heart of the Cartesian notion to presume that all animals are genetically hard-wired, unaware of their actions, and act purely mechanistically. This view has been one of the most enduring standpoints in science and popular culture, and it might as well be spelled out here again because of the enormous influence such thinking has had on the way science is conducted." Lesley J. Rogers and Gisela Kaplan, "All Animals Are *Not* Equal: The Interface Between Scientific Knowledge and Legislation for Animal Rights," in *Animal Rights: Current Debates and New Directions*, ed. Cass R. Sunstein and Martha C. Nussbaum (Oxford: Oxford UP, 2004), 193.

that both sorts of substance are found, even if these two substances can never interact with one another. This would mean that all non-humans are only extended bodily substance. On this basis, it is then concluded by Descartes's critics that animals, being only bodies, are completely devoid of sensation and, therefore, do not feel pain. John Cottingham has cogently argued that this view of Descartes is false. Cottingham agrees, that for Descartes, animals are machines, are automata, that they are devoid of thought, that they have no language, and that they lack self-consciousness. However, Cottingham argues that Descartes admitted animals were conscious, which means that Descartes himself rejects the "monstrous thesis" attributed to him that "animals are totally without feeling."<sup>52</sup>

Descartes's point is that *all* bodies, living and non-living, operate as machines whose behaviour can be explained in mechanistic terms, and this includes the bodies of humans, insofar as extended, bodily substance is concerned. Thus, it isn't just animals who are complex machines like clocks, but humans too. That is, Descartes is making the Epicurean point regarding matter in motion and the view that all events have causes. Again, the automata claim has been read as implying that animals are devoid of sensation, but this interpretation ignores the meaning of automata: a self-moving thing. To be an automata, therefore, does not rule out sensation at all. How can a body move in an environment if it is unable to sense

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52. John Cottingham, "A Brute to the Brutes?": Descartes' Treatment of Animals," *Philosophy* 53, no. 206 (1978): 551.

that environment? Pursuant to this, the comparison of living bodies to mechanical bodies is not to reduce the former to the latter, but to say that the former can be explained in terms of the latter. What Descartes does claim is that animals do not think, do not have language, and are not self-conscious. This means that animals are not rational and do not partake in souls, as humans do. If Descartes actually held the “monstrous thesis,” it would be the case that sensation and thought are co-extensive. But this is not the case. One might require feeling in order to think, but one does not seem to require thought in order to feel. Indeed, Descartes explicitly makes this argument: “I should like to stress that I am talking of thought, not of . . . sensation; for . . . I deny sensation to no animal, in so far as it depends on a bodily organ.”<sup>53</sup>

In order to sustain their attack on Descartes and the Cartesians, their critics—not having any incriminating evidence against Descartes—turn to an anecdote from Nicolas Fontaine, as he is quoted by Leonora Cohen Rosenfield:

They administered beatings to dogs with perfect indifference, and made fun of those who pitied the creatures as if they had felt pain. They said that the animals were clocks; that the cries they emitted when struck, were only the noise of a little spring which had been touched, but that the whole body was without feeling. They nailed poor animals up on boards by their four paws to vivisect them and see the circulation of the blood which was a great subject of conversation.<sup>54</sup>

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53. Quoted in Cottingham, “A Brute to the Brutes?,” 557.

54. Leonora Cohen-Rosenfield, *From Beast-Machine to Man-Machine: Animal Soul in French Letters from Descartes to La Mettrie* (New York: Octagon Books, 1968), 54. In 2011 Karl Steel searched books.google.com for the following phrase: “emitted when struck were only the noise

One such book, immediately after quoting this passage, comments, “This seventeenth century attitude towards animals sounds at best strange to our modern ears.”<sup>55</sup> Joyce Salisbury, the author of this comment, seems oblivious to the fact this passage was published in a memoir in 1738 (making it eighteenth century) and doesn’t state clearly *when* the events in this anecdote occurred. Further, Salisbury quickly moves from the views of a couple of gentlemen vivisectionists to the entirety of the seventeenth century—on the basis of a *single* quotation that refers to the animals in question as “poor” for undergoing vivisection! It is possible this was a “seventeenth century attitude,” but it certainly was not the *only* and it is highly likely that it wasn’t the most prevalent. Indeed, as the subsequent chapters will show, the problem was not that humans and animals are different, but how to justify and articulate that difference given the overwhelming and obvious similarities between humans and animals. Salisbury prefaces her quotation of Fontaine as follows:

Only in the late eighteenth and nineteenth centuries did we seem to have decided that humans and animals share feelings—thus concluding that humans should be careful of the feelings of animals. Before that, we glorified human intellect, and we believed that humans were set apart from animals by virtue of human reason—thus, animals could have no

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of a little spring.” His search returned “more than 300 works.” My identical search in August 2013 returns 372 results—the popularity of this passage has apparently grown in the intervening two years. See Karl Steel, “Roger du Plessis Gives Antoine Arnaud the What-For: A Vivisection Anecdote Meets its Match,” <http://bit.ly/16SU3ET>, *In the Middle* (December 5, 2011).

55. Joyce Salisbury, *The Beast Within: Animals in the Middle Ages*, 2nd ed. (London: Routledge, 2011), 2.

human feelings.<sup>56</sup>

As I have already indicated, many seventeenth century theorists—including Descartes—accepted that animals had feelings, passions, and affects—and *this* was the problem: if they are sensitive, as we are, how are they also different from us? It goes without saying, of course, that “*human* reason” and “*human* feelings” (emphasis added) are exclusive to humans: hence the use of the adjective “human.” One could just as well say “human hands” or “human ears” or whatever else. But then, “cat paws” and “hawk talons” are as unique to those species as “human hands” are to ours. But this wasn’t the problem. The problem was that the sensations and feelings of animals were nearly identical to the sensations and feelings of humans. Indeed, feelings, passions, and affects were more strongly associated with *animals* than humans. Likewise, late eighteenth and nineteenth century philosophers, such as Kant, would be surprised to learn that he didn’t privilege “human reason” and that animal emotions have moral import—after all, Kant maintained that cruelty to animals was not a problem for animals because, lacking interests, animals could not be harmed; rather, the problem with animal cruelty is that it would make humans callous and more likely to be cruel to one another. That is, cruel treatment of animals was acceptable except insofar as it potentially blocked treating humans

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56. Salisbury, *The Beast Within*, 2. Presumably the author is referring to Jeremy Bentham.

as ends.<sup>57</sup> Beating a dog is not wrong because it hurts the dog and makes the dog suffer; it is wrong because dog-beaters are more likely to be human-beaters and it is wrong to beat humans. Thus, the entire period—from early modernity to the present—is surrounded by confusion. Regardless of the specific period in question, it is clear that “they” just didn’t know what “we” know—it’s a nice sentiment, for “us” at least, but it is also completely false. After all, the Cartesian view on vivisection—decried by the author—is precisely the view held by mid- to late-twentieth century behaviourists doing, especially, psychological research.

Admittedly, one can see the appeal of Fontaine’s anecdote both from the perspective of vivisectionists *and* anti-vivisectionists. On the one hand, for vivisectionists, if animals are merely machines like clocks, this means that animals can suffer no possible harm regardless of what humans do to them. To an extent, this is the basic line that contemporary vivisectionists and other animal exploiters adhere to when they defend invasive, painful experimentation and cruel devices like gestation crates and battery cages on the basis of so-called animal welfare: “We’ve done our best to minimize suffering! Stop being so sentimental! What do you have against polio vaccines and food anyway! Do you want people to die of horrible diseases and to starve to death?” On the other hand, for anti-vivisectionists, they

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57. Kant, “Conjectures on the Beginning of Human History,” 225-6; Immanuel Kant, *The Metaphysics of Morals*, ed. and trans. Mary Gregor (Cambridge: Cambridge UP, 1996), 192-3; and Immanuel Kant, *Lectures on Ethics*, ed. Peter Heath and J.B. Schneewind, trans. Peter Heath (Cambridge: Cambridge UP, 1997), 434-5.

can point to anecdotes like this and say—quite plainly—how cruel, callous, and senseless so-called scientists and farmers are. Either way, everyone wins—except the animals.

My implicit concerns, then, are addressed not only at those who exploit animals today, but also at those who are working to improve the lives of animals and protect them from exploitation.<sup>58</sup> It would be nice if the history of human attitudes towards animals or the speculative distinction between humans and non-humans was reducible to a single anecdote published in 1738. It would be nice, but things are rarely simple, especially an issue as broad as the differences between humans

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58. Sadly, pleas such as mine are greeted with hostility among many people working in animal studies, be it “critical” or otherwise. Referring to me, but refusing to actually use my name, Steve Best writes of young scholars using social scientific and humanistic methods to study animals and the human/non-human distinction:

As CAS [Critical Animal Studies] became the hot new trend among the professoriate class, an inbred, mutually promoting network of bloggers (all young ambitious graduate students anxious about job and career prospects) began to colonize “CAS” rhetoric for their own purposes, publishing their masturbatory musings under blog titles such as “Critical Animal.” [Here Best is referring to James Stanesco.] They glibly exploited CAS discourse, but (1) never defined the “critical” approach to animal studies which was directed against the abstract discourse and complacent academic positions they held or aspired to; or (2) defined it in arbitrary, incoherent, and amorphous terms (such that the pantheon of CAS included only their favored bourgeois theorists) that erased the history, originators, and political intent of CAS; or (3) formulated tendentious and straw man critiques of my essay (above). [Here Best is referring to me.] None of these opportunistic parasites acknowledged the importance of a radical intervention in the academic-industrial complex; none grasped the fundamental point that “critical” animal studies was directed against the academic institutions [sic] and discourse they coveted; and none had a problem dismissing my work and essay while appropriating my discourse for their own agendas. Steve Best, “The Rise (and Fall) of Critical Animal Studies,” <http://bit.ly/148Rf6E>, *Liberazioni* (2013): 30.

Hopefully Steve Best will remain on the fringe and his outright reactionary and anti-intellectual stance will not become the *de facto* stance of animal studies, “critical” or otherwise.

and non-humans. By revisiting these seventeenth century texts, I want to show that there were a variety of views on the conceptual and empirical relation between the human and the non-human and that these interacted in a variety of ways. Entering the seventeenth century, there was no reason to believe that the Cartesian view of animals would win (or Boyle's experimental method in science, or the nation-state system, nor is it clear that Descartes did in fact win). After all, these seventeenth century debates were taken up again in, for instance, the Scottish Enlightenment, with its emphasis on sensation and fellow-feeling and these debates, in turn, had complex relations to the development of utilitarian and deontological ethics. It isn't a straight line from Descartes to transgenic pigs and no one—human, animal or other—is served by making such claims.

## **1.8 Outline**

The following dissertation consists of four substantive chapters, each centred on a particular social theorist, but which also moves widely across concepts, problems, and other theorists. I have attempted to make a single concept central to each chapter, but, given that these theorists are working on very similar problems in a very similar context, some overlap is unavoidable. Where conceptual overlap is necessary, I have done my best to avoid unnecessary repetition.

First I discuss a minor figure named Charles Butler. This chapter largely serves

as a foil to the three chapters that follow it. While it is the first chapter in chronological order and the first to be completely finished, writing the chapter came about rather unexpectedly. The genesis of the chapter was in noticing that Thomas Hobbes discusses bees at length in each of his three main theoretical works. On the one hand, it appeared that Hobbes was merely responding to Aristotle's view that there were animals other than humans who were social; *viz.*, bees. But, on the other hand, it turned out that there was an extensive discourse throughout the entirety of the seventeenth century concerning bees. I could not verify if Hobbes was the least bit aware of this or not.<sup>59</sup> This discourse was interested not only in bees as subjects of natural history and not only in bees as sources of profitable revenue, but as models for human communities. Thus, the non-human animals among the least similar to humans—that is, insects—were being held up by multiple thinkers as creatures worthy of emulation. Hence, rather than proposing a separation between humans and animals, nature and culture, it is maintained that they are one and the same and that animals—if you look at them correctly—can serve as a model worthy of emulation. I found that much of the seventeenth and eighteenth century discussions of bees, both in terms of natural history and in terms of social theory, could be traced back to a single significant text: Charles Butler's *The Feminine*

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59. I asked Quentin Skinner (personal communication by e-mail, March 2, 2009), figuring that if anyone knew it would be him, if he thought it were possible Hobbes was aware of Butler. He told me it was unlikely, but had no knowledge of definitive proof.

*Monarchie, or A Discourse of Bees*, first written in 1609, but which went through numerous editions, reprintings, and translations. What struck me while reading Butler's book was that the language he used to discuss bees was strangely reminiscent of another discourse he was most likely completely ignorant of: the discourse of the art of government, most famously elaborated by Michel Foucault. Here, in Butler's book, we see an attempt to articulate a harmonious social structure on the basis of, on the one hand, economic management and, on the other hand, limited monarchical power. But, again, the world is not an idealized human community, but a beehive: when the monarch looks into the mirror, they should see a queen bee. At the centre of Butler's concerns are virtue, order, and economy, all of which are most perfectly displayed in a well-managed beehive that is so orderly the queen-bee has no cause to ever use her stinger and, thus, sits as an image of feminine virtue which the entire hive and, indeed, the human community as well, is supposed to emulate. Rather than accentuate the differences between humans and non-human animals—which is the preferred strategy of subsequent social and political theorists—Butler minimizes the differences between humans and non-human animals giving them the option of either emulating the virtuous bee, the villainous wasp, or the opulent silkworm. Thus, nature provides models of both virtuous and corrupt kingdoms and it is up to the monarch to choose what natural exemplar they will follow.

Next I turn to Thomas Hobbes and focus on how he uses the distinction between human and non-human animals to accentuate the differences between them. These differences, rather than being models worthy of emulation, are differences that must be suppressed and denied. The argument here is that, left to their own devices, humans—that is, humans in the state of nature—are no better nor worse than the worst beasts. Hence, *homo homini lupus*: man is a wolf to man. The reason this is the case is that the state of nature is the place where natural right, the absolute right to self-preservation including the pre-emptive killing of potential rivals, is given full reign. In an environment where natural right freely reigns, natural laws have no effect and, thus, the situation rapidly and famously devolves into a war of all against all. In other words, left to their own devices, humans are not and cannot be any better than the most savage beast. But humans, unlike beasts, have a degree of consciousness and self-awareness that lets them recognize that the situation of the state of nature is intolerable. The only solution is for humans to find a way to move from nature to culture by denying their animality; that is, they must abandon the natural right they share with animals and accept the arbitrary whims of a sovereign law-maker. There is no guarantee that the sovereign will be just and there is no guarantee that the laws will be fair, but there is the guarantee that even a minimal set of crude laws is infinitely preferable to the maximal reign of natural right.

The next in order, but the final substantive chapter to be written, focuses on Samuel Pufendorf. This chapter serves, in part, as a bridge between Thomas Hobbes and John Locke. With Hobbes, the state of nature is famously a state of war; but, for Locke and those who come after him, the state of nature undergoes a significant revision: it ranges from being pleasant (Rousseau) to scary-but-not-that-bad (Montesquieu). Pufendorf is largely responsible for this re-consideration of the state of nature. In Locke's *Two Treatises of Government*, the reason for the generally pro-social disposition of humans in the natural state is not made especially clear. One clue comes from an obscure and minor text of Locke's where he recommends Pufendorf's *De jure* and *De officio* as suitable for the education of a gentleman, commenting on the former that it "is the best of that kind."<sup>60</sup> Pufendorf engaged in the first major theoretical confrontation with Hobbes's works that did not devolve into superficial accusations of materialism and atheism. While his work was not limited to a concern with disproving the dangerous doctrines found in Hobbes's works, he did none the less argue stringently against Hobbes's conception of the state of nature. On the one hand, Pufendorf admitted that given the fallen nature of mankind (he accepted the Biblical Fall as a true description of human nature), humans were overwhelmed with self-love. In Pufendorf's estimation, self-

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60. Needless to say, Locke does not recommend Hobbes. John Locke, "Some Thoughts Concerning Reading and Study for a Gentleman," in *The Works of John Locke in Nine Volumes*, 12th ed., vol. 2 (London: Rivington, 1824), 408.

love has the potential to produce the sort of instability Hobbes was concerned with, but it was not necessary that it did. This led to them being desirous of things they deem to be good, afraid of things they deem to be bad, and generally obsessed with self-preservation. At this point, Pufendorf's description suggests a state of nature reminiscent of Hobbes: self-preservation leading to the perverse end of mutual destruction. But, Pufendorf points out one detail that distinguishes humans from animals, which he believes to be decisive in preventing all-out war: humans are weak. As babies, infants and even young adults, they are completely defenceless and absolutely dependent upon their parents. Whereas Hobbes believed, or at least argued, that humans were independent, atomistic individuals, Pufendorf points out that humans usually live in small family groups and, frequently, larger groups such as clans and villages: the young and old dependent upon adults; adults recognizing they were once dependent and one day may be dependent again; and that without cooperation and coordination that they are mostly unable to guarantee their own survival, either in battle or through the mere acquisition of necessities. Thus, Pufendorf proposes this weakness as a countering force to the desire for self-preservation. As a result, the state of nature is not a war of all against all, but an unsteady balance of pro- and anti-social forces which ultimately impels individuals and families into civil associations for their mutual protection and to overcome their weakness.

The final substantive chapter, on John Locke, focuses on his well-known defences of private property and ownership. Many readers of Locke focus upon the labour theory of value he advocated in conjunction with his views on self-ownership. Thus, because I own my body, I also own its forces and, therefore, I own whatever I mingle my body and its forces with. They may also be interested in why Locke argues that a limited state is the best way to protect property and maintain order. In this chapter, I look to the grounding of this claim by Locke. That is, his quotation and extensive references to various versions of dominion in the Old Testament. Underlying Locke's theoretical defence of property, there is a theological assumption—of a divinely ordained distinction between humans and the various sorts of non-humans on the basis of the donation of dominion to Adam in the Garden of Eden and the renewal of that donation to Noah following the Flood. (However, Locke also believes that natural philosophy leads to identical conclusions without relying upon the role of God.) From these passages, Locke begins to articulate the difference between that which can be owned (the non-human) and that which cannot be owned (the human), between the intrinsically dangerous (wild non-humans) and the governable (humans and domesticated non-humans), between useful non-humans (the domesticable) and useless non-humans (serpents and creeping things). The problem, however, is that as humans interact with and make use of non-humans, the relative purity of nature is gradually replaced by the threatening and alienating artificiality of society—the

dominion over nature becomes the inhuman domination over humans.

The dissertation ends with a short concluding chapter in which I outline my own antidote to speculative anthropology, which I call a speculative misanthropology.

## 2 Similitude

Every governor must also have patience, following the example of the King of the honey bees.

Guillaume de La Perrière, *The Mirror of Police*, 1555

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### 2.1 Introduction

Towards the end of the sixteenth century and continuing well into the eighteenth century, a significant number of thinkers argued that human communities have a natural basis and provided the beehive as the paradigm example. These thinkers were hold outs of a sort in comparison with later theorists such as Thomas Hobbes, Samuel Pufendorf, and John Locke. Whereas those theorists argued that nature was not a model for human communities and that nature (or animality) had to be controlled, suppressed, or denied, these thinkers, like Charles Butler, believed that nature was a model worthy of emulation. It provided examples of both virtuous and corrupt communities—if we were willing to look hard enough and pay attention. This trend ran in opposition to the slightly later and more familiar problematic

of the artificial or consensual origin of the political community, most well-known from the works of Thomas Hobbes and John Locke, that culminates in the so-called social contract tradition. While the model of the beehive was a commonly used trope throughout European political theory in the sixteenth and seventeenth centuries, it was especially prevalent in England. No fewer than nine major works on bees were written and published in England alone during the seventeenth century, going through dozens of editions and printings in both the vernacular and Latin translation. The central text in the political discourse on the bee and the natural monarchy of the beehive, and the focus of this chapter, is Charles Butler's *The Feminine Monarchie, or, A Treatise Concerning Bees, and the Due Ordering of These*, first published in 1609.<sup>1</sup> Subsequent editions would appear in 1623 and 1634; two separate Latin translations appeared in 1673 and 1682; and, finally, it was translated back into English in 1704.

Very little is known about Charles Butler except that he lived from 1560 to

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1. Charles Butler was a curious figure and, in many ways, a man of his time. In addition to writing on bees, Butler also wrote on rhetoric (1598, 1629), grammar (1633), musical theory (1636), as well as a theological treatise (1625) on the propriety of marriage between first cousins, written on the occasion of his daughter's marriage to his nephew. (Butler had no objections to marriage between first cousins.) His grammatical project included a revision of written English language along the lines of a phonemic orthography. The 1634 edition of *The Feminine Monarchie* was printed using Butler's system of orthography. There is a scant secondary literature on Butler, but see Mishtooni Bose, "Humanism, English Music and the Rhetoric of Criticism," *Music & Letters* 77, no. 1 (1996): 1–21; Wilbur Samuel Howell, *Logic and Rhetoric in England, 1500-1700* (Princeton: Princeton UP, 1956), 262–72; James McConica, "Humanism and Aristotle in Tudor Oxford," *The English Historical Review* 94, no. 371 (1979): 291–317; James Pruett, "Charles Butler—Musician, Grammarian, Apiarist," *The Musical Quarterly* 49, no. 4 (1963): 498–509; and Quentin Skinner, *Reason and Rhetoric in the Philosophy of Hobbes* (Cambridge: Cambridge UP, 1996), 62–5. None of these, however, treat Butler as a social or political theorist.

1647, attended Magdalen Hall at Oxford between 1579 and 1587, and served as a parish priest for the rest of his life. His interests extended beyond the spiritual to include music—he tried to transcribe the buzzing of swarms into musical notation—oratory and rhetoric, and English grammar. He is justly remembered for his *Feminine Monarchie*, which corrected the ancient authorities on a number of empirical points and advocated the skep as the best way to hive bees. He appears to have been of comparatively modest means and, beyond the claims I'll outline below, not especially involved in politics. His life seemed to have revolved almost entirely around his duties as a parish priest and his deep interest in beekeeping. As a historical curiosity, two stained glass windows depicting his likeness—and the likenesses of his bees—were installed at his church in Wootton St. Lawrence to mark the coronation of Elizabeth II.<sup>2</sup>

All subsequent treatises on bees, their nature, their politics, and the proper way of managing a beehive were written in relation to Butler's text: *The Feminine Monarchie* overdetermined the discourse on the bee until the mid-eighteenth century. Significant works in this genre included Thomas Hill's (1563) *A Profitable Instruction of the Perfite Ordering of Bees*, Edmund Southerne's (1593) *A Treatise Concerning the Right Use and Ordering of Bees*, Gervase Markham's (1614) *Cheape and Good Husbandry for the Well-Ordering of All Beasts and Fowls*, John Levett's

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2. A.H. Bullen, "Butler, Charles (1560–1647)," in *Oxford Dictionary of National Biography* (Oxford: Oxford UP, 2004).

(1634) *Ordering of Bees, or, The True History of Managing Them*, Richard Remnant's (1637) *A Discourse or Historie of Bees: Shewing Their Nature and Usage, and the Great Profit of Them*, Samuel Hartlib's (1655) *The Reformed Commonwealth of Bees*, Samuel Purchas's (1657) *A Theatre of Politicall Flying-Insects: Wherein Especially the Nature, the Worth, the Work, the Wonder, and the Manner of Right-Ordering of the Bee, is Discovered and Describe*, John Gedde's (1675) *A New Discovery of an Excellent Method of Bee-House and Colonies*, John Worlidge's (1676) *Apiarium, or, A Discourse of Bees, Tending to the Best Way of Improving Them, and the Discovery of the Fallacies that are Imposed by Some, for Private Lucre, on the Credulous Lovers and Admirers of These Insects*, and, lastly, "the royal beemaster," Moses Rusden's (1679) *A Full Discovery of Bees: Treating of the Nature, Government, Generation & Preservation of the Bee*. As with Butler's *The Feminine Monarchie*, the primary objective of these texts was to provide advice and practical knowledge to would-be apiarists. However, this advice often took on odd forms as authors disputed how the hive was actually organized (the tendency was to project contemporary politics into the beehive), the gender of the monarch, and the organization of production. Few texts were as ambitious and speculative as Butler's, but most of them saw the interaction of sovereignty and government as well as politics and economics in the hive. Controversy surrounding bees would continue well into the eighteenth century, especially with regard to the sex of the

monarch, which Butler is seen as the first to correctly identify.<sup>3</sup> Interest would also remain in the comparison between the organization of the beehive and organization of human communities, the most notable example being Bernard Mandeville's doggerel poem, "The Grumbling Hive, or, Knaves Turn'd Honest" (1705) and his *The Fable of the Bees, or, Private Vices, Publick Benefits* (1714, 1723).<sup>4</sup> Other significant eighteenth century English texts included John Warder's (1712) *The True Amazon, or, The Monarchy of Bees*, John Gedde's (1721) *The English Apiary, or, The Compleat Bee-Master*, John Thorley's (1744) *Melissologia, or, The Female Monarchy* and his *An Enquiry into the Nature, Order, and Government of Bees* (1765) and, lastly, John Mills's (1766) *An Essay on the Management of Bees*.

Interest in bees and beehives revolved around the apparently well-ordered community free of internal strife, where work and labour is completed without com-

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3. "The ancient parallel between human society and the beehive was never more popular than in the Stuart period when numerous published treatises on bee-keeping gave as much attention to the insects' political virtues as to their practical utility. [...] Writers laid heavy emphasis on the hive's monarchical structure, though the embarrassing discovery that their monarch was not a king, as had always been assumed, but a queen, remained controversial until the 1740s. "A Queen-Bee,' explained an encyclopedia in 1753, was the 'term given by late writers to what used to be called the King-Bee.'" Keith Thomas, *Man and the Natural World: A History of the Modern Sensibility* (New York: Pantheon, 1983), 62. Thomas overstates the case. Nearly all seventeenth century authorities agreed with Butler against the ancient sources, such as Aristotle and Pliny, that the monarch was female. An important question is why seventeenth, but not eighteenth, century thinkers could accept a female monarch. That Butler's work appeared just six years after the reign of Elizabeth, who ruled for forty-four years, likely made it easier to accept the idea of a female monarch. Butler was accepted as authoritative by nearly all seventeenth century apiarists. See F.R. Prete, "Can Females Rule the Hive? The Controversy Over Honey-Bee Gender Roles in British Beekeeping Texts of the Sixteenth-Eighteenth Centuries," *Journal of the History of Biology* 24, no. 1 (1991): 113-44.

4. All are collected in Bernard Mandeville, *The Fable of the Bees: or, Private Vices, Publick Benefits*, ed. F.B. Kaye (Oxford: Clarendon Press, 1957).

plaint, and the community as a whole lives in peace with its surroundings. Hence, an image of the ideal human community is found in nature: the natural monarchy of the beehive. While the mirror of nature is certainly operative in these texts, they also extend beyond the trope of the mirror to consider more quotidian matters, such as the nature of government and economy. Consequently, many of these texts, but especially Butler's, can be read as incorporating elements of both the mirror of the prince and art of government genres with the proviso, of course, that when the prince looks in the mirror he sees himself as a queen bee. The idea of the mirror—of nature and for the prince—points to the similitude Butler assumes exists between nature (i.e., that which is purged of the human) and society (i.e., that which is constructed by the activities of humans). A properly regulated human society would be identical in form and structure to a properly regulated beehive. Here I argue that while order is seen to have its origin in nature, Butler is attempting to articulate the difference between sovereignty and the art of government, which was rapidly developing in the sixteenth and seventeenth centuries. Butler, then, is writing at a time when nature, as a concept, is extremely polyvalent and where the distinction between nature and culture has not yet been fully elaborated. The result is that Butler, from the perspective of the present with an assumed distinction between nature and culture, confuses the two, moving from one domain to the other inconsistently. The distinction between the sovereignty and government is not

fully realized in these texts, but the texts nonetheless point towards an attempt to understand the new problematic of rule. By “problematic of rule,” I mean the active questioning and reflecting upon questions such as: who should rule whom? by what right? in accordance with which principle? to what end? and by which means?

## 2.2 The Early Modern Problematic of Rule

Charles Butler was neither a political theorist and, insofar as he engaged in such theorizing, not particularly original. The century prior to the publication of *The Feminine Monarchie* saw the publication of much more important works such as Machiavelli’s *The Prince* in 1532, Jean Bodin’s *Six Books of the Commonwealth* in 1576, and Giovanni Botero’s *Reason of State* in 1589. Likewise, the following century saw the publication of Thomas Hobbes’s *Leviathan* in 1651, Samuel Pufendorf’s *On the Duty of Man and Citizen* in 1675 and John Locke’s *Two Treatises of Government* in 1689. The *Feminine Monarchie* was not even the most important work of political theory published in 1609, justly being overshadowed by Hugo Grotius’s *Mare Liberum*. Why then talk about a text as insignificant as Butler’s? The value of Butler’s text is that it presents a highly indeterminate conception of nature—after all, bees and humans are being seriously compared with one another without any apparent concern that comparing insects to humans

might seem odd—but which also tries to connect this indeterminate conception of nature to changes in the understanding of the social and political order that will, eventually, force a complete reconceptualization of nature and society, human and non-human. Thus, while later thinkers will struggle to establish the distinction between nature and society, Butler is pleased to assume their similitude, the human kingdom and the beehive are identical, although operating on significantly different scales. The beehive has traditionally been used as a model for understanding human political communities; Butler’s text significantly re-interprets this ancient model in light of larger contemporary discussions of politics and rule.<sup>5</sup> The period between *The Prince* and the *Two Treatises of Government* saw the creation of a new political and social vocabulary and new forms of social, political, and economic organization. This period provided the foundations for many of the concepts currently used in the social sciences and humanities. Sitting between these two extremes, *The Feminine Monarchie* sheds light on how these problematics sorted themselves out.

The destruction of the medieval understanding of rule led to a general problem of rule in early modernity, of which the modern concepts of sovereignty and government, among others, are a result. In Michel Foucault’s interpretation, sovereignty—parsed through Machiavelli—was understood as the attempt by the prince to main-

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5. I discuss the classic example from Aristotle’s *Politics* in the following chapter.

tain control over his territory over time while government—parsed through the “anti-Machiavellian” art of government literature—sought to articulate the interests of the state, as opposed to those of the prince, which depended upon concepts such as population, health, wealth, happiness, and the like.<sup>6</sup> Thus, a distinction and a division was created between sovereignty and forms of government (e.g., reason of state, police, political economy, liberalism) and it is suggested that government displaces sovereignty as the locus of political power. In effect, sovereignty was about territory, while government was about relations, “the proper disposition of things.”<sup>7</sup> Despite larger meta-theoretical problems, Foucault’s analysis of the early modern art of government is suggestive and useful for my purposes.<sup>8</sup>

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6. Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France*, ed. Michel Senellart and Arnold I. Davidson, trans. Graham Burchell (New York: Palgrave Macmillan, 2007). For the historical elaboration of the distinction between the prince as a natural person and the state as an artificial person or corporation (of which the natural person of the prince is the “head”), see Ernst H. Kantorowicz, *The King’s Two Bodies: A Study in Medieval Political Theology* (Princeton: Princeton UP, 1997), and Quentin Skinner, *The Foundations of Modern Political Thought*, 2 vols. (Cambridge: Cambridge UP, 1978).

7. Quoted in Foucault, *Security, Territory, Population*, 96.

8. Brian Singer and Lorna Weir have compellingly argued against the traditional understanding of the emergence of the art of government in the early modern period adopted by the history of the present, or governmentality, school. According to Singer and Weir, early modern government and sovereignty were co-constituted, with government presupposing sovereignty, as an attempt to address the general problem of the relation between the ruled and the ruler (that is, who should rule? in whose interest? to what end? with what means?) following the collapse of the medieval system. They articulate an interpretation of sovereignty and government in Foucault whereby the former works at the level of the symbolic and the latter works at the level of the real. In their interpretation, Singer and Weir emphasize difficulties with Foucault’s reading of Machiavelli’s *The Prince*. See Brian C.J. Singer and Lorna Weir, “Politics and Sovereign Power: Considerations on Foucault,” *European Journal of Social Theory* 9, no. 4 (2006): 48–68 and Brian C.J. Singer and Lorna Weir, “Sovereignty, Governance and the Political: The Problematic of Foucault,” *Thesis Eleven* 94 (2008): 49–71. Ryan Walter, “Reconciling Foucault and Skinner on the State: The Primacy of Politics?,” *History of the Human Sciences* 21, no. 3 (2008): 94–114

*The Prince*, then, is identified more or less with sovereignty, in this case understood as the “synthetic” link that connects the ruler to the territory, which he has obtained through inheritance, acquisition, or conquest: either way, the prince has no natural and necessary link to the territory. Foucault argues that this link is “external” and “transcendent” because of the lack of any necessary connection between ruler and territory (i.e., obtained through inheritance, acquisition, or conquest) and because the prince constitutes the principality through the link (i.e., it is transcendent).<sup>9</sup> In the absence of a prince, there can be no territory, just unclaimed space—a political vacuum. Consequently, sovereignty is the form of power that seeks to hold out over time against challengers, who may come from within or outside the territory, which accounts for the importance of juridical modes of power, such as the right to wage war against other sovereigns and the right to punish subjects. The goal of ruling is to protect and strengthen the *link* between the prince and his territory rather than any particular concern with the territory itself, its inhabitants, or the characteristics of either. The approach of sovereignty is negative insofar as it creates laws aimed at deduction: of money through taxes, of limbs through penal codes.

This is the entry point of the art of government, which maintains that holding

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likewise questions Foucault’s reading of Machiavelli, but in comparison and contrast to Quentin Skinner’s *The Foundations of Modern Political Thought*. The discussion that follows in this section is largely adapted from Foucault, *Security, Territory, Population*, 87–114.

9. *ibid.*, 91.

on to territory over time is not the same as possessing the art of government. In distinction to the ruler/territory relationship, the governor/governed relationship is multiple and plural: monarchs, emperors, lords, magistrates, judges, popes, bishops, priests, and fathers among many others govern. Government, then, is not used in the present sense of “the” government, for instance, the political party currently “in power,” but in a much more general sense as “the conduct of conduct.” As such, the ruler/territory relation is but one possible—and limited—form of government. These other forms of government can all be described as “internal” or “immanent” to that which is to be governed. In other words, there are few—if any—general principles which can be applied to all situations that are to be governed; the plurality of modes of government works in opposition to the singularity of the sovereign and juridical mode of rule.

François de La Mothe le Vayer, in a series of texts written in the late seventeenth century for the Dauphin, argues there are three general forms of government: of the self (morality), of the family (economy), and of the state (politics): to govern the self is different than to govern the family, which are both different than governing the state.<sup>10</sup> However, despite their irreducibility, these forms of government are nonetheless similar in that they are continuous (one level begets

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10. Note that economics is still being used in the ancient sense of household management. The movement of the economy from the level of the family to the level of the population does not come until much later.

the next) non-sovereign modes of rule premised upon the “conduct of conduct” rather than the imposition of law upon subjects. Of particular importance in these texts is the notion of an upward and downward continuity. Before a prince can govern his family, he must be able to govern himself and before a prince can govern the state, he must be able to govern his family. Hence, an upwards continuity: self/morality→family/economics→state/politics. The chain also works in reverse. If the prince is able to govern the state, then fathers will be able to govern their families, and if fathers can govern their families, then individuals will be able to govern themselves. Hence, there is also a downwards continuity: state/politics→family/economy→self/morality. Two important consequences follow: first, order at one level begets order at another level and, second, the level of the family/economy plays an essential role in the transmission of order insofar as it connects the political rule of the state to the moral rule of the individual.

While differences in forms of government have been shown, as has their relation to one another, the specific meaning of government as a practice has not yet been shown. For this, we must turn to Guillaume de la Perrière, who claims “government is the right disposition of things arranged so as to lead to a suitable end.”<sup>11</sup> This idea of “things,” again, is in opposition to the Machiavellian theory that rule concerns the synthetic and transcendent link between ruler and territory. This link is

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11. Quoted in Foucault, *Security, Territory, Population*, 96.

not a “thing” in the relevant sense. For La Perrière, things are the relations humans have with their environment: wealth, resources, the features of the territory, customs, habits, as well as accidents, famine, death, and the like. A commonly given example, with an ancient pedigree, in these texts is the metaphor of a ship: to govern a ship is to govern sailors, to care for the vessel and cargo, to have knowledge of the shipping lanes, the ability to deal with misfortunes that may arise (illness, storms), and so on. The ultimate result is that government is not the application of *laws* (which Foucault identifies with sovereignty), but the disposition, or ordering, of things through *tactics* (which Foucault identifies with government). Government is the structuring of the field of action available to others, but it is “neither warlike nor juridical.”<sup>12</sup> For instance, a strictly juridical solution to underpopulation in a given country would be to force reproduction (e.g., “All women of child-bearing age must produce at least one child in the next five years”); a possible governmental solution would be to create a positive environment for reproduction (tax benefits tied to number of children, generous maternity/paternity leave, access to affordable daycare, etc) and immigration (easy to obtain work permits, payments for immigration, access to cheap housing, etc).<sup>13</sup>

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12. Michel Foucault, “The Subject and Power,” in *Michel Foucault: Beyond Structuralism and Hermeneutics*, 2nd ed., by Hubert L. Dreyfus and Paul Rabinow (Chicago: University of Chicago Press, 1983), 221.

13. An interesting problem here is that governmental policies of these sorts would be enacted through the law, which would lead one to conclude that there is no real difference between sovereignty and government. The key difference here, for Foucault, is the point of interven-

Lastly, the government of things depends upon “patience, wisdom and diligence.”<sup>14</sup> Here La Perrière has recourse to the metaphor of the beehive: the “king-bee” rules without having a stinger.<sup>15</sup> The meaning of this, given to us by God and revealed in nature, is that the ruler does not need a sword—a traditional emblem of royal power—in order to govern well. Rather than relying upon violence and the law, the ruler should make use of his virtues: of his patience, wisdom, and diligence.

### 2.3 Nature and Government

The apicultural texts published between the late sixteenth and early eighteenth century occupy a rather uncomfortable position. On the one hand, they advance a series of criticisms on empirical grounds of the ancient authorities, such as Aristotle, Pliny, and Virgil. But, on the other hand, their proto-scientific discourse frequently confuses natural history and apiculture with economics, politics, and morality. This is because these texts have not yet settled on a distinction between nature and culture, human and non-human. In many cases, these texts end up providing as

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tion. The juridical example works directly on bodies whereas the governmental example works at the level of the social, or civil society. Hence, law as tactics is more of a matter of regulation than command. See Alan Hunt and Gary Wickham, *Foucault and Law: Towards a Sociology of Law as Governance* (London: Pluto Press, 1994) and Nikolas Rose and Mariana Valverde, “Governed by Law?,” *Social & Legal Studies* 7, no. 4 (1998): 541–51.

14. Foucault, *Security, Territory, Population*, 99.

15. La Perrière erroneously believed that the “king-bee” did not have a stinger at all; this is not the case—see below.

much advice on the nature of politics, ruling, and morality as they do on beekeeping. Understood in light of the connection between order, labour, and morality, these texts, but especially Butler's *The Feminine Monarchie*, can be understood as a contribution to understanding the relation between sovereignty and government in the early modern problematic of rule.

It should be noted that there is a great deal of disagreement among the apiarists regarding the relation between the beehive and the human kingdom, a detailed discussion of which is beyond the scope of this chapter, but, in general, these texts are characterized more by concerns of government than sovereignty. Briefly, the apiarists agree that the beehive is a monarchy in the literal sense of a political structure with a single ruler. The animating question concerns the relation between ruling and governing. The identity or form of that one ruler is quite controversial and depends on the larger historical and political situation present in England at the time the book in question was written. For instance, while Butler understood the queen bee to be a moderate ruler, Moses Rusden understood the same to be an absolute monarch.<sup>16</sup> This difference can partially be explained with reference to the political situation at the time, but it also points to a rather malleable and problematic conception of nature to the effect that nature reflects *society* even

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16. In addition to the royalist texts, it is worth pointing out that bees were portrayed as Puritans by Samuel Hartlib in his *The Reformed Commonwealth of Bees* and as a protectorate in Samuel Purchas's *A Theatre of Political Flying-Insects*, complete with a "commander" akin to Cromwell.

though the apiarists seek to argue the opposite point; *viz.*, that the beehive is a natural model of the human political community.

Butler was writing at the start of James I's reign and had lived most of his life under Queen Elizabeth I's rule, which no doubt influenced his view of the virtues of the bees (on the model of the Virgin Queen) and her moderate style of rule ("I see, but say nothing"). By comparison, Rusden was the royal beemaster to Charles II. The reign of Charles II was characterized by a great deal of popular discontent, especially during the Exclusion Crisis where Parliament attempted to block James, the heir presumptive and brother to Charles II, from taking the throne. Consequently, Rusden, unlike Butler, emphasizes the divine and absolute powers of the king, such as Charles II's decision to frequently ignore Parliament and suspend laws.

## 2.4 Honey and Silk

Butler begins with an assertion: the bee is the "chiefe and most worthily to be admired" among all the insects because they are the only insects "bred for the behoof of men."<sup>17</sup> This, of course, is clearly not the case, a point which Butler does recognize, as other insects, especially the silkworm, were used to produce goods for

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17. Charles Butler, *The Feminine Monarchie, or, A Treatise Concerning Bees, and the Due Ordering of These* (Oxford, 1609), A2r.

human consumption. The reference to silkworms in Butler's text is significant. In January 1607, James I enacted a series of measures to encourage the introduction of a domestic silk industry.<sup>18</sup> Among these measures included a license to William Stallenge to print a book entitled *Instructions for the Planting and Increase of Mulberry Trees, Breeding of Silkworms, and Making of Silk* and an order that landowners purchase and plant ten thousand mulberry trees to be delivered the following spring.<sup>19</sup> The king himself had mulberries planted at Hampton Court Palace and there are records of the attempt lasting on his land a decade later. Finally, in 1619 after a lack of success in England, James I attempted to encourage the production of silk in North America. All these attempts failed with no successful introduction of silk production into England until after the expulsion of the Huguenots following the revocation of the Edict of Nantes in 1685, many of who were skilled silkwormers. However, writing in 1609 at the beginning of the silk initiative, the apiarists could very well have felt threatened by the development of a domestic silk industry—the silkworm and not the bee was receiving royal attention—hence the polemic against silkworms. If nature presents an image, or rather, many images, seeing the right image when looking at nature is important. If the monarch looks to nature and

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18. Measures of this sort had a long history in England because the English were jealous of the wealth generated by the silk industries in Italy and France. Attempts to introduce the silkworm into England extended as far back as Henry IV's reign. See John Feltwell, *The Story of Silk* (Phoenix Mill: Alan Sutton, 1990).

19. William Stallenge, *Instructions for the Increasing of Mulberrie Trees, and the Breeding of Silke-Worms for the Making of Silke in This Kingdom* (London, 1609), A4r-v.

sees silkworms, decadence is the result; if the monarch see wasps, criminality is the result; if the monarch sees bees, virtue, order and economy is the result. But, this polemic is not exclusively grounded in economic concerns, as will become clear below.

Two insects are bred for the benefit of man: the bee and the silkworm. The apiarists wish to argue that the bee is the better of the two insects. Butler points to three ways in which the bee demonstrates its superiority to the silkworm. First, the product of the silkworm only covers the body while the product of the bee “nourishes and cures the soul.” Second, the product of the silkworm is only applied externally, while the product of the bee is “inwardly received.” Finally, the product of the silkworm is for “comeliness and conveniency,” the product of the bee is for “health and necessity.”<sup>20</sup> The grounds for preferring the bee to the silkworm are not economic, but moral: the bee contributes to the health of the soul and body; its products are useful necessities rather than vain luxuries.<sup>21</sup> The silkworm’s products

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20. Butler, *The Feminine Monarchie* (1609), A2r–v.

21. The moralization of luxury was, of course, not unique to Butler, but a general and pervasive feature of much Tudor era writing. See Alan Hunt, “Moralizing Luxury: The Discourses of the Governance of Consumption,” *Journal of Historical Sociology* 8, no. 4 (1995): 352–74; Alan Hunt, *Governance of the Consuming Passions: A History of Sumptuary Regulation* (New York: St. Martin’s Press, 1996); and Alan Hunt, “Governing the City: Liberalism and Early Modern Modes of Governance,” in *Foucault and Political Reason: Liberalism, Neo-Liberalism and Rationalities of Government*, ed. Andrew Barry, Thomas Osborne, and Nikolas Rose (Chicago: University of Chicago Press, 1996), 167–88. Early modern advocates of sumptuary regulation often maintained a “domino theory” whereby individual luxury leads to social ruin. For instance, the character Touchstone in Ben Jonson’s *Eastward Ho*: “Of sloth comes pleasure, of pleasure comes riot, of riot comes whoring, of whoring comes spending, of spending comes want, of want comes theft, of theft comes hanging,” quoted in Hunt, “Moralizing Luxury: The Discourses of the Governance

are the complete opposite: silk is used to make ostentatious and expensive clothing; its products are luxuries rather than necessities.<sup>22</sup> Stallenge does not appear to disagree with these views, noting that “our Brother the French King has since his coming to that Crown, both begun and brought to perfection the making of silks in his country, whereby he has won to himself the honour and to his subjects a marvelous increase in wealth.”<sup>23</sup> Two points are essential. First is the conflict between rival theories of wealth; that is, does general prosperity (assuming, of course, that general prosperity is a goal) derive from the production of necessities for the domestic market or from the production of luxuries for the world market? This question would become exceptionally important in the next century in the debate between the proponents of mercantilism and the proponents of political economy, such as Bernard Mandeville and Adam Smith. The second point is that a king pursuing a luxuries based economy has committed himself to a questionable moral decision: he is foregoing health and necessity in favour of garish decadence.

The bee, unlike its close cousin the wasp and the silkworm, is a thoroughly moral

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of Consumption,” 357; c.f., “And for their persons (which are lovely brown) though they be not long about it yet are they curious in trimming and smoothing them from top to toe, like unto sober matrons, which love to go neat as plain; pied and garish colours belong to the wasp, which is good for nothing but to spend and waste.” Butler, *The Feminine Monarchie* (1609), B6r.

22. The English royalty was especially fond of wearing silk clothing. Feltwell, *The Story of Silk*, 17–8 suggests that James I’s wife’s love of silk and his own hatred of the tobacco industry greatly contributed to his decision to establish a domestic silk industry during the first quarter of the seventeenth century.

23. Stallenge, *Instructions for the Increasing of Mulberrie Trees*, B1r.

and virtuous creature—a point the apiarists, but especially Butler, never tire of raising. In addition to providing a mirror image of the ideal political community, the bee also provides a mirror image of the ideal ordering of the virtues. When the kingdom and the virtues are perfectly ordered at the level of the monarch, then the proper conditions are laid for profitable—albeit not luxurious—production at the level of the commons, pointing to the continuity between the levels of government.

## 2.5 Virtue, Order, and Economy

Butler maintains that there is a close connection between the ordering of the virtues and the political structure, which is most clearly evident with bees: because their political structure is perfect, so too are their virtues; and, because they have perfectly ordered virtues, their kingdom is likewise perfectly ordered.<sup>24</sup> A monarch following the model of the silkworm is well on his way to a disorderly and vicious kingdom. If humans could replicate either the political structure or the virtues of the bees, then the other component would follow by the force of necessity because a properly ordered community produces well-ordered virtues and well-ordered virtues produce a properly ordered community. Similarly, once the virtues and the king-

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24. Witness the prevalence of the word “order” in the titles of the apiarist texts listed above—especially the near obsession with “right ordering” and “perfect order.” The concept of “order” grounds the discourse surrounding the beehive such that a properly ordered hive will be productive, profitable, stable, happy, and wealthy—not just for the monarch and the higher echelons of the aristocracy, but for the entirety of the hive.

dom are ordered, then the proper conditions exist for the profitable flourishing of the kingdom and its subjects. Just as there is a moral bond between the monarch and commons in the hive, there is a similar moral connection between the monarch and commons in the human community. Given the close connection between virtue and political structure posited by Butler, he had extraordinary difficulty separating the two. Discussions of political structure quickly dissolve into discussions of virtue and vice versa.

Butler constantly returns to the relation between morality, politics and economics, all of which he believes have a natural basis, but between which he is unable to identify or isolate a consistent relation. In the “Preface” to *The Feminine Monarchie*, Butler argues that the perfect ordering of the hive and the virtues of the bees reflect one another and, with this relation established, it is possible to talk about economy and profit. In the first chapter entitled “Of the nature and properties of Bees, and of their Queen,” Butler begins with an economic argument. In parallel with the “Preface,” Butler compares the bee to other insects ultimately determining that “bees are most to be admired.”<sup>25</sup> The basis of this admiration is neither moral nor political—although the bee is most certainly admirable in these respects as well—but economic because of “all the creatures” (and here Butler moves from insects to the entirety of domesticated animals) provided by God “for

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25. Butler, *The Feminine Monarchie* (1609), A1r.

the use and service of man” (referring to the donation of dominion by God to Adam in the Garden of Eden at Genesis 1:28), the bee presents its superiority in three ways: (1) the economy and efficiency of its production—“great profit, small cost;” (2) its ubiquity through the world—no other domesticated animal is as geographically dispersed as the bee;<sup>26</sup> and (3) “the continued labour and consenting order.”<sup>27</sup> It is the third point, the relation between labour and order, that claims Butler’s attention for the next few pages and one he returns to frequently throughout the chapter. This connection between moral ordering and economic production bears a striking similarity to the early modern art of government.

Bees, unlike other wild or domestic animals, combine efficient economic production and a virtuous political structure such that they present an image of a perfectly ordered common-weal. Note that here I write common-*weal* and not common-*wealth*. My usage here runs contrary to the actual word used by Butler, but it better preserves the meaning of his argument for my purposes. Both the words commonwealth and commonweal enter into English in the mid-sixteenth century, translating both *civitas* (“the city”) and *respublica* (“the public things”).<sup>28</sup>

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26. One wonders what conclusions Butler would have drawn from African and Africanized (“killer bees”) honey bees had he known of them. Might he have drawn conclusions about the relation between climate and temperament as Montesquieu did in his *Spirit of the Laws*?

27. Butler, *The Feminine Monarchie* (1609), A1r–v.

28. On the relation between the cluster of terms surrounding state, commonwealth, city, *civitas*, *res publica*, *res communis* and their historical development, see Quentin Skinner, “The State,” in *Political Innovation and Conceptual Change*, ed. Terrence Ball, James Farr, and Russell L. Hanson (Cambridge: Cambridge UP, 1989), 91–131. The anglicanization of *res publica*, “republic,” did not

Given that the unit of government was not the city and not quite yet the “public things” or “general welfare,” a new term was needed to adequately capture the meanings English writers wanted to convey. Even at the end of the seventeenth century, John Locke felt it necessary to comment on his choice of translating *civitas* as commonwealth rather than republic:

By *Common-wealth*, I must be understood all along to mean, not a Democracy, or any Form of Government, but *any Independent Community* which the *Latines* signified by the word *Civitas*, to which the word which best answers in our Language, is *Common-wealth*, and most properly expresses such a Society of Men, which Community or City in *English* does not, for there may be Subordinate Communities in a Government; and City amongst us has a quite different notion from Commonwealth.<sup>29</sup>

Following Locke, we must enquire into why he thought it necessary to use commonwealth rather than any other word.

Contemporary usage of *commonwealth* combines two meanings that early modern English frequently, but not universally, kept separate. For us, a commonwealth includes *both* what early moderns would call the *commonweal* and the *commonwealth*. Early modern usage distinguishes between *commonweal*, meaning the common well-being, the general good, prosperity and welfare of the community

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enter into use until the early seventeenth century, nearly a century after commonwealth entered into common usage. It too combined the meanings found in “commonwealth” and “commonweal,” that is, both the subject of government and the object of government.

29. John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge UP, 1960), III, §133. Thomas Hobbes, *Leviathan*, ed. Edwin Curley (Indianapolis: Hackett, 1994), xvii, 27 likewise uses commonwealth to translate *civitas*.

(i.e., the object of government), and the *commonwealth*, meaning the entire body of the people (i.e., the subject of government). “Wealth,” in this case, did not refer to material goods or riches. Consequently, these words referred to two processes undergoing rapid change in early modernity: (1) the purpose of the political community and (2) the identity of the constitutive political subject. Hence, in this case we need to be cognizant of what meaning is intended: the public good or the constitutive political subject.

A significant result of the seventeenth and eighteenth century revolutions—English, American, and French—was that the public good and the constitutive political subject become identified with one another. The good that the commonwealth is constituted to protect is the interest of the constitutive political subject; that is, the subject and object of politics becomes one and the same. We need to be mindful of larger patterns of social organization, especially during the transition from “the estates” to “the state.” This movement is co-extensive with the subsumption of the *commonweal* under the *commonwealth*. What is at stake here is the emergence of the top strata of the third estate (i.e., the people and the nation out of the third estate, or commons) as the dominant economic and political force. At this point, it becomes possible to speak about modern republican governments where there is no hereditary head of state and the government is (more or less) popularly elected by the commons. Hence, the “common” in “commonwealth”

ultimately comes to refer to this strata.

When Butler is speaking of the commonwealth, he is most certainly talking about the common*weal*; that is, the object of government. He is not referring to a political subject, but to the general good or public welfare of the community:

for their order it is such that they may well be said to have a commonwealth, since all that they do is in common without any private respect [...] They work for all, they watch for all, they fight for all. [...] their dwelling and diet are common to all alike; they have like common care both of their wealth and young ones.<sup>30</sup>

This description of the ordering of the hive is significant for two reasons. First, it confirms that Butler is not using commonwealth in the modern sense and, second, the hive in Butler's description is surprisingly similar to the late feudal order of Elizabethan England—the very regime that Butler had lived most of his life under—and the then decaying structure of reciprocal rights and duties.

Feudalism represented itself to itself as a system of three interdependent, but separate, orders or estates. Each estate received benefit from the other two while owing them particular duties. The monarch sat outside the system of estates, in effect constituting the kingdom and ensuring order. The first estate, the clergy, was concerned with spiritual matters; the second estate, the nobility, was concerned with defense; and the third estate, the commons, was concerned with producing the necessities of life.<sup>31</sup> Butler's schema repeats the feudal structure—working,

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30. Butler, *The Feminine Monarchie* (1609), A1v.

31. In England, the estates were called the Lords Spiritual, Lords Temporal, and the Commons.

watching, fighting—but with a significant change: the function of the third estate appears first, the function of the first estate appears second, and the function of the second estate appears third.

Another version of this re-ordering is found in later editions of *The Feminine Monarchie*, beginning with the 1623 edition.<sup>32</sup> The image appears in all subsequent editions, including the Latin translation. In the image, Butler represents the hive as consisting of four orders or estates, which he calls *Princeps* (first in order; i.e., the monarch), *Duces* (dukes), *Plebs* (commoners) and *Inerros Fuci* (wandering drones). This image is partially at odds with the actual text, which continues to identify working, watching, and fighting as the primary functions.

The image rank-orders the functions (*Princeps* inside the hive at the top; *Fuci* outside the hive at the bottom) representing them with images of bees of different sizes, along with their relative dispersion within the hive. In Butler's image, there is one *Princeps*, at the top, two *Duces*, one on either side of the hive facing *Princeps* at a forty-five degree angle, three *Plebs* organized in a triangular pattern, and four *Fuci* placed *outside* the hive—two on each side, one on top of the other. The three internal functions are shown from above while the *Fuci* are shown in profile.

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Once established, the bishops of the Church of England carried the title Lords Spiritual and sat in the House of Lords alongside the Lords Temporal. The lower echelons of the clergy—such as many of the apiarists, including Butler who was the vicar at Wootton St. Lawrence, near Basingstoke—were considered to be part of the Commons.

32. Charles Butler, *The Femine Monarchie, or, A Treatise Concerning Bees, and the Due Ordering of These* (London, 1623).

The *Duces* and the *Plebs* are represented by the same image, *Princeps* has its own image, which is the largest and is adorned with a crown, while the image of the *Fuci* represent them as a source of riotous disorder in comparison to the orderly arrangement of the *Princeps*, *Duces*, and *Plebs*.

The image is bordered by a series of mottos. The entire image is entitled *Apum Ordines* (“the order of the bees”),<sup>33</sup> the sides of the image are contained within the motto *SOLERTIA ET LABORE* (“ingenuity and labour”), which appears twice, and the bottom of the image is contained within the motto *SOCORDIAM LUIMUS* (“we pay for our laziness”). Finally, an epigram appears below the entire image:

*Miraris arte conditas mirâ domos,  
Opesque regales in his reconditas?  
Solertiâ et labore fiunt omnia.*

Or, in English,

Do you wonder at their houses founded with remarkable skill,  
And the royal wealth hidden in them?  
All things are created by their ingenuity and labour.<sup>34</sup>

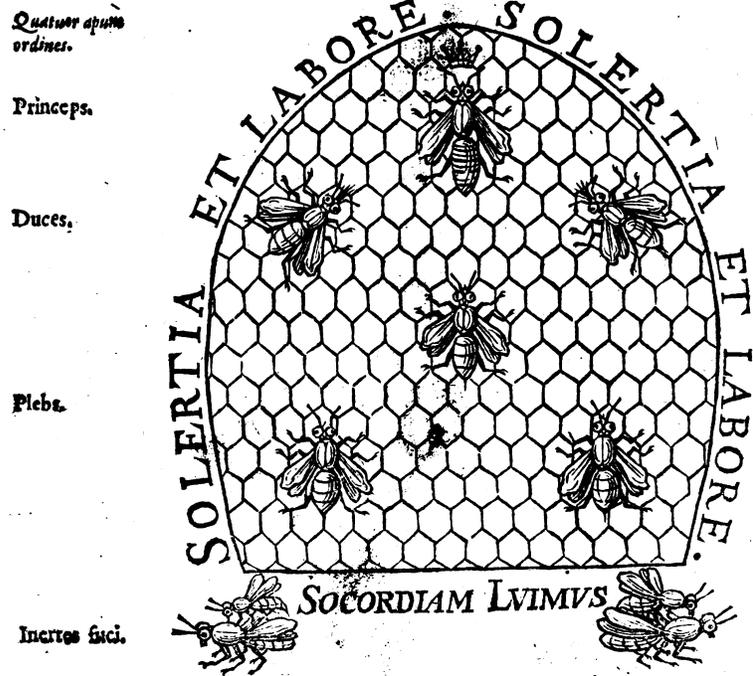
While the image appears to call into question the structure of the hive presented in the first chapter, the mottos and epigram work to confirm the original presentation of the structure. The key to this is found in the opposition between *solertia et labore* and *socordiam luimus*. The hive is “held in” on the sides by *solertia et labore*, while

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33. Variant editions read *Quatuor apum ordines*, the “four orders of the bees.”

34. I would like to thank my colleague, Professor Josh Beers, of the College of the Humanities at Carleton University in Ottawa, for providing these translations.

Figure 2.1: Butler's Imagined Beehive



*Miraris Arte conditas mirâ domos,  
Opesq; regales in his reconditas?  
SOLERTIA ET LABORE sunt omnia.  
C. B.*



the phrase *socordiam luimus* is bookended by the two sets of drones. The image is, therefore, presenting a contrast between *princeps*, *duces*, and *plebs*, on the one hand, and *inerros fuci* on the other. The *inerros fuci*, representing the drones who do not work, must “pay for [their] laziness” and have been banished from the hive.<sup>35</sup> The currency of their payment is banishment because their laziness—as well as laziness in general—is a threat to the stability of the hive as a whole: to its “ingenuity and labour.” This interpretation is confirmed by the epigram that attributes “the royal

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35. Regarding the drone, Butler writes the following in the fourth chapter under the heading, “The drone no labourer:”

The Drone, which is a gross hive-bee without sting, has been always reputed for a sluggard, and that worthily for howsoever he brave it with his round velvet cap, his side gown, his great paunch, and his loud voice, yet is he but an idle person living by the sweat of others’ brows. For he works not at all, either at home or abroad, and yet spends as much as two labourers, you shall never find his maw without a good drop of the purest nectar. In the heat of the day he flies abroad, aloft, and about, and that with no small noise, as though we would do some great act, but it is only for his pleasure, and to get him a stomach, and then returns he presently to his cheer. Butler, *The Feminine Monarchie* (1609), D5r.

Note the connection between his laziness and ostentatious dress. The comparison between the *fuci* and the so-called “masterless men,” as able-bodied but poor vagrants of the Tudor and Stuart eras were often called, is obvious:

it is still possible to conclude that vagrancy was one of the most pressing social problems of the age. [...] Vagrants could face felony charges under many statutes. The crime was taken so seriously because to the dominant classes vagabonds appeared to threaten the established order. They were ‘masterless’ in a period when the able-bodied poor were supposed to have masters. They also broke with official conventions of family, economic, religious and political life, some even venturing down the dangerous paths of organized crime and rebellion. A.L. Beier, *Masterless Men: The Vagrancy Problem in England, 1560-1640* (London: Methuen, 1985), xiv.

Come the middle of the seventeenth century, that is, during the Civil War, the poor became much more than a mere social problem, but one of the pressing political issues of the day: were the poor a part of the people? See Christopher Hill, “The Poor and the People,” in *The Collected Essays of Christopher Hill: Volume 3, People and Ideas in 17th Century England* (Brighton: Harvester, 1986), 247–73.

wealth” to the ingenuity and labour of the hive as a whole and not, it should be noted, to the sovereign except insofar as the sovereign creates a system of order wherein prosperity is possible. Hence, *solertia et labore* is the foundation of order and prosperity within the beehive.

Returning to the “continual labour, consenting order,” Butler argues that there are no internal causes or motivations that can disrupt the labouring process, with one important exception: the presence of two or more queens, which leads either to war or separation of the hive into two swarms.

But if they have many Princes, as when two fly away with one swarm, or when two swarms are hived together; they strike one of them presently, and sometime they bring her down that evening to the mantle, where you may find her covered with a little heap of Bees, otherwise the next day they carry her forth either dead or deadly wounded. Likewise if the old Queen bring forth many Princes (as she may have six or seven, yea sometimes half a score or more which superfluity nature affords for more surety, in case some miscarry) then left the multitude of rulers should distract the unstable commons into factions, within two days after the last swarm, you shall find them that remained, dead before the hive. [...] For the Bees abhor as well polyarchy, as anarchy, God having showed in them unto me an express patterne of a perfect monarchy, the most natural and absolute form of government.<sup>36</sup>

The lesson here is that royal succession must be smooth and transparent, otherwise significant disruptions—if not the complete destruction of the hive—will occur. Labour is continuous because the order is agreeable. In other words, the hive is perfectly structured such that there are no grounds upon which a bee would ever

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36. Butler, *The Feminine Monarchie* (1609), A2r–v.

complain and cease to work. The only factors which may ever impede continual labour are entirely external, such as poor weather, want of resources, or a successful invasion by robbers. In the absence of invasion, “their labour never ceases.”<sup>37</sup> Ceaseless, tireless, and continual labour provides an ideal model for the proper functioning of a political community: “their labour and order at home and abroad are so admirable, that they may be a pattern unto men both of the one and the other.”<sup>38</sup> It is at this point that Butler shifts from an economic discourse to a political and moral discourse, crediting the political structure as the source of the continual labour and consenting order:

all this under the government of one Monarch, of whom above all things they have a principal care and respect, loving, reverencing, and obeying her in all things. [...] While she cheers them to battle they fight; when she is silent they cease; while she is well, they are cheerful about their work; if she droops, they faint also; if she die, they will never prosper, then henceforth languish until they be dead too.<sup>39</sup>

Butler concludes, “God having shown in them unto me an express pattern of a perfect monarchy, the most natural and absolute form of government.”<sup>40</sup> These

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37. Butler, *The Feminine Monarchie* (1609), A1v. The drones, despite their noted laziness, cannot be a source of disorder internal to the hive because of their precarious existence. The drones have the sole purpose of breeding and are driven out of the hive following breeding. Those drones that do not leave are killed.

38. *ibid.*

39. *ibid.*, A2r–v.

40. *ibid.*, A3r. This passage has been incorrectly interpreted as a defense of absolute monarchy:

The insectan version of divine-right monarchy is also found in a remarkable work published in 1609 by Charles Butler, *The Feminine Monarchie, or, A Treatise Concerning the [sic] Bees, and the Due Order of Them*. This treatise, one of the earliest

statements are not innocent. As previously noted, Butler was writing just shortly after the death of Queen Elizabeth I and in the early years of James I's reign. The commonly accepted view was that Queen Elizabeth I, the Virgin Queen, ruled over a golden age in English history which saw the arts, commerce, and state prosper. In comparison, James I (as was his successor Charles I, during whose reign the third edition of *The Feminine Monarchie* was published) was an unpopular ruler and resistance to his rule contributed greatly to the Civil War due to his—as ascribed to him, at least, by his enemies—preference for absolutist monarchy, poor financial management, and his promotion of largely unpopular advisors and ministers at

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comprehensive treatments of beekeeping and the habits of honeybees, was published in the reign of James I, the first Stuart monarch of England. Its portrayal of honeybee societies as perfect monarchies seems to go beyond the flattering ornamental statements often prefacing works published under the watchful eye of patron sovereigns: in his opening chapter, after extolling the many virtues of honeybees, Butler marvels that “all this [is found] under the government of one Monarch, of whom above all things [the worker bees] have a principal care and respect, loving, reverencing, and obeying her in all things.” Butler is serious about the virtues of monarchy, as he goes on to explain why, should the queen “bring forth many princes,” the new royals will either leave the colony in a swarm or be killed off by the workers: “For the bees abhor as well polyarchie, as anarchie, God having showed in them . . . an expresse pattern of a perfect Monarchie, *the most natural and absolute form of government*” (chap. 1, emphasis added). In other words, the bees will not abide more than one leader in the hive, driving off or killing off would-be oligarchs till one ruler remains; God has here provided a perfect monarchical model for people. James T. Costa, “Scale Models? What Insect Societies Teach Us About Ourselves,” *Proceedings of the American Philosophical Society* 146, no. 2 (2002): 173–4.

This error derives from two sources. First, that the book was published in the sixth year of James I's reign has little bearing on the politics of *The Feminine Monarchie*. Second, Costa relies upon an anachronistic interpretation of the meaning of “absolute.” He confuses early seventeenth century uses of absolute with later uses. Butler is using “absolute” to mean “complete, perfect.” He is not using it in the sense of “absolute power,” a meaning which does not enter into common usage for another decade. Costa is correct, however, that the monarchy of the beehive is intended as a model of human societies, he just significantly misidentifies the model.

Court. Butler's subtle attacks on James I in *The Feminine Monarchie*, published in 1609, appeared just four years after the failed assassination attempt known as the Gunpowder Plot, or Powder Treason, where a group of Catholics attempted to kill the entirety of the royal family and Protestant aristocracy with a single explosion set off by Guy Fawkes. In addition to the Gunpowder Plot, 1605 also saw the return of the bubonic plague with particular ferocity in London. Hence, the first years of James I's rule saw plague and disorder, both certainly signs of God's disfavour with his form of rule in comparison with the form of rule adopted by Elizabeth: "if she die, they will never prosper, *then henceforth languish until they be dead too.*"<sup>41</sup> Butler is not defending the King, but lamenting the death of the Queen.

Butler goes on to draw out a comparison between Queen Elizabeth I and the queen bee, which is aimed against the form of rule adopted by James I. In comparison with the divine right monarchy of James I, Elizabeth I's rule was comparatively moderate. Her motto, *video et taceo*, "I see, but say nothing," should be kept in mind given the importance Butler attributes to "watching" as opposed to acting, but also watching in the "police" sense of surveillance. Elizabeth I, therefore, according to Butler—in direct opposition to James I, whose hostility to Parliament

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41. Butler, *The Feminine Monarchie (1609)*, A2v, emphasis added. The 1623 edition reads differently: "if she droops and die, they will never after enjoy their home, but either languish there until they be dead too, or yielding to the Robbers, fly away with them." Butler, *The Feminine Monarchie (1623)*, B2r.

is well known—operated above and outside the rest of the political structure and her function was to unite the other functions under her steady hand:

the spear she has [her stinger] is but little, and not half so long as other Bees; which, like a King's sword, is borne rather for show and authority, than for any other use for it belongs to her subjects as well to fight for her, as to provide for her.<sup>42</sup>

The trade-off, then, is that if the monarch is moderate, then not only will the kingdom prosper, but there will be order and peace throughout: the commons will “have a principal care and respect, loving, reverencing, and obeying her in all things.”<sup>43</sup> In such a kingdom, a monarch only needs a “little spear” to maintain order and ensure prosperity because these emerge out of governmental management rather than sovereign violence. The health of the commons and of the queen are mutually implied. A moderate ruler ensures that their own good is in tune with the good of the whole, while an immoderate ruler places their own good above the rest. Hence, moderation/immoderation (politics), necessity/luxury (economy), and virtue/vice (morality) are all closely associated with one another. Similarly, should the monarch pursue moderation, virtue, and necessity, the fact of having a “little spear” will not be important because the monarch will have no reason to make use of the tools of sovereignty: of commands, of laws, and of violence. However, if the monarch is immoderate and decadent, then the monarch will no doubt have

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42. Butler, *The Feminine Monarchie* (1609), A3r–v.

43. *ibid.*, A2r.

recourse to poor decisions when engaged in ruling and will thus tend to use their “little spear” to rule with violence rather than ruling with virtue—and, obviously, the use of that “little spear” necessarily entails the death of the queen bee.

## 2.6 From Monarch to Beekeeper and Back

It is not just the style of rule that Butler identifies. He also draws a connection between the virtue of the bees and the virtue of the beekeeper: after all, *The Feminine Monarchie* is ostensibly an apicultural text intended to be used by actual beekeepers. This is a particularly interesting section of *The Feminine Monarchie* because it is one of the few places in the text where humans play a direct part and points to how the text can be read as advice to the prince because here the monarch and the beekeeper become indistinguishable. Just as it is the purpose of the monarch to display the finest virtues and moderation in order to give coherence and stability to the hive, the beekeeper must approach the hive with virtue and moderation with the goal of regulating the external conditions of the hive (where to place the colony, the form of the hive, the relation between the hive and environment—precisely the aspects that could affect the “continual labour, consenting order” that the queen bee is unable to govern). Proper regulation of the external conditions will enable the hive to prosper; neglect will cause the hive to “languish and die.” If the beekeeper takes care of the hive, the hive will take care of him. He isolates four principle

virtues: temperance, justice, chastity, and cleanliness:

1. “In the pleasures of their life the Bees are so moderate, that perfect temperance seems to rest only in them.”
2. “Also, in their own commonwealth, they are most just, not the least wrong or injury is offered among them.”
3. “Their chastity is to be admired. [...] They engender not as other living creatures: only they suffer their drones among them for a season, by whose masculine virtue they strangely conceive and breed for the preservation of their sweet kind.”
4. “For cleanliness and neatness they may be a mirror of the finest dames. [...] For neither will they suffer any sluttishness within . . . neither can they endure any unsavouriness without . . . pied and garish colours belong to the wasp, which is good for nothing but to spend and waste.”<sup>44</sup>

The virtues displayed by the bees must be replicated by the beekeeper or anyone else who would approach a swarm or hive:

But if you will have the favour of your Bees that they sting you not, you must avoid such things as offend them: you must not be (1) unchaste or (2) unclean for impurity and sluttishness (themselves being most chaste and neat) they utterly abhor; you must not come among them (3) smelling of sweat, or having a stinking breath caused either through

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44. Butler, *The Feminine Monarchie* (1609), B5r–v.

eating of leekes, oninons, garlic, and the like; or by any other means; the noisomeness whereof is corrected with a cup of beer and therefore it is not good to come among them before you have drunk; you must not be given to (4) surfeiting and drunkenness; you must not come (5) puffing and blowing or sweating unto them, neither hastily stir among them, nor violently defend yourself when they seem to threaten you; but softly moving your hand, before your face gently put them by; and lastly you must be (6) no stranger unto them. In a word you must be chaste, cleanly, sweet, sober, quiet, and familiar so they will love you, and know you from all other.

Recall the previously cited passage: “of whom [the monarch] above all things they [the bees] have a principle care and respect, loving and reverencing, and obeying her in all things.”<sup>45</sup> The queen and the beekeeper are bound to the hive through a connection of love and respect. Because the bee most perfectly displays the virtues, it is absolutely necessary that any beekeeper who would approach the hive or swarm likewise mimic the virtues as perfectly as possible because vice—be it unchastity, sluttishness, drunkenness, or laziness, which are traits of the drone—is a certain source of disorder that will disrupt the entire hive. Consequently, the virtues of the subjects and the monarch must be in complete harmony and perfect mirrors of one another in order to ensure the “continual labour, consenting order.” The lesson, if I understand Butler correctly, is that virtue begets virtue and vice begets vice. The central node in the transmission of virtue/vice is the monarch, thus implying a downward continuity. Should the monarch’s desire be properly ordered, then that

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45. Butler, *The Feminine Monarchie* (1609), A2r.

moral ordering will spread downwards to the lowest tiers of the hive. Likewise, vice spreads in the exact same way. Consequently the monarch—or beekeeper—must always monitor the commons so as to ensure the proper functioning of the hive. However, that monitoring must not extend to violent intervention. The monarch’s “spear,” being smaller than that of the other bees, “is borne rather for show and authority” than for use.<sup>46</sup>

## 2.7 Conclusion

Charles Butler’s *The Feminine Monarchie* is significant because it is the point of connection between the early modern revaluation of the problematic of rule and the early modern reconceptualization of nature. For Butler, but not for most later thinkers, nature remained a source of pedagogical value: if one knew what to look for, one would find an image worthy of emulation. To find the right image would allow a model of the virtuous community to emerge; to find the wrong image would allow for a corrupt community to emerge. In either case, nature provided the image and the model. Thus, rather than a separation of nature and culture, nature was a model to be emulated rather than escaped. Further, animals—in Butler’s case, insects—were images of various stereotyped humans: queens, princes, commoners, robbers, vagrants, and others. As a result, rather than accentuating a gap between

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46. Butler, *The Feminine Monarchie* (1609), A3r–v.

humanity and animality, Butler unproblematically reduces, if not outright denies, any such gap.

A problem, however, emerges when Butler turns to concrete recommendations for the monarch, which brings in the tension between sovereignty and government. What we see here is that these concepts require a distinction between nature and culture to be fully coherent, but no such clear distinction exists for Butler. Indeed, it is explicitly denied. Government requires a concept of culture or society distinct from nature because nature and sovereignty entail a transcendent order beyond human control and manipulation while government requires an immanent order susceptible to deliberate and intentional human control. The outcome of this is that Butler ends up moving erratically across domains—nature and culture, human and non-human—in an incoherent fashion. It appears incoherent because, conceptually, it requires an ontological distinction the possibility of which he denies.

Thus, with Butler we see how the received conceptions of nature were becoming increasingly untenable. While for later theorists, the impetus for reconceptualizing nature will be scientific, most obviously the materialistic and mechanistic view of nature as matter in motion, for Butler, the problem with nature isn't scientific but political. Previous conceptions of nature don't fit with the new political concepts, but because there is no new conception of nature yet, these must be forced to work together—which they don't. In order to coherently outline a theory of society, a

new concept of nature was necessary.

## 3 Denial

In this I agree heartily with those transformers of human nature who, considering it abstractedly and apart from government or society, represent it under monstrous visages of dragons, leviathans and I know not what devouring creatures.

Lord Shaftesbury, *Characteristics of Men, Manners, Opinions, Times*, 1711

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### 3.1 Introduction

Accounts of Thomas Hobbes's political theory have traditionally focused upon the nature of political obligation and the possibility of founding the commonwealth and society on a rational basis. Many of these approaches have privileged the account presented in *Leviathan*, thus neglecting two other significant treatises: *The Elements of Law* and *De Cive*. Further, these accounts have primarily focused on a very small section of *Leviathan*, dealing almost exclusively with the account running from the state of nature through to the formation of the commonwealth.<sup>1</sup> As a result, such accounts tend to ignore two significant works and overlook nearly

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1. Thomas Hobbes, *Leviathan*, ed. Edwin Curley (Indianapolis: Hackett, 1994), i.e., xxiii–xvii.

ninety-percent of *Leviathan*, especially the second part wherein Hobbes presents his theology. Recently, however, some scholars have attempted to correct this myopic view of Hobbes through a sustained interrogation of the symbolic elements and rhetorical strategies employed by Hobbes, as well as stressing the importance of the theological chapters.<sup>2</sup>

Although Hobbes's theory articulates one of the clearest and most obvious attempts to distinguish between nature and culture, human and non-human, it is also one of the most sustained attempts to separate and isolate these categories from one another. This aspect of Hobbes's thought has gone generally unrecognized despite its apparent centrality. The movement from state of nature to civil society is not merely a logical exercise, an early modern version of the prisoner's dilemma, but an account of why, in the name of stability and order, the inhuman threat of nature and animality must not only be suppressed, but its foundations and possibility denied. The key to recognizing the centrality of Hobbes's attempt to immunize the human from the non-human is shown in his repeated return to two points that constantly re-appear throughout his political works: the attempt to distinguish human from animal on natural grounds despite their physical similari-

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2. For instance, Horst Bredekamp, "Thomas Hobbes' Visual Strategies," in *The Cambridge Companion to Hobbes's Leviathan*, ed. Patricia Springborg (Cambridge: Cambridge UP, 2007), 29–60 and the works cited therein. The significant exception is Carl Schmitt's largely neglected—and somewhat anti-semitic—work on symbolism in Hobbes; see Carl Schmitt, *The Leviathan in the State Theory of Thomas Hobbes*, trans. George Schwab (Chicago: University of Chicago Press, 2008).

ties and his attack on Aristotle's views on non-human animals that are potentially politically organized. In both cases, Hobbes, like many others after him, reduces the difference between humans and animals to the capacity for language.<sup>3</sup>

Two claims lie at the center of this chapter. First, the distinction between human and animal is central to Hobbes's thought and, second, this distinction forms the basis of and condition of possibility for the movement from the natural condition to the commonwealth. Put simply, it is only humans and no other creatures that are able to move from nature to convention. Further, in order for that movement to happen, humans must be of or made to be a particular sort. The constitution of this "particular sort" forms Hobbes's problematic. I claim that both of these points have been largely overlooked in the secondary literature on Hobbes. The distinction between human and animal is as central to the Western tradition of political theory as it is to Hobbes's political theory. Consequently, while Hobbes makes unique contributions of his own to this ancient debate, Hobbes should be read in the context of this debate, especially in relation to Aristotle whom he attacks especially vigorously over the natural and artificial origin of the community.

While I do not seek to displace the importance of the earlier work on obligation and the foundation of the commonwealth, this chapter operates in dialogue with

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3. Since writing this chapter, Diego Rossello has published an article making many similar claims to my own—he even discusses Charles Butler. Rossello kindly shared a draft of his article with me prior to publication. Diego Rossello, "Hobbes and the Wolf-Man: Melancholy and Animality in Modern Sovereignty," *New Literary History* 43, no. 2 (2012): 255–79.

the more recent scholarship on the symbolic and metaphorical aspects of Hobbes's texts.<sup>4</sup> Following François Tricaud, I argue that there is an essential continuity in Hobbes's position through his three major political treatises despite the 'ambiguities' raised by each re-formulation of the problem.<sup>5</sup>

Most interpreters agree that Hobbes's essential problem concerns the possibility of and condition for the creation of a safe and secure commonwealth. However, many of these same commentators overlook the equivalence Hobbes constructs between commonwealths by institution (i.e., the rational covenant) and commonwealths by acquisition (i.e., the right of the invader) and commonwealths by patriarchy (i.e., the right of the father).<sup>6</sup> The reason Hobbes emphasizes the common-

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4. However, it is clearly the case that the separation between human and animal will have bearing on the theories of obligation and rationality insofar as Hobbes's question can be parsed in Nietzschean terms: how can an animal capable of making promises be made? The question needs to be framed in terms of "making" because, for Hobbes, politics creates a "second-nature" called "artifice" that erases and over-rides the first nature found in the natural condition of mankind. This is the scandal of Hobbes's mechanistic philosophy exposed in the "Introduction" to *Leviathan* where he compares the first creation by God to the second creation by man—the second creation being superior to the first creation because it corrects for defects in the first creation: the "artificial life" is vastly superior to the "natural life." The famous Hobbesian problem of order presupposes the problem of the human.

5. François Tricaud, "Hobbes's Conception of the State of Nature from 1640 to 1651: Evolution and Ambiguities," in *Perspectives on Thomas Hobbes*, ed. G.A.J. Rogers and Alan Ryan (Oxford: Clarendon Press, 1988), 107–23.

6. That Hobbes views commonwealths by consent and commonwealths by conquest as equivalent relative to sovereign power is frequently overlooked by those who read Hobbes as a social contractarian because ordinarily understood, contracts deriving from coercion are unenforceable and therefore invalid. What the social contractarian interpretation of Hobbes often overlooks is that for Hobbes, a contract is valid whether its origin is in coercion or consent; e.g., Hobbes, *Leviathan*, xiv, 27. This means that if you are waylaid by a highway robber and agree to give him money tomorrow in exchange for your life today, then you are obligated to follow through, otherwise the robber has the right to seek redress (in this case, to track you down and kill you). In liberal regimes, you would not be required to follow through on the contract because it was coerced.

wealth by institution is because he is attempting to argue on rational terms with rational interlocutors. His point is that if you agree that a commonwealth formed on a rational basis is legitimate and it is legitimate because it serves the function of protecting the lives of its subjects, then you must accept the legitimacy of any commonwealth that successfully protects the lives of its subjects regardless of how that commonwealth came into existence. Ultimately, Hobbes's goal is deflationary: there are no important and politically relevant differences between commonwealths by institution, acquisition, and patrimony. Hence, the goal is to remove the question of origins from political argument and thought. The problem of constituting a commonwealth itself conceals a more fundamental problem: how to create a man fit for life in the commonwealth—regardless of how that commonwealth came to be?

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Hobbes does not admit this distinction. Hobbes's theory of contract calls into question aspects of the 'Hobbes as bourgeois propagandist' interpretation. Most immediately, Hobbes's point is an intervention into the politics of the English Civil War, Restoration and Glorious Revolution era, where some Parliamentarians, especially the Levellers and Diggers, argue that royal power was illegitimate because it ultimately derived from the Norman Conquest of 1066; what they called "the Norman yoke." Hence, the original inhabitants of England (that is, the conquered Saxons) had not consented to the authority of the king. At the same time, in Hobbes's interpretation, the king's right to rule cannot and does not derive from divine right. The king is only king by right of violence and conquest. "In a word, what Hobbes wants to eliminate is the Conquest, and also the use that was being made, in both history discourse and political practice, of the problem of the Conquest. Leviathan's invisible adversary is the Conquest." Michel Foucault, *'Society Must Be Defended': Lectures at the Collège de France, 1975–1976*, ed. Mauro Bertani, Alessandro Fontana, and Arnold I. Davidson, trans. David Macey (New York: Picador, 2003), 98. Hobbes admits a third form of sovereignty in addition to acquisition and institution: paternal or patrimonial power. However, unlike the other two, units based upon paternal or patrimonial power are natural rather than artificial. This would suggest that there are forms of relatively stable political power that can exist in the state of nature. See Thomas Hobbes, *The Elements of Law, Natural and Politic*, ed. J.C.A. Gaskin (Oxford: Oxford UP, 2008), xxiii; Thomas Hobbes, *On the Citizen*, ed. and trans. Richard Tuck and Michael Silverthorne (Cambridge: Cambridge UP, 1998), ix; and Hobbes, *Leviathan*, xx.

The underlying question concerns the transformation of a wild and savage man with “no culture of the earth, no navigation, nor use of the commodities that may be imported by sea, no commodious building, no instruments of moving and removing such things as require much force, no knowledge of the face of the earth, no account of time, no arts, no letters, no society” into a docile and domesticated subject fit to live in society.<sup>7</sup> Further, the difference between a wild man and a wild animal is so minimal in the state of nature that the transformation of the wild man into a docile and domesticated subject is also the erasure of animality and its replacement with humanity. That is, how can “that very wolf-like element which men deplore in each other” be controlled, repressed, sublimated, or negated?<sup>8</sup> If such a human cannot be created, then the commonwealth itself cannot be sustained. This problem has been parsed in terms of a conflict between the passions and the interests.<sup>9</sup> There is some truth to this position, but that truth is more suggestive than convincing because a simple equivalence between animal/passion and human/interest does not hold up, especially in the case of Hobbes. A significant part of Hobbes’s argument rests on the interests winning over the passions in order to allow for the

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7. Hobbes, *Leviathan*, xiii, 9.

8. Hobbes, *On the Citizen*, ED.

9. For instance, Pierre Force, *Self-Interest Before Adam Smith: A Genealogy of Economic Science* (Cambridge: Cambridge UP, 2003); Albert O. Hirschman, *The Passions and the Interests: Political Arguments for Capitalism Before Its Triumph* (Princeton: Princeton UP, 1977); Victoria Kahn, Neil Saccamano, and Daniela Coli, eds., *Politics and Passions, 1500–1850* (Princeton: Princeton UP, 2006); Sheldon Wolin, *Politics and Vision: Continuity and Innovation in Western Political Thought*, Expanded Edition (Princeton: Princeton UP, 2004).

move from nature to commonwealth. But this is, I think, largely a rhetorical strategy on Hobbes's part whereby he is trying to convince rational interlocutors with rational argumentation made on the basis of a comparatively rational man. What Hobbes is actually attempting to do is map the boundaries between man fit for the commonwealth and other forms of beings—especially animals, machines, and gods; or, again, between the natural, the artificial, and the divine.<sup>10</sup> That is, despite Hobbes's frequent attack on Aristotle and scholasticism, Hobbes's position is clearly consistent with the Aristotlian maxim, "anyone who is without a city-state, not by luck but by nature, is either a poor specimen or else superhuman."<sup>11</sup> Hobbes fully agrees that only humans live in cities or commonwealths. It is truly the case for Hobbes that neither beasts nor gods live in cities—and why this is needs to be understood. Here I argue that there are two layers to Hobbes's political theory. The first is the well-known problem of the constitution of the commonwealth. The second is the less well-known problem of the constitution of man. In terms to be discussed below, the constitution of the commonwealth is a function of the sovereign machine while the constitution of man is a function of the anthropological machine. The latter produces the "stuff" of the former. Without a properly constituted man, there can be no commonwealth at all, regardless of whether it is

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10. This strange combination of elements—human, animal, machine, divine—is what makes the image of the leviathan so monstrous.

11. Aristotle, *Politics*, trans. C.D.C. Reeve (Indianapolis: Hackett, 1998), 1253a. Less literal and, therefore, more literary translations often read "is either a beast or a god."

by institution, acquisition or patrimony. Admittedly, the distinction between the constitution of the commonwealth and the constitution of man is not explicit in Hobbes's texts and it is likely the case that Hobbes himself was unaware of the distinction, but reading Hobbes through these two machines can bring aspects of Hobbes's political thought to the surface which had previously been latent.

This chapter demonstrates the importance of the distinction between human and animal to Hobbes's political theory through a careful examination of what Hobbes called "the natural condition of mankind." That is, what Hobbes believed humans to really be in the absence of social, political, and cultural institutions. Drawing from Giorgio Agamben's political theory, I argue that Hobbes develops an "anthropological machine" to separate the human and non-human, which is the necessary precondition for the emergence of the sovereign and political community. However, while asserting the difference in kind between human and animal, we see how this distinction breaks down when we look at his analysis of language and knowledge, and we see how this attempt to absolutely distinguish the human and the animal leads to morally repugnant outcomes, such as racism, and justifies the exploitation of the non-human by the human.

### 3.2 The Natural Condition of Mankind

Many accounts of Hobbes's thought begin with the state of nature. My account is no different. What is known as the state of nature is certainly important for Hobbes because his depiction of it remains remarkably consistent through his three major political works, changing only in emphasis and order of presentation. The basic problem remains the same: in their natural condition, living beings possess natural right, which is the absolute right to self-preservation and, consequently, the absolute right to all things—including the body and life of other living beings.<sup>12</sup> Hence, through a cruel twist of logic and self-interest, natural right (the absolute claim to self-preservation, including the enslavement and killing of others, with or without provocation) rapidly turns into its opposite: universal exposure to violent death.<sup>13</sup> However, in a dialectical turn worthy of a proto-Hegelian, the transformation of natural right into universal exposure to death provides the seed of its own resolution.

Natural right grants the absolute and unrestricted use of violence to avoid “the supreme evil”: violent death at the hands of another human being.<sup>14</sup> For Hobbes,

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12. Hobbes, *Elements of Law*, xiv, 6; Hobbes, *On the Citizen*, i, 7; and Hobbes, *Leviathan*, xiv, 1. I use the empty term “living beings” because *anything* that is alive possesses natural right. Wolves and humans kill by virtue of the same natural right. Similarly, a plant absorbs and destroys nutrients from its environment by natural right.

13. The indistinction between self-preservation and extermination makes Hobbes the first modern theorist of the biopolitical. However, see the next note where Hobbes pulls back from the biopolitical perspective.

14. Hobbes, *On the Citizen*, ED. Hobbes is quite explicit that the problem is *violent* death at the hands of another and not death as such. That Hobbes's concern is with violent death rather

“the greatest evil” is not in killing, but in being killed.<sup>15</sup> Every living being possesses this right by nature and, consequently, every living being finds itself in the same predicament: that which allows self-preservation guarantees violent death. The only solution, then, is for all living beings to simultaneously relinquish their natural right and entrust it to a mutually agreed upon third party. Clearly, a problem arises: not all living beings are constituted such that they can relinquish their natural right. Humans appear to be unique in this regard—carp, falcons,

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than death *as such* pulls him back—a bit—from the biopolitical perspective. There are many ways to die violently that are not caused by others—falling off a hill or cliff and smashing oneself to death or falling out of a tree. Hobbes does not have these forms of death in mind regardless of how violent and painful they may be. To say that a living being has the natural right not to be crushed in a landslide simply makes no sense. Likewise, Hobbes’s concern is not with natural death through starvation or disease, even if caused by another (e.g., burning crops). This fear of violent death crosses the boundaries of species: the cow fears the human coming to slaughter it as much as the human fears the python slithering up its leg. Because all living beings possess natural right, the cow has as much right to resist the butcher in order to secure its self-preservation as the human has to resist the python. Similarly, humans have the right to resist animals that would prey upon them, such as pythons, bears, or wolves. Even a plant, such as poison ivy or nightshade, has the right to resist attacks upon it with poison. These cross-species conflicts do not lead to any moral problems for Hobbes. The moral problem—life in the natural state is intolerable—only arises in the conflict between humans. Consequently, the entire basis of his political and social theory is the regulation of the physical killing of one individual human by another individual human and the fear thereof. Put another way, the object of sovereignty is life *itself*, what the Greeks called *zoē*, and not a qualified or good life, what the Greeks called *bios*. I discuss the opposition between *zoē* and *bios* below.

15. The reason is that moral evaluations are entirely subjective and individual in the state of nature. That which harms *me* is evil and that which benefits *me* is good. If what benefits *me* happens to harm *you*, then it is still good for *me* while being evil for *you*. The only possible universal definition (i.e., that which would hold in all cases for all people in the state of nature) of good and evil is, respectively, continuing to live without fear of being harmed or killed. Otherwise, all normative evaluations are individual and subjective. “For there is no such *Finis ultimus* nor *Summum bonum* as is spoken of in the books of the old moral philosophers [i.e., Aristotle].” Hobbes, *Leviathan*, xi, 1. Moral co-ordinates can only be fixed (i.e., transcendentalized) through the creation of the commonwealth. Consequently, moral commandments, *even if* they are of divine origin, are meaningless in the natural condition because a prohibition on killing would render natural right meaningless.

and hedgehogs will never be able to give up their natural right. This requires two things to happen. First, some living beings must transform themselves from animals into humans. Second, the immanent order of the natural condition must be transformed into the transcendent order of the commonwealth. Hence, the foundation of every commonwealth presupposes both the anthropological machine (the transformation of animals into humans) and the sovereignty machine (the transformation of an immanent order into a transcendent order).<sup>16</sup> There are two ways to accomplish this goal: through covenant or through conquest. The “rational” form is more well-known.<sup>17</sup> The significant difference is that the covenant tends towards commonwealth while conquest tends towards empire: “For since there are those who, from pride and a desire for glory, would conquer the whole world.”<sup>18</sup> Thus, the subjective fear individuals have of one another would be replaced with the universal fear of the sovereign, which would result in peace within the consti-

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16. Giorgio Agamben, *The Open: Man and Animal*, trans. Kevin Attell (Stanford: Stanford UP, 2004). See also Matthew Calarco, *Zoographies: The Question of the Animal from Heidegger to Derrida* (New York: Columbia UP, 2008), chapter 3; Leland de la Durantaye, *Giorgio Agamben: A Critical Introduction* (Stanford: Stanford UP, 2009), chapter 8; and Kelly Oliver, “Stopping the Anthropological Machine: Agamben with Heidegger and Merleau-Ponty,” *PhanEx* 2 (2007): 1–23.

17. I put “rational” in quotations because each form is equally rational: why is an agreement more rational than begging for one’s life on the battlefield? Both have the same goal: self-preservation. Describing one as rational and the other as irrational overlooks much of what Hobbes has to say about contracts. Unlike modern contracts in the modern commonwealth, Hobbesian contracts need not be entered into freely: a coerced contract is as valid as an uncoerced contract. Hobbes, *Leviathan*, xiv, 27. It would seem to be the case that the “rational” and the “irrational” forms are both sub-species of a cessation of hostilities.

18. *ibid.*, Latin Variant, xiii, 4.

tuted commonwealth. This leads to its own problem: why should I agree to keep my word? Or, perhaps more to the point, why should I trust others to keep their word? That is, if I agree to not kill you, how do I know that you will keep your promise not to kill me? This last problem—the problem of trust, contracts, and cooperation—has dominated much subsequent interpretation of Hobbes such that other problems have been left behind and unduly ignored. Indeed, the emphasis on contracts has even left Hobbes behind insofar as a contract is not the basis of the commonwealth for Hobbes. Rather, the model for the consensual basis of the commonwealth is explicitly theological—or, again, transcendent—and adopts the language of the covenant, especially the covenant between the God of the Old Testament and His chosen people.

To begin, two points need to be made: first, Hobbes rarely uses the phrase “the state of nature” and, second, Hobbes never uses the phrase “the social contract.”<sup>19</sup> These points have significant theoretical consequences. The so-called “state of nature chapters” appear with three different titles referring to “the estate and right of nature,” “the state of man without civil society,” and “the natural condition of mankind.”<sup>20</sup> Likewise, what is commonly referred to as “the social contract” in

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19. Jean-Jacques Rousseau, even if he did not create the term himself, is nonetheless responsible for its popularization. Hence, the term social contact was not in wide circulation until over a century *after* Hobbes had written his last significant political work.

20. Hobbes, *Elements of Law*, xiv; Hobbes, *On the Citizen*, i; Hobbes, *Leviathan*, xiii. Seventeenth century use of “estate” should not be confused with contemporary use of “state.” The English word “state” derives from the Latin word *statu*, which in the seventeenth century had

the secondary literature is generally referred to as a “covenant” throughout these works, with the exception of *De Cive* where the language of agreement dominates.<sup>21</sup>

Most Hobbes scholars agree that Hobbes did not intend the state of nature to refer to an actual historical or pre-historical period. It is generally agreed that the state of nature is a “model” or “hypothetical” based upon empirical and logical deductions.<sup>22</sup> Hence, the “state of nature,” for Hobbes, is the state of mid-seventeenth

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dominant meanings of “condition” or “rank;” as in “state of the union” where the President reports on the present condition of the union or “second estate” referring to the noble caste that is above the producers, but below the clergy. It is only with the triumph of the third estate in the early modern period that third estate in the political form of the nation becomes synonymous with *the* state. Thus, while there are similarities between early modern and contemporary usage of estate/state, there are also significant differences. When Hobbes speaks of the “the estate of nature,” he means “the condition of nature,” or what I call the immanent order of nature. Later we will see that the “estate of nature” is not characterized by rank-ordering as suggested by one of the meanings of the word “estate” because for Hobbes there is no natural hierarchy. See Quentin Skinner, “The State,” in *Political Innovation and Conceptual Change*, ed. Terrence Ball, James Farr, and Russell L. Hanson (Cambridge: Cambridge UP, 1989), 91–131.

21. For instance, “every man by covenant oblige himself to some one and the same man, or to some one and the same council, by them all named and determined, to do those actions, which the said man or council shall command them to do; and to do no action which he or they shall forbid, or command them not to do.” Hobbes, *Elements of Law*, xix, 7. *De Cive* presents a mild exception when Hobbes adopts the language of agreement rather than covenant and adds a point about taxation (likely aimed at the parliamentarians), “This *submission* of all their wills to *the will of one man* or of *one Assembly* comes about, when each of them obligates himself, by an Agreement with each of the rest, not to resist the *will* of the *man* or *Assembly* to which he has submitted himself; that is, not to withhold the use of his wealth and strength against any other men than himself.” Hobbes, *On the Citizen*, v, 7. However, Hobbes clearly differentiates between contracts and agreements. *ibid.*, ii, 9–10. Contracts are performed immediately because one or both of the parties cannot be trusted while agreements are performed in the future because one or both of the parties can be trusted. Finally, “This is more than consent, or concord; it is a real unity of them all, in one and the same person, made by covenant of every man with every man, in such manners as if every man should say to every man *I authorise and give up my right of governing myself to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorize all his actions in like manner.*” Hobbes, *Leviathan*, xvii, 13. Hobbes’s use of covenant and agreement is done to clearly avoid the language of contracts.

22. “Hobbes’s state of nature is, then, a logical hypothesis” and “The construction of models of society is an unusual, and may be thought unnecessary, procedure in an analysis of political theory. What value it has must be left to the reader’s judgement of its results, but its probable

century Englishmen during a period of civil war.<sup>23</sup> There are, however, three strong reasons to believe that this interpretation of Hobbes may not be entirely airtight. First, it overlooks Hobbes's keen interest in "the savage people in many places of America."<sup>24</sup> In addition to having included a depiction of Carolina Algonkians, most likely inspired by John White's watercolors and Theodor de Bry's engravings of the same as a representation of primal *Libertas* (that is, of people without a commonwealth; or, again, living in the natural condition) on the frontispiece to *De Cive*, Hobbes was also—technically—a North American landowner through his involve-

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usefulness in analysing Hobbes's theory is suggested by Hobbes's own method. He constructed a model of man, which he built up carefully by logical connection of postulated elements of human nature. He constructed also a notable model of relations between men, the state of nature, which he deliberately set up as a limiting case. It might be called a model of non-society [...] the fact that Hobbes had, in effect, a model of society other than the state of nature is often quite overlooked." C.B. Macpherson, *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford: Clarendon Press, 1962), 21, 46–7. Some disagree with Macpherson's attribution of a deductive method to Hobbes. "[Hobbes] held that people can understand human nature by introspection, arguing (as Montaigne and Descartes had argued) that by examining our own thoughts and passions we may discover truths about the thoughts and passions of everyone." J.P. Sommerville, *Thomas Hobbes: Political Ideas in Historical Context* (London: Macmillan, 1992), 28. The point of contention here is that Macpherson appears to hold that the observation of others is the basic source of data for the construction of postulates while Sommerville appears to hold that introspection (i.e., observation of the self) is the source of the basic data.

23. "I shall show first . . . that Hobbes's state of nature or 'natural condition of mankind' is not about 'natural' man as opposed to civilized man but is about men whose desires are specifically civilized; that the state of nature is the hypothetical condition in which men *as they now are*, with natures formed by living in civilized society, would necessarily find themselves if there were no common power able to overawe them all." Macpherson, *The Political Theory of Possessive Individualism: Hobbes to Locke*, 18–9; emphasis mine. "There is hardly a single bourgeois moral standard which has not been anticipated by the unequaled magnificence of Hobbes's logic. He gives an almost complete picture, *not of Man but of the bourgeois man*, an analysis which in three hundred years has neither been outdated nor excelled." Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1998), 139; emphasis mine.

24. Hobbes, *Leviathan*, xiii, 10.

ment in the Virginia Company.<sup>25</sup> Hence, it is quite possibly the case that Hobbes really did consider these “savages” to be the closest representation or approximation of natural man. Second, the state of nature describes relations governed by natural right. Following the constitution of the commonwealth, the sovereign retains natural right and, hence, one sovereign relates to another sovereign as though they were both in the state of nature because there is no higher common power to “keep them all in awe.” Hobbes makes this argument explicit in a number of places and it is a logical consequence of his entire system.<sup>26</sup> Further evidence is found when Hobbes defends the natural right of the condemned to violently resist their execution.<sup>27</sup> This is the only case in which Hobbes recognizes the right to resist the sovereign, but this resistance is not done ‘within’ the commonwealth, but ‘outside’ the commonwealth and the system of positive law insofar as sovereign and condemned relate to one another as though they were in the state of nature. Likewise,

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25. See John White, *America, 1585: The Complete Drawings of John White*, ed. Paul Hulton (Chapel Hill: University of North Carolina, 1984), plates 33–49. This edition also contains de Bry’s engravings; c.f., the third engraving from Thomas Harriot, *A Briefe and True Report of the New Found Land of Virginia: The Complete 1590 Edition With 28 Engravings by Theodor de Bry, After the Drawings of John White and Other Illustrations* (New York: Dover, 1972); c.f., Jacques Le Moyne de Morgues, *The Works of Jacques Le Moyne de Morgues: A Huguenot Artist in France, Florida, and England*, ed. H.P. Hulton (London: British Museum, 1977), vol 2, plates 93–134. On White as the inspiration for the frontispiece to *De Cive*, see Richard Tuck, “Introduction,” in *On the Citizen*, by Thomas Hobbes (Cambridge: Cambridge UP, 1998), xxv–xxvi. On Hobbes’s involvement in the Virginia Company, see Noel Malcolm, “Hobbes, Sandys, and the Virginia Company,” *The Historical Journal* 24, no. 2 (1981): 297–321.

26. Hobbes, *On the Citizen*, ED; and Hobbes, *Leviathan*, xiii, 12. See Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford: Oxford UP, 1999).

27. Hobbes, *Leviathan*, xiv, 29.

the sovereign punishes through its natural right and not through some positive right or law internal to the commonwealth.<sup>28</sup> Finally, if we interpret Hobbes as a speculative anthropologist—which I believe we should—the issue, then, is not whether he is developing an empirically correct model of humans, be they seventeenth century Englishmen in a state of civil war, Carolina Algonkians, or some sort of generic primitive “savages” in the jungle. Englishmen reduced to the condition of nature might have different wishes for the new society than wild savages in the jungle, but this does not negate the fact that both must overcome the problem of natural right. That is, natural right is a problem for all humans regardless of their empirical determinants and Hobbes appears to believe that Carolina Algonkians are the closest example of ‘savages’ available. Consequently, Hobbes clearly believes that natural right is real and when actions are performed in accordance with natural right, then the situation is described by the state of nature.

Clearly, the state of nature or the natural condition of man performs an important function in Hobbes’s thought; however, I claim that the precise function has been overlooked. Thus, I propose a reading of Hobbes’s natural condition of mankind that is somewhat different from the standard interpretations. In my reading, the state of nature is not a model, nor a hypothetical, nor even a limit case. Rather, the state of nature is part of what Giorgio Agamben has called the

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28. To put it in another way, law rests on a foundation of violence—otherwise, why would subjects fear the sovereign?

anthropological machine.

### 3.3 Machines: Sovereign and Anthropological

Giorgio Agamben's concept of the anthropological machine is a part of what he calls the "relation of exception," or what I am calling the "sovereign machine," which he develops in *Homo Sacer*.<sup>29</sup> The sovereign machine involves the interaction between inclusion and exclusion; that is, the sovereign machine organizes membership in the community and the processes through which individuals or groups are excluded from membership in the community. He draws particular attention to what he calls the "inclusive exclusion," which denotes the situation in which membership in the community exists only through exclusion; for instance, when criminals are stripped of political and civil rights during their time in prison (and, in some cases, following release from prison). The criminal, Agamben would argue, is only included in the community through being excluded from the rights of membership. The analysis of the sovereign machine is developed through a discussion of the ancient Greek distinction between *zoē* (life in general as it is common to all living things; e.g., animals, humans, and gods) and *bios* (a qualified, particular way of life exclusive to humans; e.g., the philosopher, the aesthete, and the citizen). The anthropological

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29. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford: Stanford UP, 1998).

machine develops this distinction in terms of the human and the inhuman, man and animal: the inhuman is excluded from the human just as the animal is excluded from man.

According to Agamben, human history has experienced two forms of the anthropological machine: the ancient and the modern, but only one form of the sovereign machine.<sup>30</sup> The essential moment in the movement from the pre-modern to the modern anthropological machine is the discovery of evolutionary biology by Charles Darwin in his *On the Origin of Species* (1859) and the subsequent search for the missing link between the animal and the human both in the fossil record and in the internal make-up of the human. Given this periodization, Hobbes clearly falls under the temporal domain of the pre-modern anthropological machine. Agamben's claim is not that the human/inhuman and human/animal distinctions were thought in the same way throughout the entirety of human history until Darwin changed everything overnight with the publication of a book. The claim, rather, is that the place or location of the boundary between inclusion/exclusion remains constant even if the included/excluded content does not. In short, the pre-modern

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30. Agamben, *The Open*, 33–8. However, I will refer to them as the pre-modern and the modern anthropological machines given that the modern is of relatively recent vintage. In passing, it is worth noting that Agamben's political project calls for a third phase of history: a messianic post-historical state wherein both the anthropological and the sovereign machine have been smashed. Agamben seems to believe these two machines apply to all human cultures, at all times, but he has only developed this argument through ancient Greek philosophy, Roman law, and Christian theology, and modern biotechnology. See, for instance, Giorgio Agamben, *The Coming Community*, trans. Michael Hardt (Minneapolis: University of Minnesota Press, 1993).

anthropological machine locates the site of exclusion external to the the category of the human while the modern anthropological machine locates the site of exclusion internal to the category of the human. When the exclusion is external, the division is located in the distinction between human and animal: a given being is either human or animal. The distinction is categorical. When the exclusion is internal, the division is located within the being, thus there is something inhuman or animal in the very essence of a being or group of beings. Despite the location of the division, Agamben wants to maintain that politics is concerned with creating, maintaining and enforcing the division.<sup>31</sup>

The anthropological machine works through the production of the oppositions between man/animal and human/inhuman. Consequently, one can speak of the animalization of man, or the animal-man, and the humanization of the animal, or the man-animal. These oppositions cannot be resolved insofar as an anthropocentric and humanist perspective is adopted because both the animalization of man and the humanization of the animal appear as “two sides of a single fracture, which cannot be mended from either side.”<sup>32</sup> Examples of humanization/animalization

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31. The key concepts for Agamben—the sovereign and *homo sacer*—are located at the point of indistinction between the human and the animal, the inside and the outside. They are thus inverted images of one another: to *homo sacer*, all humans are potential sovereigns; to the sovereign all humans are potentially *homo sacer*.

32. Agamben, *The Open*, 36. Further, “Only within a biopolitical horizon will it be possible to decide whether the categories whose opposition founded modern politics (right/left, private/public, absolutism/democracy, etc)—and which have been steadily dissolving, to the point of entering today into a real zone of indistinction—will have to be abandoned or will, instead,

are readily available. For instance, we are all familiar with racist propaganda that compares Jews to rats or African-Americans to apes. The way this form of racism works is that something about Jews or African-Americans is said to make them less than human, but more than an animal. Hence, they are rendered neither fully one nor the other, but because of the infiltration of the animal element, they can be treated as though they were actual rats (i.e., exterminated) or apes (i.e., enslaved or caged or subjected to vivisection). Likewise, we can look at Disney movies where animals possess nearly all the characteristics of a human, but maintain the form of an animal. Some, like Mickey Mouse or Donald Duck, even live fully human lives complete with speech, clothing, jobs, homes, and families. Mickey Mouse and Donald Duck are fully humanized; notwithstanding form, there is no difference between them and any other human. Lastly, take the potentially troubling claims put forward by moral philosophers such as Peter Singer and Jeff McMahan who suggest that cognitive functioning could serve as an index of moral worth.<sup>33</sup> Hence, because some animals—such as the higher primates—have a higher degree of cognitive functioning than some humans—such as those with Down’s or Angelman Syndrome—then those animals deserve greater moral consideration and protection under the law than severely handicapped humans. In this case, higher

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eventually regain the meaning they lost in that very horizon.” Agamben, *Homo Sacer*, 4.

33. Peter Singer, *Rethinking Life and Death: The Collapse of Our Traditional Ethics* (Oxford: Oxford UP, 1995) and Jeff McMahan, *The Ethics of Killing: Problems at the Margins of Life* (New York: Oxford UP, 2002).

primates are more human than some humans!

Both the anthropological and the sovereign machines function through processes of inclusion and exclusion. For Agamben this implies three concepts: that which is included, that which is excluded, and the zone of indistinction between that which is included and that which is excluded. As we've seen, these processes of inclusion and exclusion are not absolute such that there is no connection between the two. Rather, these processes work along the same continuum: certain elements are brought in while others are forced out. Thus, as discussed above, in some racist discourses, African-Americans are forced out of or excluded from the category of human through comparison with apes. Hence, the separation between the categories of human and animal is not absolute, but is relative and moving.<sup>34</sup> This is especially clear in post-Darwinian biology insofar as from the perspective of biology, humans are animals like any other. Consequently, animals can be humanized while humans can be animalized without having to cross any major ontological gap. The point of racist discourses such as these is to bring the human—the Jew or an African-American—to the same level as the animal—the rat or the ape—where it is assumed that animals are necessarily less than humans and, thus, can be treated as moral inferiors. Consequently, Jews can be legitimately treated as though they were rats and African-Americans can be legitimately treated as though they were apes.

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34. That such comparisons continue to exist in the present, including during the 2008 American Presidential campaign, points to problems of periodization in Agamben's account.

Conversely, rats can be treated as though they were Jews and apes can be treated as though they were African-Americans. From the perspective of the structure of the anthropological machine, there is no distinction between the two. The result of this is that the problem of the inhuman/human can be resolved: the foreign, inhuman element in the body of the German people can be cured or removed by exterminating Jews just as one would exterminate an infestation of rats. Similarly, just as animals such as apes can be owned, put on display, treated as chattel, or used as experimental subjects, African-Americans can also be used in such ways. If, in racist discourses, African-Americans were not indistinguishable from apes, then it would be impossible, for instance, to treat African-Americans as though they were apes in prison experiments. Thus, the extreme point between human/inhuman and animal/human is not in the absolute separation of the elements, but rather when the elements become indistinguishable from one another. Once the elements become indistinguishable from one another, we have entered into what Agamben calls the state of exception.

The question then concerns the relation between the anthropological machine and the sovereign machine: if both have an identical structure, how can they be distinguished from one another and why bother making that distinction at all? The anthropological machine works at the ontological level while the sovereign machine works at the juridical level. Hence, juridical subjects require a particular

ontological status and, conversely, a particular ontological status contributes to the juridical standing of a subject. Transforming a being at the anthropological level results in a transformation at the juridical level. The sovereign, then, is the point of indistinction between the human and animal while *homo sacer* is the inverted image of this. The sovereign and *homo sacer* are located at the point of indistinction between animal and human because normal humans must be one or the other. That is, either they must be the human animal of the state of nature or they must be the properly *human* human of the state. For normal humans, then, the distinction between the two ontological domains is categorical (either/or) while for the sovereign and *homo sacer* there is no distinction but, rather, there is not only a conjunction (“and”) of the two elements, but also a complete identification of the two (“both”). Consequently, sovereign acts can be indistinct: is this the work of the sovereign machine or the anthropological machine? That is, humanization is tied up with animalization. The sovereign can “make more human” and “make more animal.” These processes are analytically distinct, but are not necessarily temporally distinct. With respect to Hobbes, the anthropological moment occurs *in* the state of nature once humans have gathered and decided to “de-animalize” themselves through the collective renunciation of natural right. Because all animals equally possess natural right, an animal without natural right is not, strictly speaking, an animal. This is the anthropological moment that transforms the hu-

man *animal* into the *human* animal. The sovereign moment is secondary to this when the collective has alienated their natural right and ascribed it to a third party: the sovereign. We now have the *possibility* for the emergence of *homo sacer* because *homo sacer* is a dehumanized human subject to sovereign violence. All citizens or subjects have this potential relation to the sovereign, but this potentiality is only realized in the case of *homo sacer*. There is another interesting aspect to this process. The sovereign is both fully human and fully animal because, on the one hand, the sovereign rules over humans and has the full suite of human characteristics, but on the other hand, the sovereign retains natural right, which is the distinctive marker of animality. The sovereign is at once human *and* animal, uniting the state of nature (wherein he resides) and the state (which he constitutes). This is why, for Hobbes, the sovereign is a terrible monster and a mortal God.

Once a human becomes as though it were an animal, the legal status of the human mimics the legal status of an animal.<sup>35</sup> At the extreme, the human can be entirely removed from the protection of the commonwealth. Once removed, legally and morally, the human becomes what Agamben calls *homo sacer*: a figure who “can be killed and yet not sacrificed.”<sup>36</sup> *Homo sacer* can be killed because it is no longer part of the legal order and, consequently, relates to all as though in the state

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35. i.e., as property and, thus, not as a rights bearing person.

36. Agamben, *Homo Sacer*, 8.

of nature. Hence, *homo sacer* returns to the condition of universal exposure to violent death and is no longer protected by the law of homicide: killing *homo sacer* is not a murder. Likewise, *homo sacer* cannot be sacrificed because a sacrifice is an integral part of the religious and ritual life of the community and, hence, all parties to the sacrificial ritual—especially the victim—are part of the moral community. This is why the human being offered in a sacrifice in many rituals is treated as a god or royalty prior to the performance of the sacrifice. Put another way, *homo sacer* is no longer part of the common that forms and binds the commonwealth and, consequently, cannot play a part in either the religious (“cannot be sacrificed”) or legal life (“can be killed”) of the commonwealth.

To make the connection explicit, the sovereign machine institutes a decision on the distinction between man/animal and human/inhuman.<sup>37</sup> In effect, the polit-

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37. Agamben’s primary concern with the modern anthropological machine is that it actualizes what was merely latent or potential in the pre-modern anthropological machine: genocide and holocaust. Hence, for Agamben, totalitarianism—both Stalinist and Nazi variants (Agamben does not rule out democratic forms of totalitarianism, examples which have been plainly evident in the twenty-first century)—are very much the “truth” of modernity. This point is a development upon Michel Foucault’s concept of biopolitics/biopower. For instance, “The Nazi State makes the field of the life it manages, protects, guarantees, and cultivates in biological terms absolutely coextensive with the sovereign right to kill anyone, meaning not only other people, but also its own people. There was, in Nazism, a coincidence between a generalized biopower and a dictatorship that was at once absolute and retransmitted throughout the entire social body by this fantastic extension of the right to kill and of exposure to death. We have an absolutely racist State, an absolutely murderous State, and an absolutely suicidal State. A racist State, a murderous State, and a suicidal State. The three were necessarily superimposed, and the result was of course both the “final solution” (of the attempt to eliminate, by eliminating the Jews, all the other races of which the Jews were both the symbol and the manifestation) of the years 1942–1943, and then Telegram 71, in which, in April 1945, Hitler gave the order to destroy the German people’s own living conditions.” Foucault, *Society Must Be Defended: Lectures at the Collège de France, 1975–1976*, 260. Or, more simply, “Wars are no longer waged in the name of a sovereign who

ical decision par excellence is the determination of who or what is included and who or what is excluded; that is, the production of sacred bodies.<sup>38</sup> Hence, the ancient Greek anthropological machine divides between citizens, on the one hand, and slaves, women, children, barbarians, foreigners, and metics, on the other. In contrast, the modern Nazi anthropological machine divides between Germans, on the one hand, and the impure, subhuman, foreign elements that present a threat to the German people: Jews, Gypsies, homosexuals, communists, the mentally and physically disabled, etc. That is, the anthropological machine is the process through which those who are protected by the sovereign's violence and those who are exposed to the sovereign's violence are determined.

The significant difference, as mentioned above, between the ancient Greek and

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must be defended; they are waged on behalf of the existence of everyone; entire populations are mobilized for the purpose of wholesale slaughter in the name of life necessity: massacres have become vital." Michel Foucault, *The History of Sexuality, Volume 1: An Introduction*, trans. Robert Hurley (New York: Vintage, 1990), 137.

38. "Sovereign is he who decides on the exception." Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Chicago: University of Chicago Press, 2005), 5. 'Sacred' derives from Latin *sacer* meaning "consecrated to god and affected with an ineradicable pollution, august and accursed, worthy of veneration and evoking terror." Emile Benveniste, *Indo-European Language and Society*, trans. Elizabeth Palmer (Coral Gables: University of Miami Press, 1973), 452–6. Sacred relates to sacrifice in that the sacrifice, literally, makes an object sacred—often through death and destruction—by cutting it off from the world of the living thus enabling it to communicate with the world of the gods. This raises the interesting question of why *homo sacer* is called *homo sacer* if he cannot be sacrificed, but can be killed without it being murder? As I see it, there are two possible answers. First, a sacrificial ritual is one which the community or cult uses to open up communion with the divine and thus to be a sacrificial victim is to be an integral part of the cult. *Homo sacer*, however, is excluded from the cult. Second, "sacer" could be metaphorical in the sense that the sacred is set aside and forbidden. In this case, *homo sacer* has been set aside and forbidden from the community. That is, the benefits of communal membership, such as legal protections and personhood, have been withdrawn. In this sense, *homo sacer* has been abandoned or abjected by the law and can only relate to the community through his status as being excluded from the community.

the modern Nazi anthropological machines is the location of the divide: for the pre-modern anthropological machine the divide is located external to the fully human (a barbarian or a slave or a woman is not a human; Aristotle calls these “slaves by nature”) while for the modern anthropological machine the divide is located internal to the human (“the Jew” must be purged from “the German” just as an infection is purged from the healthy).<sup>39</sup> In the case of the modern anthropological machine, unlike the pre-modern anthropological machine, the “animal” or “inhuman” element has a biological character to it; that foreign, but internal, element cannot be easily expelled. With the pre-modern anthropological machine, the fracture between human and animal is located “outside” of both the individual and full membership in the community as a citizen: citizens or subjects, that is fully transformed humans, are internal to the community while animals and the inhuman, that is untransformed or untransformable humans, are external to the community. The untransformed and the untransformable have no place in the community, that is, they cannot be assimilated, and, thus, their proper domain is external to the community. This is evident in the Greek case: women and slaves are not fully human, thus their domain is outside the *polis* in the *oikos*; barbarians are not

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39. I follow Agamben here in moving between the Greek and Roman as though there are no conceptual or structural differences between these two distinct bodies of thought. Agamben does so because he believes there is a western tradition of political theory such that they are attempting to articulate the same structure of sovereignty. Thus, Agamben will talk about *polis/oikos* in one paragraph and then *homo sacer* in the next.

fully human, thus their domain is outside the *polis* in the wilderness; citizens are, however, fully human and thus their domain is inside the *polis*. Indeed, a citizen who refused to leave the domain of the *oikos* and enter into the fully human life of the *polis* was viewed as deficient: as an idiot.<sup>40</sup> The picture, however, is even more complex. Slaves, such as Pasion, managed large commercial enterprises and, in some cases, could not only obtain freedom, but also attained citizenship.

Then we come to two qualities in which the slave was unique as property: first, slave women could and did produce children sired by free men; second, slaves were human in the eyes of the gods, at least to the extent that their murder required some form of purification and that they were themselves involved in ritual acts, such as baptism.<sup>41</sup>

Hence, ancient slavery involved elements of both personhood and property, making their status comparable to that of non-human animals today. (Although there are no known non-human bank managers.) Indeed, slavery was not a permanent and inheritable state in antiquity: the offspring of slaves were usually born free, Horace being an especially famous example of this.

The problem in the modern anthropological machine is that the foreign element is already part of the community: Jews are as much citizens as Germans.<sup>42</sup> Worse,

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40. See note 80 below.

41. M.I. Finley, *The Ancient Economy* (Berkeley: University of California Press, 1973), 62.

42. Although I use the example of African-American slavery above, it doesn't neatly fit into Agamben's categories and he does not address this institution in his study of modern sovereign power. Being an issue of slavery, there is a lot in common with slavery as practiced in the ancient world and as it was practiced in America. I don't think, in Agamben's terms, that slavery is a biopolitical issue as such even though it is grounded in race. Rather, the biopolitical issue

for the Germans, what makes a German a German and what makes a Jew a Jew is not easily determinable without the application of technical procedures. Thus, the proliferation of techniques for determining heredity, such as charts, and, once marked, the proliferation of symbols indicating what that person is: for instance, the yellow Star of David.<sup>43</sup> Because there is a biological component, the foreign tends to be treated as though it were an actual biological disease: the only way to kill an infection is to kill the bacteria.<sup>44</sup> Likewise, the only way to remove the foreign element in a population is to remove the foreign element from the population through expulsion, concentration, and extermination.

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is emancipation. For instance, African-American slavery is only discussed by Agamben in the context of the exceptional powers of the sovereign—that is, for Agamben, Lincoln’s “Emancipation Proclamation” was an act of sovereign power because it occurred in the context of war and because Lincoln did not seek Congressional approval. Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago: University of Chicago Press, 2005), 20-1. Separation is easy to maintain when one group owns and the other is owned. It is not until after emancipation—when, theoretically, all are equal—that biopolitical management of the African-American population becomes necessary, ranging from Jim Crow, to urban ghettos, to prisons.

43. This can also explain the resurgence of torture in the American “War on Terror.” The problem that torture seeks to resolve is the distinction between a “good” Muslim and a “bad” Muslim when both groups look identical. The “good” Muslims run the gamut from having positive feelings about the U.S. to being completely indifferent. The “bad” Muslim, in contrast, “hates us.” Torture is the method used to sort the “good” from the “bad,” in the present as in the past, by seeking a confession. Pres. Bush’s speech of September 20, 2001 is revealing on all of these points: “The terrorists are traitors to their own faith, trying, in effect, to hijack Islam itself. The enemy of America is not our many Muslim friends. It is not our many Arab friends. Our enemy is a radical network of terrorists and every government that supports them. [...] They hate what they see right here in this chamber: a democratically elected government. Their leaders are self-appointed. They hate our freedoms: our freedom of religion, our freedom of speech, our freedom to vote and assemble and disagree with each other.” George Bush, “Transcript of President Bush’s Address,” <http://bit.ly/p1woO> (September 20, 2001).

44. On biological theories of race and biopolitics, see Foucault, *The History of Sexuality*, Part 5; Foucault, *Society Must Be Defended: Lectures at the Collège de France, 1975–1976*, Chapter 11; and Ann Laura Stoler, *Race and the Education of Desire: Foucault’s History of Sexuality and the Colonial Order of Things* (Durham: Duke UP, 1995), Chapters 2 and 3.

### 3.4 Humans and Animals

With the detour through Agamben's anthropological machine in place, we can return to our discussion of Hobbes's view of the natural condition of mankind as he presents it in the state of nature chapters of his three main political works. Three questions guide this discussion: (1) is the concept of the anthropological machine applicable to Hobbes's discourse? (2) if the anthropological machine is applicable to Hobbes's discourse, how does he construct the boundaries between man and animal? (3) finally, how is this distinctions rendered fixed?<sup>45</sup>

Quite rightly, Hobbes's account of the natural condition of mankind has been central to interpretations of his work as a whole. Questions guiding these interpretations have concerned the apparent problem between self-interest and keeping contracts. Short-term self-interest, in the natural state, seems to exclude keeping contracts over the long-term.<sup>46</sup> Hence, the natural state presents a logical problem. Interpretations therefore have attempted to resolve this logical problem. What is absent from many of these accounts is a coherent explanation as to why Hobbes found it necessary to begin with the natural state at all. Explanations have been

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45. I will return to these questions in a discussion of the distinction between the natural monarchy of bees and the artificial commonwealth of humans below. The "fixing" or "transcendentalization" of these distinctions is the primordial function of sovereignty: "It can even be said that the production of a biopolitical body is the original activity of sovereign power." Agamben, *Homo Sacer*, 6.

46. Recall: Hobbes distinguishes between contracts, which are immediately performed, and agreements, which are performed at a later time.

generally content to assert that either the natural state is a “model” of some sort or it is the anachronistic imputation of mid-seventeenth century bourgeois values into the essence of humankind as such.<sup>47</sup> My account is somewhat different.

“Man’s nature is the sum of his natural faculties and powers [...] for these powers we do unanimously call natural, and are contained in the definition of man, under these words, animal and rational.”<sup>48</sup> This passage reveals quite a bit. First, Hobbes is attempting to separate the natural elements of man (i.e., his natural nature) from the artificial elements (i.e., his artificial nature). Second, Hobbes is indicating that from the perspective of nature, man is a sort of animal—perhaps a unique sort of animal, but that uniqueness has no connotation of primacy or hierarchy relative to other animals.<sup>49</sup> Third, Hobbes is claiming that animality as well as rationality are equally part of human nature: Hobbes clearly defines man as “animal and rational” and not as “rational animal.” Further, animality and rationality are attributes of a particular sort of being, man, (“animal and rational”) rather than rationality being an attribute of a particular sort of animal (“the

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47. See note 23 above.

48. Hobbes, *Elements of Law*, i, 4.

49. Two points should be kept in mind. First, Hobbes’s discourse is operating in a context where natural philosophy had not yet defeated the Great Chain of Being. For instance, Robert Filmer’s *Patriarcha, or the Natural Power of Kings*, written sometime between 1630–40 was not published until 1680, and Jacques Bossuet’s *Politics Drawn from the Very Words of Holy Scripture* (1707), both classics of divine right of kings had not yet been published. Second, Hobbes’s discourse is pre-Darwinian, hence there was no naturalistic or scientific awareness that humans, as a species, evolved from other species.

rational animal”). And, fourth, Hobbes is quite clear that, from the perspective of nature, man is an animal first and rational second. The priority of animality over rationality is why contracts are impossible in nature. The question guiding Hobbes’s subsequent argument concerns the degree to which artificial nature can replace natural nature. That is, can a form of man be produced that changes the relation of the constitutive elements: rational and animal? This concern is not limited to the *Elements of Law*, but is also the guiding thread throughout Hobbes’s political works: “Nature (the art whereby God hath made and governs the world) is by the art of man, as in many other things, so in this also imitated, that it can make an artificial animal.”<sup>50</sup> As with the passage from the *Elements of Law*, this passage makes a number of significant claims. First, the art of man, that is, his rational and purposeful reconstruction of the natural world, can make creations that exceed God’s original creation of nature. This is a scandalous claim. All will agree (or so Hobbes believes) that the commonwealth is preferable to the natural state even to the extent that the most despotic tyranny is preferable to what nature offers. (This is a different question as to the best sort of commonwealth. Hobbes is content to argue that any commonwealth is better than nature, although one commonwealth might be better than another.) This implies that artifice is better than and preferable to nature. Hence, the artifacts constructed by man are superior to the nature

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50. Hobbes, *Leviathan*, Intro. 1.

created by God: man improves upon God's work. This is to say that God's work is not perfect (and, theologically, that God is not perfect either because perfection cannot produce imperfection). Were God's work perfect, it would not need to be improved upon and it would be impossible to improve upon it. There is another, slightly less scandalous, claim contained here. No commonwealth derives authority from nature or God.<sup>51</sup> Similarly, kings—however absolute their power may be—do not nor can they rule by divine right. All forms of political authority are artifacts created by man. Second, the first creation of man is to recreate himself as an artificial animal. That artificial animal is the one living in the commonwealth. Man is both the means and the matter of this creation: man, by working upon himself, transforms his natural nature into an artificial nature. Natural man produces artificial man. Put another way, rationality works on animality to produce a new man: “the artificial animal.” But, note, this work does not erase animality and replace it with rationality, but, rather, it switches the relation between the terms: the artificial animal, the rational animal. Artificial nature attempts to control animality. If the formation of the commonwealth marks the movement from “animal and rational” to “artificial animal,” then it must be animality that sovereign power rules over and controls because it is the return of animality within the commonwealth that presents the greatest danger to the order created by the commonwealth.

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51. This means that nature—contra Butler—cannot be an exemplar of virtue, vice, or anything at all.

Agamben has already been cited as arguing that the man-animal and the animal-man are opposite sides of the same fracture produced by the anthropological machine. With this discussion of Hobbes, it is evident what Agamben means. Hobbes begins by defining man as “animal, but also rational,” but ends up with man as “rational, but also animal.” Man, in his natural nature, is “animal and rational,” but in his artificial nature is “rational and animal.” The same elements remain, but their position has been reversed. This reversal is co-extensive with the move from the natural condition to the commonwealth. This reversal at the anthropological level can only be made permanent at the level of the sovereign.<sup>52</sup>

The first chapters in the *Elements of Law* and *Leviathan* provide an outline of the animal component common to both animals and humans.<sup>53</sup> Thus, both the

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52. Perhaps this speaks to the symbolism surrounding the king of the land and the lion as the king of the jungle. The human king is just, but also fierce like a lion. He is human, but can draw upon an animal nature. Meanwhile, the lion king is fierce, but also just like a human. He is animal, but can draw upon a human nature. In order for his subjects to be secure, the king must remain an animal: the more ferocious, the better. One would much rather be protected by a king drawing lineage from a lion or a dragon than a king drawing lineage from a skunk or a possum. This spills over into the mythologies of the great kings who are able to kill fantastical monsters who themselves have a beastly origin. For instance, Remus and Romulus were raised by wolves and King Arthur's father was Uther Pendragon, literally “the chief dragon.” Arthur's name itself could be drawn from Latin and Welsh words associated with bears. But, because of their transcendent status as sovereigns, kings are also imbued with divine and supernatural powers, such as messianic returns, the royal scofula, and the possession of two bodies. Marc Léopold Benjamin Bloch, *The Royal Touch: Sacred Monarchy and the Scrofula in England and France*, trans. J.E. Anderson (London: Routledge & Kegan Paul, 1973) and Ernst H. Kantorowicz, *The King's Two Bodies: A Study in Medieval Political Theology* (Princeton: Princeton UP, 1997).

53. This is absent in *De Cive* because *De Cive* was conceived as the third part of a three volume work entitled *Elementa Philosophica*. The project, as a whole, consisted of three interconnected parts: *De Corpore* (1655), or “On Matter,” *De Homine* (1658), or “On Man,” and *De Cive* (1642), or “On the Citizen.” Because *De Homine* preceded *De Cive*, an account of “Man” was not necessary within that volume. Leo Strauss argues that *De Cive* does not need *De Homine*

*Elements of Law* and *Leviathan* begin with sense-perception, imagination, thought, and culminate in a discussion of language and science. At this point, both works turn to the passions, appetite/aversion, and power and honour. These two lines of argument then join one another in the description of the natural state and the laws of nature culminating in the movement from nature to artifice.

### 3.5 Language and Knowledge

As with many other seventeenth and eighteenth century thinkers, for Hobbes the first capacity that distinguishes human from animal is language. Language is significant for two reasons. First, it enables comparison and, second, it enables the development of reason. The account of language begins with the way in which concepts are connected to one another in thought. This connection, called a train of thought, “may be casual and incoherent [. . .] and it may be orderly.”<sup>54</sup> The dis-

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or *De Corpore* because the principles of political or moral philosophy—i.e., *De Cive*—have a different basis than the principles of natural philosophy—i.e., *De Corpore* and *De Homine*. Put otherwise, there is an epistemological and ontological chasm between political or moral things and natural things such that one concerns “artificial objects” while the other concerns “natural objects.” Being different sorts of sciences, one type of philosophy does not depend upon the other. In my terms, *De Cive* concerns the transcendent order of the commonwealth while *De Corpore* and *De Homine* concern immanent order of nature. Strauss, however, overlooks the role of the anthropological machine: in order to move from nature to artifice, “work” must be done on natural man in order to produce artificial man. See Leo Strauss, *The Political Philosophy of Hobbes: Its Basis and Its Genesis*, trans. Elsa M. Sinclair (Chicago: University of Chicago Press, 1963).

54. Hobbes, *Elements of Law*, iv, 1.

inction is extended in *Leviathan* to “unguided, without design” and “regulated.”<sup>55</sup> Unguided trains of thought possess “no passionate thought to govern and direct those that follow to itself,” hence these trains of thought “are said to wander, and seem impertinent to one another, as in a dream.”<sup>56</sup> Guided trains of thought are regulated by desire “for the impression made by such things as we desire or fear is strong and permanent.”<sup>57</sup> The fear or desire guiding these thoughts can be so powerful and overwhelming “as to hinder and break our sleep.”<sup>58</sup> Hobbes relates both casual versus orderly and guided versus unguided to humans and animals: humans possess all the means of forming trains of thought possessed by animals and then some. Already in nature humans are characterized by a linguistic surplus over and above animals. Guided trains of thought fall into two broad categories: (1) when an effect is perceived, the cause is sought out and (2) when a particular effect is desired, all the possible causes that can produce the effect are sought. The first form, the “retrospective,” is common to both humans and animals while the second form, the “prospective,” is exclusive to humans. A quasi-form bridges the retrospective and the prospective, which Hobbes calls prudence. This is the form of the hypothetical or inductive: this particular effect has always been proceeded by

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55. Hobbes, *Leviathan*, iii, 3, 4.

56. *ibid.*, iii, 3.

57. *ibid.*, iii, 4.

58. *ibid.*

that particular cause, therefore this effect will tend to have the same cause in the future. While induction can be a valuable tool, it cannot lead to certainty and is actually the basis for supernatural reason insofar as humans are concerned because it inserts a hypothetical explanation in the place of a real explanation, such that supernatural forces may be given credit for an effect when, in actuality, the effect had an unnoticed natural cause. Although Hobbes calls this “prudence,” it is better called “presumption” and is ultimately little more than being a good “guesser” or “conjecture from experience.”<sup>59</sup> Induction, unlike prospective thought, is not sufficient to distinguish between humans and animals because “there be beasts that at a year old observe more, and pursue that which is for their good more prudently, than a child at ten.”<sup>60</sup> The significance here is that induction appears to be a limit case. It is neither entirely one or the other and “certain beasts” are better guessers than certain humans. However, these uncertain humans, unlike the certain beasts, possess the potential to cross the threshold into fully prospective modes of thought while beasts never have this potential. The ten year old child will reach maturity and come to a point where prospective modes of reasoning will replace inductive modes of reasoning.

Modes of thought, then, are not entirely sufficient grounds upon which to dis-

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59. Hobbes, *Leviathan*, iii, 7; Hobbes, *Elements of Law*, iv, 10.

60. Hobbes, *Leviathan*, iii, 9.

tinguish humans and animals because Hobbes's argument is itself only possible on the basis of presumption: "of which [prospective thought] I have not seen any sign, but in man only," but "experience concludeth nothing universally."<sup>61</sup> The distinction, then, must be made on other grounds. In both the *Elements of Law* and *Leviathan*, the chapters on trains of thought are followed by chapters on language and knowledge. In the *Elements of Law*, Hobbes immediately begins his theory of language through reference to the distinction between human and animal.<sup>62</sup> However, in *Leviathan*, the theory of language begins with a mytho-religious story: the introduction of letters into Greece by Cadmus and God's gift of speech to Adam in Eden.<sup>63</sup> Despite different origin stories—anthropological and mytho-religious—the actual theory of language remains essentially the same in these works.

The primary function of language is to transform trains of thought (i.e., mental events) into discursive events. Language is an outward representation of the impact of sense-experience on the mind. Without second-order representation in language, mental events consist exclusively in the continuous and sequential passing of sense-experience: empirical events impose themselves on the senses, the senses impose themselves on the mind, and the mind imposes itself on consciousness. Hence, the flow of mental events is mediated by the senses and caused by physical or

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61. Hobbes, *Leviathan*, iii, 5; Hobbes, *Elements of Law*, iv, 10.

62. *ibid.*, v.

63. Hobbes, *Leviathan*, iv.

empirical events. Without language, all mental events are caused by the perception of physical events. Consequently, without language, there is no way for mental events to intervene in the physical world. At best, without language, the relation between mind and world is instinctive and reactive or in Hobbes's retrospective mode: a wolf perceives an effect (movement) and the cause is sought (rabbit) at which point the wolf's instincts intervene and it gives chase to the rabbit. This is the sum of Hobbes's understanding of animal perception. Hobbes illustrates this point as follows: "brute beasts, which, having the providence to hide the remains and superfluity of their meat, do nevertheless want remembrance of the place where they hid it, and thereby make no benefit thereof in their hunger."<sup>64</sup> Hobbes is describing something familiar to people with garages and sheds: a squirrel spends an afternoon collecting berries or nuts that have fallen from a tree, it hides them in the garage creating a storehouse for its "remains and superfluity," but it never returns after that day to eat what remains. The instinct is good (save excess food for a later day), but the squirrel is unable to realize that instinct in the future because it is missing the basic functions of language: the squirrel is unable to mark the location of the stash and its contents and, Hobbes would say, even if the squirrel could make a mark, the squirrel wouldn't have the requisite cognitive capacities to recognize the mark they made as a mark. The point Hobbes is making is that the

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64. Hobbes, *Elements of Law*, v, 1.

mental train of events is caused by the physical sequence of events and in order to remember where the “superfluity” has been hidden, a second-order representation of the train of thought is required; something that can substitute for the lack of physical events bringing the location of the hoard to mind. The human, unlike the animal, “beginneth to advance himself above the nature of beasts” when they are able to design this second-order representation.<sup>65</sup> This is accomplished through what Hobbes terms a mark: “a visible object which a man erecteth voluntarily to himself, to the end to remember thereby somewhat past, when the same is objected to his sense again.”<sup>66</sup> Putting a human in the place of the aforementioned squirrel, what separates the human from the animal is that the human can recall where they hid the “superfluity”—under a tree—by placing a mark on the tree—perhaps an X—and, when the human wants that “superfluity,” the human searches for the tree with the X on it.

Significantly, Hobbes appears to be unaware of a consequence of his argument. The definition of a mark is entirely subjective: “a man” and “his sense again.” Marks are erected by individual humans and have significance only for that individual. Marks, by this definition, are not social: the ability to make marks is a property of humans as such, but there remains no way to transmit the semantic

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65. Hobbes, *Elements of Law*, v, 1.

66. *ibid.*

or symbolic content of the mark from one individual to another.<sup>67</sup> His example of a mark is somewhat strange and confusing: “men that have passed by a rock at sea, set up some mark, whereby to remember their former danger, and avoid it.”<sup>68</sup> Here, as in other places, Hobbes has imputed social goods (e.g., boats) into a pre-social condition.<sup>69</sup> Boats, it would seem, along with long-distance travel at sea, would pre-suppose language and not merely marks. In order for those men to set up a mark, they would require more advanced or developed means of communication allowing them to say something to the effect of, “That rock is dangerous. If we ever come through here again, we could be confronted with that danger once more. So we need to stop this boat and have some of the crew create a mark to remind us of this danger.” Notwithstanding the relatively advanced technology of the ship, this is an extraordinarily complex task and one which would be impossible when language was limited to individual marks. Hence, marks are necessary but not sufficient conditions for language.

It is clear why marks are a necessary condition, but it may not be clear why they are not a sufficient condition for language. In brief,

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67. Hobbes misses an obvious counter-example: territorial markings by animals that enable members of the group to know the extent of their territory and warns outsiders that they are entering territory already claimed by others. Territorial markings work at the level of the group and are also able to communicate information to non-group members.

68. Hobbes, *Elements of Law*, v, 1.

69. For instance, the example of the man who locks his chest from his servants in the state of nature chapter in *Leviathan*.

1. Marks are individual and subjective, but language must be collective and objective in the sense that it is not the property of an individual, it is external to all individuals, but also something in which all individuals partake. Hence, language both pre-exists and perseveres after the death of any particular individual such that an individual must be “brought into” language.
2. Marks have no verbal content and thus cannot be easily communicated to others: X may mean “this is where I hid the meat” to one person but mean “this is where the wolves are” to another. In the absence of verbal content, there are no means of coming to trans-individual or inter-subjective agreement on the symbolic or semantic meaning of a mark.

If marks add a layer to the relation between trains of thought and physical events, names connect marks between individuals and thus add yet another layer. “But the most noble and profitable invention of all other was that of speech, consisting of names or appellations, and their connexion, whereby men register their thoughts, recall them when they are past, and also declare them one to another for mutual utility and conversation.”<sup>70</sup> Significantly, Hobbes cites the origin of speech in Genesis 2:19 where Adam is instructed by God to name the animals as they are presented to him. Humans, with language, can name animals; animals, however, cannot name humans. At this point, humans are now separated from animals by

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70. Hobbes, *Leviathan*, iv, 1.

three degrees.

1. the manner of forming trains of thought and acting upon them;
2. the ability to fix a relation between mental content and physical content called a mark;
3. the ability to add an intersubjective dimension to marks thereby transforming marks into names.

In classical terms, the addition of names to marks is the movement from voice, which humans and animals alike possess, to speech, which only humans possess. Names, then, are the application of voice to marks thereby leading to speech. Unlike marks which are physically inscribed on the external world—a pile of rocks, an image carved in a tree—names inhabit a space in-between the mental and physical providing the basis for language because names are not the property of individuals, but of groups. (It is the member of the group and not the individual who speaks.)

While names extend the world from the subjective to the inter-subjective, they in turn cause new problems by becoming the primary means of quarrel and conflict.

There are four closely connected aspects to this:

1. naming is the imposition of voice onto a mark thus creating speech; consequently, naming is an act of force—the ability to impose and to have that ability recognized by others is not equally distributed;

2. although names are the consequence of force, it remains the case that the same thing may have multiple names—this aspect is seen in language contact between conquering and conquered peoples, such as the infusion of Norman words into the Anglo-Saxon languages from 1066;
3. designating the same thing with different names leads to conflict (is it proper to speak of a Norman conquest? or did the Anglo-Saxons consent to Norman rule?) and it leads to error (e.g., attributing the wrong cause—natural versus supernatural—to the same event).
4. naming, and consequently language, is the originary form of symbolic violence.

Ultimately, names allow for the creation of propositions of the sort “x is y.” Propositional thought allows for reason—correctly naming an x as y and acting upon it accordingly—but it also allows for error. As a consequence, x could really be a y, but I have mistakenly called it a z. Worse, I may think that I am x (intelligent, virtuous), but you may think that I am z (lazy, dumb). Preferring my opinion of myself to your opinion of me, we will be lead into conflict. If it wasn’t bad enough that we are all potential enemies insofar as natural right is concerned, we are all now able to engage in symbolic warfare among ourselves. Symbolic violence is one of the three causes of conflict in the natural state identified by Hobbes: “So that in the nature of man we find three principal causes of quarrel: first, competition;

secondly, diffidence; thirdly, glory. The first maketh men invade for gain; the second, for safety; and the third, for reputation. [...] the third, for trifles, as a word, a smile, a different opinion, and any other sign of undervalue, either direct in their persons, or by reflection in their kindred, their friends, their nation, their profession, or their name.”<sup>71</sup> That is, once we have determined rational means of interacting with one another (i.e., language and propositions), we have inadvertently given a new avenue to express our animality through the passions.

### 3.6 The Natural State

The natural condition chapters bring out the consequences of the natural constitution of the human animal: fearful, jealous, and equal. Humans are led to violence by the paradox of natural right and the development of language and speech only compounds this problem by giving another level in which conflict can manifest itself. Above, I claimed that Hobbes presents the natural condition of mankind for two reasons: first, to demonstrate that the natural condition is unbearable, unsustainable, and undesirable; and, second, to demonstrate that it is possible to construct a second or “artificial nature.” This artificial nature is the result of the working of what I have called, following Giorgio Agamben, the anthropological machine. The

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71. Hobbes, *Leviathan*, xiii, 6–7; c.f., Hobbes, *Elements of Law*, xiv, 4, and Hobbes, *On the Citizen*, i, 4–5.

anthropological machine is forced to control and convert equality into inequality, the passions into industry, and violence into peace.

In his lectures published as *'Society Must Be Defended,'* Michel Foucault presents an interesting analysis of Hobbes's state of nature. Ultimately, Foucault's claim is that Hobbes is not a philosopher of war as is often understood, but is rather a philosopher of peace.<sup>72</sup> Foucault's suggestion is quite interesting because it poses the question of the relation between violence and peace, equality and inequality. Hobbes's problem is not that "every man is enemy to every man"<sup>73</sup> or the famous war of all against all, but, rather, that

Nature hath made men *so equal* in the faculties of body and mind as that, though there be found one man sometimes manifestly stronger in body or of quicker mind than another, yet when all is reckoned together the difference between man and man is not so considerable as that one man can thereupon claim to himself any benefit to which another may not pretend as well as he. For as to the strength of body, the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others that are in the same danger with himself.<sup>74</sup>

This problem is also found in the *Elements of Law* and *De Cive*:

it will be expedient to consider in what estate of security this our nature hath placed us, and what probability it hath left us of continuing and preserving ourself against the violence of one another. And first, if we consider how little odds there is of strength or knowledge between men of mature age, and with how great facility he that is the weaker in strength or in wit, or in both, may utterly destroy the power of the

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72. Foucault, *'Society Must Be Defended': Lectures at the Collège de France, 1975–1976*, 89–99.

73. Hobbes, *Leviathan*, xiii, 9.

74. *ibid.*, xiii, 1; emphasis mine.

stronger, since there needeth but little force to the taking away of a man's life; we may conclude that men considered in mere nature, ought to admit amongst themselves equality; and that he that claimeth no more, may be esteemed moderate.<sup>75</sup>

The cause of men's fear of each other lies partly in their natural equality, partly in their willingness to hurt each other. Hence we cannot expect security from others or assure it to ourselves. Look at a full grown man and see how fragile is the structure of his human body (and if it fails, all his force, strength and Wisdom fail with it); see how easy it is for even the weakest individual to kill someone stronger than himself. Whatever confidence you have in your own strength, you simply cannot believe that you have been made superior to others by nature. Those who have equal power against each other, are equal; and those who have the greatest power, the power to kill, in fact have equal power. Therefore all men are equal to each other by nature.<sup>76</sup>

Thus, the major problem identified by Hobbes throughout all his political works is that not only are humans naturally violent, but natural equality exacerbates the problem of violence. If humans were naturally violent, but naturally unequal, violence would be limited: the weak would not resist and the strong would be left to fight one another. Humans, however, are naturally equal and this means that any person is just as able to kill another as that other person is able to kill them. Natural violence and natural equality leads to generalized violence. That which prevents peace is not a propensity for violence, but, rather, natural equality. If men are equal by nature and natural equality leads to a condition of war of all against all, then the only possible solution is to remove the underlying cause of

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75. Hobbes, *Elements of Law*, xiv, 2.

76. Hobbes, *On the Citizen*, i, 3.

war: natural equality. Hence, the “natural nature” that is equality by nature must be replaced with the “artificial nature” that is inequality by institution.

The claim that Hobbes is making is not moral. He is not claiming that morally speaking, all people should be and are equal to one another. Nor is he claiming that equality should be an objective of government. Equality, therefore, is not a virtue nor is it a goal. Equality is a problem. The form of equality Hobbes has in mind is an equality of bodily strength and mental ability: the strongest is not sufficiently strong such that the weakest cannot find a way to overpower him just in the same way that the smartest is not smart enough that the dumbest cannot find a way to trick him. The advantages given by natural abilities are only relative and only last until luck runs out. That is, no matter how strong and smart I may be, eventually I’ll come across someone who is stronger and smarter and they may kill me. Or, alternatively, as I get old, I will lose my strength and my intelligence thus making me into an easy target. This is, Hobbes argues, the immanent order of nature: insofar as and for as long as humans relate to one another as animals—red in tooth and claw—violence and disorder is all that there will be. Natural and animal equality, that animality at the core of our human being, must be controlled.

There is a parallel here between humans and animals naturally considered. Wolves are wolves to one another because wolves are not differentiated from one another. They are not individuals, but instances of the species. That is, being

undifferentiated from one another, they are equal to one another and, thus, they are dangerous. The same holds for humans insofar as they are equal. So long as humans are equal to one another, they are wolves to one another. It is only through differentiation and individuation that humans become safe—that is, individuals don’t instantiate the species, but are members of the species. To be individual is to be different and to be different is to be unequal. This is the work that the anthropological machine must perform. Humans=species must be replaced with humans=community and, through this, inscribe difference and inequality through the laws—along with the threat of being expelled from the community and returned to the horrible condition of animality.

### 3.7 Animals: Social and Political

It is well-known that Aristotle defines man as a “political animal” [*politikon zôn*].<sup>77</sup> There is more than one sense of political animal in Aristotle, several of which include animals other than humans. David Keyt has argued that Aristotle’s claim “man is by nature a political animal” is one of the three fundamental theorems of the *Politics*, thus pointing to the importance of the underlying speculative anthro-

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77. Aristotle, *Politics*, and Aristotle, *The History of Animals*, ed. Jonathan Barnes, vol. 1, *The Complete Works of Aristotle: The Revised Oxford Translation* (Princeton: Princeton UP, 1984).

pology.<sup>78</sup> Aristotle scholars agree there are at least three different senses of political animal in Aristotle's work.<sup>79</sup>

1. A distinction between political animals [*politikon zôn*] and householding animals [*oikonomika zōa*];
2. A more comprehensive sense that subsumes the household and politics to the *polis*—a “citified way of life” in Depew's language;
3. A zoological sense referring to the common work of the species.

The question, then, is that of the relation between the three senses of political animal: is one more basic than the others? That is, do the senses rely upon one another such that without the more basic sense, the more complex senses are impossible? However, what is missing in these senses of political animal is the sense of political *animal*. Hence, they focus on the “political” part at the expense of the “animal” part. The question for them is what makes a political animal *political* as opposed to a mere animal. Less attention is paid to the world of difference between the politics of ants, bees, and humans. Just as there is a division between man and animal for Aristotle, there are more fundamental divisions within animals. Briefly,

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78. David Keyt, “Three Fundamental Theorems of Aristotle's *Politics*,” *Phronesis* 32, no. 1 (1987): 60. Significantly, Keyt develops his argument in relation to Hobbes ultimately concluding Aristotle was wrong to claim the *polis* was natural; he should have claimed—with Hobbes—that the polis was artificial.

79. For a comprehensive overview, see David J. Depew, “Humans and Other Political Animals in Aristotle's *History of Animals*,” *Phronesis* 40, no. 2 (1995): 156–81.

Aristotle provides a number of confusing distinctions: between animals [*zōon*] and beasts [*thēria*]; between wild animals and domestic animals; between political animals and non-political animals. Similarly, just as Aristotle makes distinctions within the category of the animal, he also makes roughly equivalent distinctions within the category of man: between Greek and non-Greek [*barbaros*], between the free (i.e., those who have a “way of life [*bios*]”) and slaves (i.e., those who are merely alive [*zoē*]), and between male and female. As a result, Aristotle appears to create a series of oppositions, one in the pair positively valued while the other is negatively valued:

1. animal/Greek and beast/barbarian;
2. wild/free and domestic/slave;
3. political/male and non-political/female.

In turn, the positive and negative pairings coincide to the two senses of life: *bios*, the qualified way of life, and *zoē*, or life as such. These pairings and their associated modes of life can then be mapped on to more overtly political concepts, such as the distinction between *oikonomia* and *polis*, on the one hand, and the private and the public, on the other. The *oikonomia* is the domain of *zoē* and necessity while the *polis* is the domain of *bios* and freedom. All living things partake in *zoē* but only a small subset of living things—humans—and a small subset of humans in

turn partake in *bios*.<sup>80</sup> Briefly, the *oikonomia* corresponds to the domain of slaves, women, and children or, put another way, the domain of necessity, production, and reproduction. The *oikonomia*, in turn, is divided into two separate domains characterized by different forms of rule: *oikonomos*, or the rule of the master over the slave, and *despotes*, or the rule of the father over children and the husband over the wife. The *polis*, on the other hand, presupposes the *oikonomia*, but does not include the *oikonomia* within it. According to Aristotle, Plato made a significant error when he compared the rule of the household to the rule of the city because the head of a household rules over inferiors while the citizen rules in conjunction with equals (or, in other terms, the citizen is at once ruled by and ruling over other citizens). The difference between the two is not quantitative (i.e., rule in the same way, but over more people) but qualitative (i.e., a completely different form of rule). The *polis*, consequently, rises above necessity, production, and reproduction to become the sphere of action and freedom. Given that the *oikonomia* is characterized by domination and necessity, it does not and cannot provide the model for rule in the *polis* because, as the domain of freedom and action, it is impossible that citizens, who must be formally equal for there to be freedom, permanently rule one over the others. The relationship between ruled and ruling must be constantly

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80. Greeks called those who prefer the safety of necessity to the danger of action, that is the *oikos* to the *polis*, idiots [*idiotes*] from *idion* meaning “one’s own.” If modernity is characterized by the negation of the political by the social and economic, then we are all idiots. See Arendt, *The Human Condition*, 38.

changing and each must take part in both ruling and being ruled. Tyranny, then, is the attempt to treat the *polis* as an *oikonomia*: it is the subjection of freedom to necessity, of the political to what moderns call the economic. There is no freedom or action in the *oikonomia*; it is to be found exclusively in the *polis*. Freedom, according to both Plato and Aristotle, manifests itself in three concrete forms or ways of life: the *bios apolaustikos* (the aesthete), the *bios politikos* (the statesman) and the *bios theoretikos* (the philosopher). All three ways of life presuppose liberation from necessity—pleasure, politics, and wisdom do not come cheaply. Thus, the *polis* “comes to be for the sake of living [i.e., *zoē*], but it remains in existence for the sake of living well [i.e., *bios*].”<sup>81</sup> The *polis*, then, is both the domain of *bios* and exists for the purpose of the flourishing of *bios*: it is oriented towards the good—the very *Summum bonum* rejected by Hobbes.

It is the orientation towards the good that brings us back to the political animals. That some animals are called political by Aristotle points to, by analogy, what they have in common with humans without becoming human themselves. Some animals are gregarious (by this he means they live in groups), just as humans are; some of those animals, also like humans, are political. In this case, political is opposed to dispersed (politics involves living in groups rather than living solitarily). What makes bees and ants political is that they live in collectives that persevere in

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81. Aristotle, *Politics*, 1252b30.

existence over time and depend upon a division of labour: some produce (“slaves”), some reproduce (“women”), and some defend (“citizens”). Aristotle then divides the political animals into two sorts: those who have rulers and those who do not, thus placing bees, cranes, and humans to one side and ants to another.<sup>82</sup> We are left then (for the sake of simplicity) with the difference between bees and humans, both of which are animals with political structures. Humans and bees live in groups that exist over time and depend upon a division of labour. Additionally, groups of humans and groups of bees have structures of rule and authority in order to ensure the continued existence of the group. It is at this point that we must begin to separate bees and humans. Three Aristotlean maxims can guide us in this:

1. “every city-state [*polis*] exists by nature”<sup>83</sup>
2. “anyone who is without a city-state [*polis*], not by luck *but by nature*, is either a poor specimen or else superhuman”<sup>84</sup>
3. “[the *polis*] comes to be for the sake of living, but it remains in existence for the sake of living well”<sup>85</sup>

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82. Ants are on the opposite side because in Aristotle’s estimation, ants do not have rulers. Bees, cranes, and humans can and do submit to the authority of a ruler, but ants do not because each ant is their own ruler. Ants, then, are anarchists (at best) or a massive group of tiny despots (at worst).

83. Aristotle, *Politics*, 1525b30.

84. *ibid.*, 1253a; emphasis mine.

85. *ibid.*, 1252b30.

The first maxim, on the face of it, is insufficient to distinguish between bees and humans for just as humans by nature live in city-states (assuming Aristotle is correct that the *polis* exists by nature), bees by nature live in hives. Both humans and bees live in constituted communities. Likewise, the second maxim is similarly insufficient to make the distinction. Certainly, the maxim is able to distinguish between, say, raccoons and porcupines, on the one hand, and humans and bees, on the other, but it is not able to distinguish between bees and humans. Just as a human without a city-state is a poor specimen, so too is the bee without a hive. Being by nature gregarious and political, a solitary bee and a solitary human both fail to realize their respective natures. It is only when the first two maxims are read in light of the third does it become possible to distinguish between the bee and the human.

The third maxim speaks to the end, or *telos*, of the political community. I have already spoken above of the *telos* of the citizen of the *polis*: flourishing as a philosopher, aesthete, or statesman. For the moment, we can set aside the question of human flourishing. What does or what would it mean to speak of flourishing in the case of bees? I take it to be uncontroversial that bees do not flourish in the same ways as humans: no bee is a philosopher, aesthete, or statesbee. Bees, then, do not partake in what Aristotle understands to be the good life; their end is something other than the ends pursued by humans. The question must be approached from

another perspective. This perspective is found in what was called the “zoological” sense of political animal above. In the *History of Animals*, Aristotle writes,

[s]ocial creatures are such as have some one common object in view; and this property is not common to all creatures that are gregarious. Such social creatures are man, the bee, the wasp, the ant, and the crane.<sup>86</sup>

Interpreted through this perspective it becomes evident how Aristotle can also say, “a human is *more* of a political animal than a bee or any other gregarious animal.”<sup>87</sup> To see why this is clear, we need to return to the comparison between the *polis* and the hive.

Both the *polis* and the hive exist by nature: bees, by nature, live in a hive just as humans, by nature, live in a *polis*. Hence, for Aristotle, both the hive and the *polis* are equally natural. We have determined that the *polis* “remains in existence for the sake of living well.” The hive does not. Clearly, the hive “remains in existence,” but it does not “remain in existence for the sake of living well.” This suggests that the sort of end associated with each differs: one, to paraphrase Aristotle, “comes to be for the sake of living, and it remains in existence for the sake of living” while the other remains in existence for the sake of living well. The difference, therefore, is in the mode of living rather than in living well.

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86. Aristotle, *The History of Animals*, 488a–10. The translation of the *History of Animals* inconsistently shifts between “social” and “political” despite Aristotle’s consistent use of *politika*, *politikos*, etc. The word “social” is more apt to describe gregarious animals, of which political animals are a subset. Further, “political” derives from Greek *politikos* while “social” derives from Latin *socius*; at the risk of being pedantic, it strange to translate a Greek word with a Latin word.

87. Aristotle, *Politics*, 1253a7–9; emphasis mine.

Having ruled out living well, we are left with mere living. That is, we are left with the production and reproduction of *zoē* rather than the flourishing that characterizes *bios*. Hence, we are in the realm of the *oikos*—the household—rather than the realm of the *polis*. The beehive is not a *polis*, but is rather an *oikos*. This is the meaning of a human being “more of a political animal than a bee.” All (Greek) humans live in a household, in the realm of necessity and privacy, but some also live well—or attempt to—in the *polis*, in the realm of freedom and publicity. By comparison, all bees live in necessity and privacy, but none live in freedom and publicity—not even the monarch. The *telos* of the hive is that “something one and common [that] is the work of all.” The purpose of the hive is to meet necessity and not to partake in freedom. Bees are unable to transform surpluses in the domain of necessity into freedom. Hence, the hive meets the necessary condition for being fully political (production and reproduction over time), but not the sufficient condition (freedom and flourishing). Bees are comparable to humans *qua* political animals only up to a certain point, but this certain point also feeds back into the form of the original human political community: the monarchy.

In the second chapter of the first book of *Politics*, Aristotle outlines the process through which the *polis* emerges out of the *oikos*. The basis of the *oikos* is in the “two communities.” First, the “community” of husband and wife and, second, the “community” of master and slave. The same person naturally fills the role of both

husband and master. Emerging from these two communities is the *oikos*, which is “naturally constituted to satisfy everyday needs” or, put another way, “for the sake of living.”<sup>88</sup> As the *oikos* attains the ability to reproduce itself, it establishes nearby “colonies” as the households of the sons of the father. Hence, because the father rules within his *oikos* as a despot, the father will also rule over his sons as a despot. But, because the father rules over more than just a single *oikos*, there is something “political” about the form of rule that transforms the despot into a king. Thus, the ordinary form of rule in the village, like the *oikos*, is the monarchy (literally, rule by one alone). It is only when several villages together are able to “reach the limit of total self-sufficiency” that a *polis* comes into being.<sup>89</sup> Because the *polis* is the union of multiple villages and, hence, multiple kings, the *polis* is not, by nature, a monarchy, as each king confronts one another as an equal. With the *polis* coming into being and with it a number of citizens confronting one another as equals, it follows that either one king will try to dominate the others thus leading to a situation whereby the dominant king becomes a tyrant by treating the *polis* as his *oikos* or the kings attempt to set up new forms of rule involving themselves and, possibly, their sons thus leading to the traditional typology of rule by the one, the few, or the many and whether that rule is in accordance with virtue or not.

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88. Aristotle, *Politics*, 1252b12.

89. *ibid.*, 1252b25–30.

That is, while the *polis* has a natural origin, it eventually becomes the case that the citizens must come to a decision regarding the best form of rule and to decide which form of rule is best able to realize their freedom.

In contrast, bees never come to this point. The hive is organized as an *oikos* and not as a *polis*. Accordingly, by nature, the hive is ruled as a monarchy. However, this is as far as the bees can go: they are political animals insofar as they are householding animals [*oikonomika zoa*], but they are unable to become fully political animals through combining multiple hives into a village and multiple villages into a *polis*. Bees never combine hives into a *polis*, never make a decision regarding the form of rule (a monarchy in a single hive is the only possible form; there are no democracies or aristocracies), and they are a-moral, being outside of both virtue and corruption. The hive can attain self-sufficiency, but it cannot act upon that self-sufficiency thereby becoming fully political animals; it comes into being for the sake of living, but it doesn't exist for the sake of living well.

### **3.8 Against Aristotle and Bees**

If I am correct, then it is absolutely essential for Hobbes to successfully argue that human political communities cannot be based upon natural principles and thus the beehive is not an apt comparison to human political communities. Hence, whatever humans may be, they cannot be political animals in Aristotle's sense; they

must be something else entirely. Similarly, whatever bees may be, they cannot be political animals. To restate my claim: Hobbes begins with a naturalistic account of humans: this, he says, is what humans are. In this natural condition, humans are indistinguishable from animals because humans, like animals, possess natural right which is the absolute right to self-preservation including the right to kill or enslave others. Wolves kill rabbits by virtue of natural right in the same way that one human kills another so as to ensure that the one is not killed by the other.<sup>90</sup> From the perspective of natural right, there is no distinction between preemptively killing a potential enemy and killing an animal for food: both the elimination of the enemy and the acquisition of food contribute to self-preservation and, therefore, both are equally legitimate. In order for humans to move from the danger of the natural state to the safety of the commonwealth, the “wolfish element,” animality, must be repressed and denied. Hence, it cannot be the case that human commonwealths

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90. There is much popular confusion surrounding the social structure of wolves, usually centred around the concept of the “alpha wolf” (which was not popularized by wolf ethologists, but by dog trainers). There are appreciable differences between wild wolf packs and wolf packs living in captivity. With wild wolf packs, it is organized as a family, with a central breeding pair and their various offspring, who usually leave the pack-family prior to reaching sexual maturity (thus undercutting reproductive conflicts). Such packs are not characterized by a dominance hierarchy except insofar as parents “rule” or “dominate” their offspring. While violent conflict is possible, it is also rare. A dominance hierarchy, however, does obtain in packs in captivity. But, in these cases, dominance is very malleable such that the individuals occupying each role change on a relatively frequent basis. As a result, violence is more common in captive packs, including lethal violence. The explanation for this is twofold. First, the captive packs are formed of unrelated individuals and thus do not have a familial basis. Second, captive wolves live in proximity to humans and in an artificially ordered environment. Hence, for wolves, in-pack violence and domination is a consequence of artificially imposed social structures. This is the complete opposite of Hobbes’s claim that artifice renders creatures safe. L. David Mech, “Alpha Status, Dominance, and Division of Labour in Wolf Packs,” *Canadian Journal of Zoology* 77 (1999): 1196–1203.

are akin to the natural kingdoms of the bees.

Accordingly, Hobbes creates an extensive argument against those who would attempt to compare the communities of bees to the political communities of humans.<sup>91</sup> In the first instance, it would appear that Hobbes is arguing against Aristotle's characterization of humans, ants and bees as all being political animals: "that little creature the bee, which is therefore reckoned amongst *animalia politica*,"<sup>92</sup> "among the animals which Aristotle calls political he counts not only Man but many others too, including the Ant, the Bee, etc"<sup>93</sup> and "it is true that certain living creatures (as bees and ants) live sociably one with another (which are therefore by Aristotle numbered amongst political creatures)."<sup>94</sup> Aristotle does indeed call humans, bees, and ants political animals. However, Aristotle distinguishes between political animals with rulers (bees, cranes, and humans) and political animals without rulers (ants). Hobbes does not note this distinction at all. Further, as discussed above, the criteria for distinguishing within the category of political animals are, at best, ambiguous and equivocal. With respect to the political capacity of animals, Aristotle is only able to distinguish between bees and humans through reference to the form of life proper to each: the opposition between *zoē* and *bios*.

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91. Hobbes, *Elements of Law*, xix, 5; Hobbes, *On the Citizen*, xix, 5; and Hobbes, *Leviathan*, xvii, 6–12.

92. Hobbes, *Elements of Law*, xix, 5.

93. Hobbes, *On the Citizen*, v, 5.

94. Hobbes, *Leviathan*, xvii, 6.

Hence, “a human is *more* of a political animal than a bee or any other gregarious animal.”<sup>95</sup> This is where we see Hobbes breaking away from Aristotle. While language and speech enable humans to exceed beyond mere animality, that excess is not manifested in designing political communities so as to maximize the *finis ultimus* or *summum bonum*; that is, the political community is not instituted with a *telos* in mind.<sup>96</sup> Thus, according to Hobbes, humans are not political animals in two important senses: first, humans are not “*more* of a political animal” than any other animal and, second, human communities are not constituted with “the sake of living well” in mind.<sup>97</sup>

Hobbes presents essentially the same argument in each of *Elements of Law*, *De Cive*, and *Leviathan*, which can be neatly summarized as follows:

1. There is no question of precedence among the bees; humans compete for dignity and honour, which leads to resentment, envy, and hatred, culminating in war.
2. The natural appetites of bees are uniform and make no distinction between the needs of each individual bee and the needs of the hive as a whole; humans enjoy comparing themselves to one another and external, privately held goods

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95. Aristotle, *Politics*, 1253a7–9; emphasis mine.

96. Hobbes, *Leviathan*, xi, 1.

97. Aristotle, *Politics*, 1252b3.

are one of the ways in which people distinguish themselves from one another, hence it becomes the case that each human pursues what they take to be their own private good while neglecting the common, public good.<sup>98</sup>

3. Bees, being animals, do not possess either reason or learning and, hence, they are unable to detect defects in themselves, their fellows, or in their leaders; humans, however, tend to think of themselves as wiser than the rest and each will propose their own version of what the public good should consist in, consequently, rival views of the public good will emerge which will ultimately culminate in conflict.
4. Following from this, bees, being animals, do not possess speech and, hence, cannot incite one another to faction; however, the speech possessed by humans leads to sophistry and demagoguery such that the better argument can be made to appear the worst while the worst can be made to appear the better.
5. Bees, being animals, do not possess a conception of right or wrong and therefore will not criticize their leaders so long as they are at ease; humans, however, are most dangerous when they are most at ease.
6. Ultimately, bees function by virtue of a natural accord; humans function by

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98. Here we note a homology between competition within the political community (desire after goods), the vainglorious in the natural state (desire after reputation), and language (desire orders trains of thought).

virtue of an artificial accord.

The result of Hobbes's attack on the idea of bees as political animals is to underline the most significant difference between animals in nature and humans in the commonwealth: the commonwealth, unlike nature, is an artificial construction that completely sets nature aside; animals are not to be found in the commonwealth. Consequently, natural principles are not applicable to the commonwealth. Further, bees are constituted such that there is no need for them to enter into political communities—their appetites are in tune with one another and the common good, they do not possess the ability to reason and criticize, they do not possess rhetoric, and they do not possess a conception of right and wrong; that is, desire is not a problem for bees in the way that it is for humans. With humans, desire leads to conflict: linguistically, in reputation, and in possessions. All of those factors that lead to conflict among humans are uniformly absent from the nature of the bee and, as such, the beehive cannot be used a model for the commonwealth. Regardless of how virtuous bees may appear to be, their virtue is not applicable to humans and thus cannot be used a model or a mirror.

### **3.9 Conclusion**

This chapter has investigated the relation between the concepts of animal and human in Thomas Hobbes's political works. Here I have argued that Hobbes's

argument works on two levels, one of which has remained unnoticed up until now. The first level is the well-known level of the construction of the political community. Drawing upon Giorgio Agamben's work, I have called this level the sovereign machine. The purpose of the sovereign machine is to transform nature into artifice. That is, to move dispersed and fearful individuals caught in the natural condition into a collective and secure body in the commonwealth. The second level has remained uncommented upon. My argument here has been that in order for the movement from the natural condition to the commonwealth to be at all possible, natural humans must be transformed into artificial humans. By this I mean that that "animal" part of the human must be repressed or negated thus leaving only the "human" part of the human behind. Again, drawing upon Giorgio Agamben's work, I call this the anthropological machine. I further argue that the anthropological machine does not function in one direction (animal to human), but also works in the opposite direction (human to animal). I have called these processes humanization and animalization respectively. I argue that one of the primary functions of the sovereign involves the operation of the anthropological machine: the transformation of human animals into humans. This operation becomes "biopolitical" in modernity where the sovereign takes this function to an extreme point whereby entire races can be enslaved or entire peoples wiped out. I developed the distinction between the natural and the artificial through an investigation of Hobbes's under-

standing of the natural condition of humans; that is, what humans are like in nature that begins to separate them from animals. For Hobbes, the initial separation involves a particular relation between desire and language. This natural distinction between human animals and non-human animals allows for an excess of the human over the animal, but it is this excess that renders the human animal dangerous and necessitates the operation of the anthropological and sovereign machines. That is, the human animal must become fully human through its domestication by the sovereign. I went on to explore the distinction between natural communities and artificial communities through an investigation of Hobbes's attack on Aristotle's doctrine that man, like bees, is a political animal.

## 4 Sociality

I am astonished that a man so renowned for his scholarship could have said such things, no less absurd than paradoxical.

G.W. Leibniz, “On the Principles of Pufendorf,” 1706.

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### 4.1 Introduction

In comparison to his importance among eighteenth century social and political theorists, Samuel Pufendorf’s works are sorely overlooked in recent and contemporary scholarship, both in terms of research on these works and the availability of these works themselves. There have only been two English-language monographs published on Pufendorf’s work in the past fifty years: Leonard Krieger’s *The Politics of Discretion* (1965) and Kari Saastamoinen’s *The Morality of the Fallen Man* (1995).<sup>1</sup> Pufendorf’s significance is frequently noted, such as a section in a chapter of a book on Locke or a chapter on Pufendorf’s contributions to international

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1. Leonard Krieger, *The Politics of Discretion: Pufendorf and the Acceptance of Natural Law* (Chicago: University of Chicago Press, 1965); Kari Saastamoinen, *The Morality of the Fallen Man: Samuel Pufendorf on Natural Law* (Helsinki: SHS, 1995). No monograph devoted to Pufendorf or his work has been published in English during the intervening eighteen years.

relations theory in a book on the law of war, but these discussions rarely extend beyond summary and overview.<sup>2</sup> There are more articles on Pufendorf's work than books, but even here interpretation of and commentary on his work and influence remains more suggestive than sustained. Consequently, J.B. Schneewind remains as correct today as he was in 1987 when noting Pufendorf is "[l]argely forgotten by moral philosophers today."<sup>3</sup> This claim is also true for social and political theorists.<sup>4</sup> The cause of Pufendorf's initial importance was that he presented "the first philosophically serious discussions of Hobbes's ideas" which was, moreover, an attempted refutation of Hobbes's social and political theory through recourse to Grotius's concept of sociality.<sup>5</sup> In effect, through using Hobbes against Grotius and Grotius against Hobbes, Pufendorf developed a new synthesis in natural law theory which would influence subsequent theorists as diverse as John Locke, Adam Smith, Montesquieu, Jean-Jacques Rousseau, and the American Founding Fathers. The key to Pufendorf's influence lies in his doctrine of moral entities—a theory regarding the "imposition" of moral effects on to things and persons as distinct from the existence of those things regarded as mere nature—and his view that sociality is an

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2. But then, it is often not noted at all. For instance, Pufendorf's name only appears twice—both in lists—in Quentin Skinner's *Foundations of Modern Political Thought* and it does not appear at all in Sheldon Wolin's massive *Politics and Vision*.

3. J.B. Schneewind, "Pufendorf's Place in the History of Ethics," *Synthese* 72 (1987): 123

4. Knud Haakonssen, "Natural Law and Personhood: Samuel Pufendorf on Social Explanation," <http://bit.ly/1918YAj:1>, Max Weber Lecture Series — LS 2010/06.

5. Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford: Oxford UP, 1999), 141

intrinsic part of human nature, which in part accounts for why post-Pufendorfian versions of the state of nature are somewhat less stark than the Hobbesian version.<sup>6</sup> As a result, Pufendorf sits at an important location between the subject of the previous chapter, Thomas Hobbes, and the subject of the next chapter, John Locke.

In this chapter, I will focus on Pufendorf's ontology of the social. This ontology is developed through a comparison of the various types of beings (*viz.*, matter, plants, animals, and humans) and how the physical constitution of matter, plants, and animals puts them outside the scope of sociality. The question, then, is why are humans among all the existing beings the only ones who have the capacity for sociality and how does this relate to the nature of human societies? The emphasis in this chapter is not simply to explicate these arguments, but also to demonstrate the importance of speculative anthropology to Pufendorf's system of natural law. Hence, my goal in this chapter is to demonstrate how Pufendorf—like all other speculative anthropologists—develops an inconsistent speculative anthropology in relation and opposition to mere matter, vegetables, animals, and divine beings. As with both Hobbes and Locke, the distinction between “human animal” and “non-human animal” internal to the class of “living, animate beings” is the most significant distinction in speculative anthropology. But, prior to moving into substantive

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6. The distinction between moral and physical entities developed by Pufendorf was an important pre-cursor to Kant's phenomena/noumena distinction.

discussions of Pufendorf's work, there are two formal discussions that are necessary due to the lack of a scholarly tradition in the English language surrounding Pufendorf's work: the textual history of his corpus and methodological problems arising from this textual history.

## 4.2 Textual History

Pufendorf produced three main works of social and political theory which, like Thomas Hobbes before him, addressed the same or similar themes, continually returning to the same topics, debates, and arguments, but always refining and developing his position. His first major work of political and social theory was *Elementorum jurisprudentiae universalis* (*Elements of Universal Jurisprudence*), published in 1660, followed by *De jure naturae et gentium* (*Of the Laws of Nature and Nations*), published in 1672, and a "compendium," or textbook version, of *De jure*, which is now his most well-known work in English, *De officio hominis et civis juxta legem naturalem* (*On the Duty of Man and Citizen According to Natural Law*) was published in 1673. These were supplemented by *Dissertationes academicae selectiores* (1675), *Specimen controversium* (1677), and *Eris Scandica, qua adversus libros de jure naturali et gentium objecta diluuntur* (1685); that is, a collection of essays, a collection of polemics, and an attempt to defend *De jure* from its critics. Alongside these works were a series of historical and religious works

dealing with, among other topics, the history of the Swedish royalty, the nature of the German constitution, and the relation between secular and religious authority.

Contemporary editions of Pufendorf's works are quite limited. On the one hand, there is a series of slightly emendated reprints of eighteenth century translations of Pufendorf's works published by the Liberty Fund and, on the other hand, recent translations of *De officio* by Michael Silverthorne, "De statu hominum naturali" (which is one of the essays from *Dissertationes*) by Michael Seidler, and a "selected writings" volume, containing modern but extremely abridged translations of *Elementorum* and *De jure* edited by Craig Carr and translated by Seidler.<sup>7</sup> Hence, there are no modern, scholarly critical editions of Pufendorf's works comparable to, for instance, the Clarendon Edition of the Works of Thomas Hobbes or the Glasgow Edition of the Works and Correspondence of Adam Smith.

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7. Samuel Pufendorf, *Two Books of the Elements of Universal Jurisprudence*, ed., with an introduction by Thomas Behme, trans. William Abbott Oldfather (1660; Indianapolis: Liberty Fund, 2009); Samuel Pufendorf, *Of the Law of Nature and Nations*, 4th ed., trans. Basil Kennett (London, 1729); Samuel Pufendorf, *On the Duty of Man and Citizen According to Natural Law*, ed. James Tully, trans. Michael Silverthorne (Cambridge: Cambridge UP, 1991); Samuel Pufendorf, "On the Natural State of Men," in *Samuel Pufendorf's "On the Natural State of Men."* *The 1678 Latin Edition and English Translation*, ed. and trans. Michael J. Seidler (Lewiston: Edwin Mellen, 1990), 109–40; Samuel Pufendorf, *The Political Writings of Samuel Pufendorf*, ed. Craig L. Carr, trans. Michael J. Seidler (Oxford: Oxford UP, 1994)

### 4.3 Methodological Principles

The uneven distribution of Pufendorf's texts in English translation results in difficult methodological and interpretive choices for someone who does not read Latin. Given the lack of both critical editions and an English-language scholarly tradition, there is no received wisdom on how to approach Pufendorf's texts. For instance, taking the textual continuities and discontinuities between *Elementorum* (1660) and *De officio* (1673) into account, how is a reader supposed to approach an argument raised in one but not the other? If an argument appears in both *Elementorum* and *De jure* but not *De officio*, do we deem it to be significant or not given that *De officio* was intended as a textbook version of *De jure* which, in turn, is a mature and significantly revised version of *Elementorum*? To give an example, there are long discussions of the distinction between moral entities and physical entities in *Elementorum* and *De jure*, but these discussions are not reproduced in *De officio*. On the one hand, this distinction is central to Pufendorf's understanding of natural law, but, on the other hand, he does not seem to think that students reading *De officio* need concern themselves with this fundamental distinction. Or, to give another example, there is a long discussion of bees in *De jure*, but not such discussion in either *Elementorum* or *De officio*—is this discussion of bees a mere curiosity?

In order to navigate these problems, generally speaking, I will adopt the follow-

ing methodological principles in my interpretation of Pufendorf's works:

1. Given that *De officio* is both Pufendorf's most well-known work in the English language (today and in the period of Pufendorf's greatest influence during the first half of the eighteenth century) and a compendium of his most important work, *De jure*, I will treat it as indicating what he considered to be the most essential elements of his system except in two cases: first, the already noted importance of the distinction between physical entities and moral entities which serves as the ontological foundation for his theory as a whole and, second, the treatment of the natural state in "De statu hominum naturali." In the first case, the ontology of entities is completely absent from *De officio* even though the argument and structure of *De officio* presupposes this foundation. In the second case, "De statu hominum naturali" was published two years after *De officio* and contains a number of revisions to and developments of Pufendorf's understanding of the state of nature.
2. As *De officio* is a compendium of *De jure*, explication of the views presented in *De officio* must be supplemented with their parallel treatment in *De jure*. This leads to a new problem because the 1994 abridged translation of *De jure* omits significant and important sections of *De jure*. Consequently, to fill in these gaps, Basil Kennett's 1729 edition will be used, specifically the copy

of the fourth edition held by the Boston Public Library as part of its John Adams Library collection, which has been conveniently digitized and is easily available.<sup>8</sup> The benefit of Kennett's edition is that it also incorporates Jean Barbeyrac's extensive notes on *De jure*. However, whenever quoting directly the text of *De jure*, I will select the edition that reads most clearly (assuming the passage in question appears in Carr's abridged edition). Thus, rather than cite a particular edition, I will give the reference to Book, Chapter, Section (e.g., II.4.1 meaning Book 2, Chapter 4, Section 1).

3. As *De jure* is a major new version of *Elementorum*, including an entirely new method of argumentation, providing both new arguments and discussions, it will be preferred to *Elementorum*, except where the differences between the two volumes are of theoretical or historical significance. For instance, if a given argument or point may appear in the earlier *Elementorum* but not the later *De jure* for one of two reasons: (1) Pufendorf considers the issue is settled or no longer controversial and thus no longer worthy of mention or (2) the argument or point in *Elementorum* has been abandoned in *De jure* because Pufendorf has revised his views. Either way, determining between (1) and (2) is partially a matter of textual context and partially a matter of

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8. An edited, but not critical, edition based upon Kennett's translation is forthcoming—in five volumes—but not until 2017.

interpretive imposition and judgment.

#### 4.4 Towards an Ontology of the Social

Compared with Thomas Hobbes, who as discussed in the previous chapter, argued there was a radical separation between nature and society, Pufendorf presents a complex account not only of social life which, for Pufendorf, is equivalent to moral life, but also of the view that sociality pre-exists the establishment of society as a necessary consequence of human nature. In other words, Pufendorf develops a speculative anthropology based upon sociality and a moral bond. A developed theoretical account of the social as such had to wait until the eighteenth century, with thinkers such as David Hume, Adam Smith, and Montesquieu.<sup>9</sup> But it is notable that these theorists were influenced by Pufendorf's account of sociality and civil society as a moral bond.

Contemporary social theory tends towards three general accounts of the social: (1) methodological individualism, (2) methodological collectivism, and (3) structuration.<sup>10</sup> Methodological individualists argue that the social is the aggre-

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9. Brian C.J. Singer, "Montesquieu, Adam Smith and the Discovery of the Social," *Journal of Classical Sociology* 4, no. 1 (2004): 31–57; Brian C.J. Singer, *Montesquieu and the Discovery of the Social* (New York: Palgrave Macmillan, 2013).

10. Margaret S. Archer, *Realist Social Theory: The Morphogenetic Approach* (Cambridge: Cambridge UP, 1995). According to Archer, the relation between individual and society is the key problem in sociological theory.

gate of all individual attributes and activities. As a result, social structure is an epiphenomenon of individual action.<sup>11</sup> Methodological collectivists hold the opposite view that individuals are produced by structures. Thus, individuals are an epiphenomenon of social structure.<sup>12</sup> The third view, structuration, argues that individuals create structures and structures create individuals. This double-production is said to be internal to individuals such that action simultaneously reproduces individuals and structures.<sup>13</sup>

The ontology of the social developed by Pufendorf is located somewhere between these positions, especially the methodological individualism of Max Weber and the methodological collectivism of Emile Durkheim, without being a version of structuration. In the direction of methodological individualism, Pufendorf proposes the priority of action, explicitly voluntary action (that which derives from the free decision of the will) to which moral effects can be imputed (where the action can be evaluated in terms of how it takes into account or affects other moral entities, such as things or persons). This is comparable to Weber's concept of social action, which includes any action to which subjective meaning has been attached that takes into

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11. For instance, Harold Garfinkel, *Studies in Ethnomethodology* (Englewood Cliffs: Prentice-Hall, 1967) and Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, ed. Guenther Roth and Claus Wittich, 2 vols. (University of California Press, 1978).

12. For instance, Emile Durkheim, *The Division of Labour in Society*, trans. George Simpson (1893; New York: Free Press, 1933).

13. For instance, Pierre Bourdieu, *Outline of a Theory of Practice*, trans. Richard Nice (1972; Cambridge: Cambridge UP, 1977) and Anthony Giddens, *The Constitution of Society: Outline of the Theory of Structuration* (Cambridge: Polity, 1984).

account the potential social action of other persons. Thus, for both, the relevant sort of action is not “action as such” (which Pufendorf would describe as natural or physical action, but which is the “foundation” for moral action), but action that is subjectively meaningful and other-regarding. Weber famously gives the example of a mass of people walking along the street simultaneously opening their umbrellas when it starts to rain. Weber argues that this is not social action because the opening of the umbrellas is oriented towards the rain rather than towards other people on the street.<sup>14</sup> For Weber, the complete set of possible social actions constitute the social. In the direction of methodological collectivism, Pufendorf argues that all “properly human” action is moral action because, on the one hand, this action is imputable to a given person and, on the other hand, the imputation of morality to an action can only take place in the context of sociality. Once such a “status” is created (status being Pufendorf’s technical term for the “space” or “field” in which moral action takes place) it takes on a reality *sui generis* that is able to produce effects in members of that status which are obligatory and which are sanctioned (either positively or negatively).<sup>15</sup> Hence, a status, that is, a human

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14. In making a distinction between a physical event or action (the rain) and seeing the use of umbrellas as a reaction to this physical event, Weber limits the scope of his analysis of social action: it leaves completely un-asked why, in this particular culture, people use umbrellas in the first place. These people could, for instance, just ignore the rain and keep walking or, alternatively, there could be a mad rush for the nearest physical shelter. Weber, *Economy and Society*, 23.

15. “Society is a reality *sui generis*; it has its own characteristics that are either not found in the rest of the universe or are not found there in the same form.” Emile Durkheim, *The Elementary Forms of Religious Life*, trans. Karen E. Fields (New York: Free Press, 1995), 15.

association, is constituted by the free decision of moral actors to be bound to the moral ties that occur within that status.

Being pulled in these two opposing directions—between the social as constituted by individual actions and the social as a moral force that imposes itself on individual actors—Pufendorf must be able to establish that there is a real difference between both physical entities and moral entities as well as non-voluntary actions and voluntary actions. If he is unable to sustain the distinction between these sorts of actions and entities, the entirety of his system, which is supposed to follow from this ontology, will fail. This double-distinction is the heart of Pufendorf’s social ontology and, in order to be successful, Pufendorf must be able to answer the following two questions:

1. What subject is capable of moral action?
2. What is the object of moral action?

The answer to these two questions is quite interesting in that in order to defend his account of moral or social agents, Pufendorf must exclude animals who are capable of physical action but not moral action, but, on the other hand, include humans who are, in terms of the grounds for the exclusion of animals, indistinguishable from animals as he understands them. That is, he needs to find a way to include “marginal” humans while excluding animals that exceed the capacities of these

“marginal” humans. Because animals lack understanding, they are incapable of being moral or social agents and are excluded from the network of rights and obligations. Human fetuses, who also lack understanding, are not excluded from the network of rights and obligations: that is, they are bearers of rights, but have no obligations because they cannot understand the concept of obligation. Likewise, in developing his ontology of the objects of moral action—status, person, and thing—Pufendorf must exclude animals, but has to bring them back in to demonstrate the difference between the “status of peace” and the “status of war.”

A significant problem with Pufendorf’s work is that it is at once extraordinarily detailed and extremely vague; it is systemic without being systematic. Because Pufendorf relies upon an ontological distinction between natural and moral things as well as physical and moral action, it is the case that each of these two ontological domains need to be studied with different sciences, although natural science and moral science are equally scientific: natural science studies things insofar as they are natural things while moral science studies things insofar as they are moral things. Thus, in a sense, moral science presupposes natural science without being reducible to natural science. But, because both are equally sciences, entities can be studied using the same general methods, so long as we are careful to remember that a physical understanding of a thing has no necessary consequence for the moral understanding of the thing and vice versa.

At the time of writing *Elementorum*, Pufendorf was of the view that a moral science could be elaborated through an analogy with the natural sciences, especially geometry and mathematics. Like Hobbes before him, Spinoza his contemporary, and Leibniz after him, Pufendorf accepted the basic premises and conclusions of modern natural philosophy; *viz.*, that the world was not purposefully organized and intrinsically teleological, meaning that the world consisted of non-purposive matter set into motion by a primordial imposition by God. The view that mathematics was the proper method for moral science derived from Pufendorf's professor, Erhard Weigel.<sup>16</sup> Following what he took to be the general method of natural philosophy, *Elementorum* is divided into two books. The first book outlines twenty-one definitions that he takes to be exhaustive of natural law as a moral science while the second book derives two axioms and infers five observations on the basis of a syllogistic combination of definitions and axioms. This quasi-mathematical structure is abandoned in *De jure*, although Pufendorf remains committed to the view that morality can be studied scientifically and the general structure of the argument remains the same: Pufendorf starts with the most basic concepts (if not the simplest) and builds a system out of them. While *Elementorum* is notably lacking a scholarly apparatus and at "just" 398 pages is a comparatively short work, *De*

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16. Pufendorf's rival, Leibniz, also studied with Weigel and they both rented lodgings at Weigel's house, although not at the same time. Leibniz's wrote a vigorous criticism of Pufendorf's *De officio*: G.W. Leibniz, "Opinion on the Principles of Pufendorf," in *Leibniz: Political Writings*, 2nd ed., ed. and trans. Patrick Riley (Cambridge: Cambridge UP, 1988), 64–75.

*jure* is sprawling work, encyclopaedic in its detail to the point where it seems as if Pufendorf gets caught up in the details of the issue at hand and forgets the general structure of the book.<sup>17</sup> Consequently, developing a clear and unified account of Pufendorf's system is complicated by the differences in methodological approach in *Elementorum* and *De jure* and the meandering organization of *De jure*.

## 4.5 Entities and Actions

Pufendorf's ontology is voluntarist and rationalist. Voluntarism refers to the view that moral effects are imposed by the will on acts, while rationalism refers to the view that while the will is primary, the consequences of the will can be understood with and guided by reason. Nothing is intrinsically moral. In order for anything to be moral (be it positively or negatively valuated), morality needs to be imposed on it. The ultimate source of morality is God's will because without an imposition of morality by God, all the things of the world would be composed of morally indifferent matter in motion. This means that whatever morality is (i.e., the laws of nature), God could have imposed a different set of laws on the world—indeed, he could have imposed the complete opposite set of laws on the world. For instance,

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17. *Elementorum* was written while imprisoned due to war between Sweden and Denmark. This must account for the lack of at least part of the scholarly apparatus.

rather than commanding sociality, God could have commanded sociopathy.<sup>18</sup> Thus, Pufendorf's ontology is not irrationalist and does not imply the mere and chaotic conflict of competing wills. If the world has a known origin and if the world is intelligible, then, in principle, it can be understood rationally, that is to say, it is amenable to scientific explanation.

The physical world has been and continues to be created by God's will. All that is, physically considered, is because God wills it to be. God, however, is not the only being with will: humans have also been endowed with will. As a result, like God, humans are capable of creation. While it is true that humans can combine and modify physical entities of one sort to create physical entities of another sort, this is not only what Pufendorf has in mind because a variety of other creatures—most obviously, animals—can also intentionally modify their environments. For instance, birds collect twigs, leaves, and mud to build nests, bees build hives, and foxes dig dens. The form of creation that is exclusive to humans is the ability to create moral entities.

The distinction between moral entities and physical entities is important. God creates the set of physical entities, which are equivalent to substance and are equivalent to purposeless matter in motion. Physical modification of these physical entities

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18. This is the core of Leibniz's polemic against Pufendorf: voluntarism means that the laws of nature could have been anything at all, including evil, which is absurd. This is why Leibniz claims that this world, despite all its faults, is the best of all possible worlds.

constitutes a mode, that is, a given modification of substance, whether this modification is done by humans or animals.<sup>19</sup> What sets apart human creative capacities from animal creative capacities is that humans are able to create an entirely new form of substance called moral entities. Moral entities differ from physical entities in that (1) they are created through a free decision of the will and (2) moral effects are imposed on these entities. As a result, if moralization cannot be imputed to a rational and free agent, then we remain in the domain of physical entities.

This second creation by humans is analogous to the first creation by God.<sup>20</sup> Through a free act of his will, God created the physical universe: things, plants, animals, humans, and so on. In addition to creating the physical world, God also engaged in an act of imposition; that is, God engaged in the process of imposing moral effects on humans by endowing them with will. This imposition created beings who can freely choose to not only follow laws, but create laws of their own. In this way, humans are created in God's image as law-making and law-following

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19. But, note, animals and humans are themselves also, physically considered, equally modifications of substance.

20. Hobbes makes a similar argument, but with the conclusion that the second creation of the Leviathan is superior to God's creation of nature given the notable downsides of the state of nature. Pufendorf, for reasons that will be discussed more fully below, cannot accept Hobbes's conclusion because, for Pufendorf, the creation of moral entities is not co-extensive with the establishment of civil society. The creation of moral entities takes place regardless of whether or not there is an established state. Thus, for Hobbes, there is a hard break between nature and culture while, for Pufendorf, it is an issue of the continuity of moral entities from nature to culture.

beings on account of possessing a free will that is guided by the “light of reason.”<sup>21</sup> There remains a significant difference between God’s laws and human laws: God is not subject to any law, while humans are subject to God’s law.

God’s necessary existence is not a mere tenet of faith for the devout Pufendorf.<sup>22</sup> God is a necessary theoretical feature of Pufendorf’s system. This presents one of the first examples of Pufendorf’s tendency to move between ostensibly distinct domains if doing so is convenient to make a theoretical point, even if the logic and strength of the argument is rather weak.<sup>23</sup> Pufendorf endorses a version of the command theory of law. In essence, the command theory of law holds that law is the obligatory command of a superior.<sup>24</sup> In Pufendorf’s version of the command theory of law, for there to be positive laws, that is, unambiguously human created laws, within civil society, it is necessary that there is a higher authority—the sovereign—empowered to issue binding and sanctioned commands on subjects while not being constrained by the very laws that the sovereign has commanded. The

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21. e.g., Pufendorf, *De officio*, I.2.6, I.3.10, I.3.12, etc.

22. Kari Saastamoinen presents a compelling case for the importance of Pufendorf’s Lutheran background for the formulation of his natural law theory. See Saastamoinen, *The Morality of the Fallen Man: Samuel Pufendorf on Natural Law*, 38-42.

23. The secondary literature often notes how forced and torturous Pufendorf’s arguments about consent and legitimacy are. For instance, “The result is an exceptionally thorough and meticulously, if not always consistently, argued theory of political legitimacy.” Craig L. Carr, “Editor’s Introduction,” in *The Political Writings of Samuel Pufendorf*, ed. Craig L. Carr (Oxford: Oxford UP, 1994), 6. The system constructed by Pufendorf has an unfortunate tendency to commit theoreticism: the system tends to legislate the world rather than the world being the foundation of the theory. Systemic scope appears to be preferable to systemic consistency.

24. Pufendorf, *De officio*, I.2.2.

power to create binding, obligatory commands includes the authority to enforce those commands with sanctions, whether those sanctions are positive or negative. If the command were not sanctioned, the laws would in effect be obligatory but unenforceable. Hence, for there to be obligatory laws in human associations, it is necessary that there is a higher authority able to make those commands.

This point is similar to but different from the earlier point on voluntarism. The point about voluntarism concerns the *existence* of natural laws (that is, if they were not imposed by God, they would not exist). The present point concerns the obligatory character of natural laws. Thus, one could maintain that natural laws exist and are obligatory or one could maintain that natural laws exist but are not obligatory. The source or cause of natural laws in terms of the compulsory nature is a question independent of their origin.<sup>25</sup> The same necessity for a superior capable of making binding commands holds for the natural physical world outside human association. As discussed with reference to Hobbes in the previous chapter, the state of nature is characterized by the tension between natural right (the absolute right to self-preservation, including the right to kill another if it is subjectively determined to be necessary) and the laws of nature (for instance, be peaceful, keep

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25. In addition to God's imposition, other theorists propose that laws of nature derive from the teleological organization of the world (generally speaking, the pre-modern view) or that natural laws derive from reason (the modern non-voluntarist view). On "modern" natural law as a theoretical problematic distinct from earlier versions of natural law, see Richard Tuck, *Natural Rights Theories: Their Origin and Development* (Cambridge: Cambridge UP, 1979) and Richard Tuck, "The 'Modern' Theory of Natural Law," in *The Languages of Political Theory in Early-Modern Europe*, ed. A. Pagden (Cambridge: Cambridge UP, 1987), 99–119.

your contracts, and so on). The problem for Hobbes is that natural right will always trump the laws of nature because if you deem it necessary to set aside the laws of nature to ensure your own survival, then you are entitled to do so. The ultimate result of this for Hobbes is that while there are laws of nature, you would be stupid to follow them; in other words, the laws of nature are a nice idea, but completely unenforceable and not the least bit obligatory. Natural right, the right to self-preservation at all costs, will always undermine the laws of nature. For Pufendorf, Hobbes's understanding of the laws of nature fails to meet the meaning of law because, by definition, a law is enforceable. The only way Hobbes could be right would be if there is no existing entity with the authority to issue commands in the state of nature. If no such authority exists, then not only are there no laws of nature, there is no God. And, if there is no God, then there can be no legitimate human sovereign endowed with juridical powers. The human sovereign depends upon God's existence because the sovereign's legitimacy derives from the natural law that humans must be sociable, which finds its fullest expression in civil associations. If there is no God, then no such natural law has been imposed on humans (because all natural laws depend upon God's imposition) and, therefore, there is no possibility of a legitimate human sovereign. In other words, if there is no God, then Hobbes is correct in his description of the state of nature, but he is wrong to believe that there is an exit from that state of nature. Not only does

Pufendorf reject the Hobbesian version of the state of nature on empirical grounds (in effect, there never was and never will be a state comparable to this), but he also rejects the Hobbesian state of nature on theological grounds.<sup>26</sup>

The theological grounds are somewhat interesting and have further importance in that they will justify Pufendorf's extreme anthropocentrism when he turns from his ontology to his social and political theory.<sup>27</sup> In effect, Pufendorf's argument for the existence of God could be reduced to: "If Hobbes is right, there is no God; but, Hobbes must be wrong, therefore God." The argument can be laid out propositionally as follows:

1. Natural law exists;
2. Law is, by definition, obligatory because it is the command of a superior;
3. Therefore, natural law must be the command of a being superior to humans;
4. God is the only being superior to humans;
5. Therefore, God exists;
6. Therefore, natural law is the obligatory command of God;

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26. Pufendorf's version of the state of nature is discussed more fully below.

27. I address this extreme anthropocentrism below in the section on the natural state.

7. Therefore, Hobbes is wrong, both empirically and theoretically.<sup>28</sup>

This argument brings us back to a key component in Pufendorf's account of moral entities: the morality of moral entities is a consequence of an imposition by a free decision of the will. Natural law is the form of law imposed on humans and humans alone by God's will imputable to an agent. As a result, in Pufendorf's ontology of entities, humans are by nature both physical and moral entities because God has imposed the obligatory law of nature on them. In this way, being moralized through their common humanity, humans are categorically distinct from mere matter, plants, and animals, each of which do not have natural laws proper to them. If humans did not share a common humanity, then they would be no different than beasts. Humans, even naturally considered, are a moral reality *sui generis*. The problem or, at least *a* problem, is that in many ways humans are very similar to these other sorts of beings. Humans must be endowed with capacities above and beyond those other beings that justify this special place in God's creation.

## 4.6 Matter, Plants, Animals

Pufendorf subscribes to the general outline of the world as his contemporary natural philosophy understood it: the world is comprised of space and time and purposeless

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28. As an example of his inconsistency, Pufendorf will later argue in the opposite direction to prove natural law exists because God's existence is certain. In other words, for there to be natural law, God must exist; for God to exist, there must be natural law.

matter exists within that field.<sup>29</sup> This matter needs the field of space and time to exist, but the field does not require objects occurring or happening within it.<sup>30</sup> The reason for this is simple: matter is extended and extension can only occur in space. If matter were inert, time would not be necessary (beyond eternity), but because matter is in motion, time is also necessary. For Pufendorf, space and time are self-sufficient substances and therefore do not depend upon another object or substance for their existence (aside from their original creation by God). Matter fills space and time or occurs within space and time such that matter depends upon space and time for its existence. These dependent objects include the usual range of physical entities—clay, tomatoes, badgers, and humans. Hence, *physically*, or considered naturally, humans are indistinguishable from other physical entities. As they cannot be distinguished at the level of physical entity, Pufendorf requires another concept to do this work. Noting that entities differ in their capacities, Pufendorf focuses upon the actions that different sorts of entities can perform or have performed on them.<sup>31</sup>

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29. “The task of first philosophy, insofar as it has lived up to its own true nature, has been to define in the broadest possible manner and to arrange them consistently into certain categories, and also to provide a general description of the nature and condition of each kind of things. But those who have heretofore undertaken to cultivate this discipline, and who seem to have accomplished its task so well in the class of natural entities, have—the matter speaks for itself—not given moral entities the attention they deserve.” Pufendorf, *De jure*, I.1.1.

30. In obscure usage from the perspective of the present, Pufendorf would use the word “status” rather than “field.”

31. “And so we see that all things which collectively make up this universe, consisting as they do of principles assigned and fitted to each of them by the Great and Good Creator Who constituted

Action, like entities, can be distinguished between the physical and the moral, but moral action—like moral entities—depends upon a physical foundation. This is because morality is imposed on action. Just as moral entities depend upon physical entities, moral action depends upon physical action: all action is physical, but only some action is moral. This means that we must enquire into the foundation that allows for the distinction between moral and physical action. Of the four major types of physical entities recognized by Pufendorf (matter, plants, animals, and humans), we can see an important difference insofar as these are capable of action: matter can only be acted upon, but it cannot initiate action; humans, in comparison, can be both acted upon and initiate action.

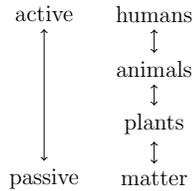
Those things which operate either entirely without sensation, or with only a direct or minimally reflective sense, are driven by natural instinct alone and do not know how to moderate their actions by any self-discovered standards. but man has been given a special light of the mind in addition to his remarkable physical aptitude. By means of this light can more accurately comprehend and compare matters, infer the unknown from the known, and judge of the proper arrangements among things, so that he is not compelled to act always in the same manner but can exert, suspend, or moderate his actions as seems fit. It has also been granted to him to invent or apply certain aids by means of which his faculties may be specially assisted and directed.<sup>32</sup>

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their respective essences, have their own particular characteristics. These issue from the arrangement and aptitude of their substance and express themselves in certain actions according to the measure of strength imparted to them by their Creator. We usually call them ‘natural,’ since the term ‘nature’ has customarily designated not only the entirety of created things as such, but also the modes and activities flowing from their innate strength, which produces the infinitely varied motions whereby we see everything in this universe to be stirred.” Pufendorf, *De jure*, I.1.2.

32. *ibid.*

Figure 4.1: Hierarchy of Activity/Passivity



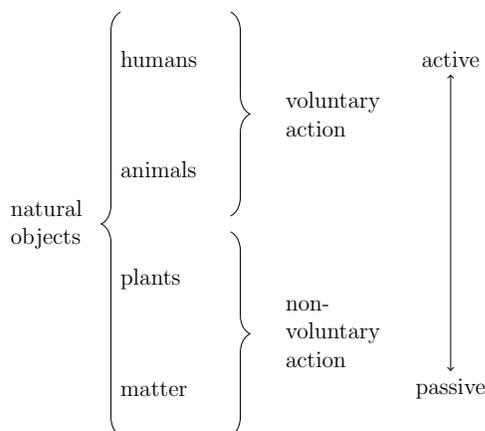
We can thus distinguish objects on the basis of activity versus passivity. From here we can insert plants as being slightly more active than rocks, but less active than animals who are, in turn, less active than humans. We can further differentiate between matter and plants, which are entirely passive to more passive than active, and animals and humans, which are more active than passive.

The issue then is what enables different degrees of activity. The first clue we have is the centrality of the will in Pufendorf’s system, especially the capacity of the will to make free decisions. To be able to make free decisions with respect to actions implies control over those actions.<sup>33</sup> If the actions can be freely decided upon it

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33. The *capacity* to make free decisions does not mean that beings with this capacity always or primarily use this capacity when they act. For instance, because the law of nature is obligatory, this means that someone cannot make the free decision to violate the laws of nature. As we will see with Locke in the next chapter, such a wilful and intentional decision to violate the laws of nature removes one from the “status of humanity” and places one in the “status of beasts.” If adherence to the laws of nature were optional or the consequence of a free and considered decision, we’d be put back into the Hobbesian state of nature. Thus, freedom is not a natural attribute, but a social attribute generated by participating in a variety of competing, conflicting, and re-enforcing status within civil society. Even sovereigns are not absolutely free—even if they are freer than their subjects—because, although they are not constrained by positive laws, they are none the less constrained by the laws of nature. Hence, to borrow a phrase from Pufendorf’s intellectual heir, Jean-Jacques Rousseau, humans must be “forced to be free.”

Figure 4.2: Voluntary and Non-Voluntary Action



means that action is a function of the will: to actively act is to freely act and to initiate one’s own actions.<sup>34</sup> We can then apply a distinction between actions that are voluntary (the consequences of free decisions of the will) and actions that are non-voluntary (not the consequence of a free decision of the will).<sup>35</sup> This suggests a slight re-organization of the typology presented in 4.1 above.

Plants are more active than matter because it is apparent that plants grow and die whereas rocks seem to neither grow nor die.<sup>36</sup> Plants are also affected more

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34. With the proviso that, for humans, there is no absolute freedom.

35. This does not imply that there are strict qualitative differences between each, but, rather, that the capacity of the will and the ability to make free decisions runs along a continuum from God who is completely and absolutely unconstrained to matter which is completely and absolutely constrained. Likewise, as we will come to below, there are gradations within categories: children do not act as freely as adults, for instance.

36. “Once these things have been established it appears that anyone surveying the entire universe will find many things with no freedom at all, such as all those without soul and sensation.” Pufendorf, *De jure*, II.1.3.

by their environment than are rocks.<sup>37</sup> A chunk of granite is equally a chunk of granite in the tundra or a jungle. A palm tree thrives in the jungle; the same palm tree is dead in the tundra. Thus, plants must have a very basic capacity of being receptive to their environment. Plants take in nutrition, grow, bloom, and die—at least under the right conditions. Thus, they must be able to sense these right conditions. In contrast, rocks do not seem to be able to sense their environment. Just as a rock cannot prevent itself from being thrown into a lake (it is completely passive and without sensation), a plant cannot respond to change in its environment in an active way; however, if conditions are right (or mostly right), a plant can passively draw in nutrition from its environment, but the plant can never choose to leave its environment.

Humans and animals clearly have sensation, indeed, for these their sensation is not minimal, as with plants, but an active part of their being: they see, hear, touch, taste, and make vocalizations, although in differing degrees. This increased capacity for sensation contributes to a greater capacity for action. Something beyond mere sensation—regardless of how well-developed—must account for action. But it is also necessary that the account of action clearly distinguishes properly human action from merely animal action.

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37. Rocks, of course, are affected by their environment—for instance, through erosion by wind or water—but the idea of geological time was only first outlined by Nicholas Steno in 1669. Of the nearly 6,000 citations in *De jure*, Steno's work does not appear to be among them. This number is taken from Carr, "Editor's Introduction," 6.

To account for the action of animals, Pufendorf draws on the concept of instinct. Central to this is the instinct for self-preservation, including inclinations towards food and sex. This instinct for self-preservation is common to both animals and humans. In order for the instinct of self-preservation to “work,” it requires sensory input from the animal’s environment, both in order to identify desirable objects (food, mates), but also to identify undesirable objects (predators and other threats). Instinct enables animals to seek out food, find the right food, and eat it. Hence, instinct contributes to self-preservation in a way sensation alone does not. A plant can sense there is no available water, but the plant is not able to seek out water. An animal can sense there is no available water, but can also seek out water. Hence, while the actions of an animal, for Pufendorf, may be imposed passively on that animal, the animal is still able to make marginally free decisions—go here rather than there in search of water. Animals are impelled to action passively, but once impelled, they can act within those constraints more or less voluntarily. The key distinction for Pufendorf is that where the action of animals is more or less voluntary, the action of humans is completely voluntary (at least in principle or potentially).

While Pufendorf attributes nearly the vast entirety of animal action to instinct, he occasionally recognizes that animals do not always act in purely instinctive ways. Indeed, contrary to his own argument regarding the exclusive possession of morality

by humans, Pufendorf frequently talks as though animals display a form of morality of their own. If this is morality in Pufendorf's sense, then this means that animals are not strictly determined by their instincts and that they possess certain degrees of freedom because, in Pufendorf's view, morality can only come about through a free imposition of the will.

We see that brute animals whose condition is below our own also enjoy a certain degree of freedom. It is over a very low sort, however, in that their strength and blunted senses are confined within narrow bounds, and their abject appetite is directed only toward a few objects (and rather superficially at that), being stirred by nothing but those very gross and everywhere obvious things that serve the belly. In addition, they observe no custom, no law, or right among themselves or toward humans. Some rudiments of marriage exist among a few of them, but it is limited to acts of merely bodily conjunction and to a slight show of affection without any bond of fidelity. And in most of them, no trace of love remains when they have satisfied their lust, nor any concern for modesty or kinship. It is true that many of them fervently love their offspring, but this love lasts only until the latter are able to nourish themselves. Parents do not care for their progeny after that, having thoroughly forgotten their former love, and the latter do not feel they ought to pay back any debt of gratitude, as it were, or to render any other service. Thus, carnivores do not scruple to tear apart and devour whatever pleases their palate, and many of them destroy one another out of uncontrollable anger. Moreover, knowing no laws of dominion, when hunger drives them they often fight fiercely over the things available to all and are not ashamed to seize what others have already gathered for their own use.<sup>38</sup>

This is a very startling passage for a number of reasons, not least because it contradicts the argument about instincts. Pufendorf seems to recognize that separating the capacities of humans from animals is not as simple as he argues.

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38. Pufendorf, *De jure*, II.1.4.

Indeed, he recognizes that many of the distinctive traits of human—freedom, moral relations, etc—are not limited to humans, but are widely shared among a variety of animals. In other words, the markers of humanity such as freedom and morality are not actually markers of humanity as such, but are shared at the very least by a number of mammals.

Strangely and confusingly, Pufendorf is eager to argue that while animals have some very simple moral bonds among themselves, this is not sufficient to elevate them “above” their animal nature, but, in comparison, fetuses and children, who have capacities “below” these animals, are deemed to be fully human. That is, Pufendorf is willing to admit that some adult animals have the capacity for moral action and is willing to admit that human children do not have this capacity. However, rather than recognizing that this is a similarity that has bearing upon the ontological status of animals (that is, they meet some of the requirements of social existence while human children meet none of the requirements of social existence), Pufendorf passes over this inconvenient point (animal parents care for their offspring) by pointing out that carnivores seem to be entirely anti-social; to wit, they “do not scruple to tear apart and devour whatever pleases their palate, and many of them destroy one another out of uncontrollable anger.” But, of course, this also describes many humans and, furthermore, as discussed with respect to Hobbes and wolves, social carnivores are social to the extent that they do not turn their violence

on their conspecifics.

The point here is that while Pufendorf seems to believe that he is making an argument on the basis of *capacities*, he is actually making an argument on the basis of *species*; that is, it isn't the *capacities* of humans that renders them sociable, but that they are *human*, but such an argument is necessarily inconsistent because it amounts to a tautology: humans are human because they are human. Similarly, here Pufendorf is eager to argue that animals are dangerous and quickly overcome by irrational passions. But, below, when we come to the discussion of the state of nature, Pufendorf argues the opposite: even carnivores are not especially dangerous because their passions are easily satiated, but humans, who have limited control over their passions, are very dangerous.

## 4.7 Humans

Thus far, Pufendorf is clearly drawing on the ancient Aristotelian distinction between nutritive and sensitive souls.<sup>39</sup> As with Aristotle, as beings become more complex, so too do their souls. Plants are limited to passive nutritive functions, while animals's sensitive souls enable them to have sense-perception. Humans embody these two functions—the nutritive and the sensitive—but add a third function:

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39. Aristotle, *Aristotle's De Anima, Books II and III (With Certain Passages from Book 1)*, trans. D.W. Hamlyn (Oxford: Clarendon Press, 1968).

the rational soul. These functions are hierarchical and nested such that the souls of plants *only* have nutritive functions while the souls of animals have both nutritive and sensitive functions. Finally, human souls have all three functions: nutrition, sensation, and rationality. For Aristotle as well as Pufendorf, these functions are hierarchically ordered such that rationality is “higher” than sensation which is in turn “higher” than nutrition.

With respect to the rational function of the soul, Aristotle distinguishes between *sophia* and *phronesis*, in effect, a distinction between theoretical and practical aspects of reason. Pufendorf, however, argues that reason involves a distinction between the understanding and the will. Together these capacities qualitatively distinguish the human from the animal just as the capacity for sensation qualitatively distinguishes the animal from the vegetable. This additional capacity has been “given to mankind above and beyond the animals” and is “peculiar to mankind as opposed to the beasts.”<sup>40</sup> These additional cognitive faculties and the ability to act on their account form the basis of moral action, or what Pufendorf calls properly human action.<sup>41</sup>

Although Pufendorf calls moral action “properly human action,” not all humans have fully realized this capacity. It is only fully realized in educated adults of sound

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40. Pufendorf, *De officio*, I.1.2, I.2.9.

41. “Voluntary actions which include this reflexive [imputation] aspect are, by a special use of the term, designated *human*.” Pufendorf, *Elementorum*, I.1.1.

mind who are able to give a theoretical account of the principles of natural law—a significant minority in seventeenth century and, indeed, in nearly any century at all, including our own.<sup>42</sup> None the less, the basic powers of understanding (understood similarly to Aristotle as the union of comprehension (*sophia*) and judgement (*phronesis*)) include:

1. Cognition: to cogitate the “diverse multiplicity of objects” present in the world, to compare them, and form mental representations (i.e., conceptualize) of them.
2. Temporalization: to imagine potential future actions, accomplish these projected actions, subordinate a series of actions to a plan, deduce the likely consequences of actions, and to compare past actions to a set of standards

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42. This is why Pufendorf must present a social theory rather than a political theory because moral consciousness is not fully realized in the vast majority of people who are nonetheless required to act in accordance with it. Thus, there must be a significant social component to moral behaviour. This is why, in effect, the social bond is a moral bond for Pufendorf. Rather than abstract reasoning and rational calculation forming the basis of social interaction, it is habit, habituation, and socialization such that the early influence of parents and community have a lasting effect in that what is taught during childhood development comes to have the force of the laws of nature even if, strictly speaking, these are but patterned modes of social interaction that have taken on a significant degree of solidity. (Although, it should be noted that nearly all “statuses” derive from a founding agreement or contract which means, in effect, that habits are the outcome of a prior agreement; that is, habits are contractual clauses made flesh.) As a result, Pufendorf distinguishes between right and probable conscience. The former “knows how to give certain and incontrovertible reasons for this opinions” while the latter has “a correct view of what is to be done or not done but unable to ground it in arguments.” Pufendorf, *De officio*, I.1.5. In other words, while a select few can give a theoretical account of their social obligations and be bound by the rational force of that account, the vast majority can not do so and are limited to a habitual and habituated set of social obligations that appear natural, rather than conventional, to them. This is the closest point of contact between natural law as a discipline and sociology—which suggests a particularly rewarding and virtually undiscovered field for the history of social science.

(e.g., rules, laws, norms).

3. Complexity: human faculties are so complex that they do not always work smoothly with one another and can come into conflict with one another (e.g., passions and reason can conflict; passions can conflict with one another forcing the reason to adjudicate between them; short-term desires can conflict with long-term goals).
4. Impressionable: different objects leave different impressions on the mind, such that some are pursued and others are avoided.

Despite outlining and defending an explicit theory of “properly human action,” Pufendorf does not follow his own argument to its logical outcome: not all apparent humans are actual humans because they do not engage in “properly human action.” Hence, creatures who have two human parents, but do not meet the definition of human are deemed to be human even if they are absolutely incapable of “properly human action.” In order to do this, Pufendorf abandons the cognitive account of the human and moves to an account of the human on physiognomic grounds, just as he did when confronted with the same problem in his discussion of instinct and morality. That is, a creature is human if it looks sufficiently human-like. Thus, to secure the integrity of the human, Pufendorf must introduce grounds upon which a *potential* human is deemed to be an *actual* human even if that potential lacks the

capacity for “properly human action.”

Mere possession of the *potential* for rationality is grounds for inclusion in the category of the human, even if that potential is never realized nor can ever be realized in a given, particular human. This conclusion is apparent from two separate arguments made by Pufendorf. The first argument attempts to determine at what point a potential human becomes an actual human while the second point attempts to defend the natural equality of all humans on the basis of possessing a common humanity or dignity.

Pufendorf locates the moment of the transformation from potential to actual human not in moral grounds, but in natural grounds, especially physiognomic:

The moment when an individual can be properly called a human being, even though there still be lacking those perfections which come to man only after some passage of time; and so, when he begins to live and feel, although he has not yet left his mother’s womb.<sup>43</sup>

While these potential humans do not and can not have obligations due to their lack of reason, they none the less have rights that come into force the moment the fetus “begins to live and feel.” This is a strange conclusion because “live and feel” does not describe humanity, as defined by Pufendorf, but animality as he has defined it—that is, the union of nutritive (the baseline for life) and sensitive (ability to feel) capacities. Followed rigorously, Pufendorf should endorse the view that humans are

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43. Pufendorf, *Elementorum*, I.3.3.

animals until attaining the age of majority and conclude that adults and minors have no obligations towards one another and, indeed, should be in a state of war with one another.

However, rather than following the path demanded by his concepts that leads to a war of all adults against all minors, Pufendorf draws upon the second argument concerning common humanity and dignity.

Man is an animal which is not only intensely interested in its own preservation but also possesses a native and delicate sense of its own value. To detract from that causes no less alarm than harm to the body or goods. In the very name of man a certain dignity is felt to lie, so that the ultimate and most effective rebuttal of insolence and insults from others is ‘Look, I am not a dog, but a man as well as yourself.’ Human nature therefore belongs equally to all and no one would or could gladly associate with anyone who does not value him as a man as well as himself and a partner in the same nature.<sup>44</sup>

While it is an important claim to make *vis a vis* human equality, it is none the less worthwhile to note that the grounds for this equality—at least as argued by Pufendorf—verge on incoherence and inconsistency at the conceptual level. Part of the problem here is that Pufendorf seems to be confusing moral entities with physical entities in that he is ascribing a moral entity (*viz.*, dignity) to a physical entity in the absence of any possible imputation. This is exemplified when dignity is divorced from reason and made into a “native” component of “human nature.” Charitably, one might say that Pufendorf is committing the common fallacy of

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44. Pufendorf, *De officio*, I.7.1.

confusing the “is” with the “ought.” However, it must be recalled that Pufendorf’s entire argument is based upon the isolation of the empirical or physical from the normative. Indeed, as will be discussed below, if there were no God, not only would there be no laws of nature, but moral concepts—such as dignity—could not exist at all.

The other peculiar aspect of human cognitive faculties is the will, which is described as an “internal impulse” to choose what pleases and reject what does not.<sup>45</sup> There are two aspects to the will, which can be called free and spontaneous. By spontaneity, Pufendorf means that the will “is not determined to act by some internal necessity but the [actor] is himself the author of his own action.”<sup>46</sup> Two implications follow from this. First, the will is a force or capacity able to intervene into the causal order such that the will cannot be impelled or compelled by necessity, especially necessity arising from an internal source, such as with instinct or passions. The suggestion here is that animals, in comparison to humans, are internally caused to perform their actions by a force that is not wilful, but instinctual, which means that for humans instinctive demands are mediated by the will and an inability to mediate instinctive demands with the will is a significant source of disorder. For instance, an animal feels hungry and, so, the animal has no choice but to search

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45. Pufendorf, *De officio*, I.1.9.

46. *ibid.*

for food and eat it. The human, in comparison, feels the same hunger, but is able to act on that feeling after reflection: go eat now? delay eating until later? what should I eat? what do I want to eat? This leads to the second implication. By being able to say, “Will I  $x$ ?” or “Should I  $x$ ?” or “How will I  $x$ ?”, the  $I$  is imputed into the process by the  $I$  itself. This is to say that the rational part of the mind in Pufendorf’s sense is not just conscious, it is aware that it is conscious. It is  $I$  that is acting and thinking and  $I$  know that when  $I$  act, it is  $I$  that is acting. Hence, this “I” is the author of the actions and, as such, responsibility for those actions can be attributable to that author.

The second aspect, that the will is free, has a meaning that is difficult to isolate from what he means by spontaneity. Whereas spontaneity looks to the internal *cause* of the action, freedom looks to the *decision* to act or not act. More specifically, it refers to the capacity to make decisions: when presented with an external object, I am given the option to act on it or not, to accept or reject the object, or to select between several different objects when given the opportunity. Again, this point can be illustrated with comparison to animals.

Buridan’s Ass is a long standing paradox in the philosophical literature on free will and determinism and was most certainly known to Pufendorf in some variation of its telling. The basic idea is that when presented with two identical and equally desirable objects (e.g., hay) placed at an equal distance from a donkey, the poor

donkey, not being able to make free decisions and decide between two identical options, is paralyzed in indecision and will starve to death. The two external objects, being identical and equidistant from the donkey, make identical impressions on the donkey's mind and, thus, the donkey lacks the requisite cognitive abilities to make a decision because in order to make a decision or, at least, respond to the stimuli of an external object, one of the two objects would have to make a greater or more intense impression on the donkey than the other. Pufendorf's solution to the problem is to maintain that humans are qualitatively different from donkeys and are therefore able to solve the paradox by, for instance, randomly selecting between the two objects. That is, the human mind is able to recognize these two objects are identical and therefore equally desirable and, on that basis, recognize that it does not matter which object is selected because in either case the chosen object is absolutely identical to the unchosen object. (Pufendorf doesn't seem to have a solution for the poor donkey, alas.<sup>47</sup>)

Combining these two aspects, the human will is a free and undetermined capacity to perform actions which can be imputed to individual actors as their author. Imputation is the key concept in Pufendorf's moral vocabulary and refers to "any action which can be under human control and whose commission or non-commission

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47. While I didn't conduct an extensive search, I found no reference to anyone ever actually getting two haystacks and a donkey to see what happens.

is in his power may be imputed to him.”<sup>48</sup> Consequently, only imputable actions are moral actions and imputation is a power exclusive to humans (and God).<sup>49</sup> Imputation is a necessary component of moral action because morality requires both a free choice and an agent who can be held responsible for the actions.

Just as Pufendorf addresses the internal factors affecting action, he also addresses the external factors. Part of Pufendorf’s point about Buridan’s Ass was that when confronted with equal but different external objects, a human (unlike a donkey) is able to make a choice between them. The human will is not a permanent, unchanging force, but is subject to external conditioning and socialization. Indeed, as discussed above, because the average person is not able to appreciate the laws of nature in an intellectual sense, other factors must form the basis of their moral action.<sup>50</sup> These external influences are called *momenta* by Pufendorf and his analysis of *momenta* points to a nascent sociological conception of moral action. *Momenta* occur when a “particular disposition of the mind communicates a certain inclination to the will, by which some are liable to a certain kind of action.”<sup>51</sup> In other words, the interaction of particular minds with the changing conditions of

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48. Pufendorf, *De officio*, I.1.7.

49. Just as actions arising from instinct in animals are not free moral actions (just as they would be if arising from instinct in humans), actions which are compelled or ordered by a third party are not imputable to the *physical* actor, but to the person who compelled or ordered them. This proviso also applies to the young, old, insane, and incompetent—as well as animals under human control. *ibid.*, I.1.18.

50. See note 42 above.

51. Pufendorf, *De officio*, I.1.12.

the external world serve to shape, form and condition the mind in a durable way such that the operation of the will is transformed from a species characteristic to an individual trait. Pufendorf continues,

This is seen not only in individuals but in whole nations. It seems to be produced by the character of the climate and of the earth, by the blending of humours in the body which arises from the seed itself, from age, food, state of health, way of life and like causes; as also by the conformation of the organs which the mind uses to perform its functions, and so on. Here we should note that if he takes the trouble, a man can, with due care, do a good deal to blunt the edge of his temperament and alter it; furthermore, that however much force may be attributed to it, one should not accept in the human court that it is powerful enough to compel him to violate the natural laws, for human judgment pays no attention to the evil desires which stop short of external action.<sup>52</sup>

Pufendorf's discussion of *momenta* is rare and nuanced for the seventeenth century. Pufendorf appears to be proposing a very complex and socialized conception of the mind. First, there is the mind that exists in all members of the human species consisting of a common set of faculties and dispositions. Second, but if this is all there was to the human mind, then all humans—like other animals of the same species—would have identical reactions to the same stimuli. However, it is clearly the case that individual humans can and do react differently to the same object. Third, it is not just individual minds that differ in this way. Certain dispositions seem to be common among all (or most) individual members of a given nation. Hence, these mind-forming factors are both individual and collective. This suggests

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52. Pufendorf, *De officio*, I.1.12. This argument seems to reject out of hand how and why animals can be trained if differential responses to stimuli come about through *momenta*.

a complex set of social relations between individuals and the groups of which they are members. (For instance, “way of life” might direct the mind in one direction such that occupational groups develop similar traits, but “climate” might direct the mind in another direction. Thus, otherwise rational and dispassionate lawyers might be very sedate in the temperate climates of western Europe, but inflamed and passionate in the Mediterranean.) Fourth, the factors which shape the mind are not just the result of individuals working on themselves or individuals working on one another in a collective, but also include non-human factors, including climate, environment, food, and diet. Pufendorf does not list other non-human factors, but he also does not exclude their possibility. Similarly, Pufendorf recognizes the importance of biological factors that are not under individual control, but which occur in or on individual bodies, including the blending of the humours in fetuses and the ravages of time on the body.<sup>53</sup> Fifth, although these factors form the mind, the individual is not completely determined by them. Individuals have the power through the very will that is modified by its surroundings to resist and change the formation of this mind.<sup>54</sup>

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53. Although Pufendorf is always eager to set humans aside from nature while also maintaining that there is continuity between humans considered naturally and humans considered in society, Pufendorf none the less seems to admit that a significant part of individual character is inhuman in its origin—the climate, the environment, food, the passage of time, and so on. The human is not so easily separated from the inhuman in fact or in theory.

54. This is another example of Pufendorf’s awareness (albeit nascent rather than developed) of issues that would concern later social theorists: structural effects can condition, but not determine, the human mind and, presumably, the mind, through action, can condition (but not determine?) structural effects. This is why Pufendorf does not accept external conditioning or socialization as

Interestingly, this discussion of the influences of *momenta* on the mind is not oriented to why humans do the right or legal action, but to account for why humans have a tendency to do the wrong, illegal action. *Momenta* are the natural, physical counterparts to the theological notion that humans are fallen, depraved creatures. In effect, Pufendorf seems to hold that the Fall made humans liable to the influence of *momenta* which produce “evil desires” and “vicious external actions.”<sup>55</sup>

## 4.8 Moral Entities

The particular attributes of humans—understanding, free will, and the ability to be responsible for voluntary actions—renders them uniquely capable of creating moral entities. To an extent, the entirety of Pufendorf’s project consists in an attempt to provide a detailed account of the nature, source, and form of all the major types of moral entities:

Our present task is to examine how things and their natural motions have been superimposed on them, chiefly for the direction of voluntary actions, a certain kind of attribute that gives a peculiar consistency to human actions and adorns man’s life with a remarkable grace and order. These attributes are called *moral* entities because the human mores and actions directed and moderated by them assume thereby a character aspect different from the unrefined simplicity of brutes.<sup>56</sup>

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an excuse for performing illegal or immoral acts—although it should be noted that he only cites the natural law in this regard and not the positive laws of the civil association.

55. Pufendorf, *De officio*, I.1.12.

56. Pufendorf, *De jure*, I.1.2.

In line with the ontology of physical entities, moral entities should be conceived as modes that have been “superadded by intelligent to physical things and motions for the special purpose of directing and regulating man’s free, voluntary actions, and for giving human life a certain order and grace.”<sup>57</sup>

Because moral entities are modes this means that they are not self-subsistent. That is, they are affectations *of* substance without themselves *being* substance. They have no permanent essence and must continually be created and recreated through interaction. As a result, moral entities can come into existence and, through a lack of sustained use, disappear from existence.

Being “superadded,” the moral aspect is imposed on a physical entity or physical action.<sup>58</sup> This means that an entity or action that is not intrinsically moral has been moralized. The moralization of the entity or action means that it has certain effects, positive or negative, for which the agent of those effects is responsible. Take the example of killing. It involves a physical action that has certain physical consequences for the creature who is being killed (i.e., its life ends). According to Pufendorf, this physical action by one physical entity on another physical entity has no moral effects insofar as the action is considered physically. This is categorical because the physical and moral “realms” are completely distinct from another. In

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57. Pufendorf, *De jure*, I.1.3.

58. “Now, as the original manner of producing physical entities is creation, there is hardly a better way to describe the production of moral entities than by the word ‘imposition.’” *ibid.*, I.1.4.

this respect, the killing of a salmon by a bear, the killing of a human by a python, and the killing of a human by a human are all equivalent—a certain force has been inflicted on one object by another object with the outcome that the first object ceases to live. Because we are still in the realm of *physical* cause and effect, the act of killing is no different than any other series of physical effects: for instance, a rock rolling down a hill or a wave splashing on the shore. In order for these acts to be differentiated it is necessary that some be moralized—that is, moral effects must be imposed on those physical actions. Adding in a moral effect transforms that merely physical act into a moral act and transforms the merely physical actors into moral persons. As morality is added to physical actions and entities, it is purely conventional; that is, morality is a voluntary effect or consequence of certain uses of the will.<sup>59</sup> However a given set of moral consequences are imposed, they could always be imposed otherwise (or not at all) and those moral consequences only exist insofar as that imposition is sustained. Thus, we can revisit the example of killing in this context: when a human kills a human, it is murder; but when a human kills a non-human or a non-human kills a non-human, it is not murder. Further consequences could be applied; e.g., when a human kills an “unborn” human it is not murder, when a human kills another human in self-defense it is not murder, when a human kills another human in war it is not murder. And, as many cultures

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59. “by the will of intelligent beings who alone determine their existence.” Pufendorf, *De jure*, I.1.4.

have done, humans can impose effects on the actions of non-humans on humans, for instance, holding falling chunks of temples or animals accountable for murder.

Just as physical entities and actions require a “space” in which to exist, so too do moral entities. Again Pufendorf returns to the substance/mode analogy to demonstrate this relationship. Morality is super-added to physical entities and, in this sense, moral entities are modes of physical entities, which serve as their substance. But, left only to this, moral entities would be free-floating epiphenomena of human cognition. To ground moral entities, they must be located in a space or field called a “status” by Pufendorf.<sup>60</sup> However, there is an important difference between the space/time of physical entities and the status of moral entities: physical “status” can exist without there being physical entities in it; moral status can only exist *if* there are moral entities in it. In this sense, status is analogous to substance in that moral entities depend upon status for their existence. But, in another sense, status is only analogous to substance in that status depends upon moral entities for its existence even if moral entities cannot exist without status. This obviously raises a number of strange philosophical problems which Pufendorf seems to be aware of but generally uninterested in addressing: if  $x$  depends upon  $y$  and  $y$  depends upon

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60. “Indeed, just as physical substances presuppose the space in which they naturally exist and move, so, analogously, are moral persons in particular said and understood to be in a *state* [*status*] that likewise supports and, as it were, underlies them as the medium of their actions and effects. Hence, a state can on account of its analogy with space be consistently described as a sub-posed entity, for it also seems to be not a primary entity but one intended to underlie and in a certain manner sustain other things. Thus, certain states have been established not for their own sake but so that moral persons may be understood to exist in them.” Pufendorf, *De jure*, I.1.6.

$x$ , how can there be one without the other? How does one come into existence at all?<sup>61</sup> Despite these potentially irresolvable problems, Pufendorf distinguishes between two fundamental types of status: natural and adventitious. Natural status is the state of nature and is the result of God imposing natural law on humans. Adventitious statuses are all those statuses created by humans.

## 4.9 State of Nature and Natural Law

Above I discussed Pufendorf's view that the existence of natural laws is contingent on God's existence. Having outlined the major differences between beings considered *physically*, it is now possible to outline the major differences between beings considered *morally*. The laws of nature are those laws which are in effect in the state of nature because they have been imposed on humans by God. One reason why humans had to be moralized in this way derives from the divine command theory of law Pufendorf endorses: laws are the obligatory commands of a superior. Thus, for humans to have obligations in the state of nature, it is necessary for God to have commanded these obligations as laws. The question Pufendorf needs to answer is, aside from the issue of the existence of laws as such, why is a natural law necessary and what purpose does it serve?

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61. In effect, I think Pufendorf recognizes that origins are a philosophical and an empirical problem and one which tends towards theological or mythical accounts rather than theoretical accounts.

These issues are central to each of *Elementorum*, *De jure*, and *De officio*. In each case, the “character and necessity” of natural law is treated separately from the state of nature proper, although, in both cases, similar passages repeat themselves in each section. Like Pufendorf, I’ll treat these issues in turn even though it is generally impossible to keep these topics separate in any clear and distinct way.

As a beginning point, the laws of nature refer to those laws that are in effect in the state of nature while the state of nature refers to the state in which there are no positive, human-created laws and, thus, no human is in a position to legitimately give an obligatory command to another. According to Pufendorf, there is a “congruence” between the laws of nature and the “rational and social nature” of humans such that there “cannot be a good and peaceful society without it.”<sup>62</sup> This “rational and social nature” of humankind is revealed “by a close scrutiny of the nature and character of man. [...] of the common character and condition of mankind.”<sup>63</sup>

The account of the condition of humankind begins with the observation that humans, like all animals, are obsessed with their own self-preservation. This concern with self-preservation overdetermines all aspects of animal and human life, but with significantly different consequences for animals and humans. In humans, this

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62. Pufendorf, *De officio*, I.2.16.

63. *ibid.*, I.3.1.

“passion is usually so strong that all other passions give way before it.”<sup>64</sup> In this way, Pufendorf agrees with the Hobbesian premise that self-preservation is the primary concern of and problem for humans. But, while agreeing with Hobbes, Pufendorf also seeks to reject many of the conclusions Hobbes comes to not only concerning the natural condition of humans, but also the causes of the formation of societies.

In order to demonstrate that Hobbes is wrong, he presents two different versions of the natural condition of humans: the first can be called “hypothetical” or “fictional” while the second can be called “realistic.”<sup>65</sup> Hobbes came to his conclusion that the natural right to self-preservation is dangerous because it produces the irrational outcome of a war of all against all. Hobbes’s premise was that because humans are more or less equal to one another in physical and mental capacities, that any difference between particular humans can easily be overcome through ganging up on one another or devising devious traps. Hence, greater strength or intelligence confers no significant advantages in the state of nature. Pufendorf’s point of departure is somewhat different: rather than looking at the equality of humans relative to one another, he compares humans to other animals, concluding that humans,

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64. Pufendorf, *De officio*, I.3.2.

65. Michael Seidler claims there are at least nine distinct senses or versions of state of nature in *De statu*, with each of these having a number of gradations within them. My account will not go into such extensive detail. Michael J. Seidler, “Introductory Essay,” in *Samuel Pufendorf’s “On the Natural State of Men.” The 1678 Latin Edition and English Translation*, ed. Michael J. Seidler (Lewiston: Edwin Mellen, 1990), 32.

unlike animals, are weak by nature:

Man now seems to be in a worse condition than the beasts in that scarcely any other animal is attended from birth with such weakness. It would be something of a miracle, if he came through to maturity without the help of other men.<sup>66</sup>

Pufendorf makes the reasonable comparison to humans who have grown up with the advantages of living in society: even in society, with all its attendant advantages, humans still require “training of several years” to acquire the necessary skills to gather food and clothing.<sup>67</sup> Here Pufendorf is not claiming that it takes years to develop the necessary skills to *grow* food or *make* clothing, but that it takes years to develop the skills to *acquire* food and clothing within society—for instance, becoming employed, acquiring money, engaging in transactions, and the like. This is the entry point to Pufendorf’s hypothetical or fictional state of nature. Even if we imagined a human being making it to adulthood without the care and assistance of other humans (i.e., a completely atomistic and isolated conception of individuals), what would this state be like?

He would have no knowledge except what he has sprung by a kind of spontaneous generation from his own intelligence. He would be in solitude, destitute of all the help and company of others. Evidently, one will scarcely find a more miserable animal, without speech presumably and naked, who has no resource but to tear at grass and roots or pick wild fruits, to slake his thirst at the spring or river or from the puddle in his path, to seek shelter in caves from the assaults of the storm or

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66. Pufendorf, *De officio*, I.3.3.

67. *ibid.*

to protect his body as best he may with moss or grass. Time would pass most tediously with nothing to do; at every noise or approach of another animal he would start in terror; and would at last die of hunger or cold or in the jaws of a wild beast.<sup>68</sup>

As presented, Pufendorf's scenario imagines an adult human inserted into the state of nature (as he understands Hobbes to have done), but with no previous or current human contact (not as Hobbes does) and asks what would happen. This scenario assumes either that there are no humans at all or that humans are so dispersed from one another that human contact is effectively rendered impossible. Due to having attained adulthood without any human contact and having no other humans to converse with, this person is in a situation absent of all information, knowledge, learning, and technology. As a result, this human would be limited to their own abilities. Could such a person learn to make weapons or shelter in the absence of the very idea of shelter or weapons? Could such a person learn to start and control fires? Pufendorf's scenario denies all this and concludes that for this reason, the atomistic and isolated individual is the "most miserable of all animals."

In comparison to the atomistic human, animals have the advantage of having parents and the ability to learn from those parents, they achieve maturity quickly acquiring everything they need to know to succeed as an animal of that sort, and, as a result, the animal is mostly if not completely self-sufficient. The atomistic

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68. Pufendorf, *De officio*, I.3.3.

individual has no such advantages and is so bad off that not only does he have no language, but he is also naked.

From here we can project what life is like for such a miserable creature. Resources available to such a creature are limited to what is immediately available because our miserable creature does not know how to grow plants, store vegetables, or even cook food. As a result, eating is limited to what is seasonally available—fruits in the summer and fall; twigs and roots in the winter. Similarly, water cannot be stored in any way and, so, the miserable creature must crawl up to a stream, river, or puddle and lap water like an animal. Because there is no possibility of storing food or water, the miserable creature must always remain close to the source of food and water—precisely where a predator would look for them. If lucky, the miserable creature might be able to hide in caves and design ridiculous and impractical clothing from mosses and grasses, but these would not keep the creature very warm nor offer them protection from predators.

In reading this description, one cannot help but notice its similarity to the conditions which were said to prevail in the Garden of Eden. However, whereas the Garden of Eden is presented as a paradise, Pufendorf's depiction is inverted such that being left to nature is completely hellish. For Adam and Eve, food and water was both plentiful and delicious (even if it was nothing but grasses and roots), shelter was not needed and nakedness was not a problem. Adam and Eve were

happy to eat raw roots naked in the rain. Pufendorf's natural human is rendered undignified and miserable by his starvation, thirst, and nakedness.

This leads to another interesting point of comparison between humans and animals. For Pufendorf, humans in such a natural state are weak and miserable while animals are strong and self-sufficient. Animals have everything they need to live well while humans cannot even imagine the idea of living well.<sup>69</sup> This is a remarkably different depiction of humanity in comparison to the discussion of the natural faculties of humans above. When discussing the natural faculties of humans, Pufendorf was eager to point out how the rational part of the soul elevated humanity above the animals. But, in this hypothetical state of nature, this rationality confers no advantages to an atomistic and isolated individual. Through their natural endowments alone—fur, feathers, and scales for clothing, nests and dens for shelter, claws, fangs, antlers, and horns for weapons—animals are already more capable to feed themselves, find shelter, and defend themselves. The hypothetical state of nature is radically anti-anthropocentric in its consequences: rather than killing, humans are killed; rather than eating, humans are eaten; rather than terrifying, humans are terrified. In essence, humans are animalized while animals are humanized.

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69. This is an interesting reversal of the relation between *bios* and *zoē* discussed in the previous chapter. There, the lives of animals and humans outside the state was bare while the lives of humans, but not animals, in the state was qualified. Here, with Pufendorf, animals live well—*bios*—while humans barely survive—*zoē*.

As a result, the hypothetical state of nature is a horrible combination of prolonged periods of absolute boredom punctuated by brief moments of pure terror, ultimately culminating in starvation, freezing to death, or being devoured by a wild beast. Compared with Hobbes, the apparent target in this hypothetical state of nature, the isolated individual, rather than dying violently in a confrontation with another human, dies a Hemingway-esque death: cold, alone, and in the rain (in the best case scenario) or cold, alone, and in the rain while being eaten alive by a pack of wolves (in the worst case scenario).

Against the hypothetical state of nature, Pufendorf proposes what he deems to be a realistic version. We can approach a more realistic version of the state of nature through rejecting the main features of the hypothetical state of nature: rather than atomistic, isolated individuals, can we assume that the conditions that exist in society derive from the natural constitution of humans? For instance, it is plainly evident that “all the advantages that attend human life today derive from men’s mutual assistance.”<sup>70</sup> Is it possible to imagine a version of the state of nature where assistance and co-operation are possible?

One way to approach this is point out that humans are born and must be born. Given this simple fact of human existence, it implies that any given human must have a mother and a father and they, in turn, must also have parents. We can then

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70. Pufendorf, *De officio*, I.3.3.

assume, contrary to the hypothetical state of nature, that there is always more than one human in existence and, better, that these humans are closely related to one another in a web of familial obligations. Chances are, if there is one family, there is likely another family. Thus, the realistic state of nature is not one of atomistic individuals, but individuals living with one another as families.<sup>71</sup> By projecting familial relations into the state of nature, Pufendorf has allowed for the possibility of at least limited degrees of assistance to exist: parents will raise their children and, in turn, children will raise children of their own. Further, these familial relations will persevere beyond the point of necessity such that child-rearing forms a permanent bond between generations. While this does not lead to advanced science and technology, it at least allows for the accumulation of some knowledge which can be transmitted from person to person over time. The question that Pufendorf needs to answer is whether or not this assistance and co-operation is limited to families or if it can be extended to strangers as well. That is, can the assistance given to family members by family members be generalized?

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71. Pufendorf identifies families as one of the *statutes* that exist outside of society. We could propose that culture exists in the state of nature (i.e., families, villages), but not society (i.e., associations organized politically). In Pufendorf's complex view of the state of nature, the state of nature allows for many different sub-statutes to emerge—families, villages, and the like. With family being identified as a status, this means that there are rights and obligations between various individuals: children/parents, “husband”/“wife”, sibling/sibling, and so on. This is another example of how there is no clear distinction between nature and culture for Pufendorf. Culture is always present in nature to some degree. A complete isolation of culture from nature is only possible if we take the Hobbesian route—but that results in everyone being eaten by bears. For Pufendorf's views on the family, see Pufendorf, *De officio*, II.2–4.

Granting that humans *can* assist one another does not mean that they *will* assist one another. Just because people can help one another does not mean that they will and just because the benefits of social living derive from mutual assistance does not mean that mutual assistance alone is sufficient to generate a social bond. That is, without an *obligatory* character to it, assistance could remain merely potential rather than ever being actualized.

The capacity for assistance conjures up another Hobbesian problem: trust. In the absence of authority and obligation, conditions for the emergence of trust are absent because you can never know with any degree of certainty if the person you are assisting is not actually intending to exploit your good will and, thus, might cut your throat while you sleep and take your mutual goods. Assistance, and therefore trust, is risky because uncertainty and caution will almost always trump trust and assistance—it is better to be safe than sorry.

For Pufendorf, trust and risk relate to the Fallen nature of humankind.<sup>72</sup> As a devout Lutheran, Pufendorf accepts the truth of the story of the Fall of Adam and Eve. Natural law as a scientific discipline must accept this theological truth about humans: it is “obvious that man must [...] be regarded by the discipline of natural law as one whose nature has been corrupted and thus as an animal

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72. “Another reason that made it inadvisable to grant man the same licence as brutes is his greater depravity—an attribution that will come as no surprise to anyone who has thoroughly examined the natural inclinations and pursuits of us mortals.” Pufendorf, *De jure*, II.1.6.

seething with evil desires.”<sup>73</sup> The methodological point here is that natural law must take Fallen humankind as its point of departure, if natural law does not take the Fallen nature of humankind into account it will necessarily produce incorrect conclusions. Natural law cannot assume an un-Fallen humankind as its standard: “it would be in appropriate to try to deduce natural law from the uncorrupted nature of man” because corrupted and uncorrupted humankind have a different nature—Adam and Eve, while uncorrupted, were not animals seething with evil desires, but completely innocent of all such desires.<sup>74</sup> Laws appropriate to one are not appropriate to another. As a result, an account of natural law and the state of nature must involve this Fallen, corrupted nature:

But this animal which is so mutually helpful suffers from a number of vices and is endowed with a considerable capacity for harm. His vices render him risky and make great caution necessary to avoid receiving evil from him instead of good.<sup>75</sup>

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73. Pufendorf, *De officio*, Pref.

74. *ibid.*

75. Note Pufendorf’s rhetorical strategy. In the “hypothetical” natural condition, the word “man” is used throughout, but in the “realistic” natural condition, humans are referred to as animals. Given the consistency of use within each section, Pufendorf must have intended this contrast, but it isn’t entirely clear what he is trying to get across. None the less, in the “hypothetical” case humans are weak, in the “realistic” case humans are dangerous animals comparable to the devouring beasts that feed on weak humans. It is also worth noting that this change of terms occurs in the context of talking about *vices*, that is, in the context of a moralized discussion of human nature. Again, we must contrast this “moralized” aspect of human nature to the “physical” human nature discussed above. In that discussion of human cognitive faculties, humans are superior to and above animals, but in the moralized discussion, human moral faculties are inferior to those of animals. This is an odd conclusion because humans, unlike animals, have been moralized by God—the natural law has been imposed on humans, not animals. Animal behavior is not moral, immoral or amoral, but profoundly non-moral. For Pufendorf, it is completely *wrong* as a factual matter to speak of the morality of animals or discuss their actions in a moral register. With respect to humans, the discussion of their virtue—the capacity for mutual

Pufendorf does not provide a clear explanation as to the precise relation between the capacity for mutual assistance and the capacity for harm. But, Pufendorf is clear that the vices of humankind are dangerous and risky such that they potentially interfere with the better parts of human nature. Mutual assistance leads to two possibilities, one good and the other bad:

1. the benefit of social living (requires trust)
2. the threat of exploitation (abuses trust)

The problem is that, in the absence of obligations commanded by a recognized authority, we can never know with certainty if the person you have just encountered is going to help you or exploit you.

To understand how vice is a threat to virtue and, therefore, how vice must be managed and controlled by laws, Pufendorf outlines three pathologies of vice: that humans have a tendency to commit harms, that their capacity to commit harms is great, and individuality multiplies the possibilities for harm.

The first vice getting in the way of mutual assistance is that humans have “a greater tendency to do harm than any of the beasts.”<sup>76</sup> The tendency to do

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assistance—*immediately* turns to a lengthy discussion of their *vices*. In part, this is the obvious point that moral concepts with positive valences imply moral concepts with negative valences. But the more important sociological point is that it isn't for an excess of virtue that we associate with one another but for an excess of vice. Association, relying on assistance, both *produces* disorder and is the best means of *controlling* disorder. Pufendorf, *De officio*, I.3.4.

76. *ibid.*

harm derives from the passions, which are amplified when humans are brought into proximity with one another. Passions are stirred through interaction and comparison, which gives rise to greed and envy. This is not a problem for animals because animal desire is finite and easily satiated while human desire is infinite and insatiable.<sup>77</sup> Animals are almost exclusively limited to the desires that arise from self-preservation, such as food and sex. Both of these can be satisfied with little effort because an adult animal in Pufendorf's estimation is nearly self-sufficient. As these desires are easily laid to rest, it is nearly impossible for these desires to give to "anger or harm unless provoked."<sup>78</sup>

For animals to be dangerous, they must be provoked. This doesn't imply that nature is peaceful, but that it is more peaceful than what humans can ordinarily achieve. For example, if one animal has killed another and is eating that animal, the danger to others is negated because the desire for food has been satisfied—the animal is no longer hungry and, therefore, will not seek out another animal to kill. But, if a third animal comes along and tries to take the carcass from the first animal, then the first animal could be provoked again. Whatever the outcome of the struggle over the carcass, these animals, unlike humans, will not suffer a desire

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77. And, presumably, because animals lack the rational function of the mind, they do not have the requisite capacity to engage in comparison. As with the example of Buridan's Ass, animals cannot distinguish between sense impressions except insofar as one object creates a greater sensory impression than another.

78. Pufendorf, *De officio*, I.3.4.

for vengeance, which makes them dangerous over time. When the struggle over the carcass ends, so too does the impression that the carcass and the competitor makes on the first animal's mind. Without continued sense impressions, the cause of the quarrel and its result disappears from the animal's mind and it has no reason to gloat about its victory over the other or resent its loss to the other. Humans, on the other hand, have the requisite mental capacity to not only remember their loss, but to act on that loss in the future in the form of grudges and vengeance.

In comparison to animals, humans are not easily satiated. With respect to sex, unlike animals who reproduce seasonally and only have sex for reproductive reasons, humans are able to reproduce year-round and cannot—or will not—limit sex to the utilitarian concerns of reproduction. Humans (and Pufendorf does not appear to limit this claim to males alone) are “an animal ready for sexual activity on any occasion and tickled by the itch of lust much more frequently than would seem necessary for the preservation of the species.”<sup>79</sup>

Just as sex escapes utilitarian moderation, food does too for “His belly too wants not only to be satisfied but to be titillated, and often has an appetite for more than it can naturally digest.”<sup>80</sup> Again, the natural desire to eat in order to preserve oneself rapidly turns into a destructive vice to not only eat, but to eat titillating

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79. Pufendorf, *De officio*, I.3.4.

80. *ibid.*

foods to the point of throwing up. Pufendorf's point here is that, presumably, titillating foods are rarer than foods of the non-titillating kind, which makes them more valuable and more desirable than base foods. If everyone were equally desirous of these rare titillating foods, the result would be extensive wasting of basic foods (because they are not eaten at all) and intense competition for titillating foods. With everyone lusting after the same scarce foods, those who actually possess them would be insecure due to the envious desires of others and in no position to defend themselves on account of puking up their excessively consumed titillating foods.

The same problem arises with clothing—animals, having fur, feathers, and scales, have no need for clothing, “but man delights in being clothed for ostentation as well as from necessity.”<sup>81</sup> Hence, the natural necessities required for preservation, which are easily satisfied among animals, become potential points of violent conflict among humans. However, humans aren't limited to the “natural” passions conducive to survival, but suffer from surplus-passions: “Many other passions in the human race unknown to the beasts, as, greed for unnecessary possessions, avarice, desire of glory and of surpassing others, envy, rivalry and intellectual strife.”<sup>82</sup> The combination of these “natural” and “surplus” passions results in war, which is “unknown to the beasts.”<sup>83</sup>

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81. Pufendorf, *De officio*, I.3.4.

82. *ibid.*

83. *ibid.*

The second vice that prevents the emergence of a social bond based upon mutual assistance is that the “capacity for mutual infliction of injury is also very powerful.”<sup>84</sup> While humans do not have natural weapons such as fangs and claws, they do have “dextrous hands” and extreme “mental ingenuity.” As a result, humans can devise clever and destructive weapons and set up elaborate traps when “open assault is out of the question.” The result is that humans are very adept at inflicting death (especially when they co-operate), which Pufendorf agrees with Hobbes is “the worst of man’s natural evils.”<sup>85</sup>

Finally, we must recognize that the individuality characteristic of humans is an important source of disorder: “in the human race, by contrast with any individual species of animal, an extraordinary variety of minds.”<sup>86</sup> Animals are non-individual in that there is next to no distinction between a particular member of the species and the species itself. A raccoon *is* a raccoon and nothing more. As a result, all raccoons “have virtually identical inclinations” and “similar passions and interests.”<sup>87</sup> Thus, the only significant differences among animals as a totality are the differences between species; there are no important differences internal to each species.

This is not the case with humans because particular members of the species

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84. Pufendorf, *De officio*, I.3.5.

85. *ibid.*

86. *ibid.*, I.3.6.

87. *ibid.*

have both individual personalities and a set of species based dispositions. Whereas with raccoons, if you know one, you know them all; with humans, if you know one, you don't even know him. This is because not only do two different humans have completely different desires, but also because desires limited to one human are inconstant over time: "In fact, one and the same man is often observed to be different from what he had been, and to recoil in horror from what he once coveted."<sup>88</sup> Thus, animals are animated by a single desire at a time (food... food... food... sex... food...) while humans are animated by multiple, potentially conflicting desires at nearly every moment and, worse, what is true for the goose is also true for the gander: all other humans are also simultaneously bursting with inconstant, ever-changing, contradictory passions such that not only are they unstable as individuals, but putting all these unstable individuals together in an association is a recipe for chaos. Thus, "For these reasons careful regulation and control are needed to keep them from coming into conflict each other."<sup>89</sup>

With these three vices outlined, is there any possibility of carefully regulating and controlling them so as to prevent conflict and thereby allow for mutual assistance to take route? Animals are not in need of careful regulation and control because their desires are very limited and easily satisfied. While they are animated

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88. Pufendorf, *De officio*, I.3.6.

89. *ibid.*

with a desire for self-preservation, achieving this outcome is fairly straightforward and simple. Hence, while the order that obtains among animals is not one of laws (because they are non-moral), it is none the less a stable, spontaneously emerging order. However, contra Charles Butler and his bees, animals cannot be a model of moderation nor sociality and therefore cannot be emulated in order to achieve a stable social bond.

Humans, however, are not able to achieve a spontaneous order but, rather, if left to themselves will produce nothing but disorder. The clear fact that humans *do* live together in more or less stable associations points to their being able to live in such a way. That humans can live in a more or less stable social order cannot be caused by human nature (because it is envious and insatiable) and because human nature is envious and insatiable, it will continually produce conflict and distrust.

1. humans are overwhelmingly concerned with their self-preservation, but
2. unable to achieve or secure this self-preservation without the assistance of other humans (c.f., the hypothetical state of nature), and,
3. humans have the capacity to assist one another, but
4. humans are “malicious, aggressive, easily provoked” and willing “to inflict harm on others.”<sup>90</sup>

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90. Pufendorf, *De officio*, I.3.7.

In sum, humans are weak and dangerous, but have the potential to be helpful. Means must exist to minimize the dangerous and risky aspect of humanity while maximizing the social aspects of humanity. The first step in this process is that humans must recognize that the dangerous part of their nature can only be controlled through being sociable: “in order for him to be safe, it is necessary for him to be sociable.”<sup>91</sup> This means that humans must be willing to join with others like themselves, conduct themselves such that they don’t give reasons to others to hurt them, and they must be willing to contribute to the benefit of others. Pufendorf calls these the laws of sociality, “laws which teach one how to conduct oneself to become a useful member of human society.”<sup>92</sup> These laws of sociality are properly called the laws of nature.

From the above, we know that if laws of nature are to exist at all, then they must be commanded by God and we know that laws transform physical entities into moral entities. We also know that natural laws can only arise through an imposition by God. Thus, we must conclude that being sociable is a command of God, which is to say a natural law and, accordingly, that being sociable is an obligation binding on all human beings. The fundamental law of nature, then, is that “every man ought to do as much as he can to cultivate and preserve sociality.”<sup>93</sup>

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91. Pufendorf, *De officio*, I.3.7.

92. *ibid.*, I.3.8.

93. *ibid.*, I.3.9.

Consequently, everything that contributes to sociality is commanded by natural law while everything that disturbs sociality is forbidden.

While Pufendorf uses the language of usefulness (“to become a useful member of human society”), these laws are not required because they are useful, but because they are commanded by God as laws. Human nature is such that social life is necessary to ensure security. The human mind, specifically the rational part, is capable of having ideas which further the goods of sociality and security. And, finally, humans are governed by God’s providence. Therefore, “God wills that a man should use for the preservation of his nature the powers within him in which he is conscious of surpassing the beasts; and that he also wills that human life be different from their lawless life.”<sup>94</sup> Animals can be a model for human society; just not one worthy of emulation. The lawlessness of animals joined with the inherent dangers of humanity would produce rampant disorder. Thus, humans must turn away from animality and bind their desire to natural law because it is only through natural law that humans can achieve the express desire of God that we live in society.

Earlier I claimed in passing that Pufendorf presents an extremely anthropocentric argument. I want to briefly return to this claim in the context of the discussion of natural law and the state of nature. In his argument for the necessity of natural

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94. Pufendorf, *De officio*, I.3.11.

law, Pufendorf singles out humans as having special significance in the universe and for God. The world has been made *for* humans by God and nature (matter, plants, animals) exist for the purposes of humans. Natural law applies only to humans and it has been imposed on humans by God so as to ensure that humans can better themselves through, on the one hand, mutual assistance and, on the other hand, mutual exploitation of the non-human. The result of this is that humans as a species are bound together by God's authority, which is revealed in the fact that humans have a "sense of religion or fear of the Deity [that] is not in any other living creature."<sup>95</sup> Consequently, animals are lawless, humans in nature are law-following, and humans in society are law-making (following the example of God in the form of the sovereign).

This brings us back to moral entities. Animals are lawless because they do not have the capacity to create or observe moral entities. They are, as I have said, completely non-moral. Humans, in comparison, are immediately bound to the natural law and insofar as God maintains that imposition, humans must be sociable. This state of nature is immediately preferable to the state of nature as inhabited by animals (i.e., a state of war) that is without laws and without the possibility of laws, which makes it the equivalent of the Hobbesian state of nature—a constant struggle for self-preservation. Interestingly, Pufendorf's analytic demands that he call the

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95. Pufendorf, *De officio*, I.3.11.

“state of brutes” a “state of war.” But this is a very strange state of war. While there is killing and death and suffering in the state of brutes, Pufendorf has also strenuously argued that because the passions of animals are limited and because they have no rational capacities, their interactions, while often violent, are decidedly not warlike; indeed, Pufendorf is willing to admit at times that the state of brutes possesses a number of simple moral relations, such as love.<sup>96</sup> Pufendorf, growing up in the context of the wars of the seventeenth century, surely knows that a wolf pack hunting down a deer is not the least bit comparable to soldiers burning down a village, raping all the women, and killing all the men.<sup>97</sup> The difference is that with humans, one atrocity inflames the enemy who commits their own atrocity in return—an atrocity that is repaid with another until such a time that one side loses the capacity or will to repay atrocities with subsequent atrocities. In comparison, it is highly unlikely that following the killing of a deer that all the deer in the forest will unite and systematically kill all the wolves. Indeed, Pufendorf has explicitly

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96. None the less, the violence of predators is always the comparison Pufendorf draws upon to demonstrate how dangerous humans are without law: “Therefore, given such fierce and varied human passions, what would men’s life have been like without a law to compose them? A pack of wolves, lions, or dogs fighting to the finish, that is what you would see. Indeed, everyone would have been a lion, wolf, or dog to his neighbor, or something even more savage, because no living thing is able and willing to harm man more than himself. Since men inflict so many evils upon another even now, when law and punishment are threatened, what would be the case if everything were done with impunity and no inner bridle restrained man’s desires?” Pufendorf, *De jure*, II.1.6.

97. “Indeed, once a war has started, not only do those among whom the quarrel first arose endeavor to destroy one another, but their neighbors are also much more disturbed and often get involved beyond their wishes. Thus can one man’s trouble keep even many temperate men embroiled in constant disputes.” Pufendorf, “De statu,” #16.

argued that this is impossible. (But, on the other hand, he has argued despite its impossibility that it happens all the time—not so much vengeful deer, but out of control wolves.) However, we end up with a situation where the state of war among animals is decidedly unwarlike while the state of peace and sociality among humans is decidedly dangerous—after all, in the absence of a central authority able to impose and enforce law, the sociable state of nature remains a game of trust, which is easily exploited—especially by those who are not bound by familial or village ties. The ability to maintain peace is incredibly limited to the local and, when confronted with strangers, becomes a dangerous game of trust.

The brutelike state of war might be relatively safe in comparison to the ontologically dangerous human state of peace, but humans, it must be remembered, are not only “less” than animals, but also “more” than animals. The rationality that makes humans dangerous is also their best chance at security. We’ve already seen how relative peace can be created locally in the family and in the village—indeed, this local peace could be extended to neighbouring villages through treaties. Thus, the state of nature is not that bad, all things considered. What we see here is an example of Pufendorf’s refusal to assert a hard and definite break between nature and society. In the first place, the state of nature is “always already” moralized by God such that sociality is an obligatory duty of all humans. Second, in this “realistic” state of nature, humans are not isolated atomistic individuals, but are

placed in dense webs of social and moral obligations and rights before they are born—being born to parents, they are born into the family; being born into a family, they are born into a village. This results in dense moral and social ties between families and within families. This is the key difference in Pufendorf’s analysis of animal families versus human families: for animals, familial relations can have an element of love and duty to them, but that component is dissolved upon the child reaching maturity; for humans, familial relations also have this element of love and duty to them, but it cannot and is not discharged when the child reaches the age of maturity. Hence, for animals the family bond is purely instrumental in that it contributes only to the reproduction of the species while for humans the family bond facilitates the instrumental reproduction of the species, but is not limited to this purely utilitarian concern. It is in this sense that the state of nature is not purely “natural,” but it is also cultural. If it were purely “natural,” human families would be like animal families; but they are not and, therefore, the state of nature is not. The only way the state of nature could be purely natural is in the hypothetical case, but this has been rejected by Pufendorf as implausible. The realistic state of nature not only has obligations imposed by God (sociality), but this natural law immediately enables “cultural” forms of the family and village to emerge. But, because the state of nature is cultural, this does not mean that it is social or political—the state of nature is tolerable and livable, but it does not afford

the security offered by large political associations. Thus, while the state may be *desirable* it is not a *necessity*. Again, this presents a point of comparison with Hobbes who argued that the option is between the state of nature and the Leviathan, war or peace, equality or security. Pufendorf surely believes that living in a state under a sovereign—that is, the form of large scale social existence prevalent in Europe in the seventeenth century—is preferable to the state of nature, but the state is by no means a necessary or inevitable outcome of history.<sup>98</sup>

#### 4.10 Conclusion

Like Charles Butler, but unlike Thomas Hobbes and John Locke, the subject of the next chapter, Samuel Pufendorf is almost forgotten by contemporary social and political theorists and has been relegated, at best, to a mere footnote in the historiography of early modern social and political thought. Despite his disappearance from historical consciousness, Pufendorf was none the less far more popular and well-known in the second half of the seventeenth century and the first half of the eighteenth century than either Hobbes or Locke.

As was argued in the previous chapter, Hobbes attempted to eradicate all traces

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98. “But the establishment of civil societies seems not to have been necessary besides for the achievement of this end, since we learn things from others, partake of their achievements, and trade with them, even though they acknowledge no common authority with us. Subsequently, however, men’s standard of living is significantly furthered by states because, in them, citizens can securely devote themselves to their work without hindrance and be more assured about reaping the fruit of their own industry.” Pufendorf, “De statu,” #6.

of animality in order to generate the conditions for the security of the state and, as we will see in the next chapter, Locke attempted to allow for the re-entry of the animal into the political community, but only on the basis of its domination in the form of property. Thus, here we have two perspectives on the relation of humanity to non-humanity: its complete denial or its (potentially) total domination. Befitting his temporal location between Hobbes and Locke, Pufendorf falls somewhere between these two.

For Pufendorf, there is not a strict separation between nature and culture that maps clearly on to the distinction between human and non-human. Posed explicitly in moral terms, humans are both more and less than non-humans—their capacities and potential exceed those of animals, but in many ways their day to day life is less than animals. Humans and animals are both passionate, but the specific capacities of humans makes them dangerous and, if not evil, then at least very close to it. After all, carnivorous animals kill out of hunger; humans kill out of guilt, shame, envy, annoyance, pleasure, boredom, and a multitude of other equally dubious reasons. None the less, when attempting to demonstrate the vile, vicious tendencies of humans, Pufendorf always falls on the example of animals, especially social carnivores who hunt in packs even though the historical record—ostensibly the problem Pufendorf wants to correct with the proper management of the passions—presents daily occurring horrors that exceed anything a pack of hyenas could ever

accomplish on their own.

One way to understand this rhetorical strategy—for what else could it be?—is that Pufendorf is refusing to accept nature as a model for order and, thus, denying the secret to human government is found in the similitude of animal societies (the existence of which Pufendorf denies) and human societies. In a sense, then, Pufendorf is saying “Humans have the capacity to be *so* inhuman that this badness cannot be understood in human terms even though this inhuman capacity is exclusively human.” But, of course, explaining the inhumanity of humans through animal metaphors explicitly conflicts with the claim that because animals are completely natural morality is absolutely foreign to them. (Except, of course, when it isn’t.) Being intrinsically non-moral, the actions of animals—even a pack of wolves mercilessly killing a doe—is neither good nor bad, neither moral nor immoral; it just *is*. That is, this animal behaviour is completely *physical* and cannot be described using a moral vocabulary. In this way, an animal cannot be any more or less virtuous or good than a chunk of granite. But, Pufendorf has trouble accepting this obvious conclusion of his argument because the animal, unlike the rock, has a soul and is, thus, alive, passionate, instinctual, and capable of action.

To say the least, Pufendorf’s views are complex and often inconsistent. He denies there is a separation between nature and society arguing that cultural forms—the family and the village—exist in the state of nature and that sociality is an

obligatory command of the laws of nature. However, while there is continuity between associational forms (from nature to culture to civil society), he denies there is continuity between biological forms. While humans and animals, considered physically, are very similar, they are completely different when considered morally. The problem, however, is that Pufendorf is not able to sustain the difference between humans and animals on rational grounds; he is only able to do so by asserting the special place for humans in God's plan. In other words, the separation can not be maintained on physical grounds, but it can be maintained through the assertion of a completely irrational and extreme anthropocentrism.

## 5 Domination

The earth hath he given to the children of men.

Psalm 115:16

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### 5.1 Introduction

The third chapter argued that the separation of the human from the animal, or the operation of the anthropological machine, was a fundamental precondition for the establishment of the political community in Thomas Hobbes's political theory. The argument ended with the animal remaining firmly in the natural condition, the human inhabiting the political community, and the sovereign being an unsteady amalgamation of a variety of contradictory elements: human, animal, machine, divine, nature, and artifice. The fourth chapter argued that for Pufendorf, there is no hard separation between nature and culture because cultural forms could and do appear in the state of nature. The result of this is that although Pufendorf attempts to separate the human from the non-human, he can only do so through recourse to ostensibly animal characteristics possessed by humans but which are

strangely absent from actual animals. An unaddressed problem, however, quickly emerges: it is clearly the case that the human community is thoroughly penetrated by animals in the form of food, sacrificial objects, tools, pets, clothing, and in a nearly infinite number of other ways, but in the Hobbesian system, the domain of the animal ends at the boundary of the political community, while in the Pufendorfian system the distinction between human and non-human gets blurred. Moving across that boundary is to cross a threshold along the continuum of humanization/animalization. Despite having been banished to nature, animals steadfastly refuse to submit to that command.<sup>1</sup> Put another way, it becomes the case that a further refinement to the argument is necessary. While it is clear that animals—including beings who have the form of a human, but are not juridically human—have not been inscribed into the political, social, or legal structure of the community, it remains the case that they are, nonetheless, always present. The question becomes that of explaining their presence. By what right do animals live among

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1. This was especially the case in the early modern city, which was thoroughly penetrated by what we might now call free range domesticated animals. Pigs were problematic in urban environments because of the high volume of feces they produce—and their tendency to eat anything that looks and smells delicious, such as infant human children. See, generally, Peter Dinzelbacher, “Animal Trials: A Multidisciplinary Approach,” *Journal of Interdisciplinary History* 32, no. 2 (2002): 405–21; E.P. Evans, *The Criminal Prosecution and Capital Punishment of Animals: The Lost History of Europe’s Animal Trials* (London: Faber & Faber, 1987); Jen Girgen, “The Historical and Contemporary Prosecution and Punishment of Animals,” *Animal Law* 9 (2003): 97–133; Alan Hunt, “Governing the City: Liberalism and Early Modern Modes of Governance,” in *Foucault and Political Reason: Liberalism, Neo-Liberalism and Rationalities of Government*, ed. Andrew Barry, Thomas Osborne, and Nikolas Rose (Chicago: University of Chicago Press, 1996), 167–88; and Emily Cockayne, *Hubbub: Filth, Noise & Stench in England, 1600–1770* (New Haven: Yale UP, 2007).

humans? Or, perhaps, given that animals are not ordinarily seen as the sort of beings who can have rights (which is to say they are not inscribed in the moral and legal structure of the community), how do we make sense of the omnipresence of animals in our communities? For John Locke, the means of explaining the presence of animals within the political community is the institution of property and the community exists in order to protect that property.<sup>2</sup> But this might be moving too quickly! How does property explain the omnipresence of animals? To make sense of

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2. Incidentally, this is how animals continue to be included in modern societies; i.e., as chattel. In modern legal systems, animals exist as property and are regulated as though they are no different than any other form of property, such as a pair of shoes or a desk. Animals tend to be classified within the law in terms of their primary use: pets are owned by their owners, agricultural animals are owned by farmers, pests are animals owned by no one and which cause unwanted damage, wild animals are animals owned by no one and which are benign, escaped pets are either feral (reverted to a state of being unowned and thus similar to wild animals) or strays (comparable to abandoned or derelict property). Strays present a particularly good example. The stray in question is clearly a pet, thus owned by someone, but is not currently in the possession of the owner. If caught by animal control, the animal is ordinarily held for seventy-two hours (the so-called redemption period) thus allowing the rightful owner to claim their property. If unclaimed or unwanted at the end of this period, ownership is deemed transferred to the pound. A similar situation occurs when an animal is surrendered to a shelter: ownership must be transferred to the shelter. Transfer of ownership is essential because owners have different rights relative to their property than others. In this case, a pound cannot kill or sell the animal if it does not have ownership because it would be considered theft. The harm, in the case of the death of the animal, has not been done to the animal, but to the owner who can no longer enjoy their property. See Jordan Curnutt, *Animals and the Law: A Sourcebook* (Santa Barbara: ABC-CLIO, 2001) and Gary Francione, *Animals, Property, and the Law* (Philadelphia: Temple UP, 1995). The word “chattel” is etymologically related to the word “cattle” and derives from *capitale*, meaning “head” (as in “head of cattle”), which is also connected to the modern word “capital,” originally meaning “principal sum.” The technical, legal meaning of “chattel” is “moveable wealth,” especially wealth able to move itself, such as cows, pigs, horses, sheep, and other livestock. Pecuniary presents the opposite movement. In the hypothetical proto-Indo-European language, *\*peku* signified “moveable personal possession” and then was slowly applied, first, to live-stock in general, then second to small live-stock and, lastly, to sheep specifically. *\*peku* led to *pecuniary* and *pecu*, etymologically connected, but with different meanings (the asterisk is used to denote that the word in question is a hypothetically reconstructed word). See Emile Benveniste, *Indo-European Language and Society*, trans. Elizabeth Palmer (Coral Gables: University of Miami Press, 1973), 19–51.

this claim, a point often overlooked in modern commentaries on and interpretations of Locke must be emphasized: the foundation of all property is God's donation of dominion to Adam at Genesis 1:28 and the renewal of the donation of dominion to Noah and his sons following the Flood at Genesis 9:2–3.<sup>3</sup> In his interpretation of these passages, Locke distinguishes between the beings who possess dominion and the beings who are the objects of dominion. Dominion is exercised exclusively by one class of beings (humans) over all other classes of beings (“the fish of the sea, the fowl of the air, and the moving things of the earth”). The terrestrial animals, in turn, are divided up into three classes: cattle, beasts, and “Reptils.” Cattle is the original form of property, beasts are the original form of danger, and “Reptils” are the original form of evil. From this, however, a problem emerges: a defense of property on the basis of dominion leads to an incoherent account of humans because of the relation Locke constructs between humanity and reason. The only solution Locke can find to this problem is to do away with the concept of real essence in a species, and shift towards an account of species based upon what he calls nominal essence.<sup>4</sup> Consequently, Locke begins to look like a precursor to both Althusserian

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3. Locke includes Eve in the original donation of dominion. However, he almost always refers to Adam exclusively.

4. This is one of the earliest modern accounts of what is now called the “species problem” in the philosophy of biology. It is worth remembering throughout this chapter that not only is Locke pre-Darwin, but he is also pre-Buffon and pre-Linnaeus. Species was not yet a biological category, but, rather, a logical category roughly meaning kind or class, as it had been since Aristotle. For an excellent and accessible introduction to the historical and theoretical issues, see Marjorie Grene and David Depew, *The Philosophy of Biology: An Episodic History* (Cambridge: Cambridge UP,

anti-humanism and modern anti-essentialism. For instance, he is acutely aware of the problem of what are now called marginal cases (i.e., the barely human, the barely living) in his comparison of a fetus to “the State of a Vegetable” and of a senile old man of sixty-years to “the lowest degree of Animals.”<sup>5</sup> I will argue that Locke recognizes that there are many ways to distinguish between humans and non-humans and that these work together in complex ways. Thus, his elaboration of the human is significantly more complex—and weirder—than either Hobbes or Pufendorf. The problem, at least potentially, is that how Locke constructs the opposition between human and inhuman has the result of not protecting the human from the inhuman but legitimating the domination of the human by the inhuman in the form of money. Thus, while Locke sets out to legitimate the domination of the non-human by the human, he ends up justifying the domination of the human by the inhuman. While Locke is not traditionally read as a theorist of the animal or as having anything particularly interesting to say about animals, I claim that this assessment is completely without basis.<sup>6</sup> Accordingly, I will not treat the entirety

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2004).

5. John Locke, *An Essay Concerning Human Understanding*, ed. Peter H. Niddith (Oxford: Clarendon Press, 1975), 2.1.2 and 2.9.14. The former passage is significant because it is, to the best of my knowledge, the only point at which Locke compares what might ordinarily be considered a human to a vegetable. This is also the only passage of its sort I’m aware of in philosophy from this period. This comparison is usually made on the basis of the extreme deficiency of the human mind, such as in cases of severe mental disability or brain injury. The other comparison of humans to vegetables, of course, is the couch potato.

6. For an exception, see Gary Steiner, *Anthropocentrism and Its Discontents: The Moral Status of Animals in the History of Western Philosophy* (Pittsburgh: University of Pittsburgh Press,

of what is called Locke's "mature corpus,"<sup>7</sup> likewise, I will not concern myself with the standard historiographical controversies,<sup>8</sup> and, lastly, I will not concern myself with the standard problems of analytical moral and political philosophy that draw upon Locke and his works.<sup>9</sup>

## 5.2 Brief Summary of the *First Treatise*

John Locke develops his theories of property and political society through an engagement with and refutation of Robert Filmer, the author of *Patriarcha* and the most able proponent of the divine right of kings, "who is allowed to have carried this Argument farthest, and is supposed to have brought it to perfection."<sup>10</sup> Locke

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2005), 157–60. Locke's comparison of, for instance, criminals to lions is certainly recognized in the secondary literature. However, this comparison is read metaphorically, with an "as though" structure to it. In my reading, which takes the theory of species into account, a criminal *really is* a lion for Locke despite the criminal's human form.

7. There are significant differences in positions between Locke's "early" and "late" writings, for instance, on toleration and the duty of obligation. Locke's mature corpus is usually identified as *The Two Treatises of Government*, *An Essay Concerning Human Understanding*, *The Letters Concerning Toleration*, the *Thoughts Concerning Education*, and *The Reasonableness of Christianity*. I limit myself to *The Two Treatises of Government*, *An Essay Concerning Human Understanding*, and an obscure text called *Elements of Natural Philosophy*.

8. Much Locke scholarship over the past couple of decades has been inordinately concerned with the date when Locke wrote particular passages, especially of *The Two Treatises of Government*. Part of this debate concerns when Locke's opinions changed in relation to political controversy (e.g., the exclusion crisis) and part of this debate concerns the history of the book. Peter Laslett's editorial comments to his edition of *The Two Treatises of Government* are exemplary in this regard.

9. For instance, given Locke's doctrine of self-ownership and the right to alienate property, can one reasonably sell one's self into slavery?

10. John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge UP, 1960), II, §5.

intended for his argument to be read in this context, making it necessary to briefly recount Locke's understanding of Filmer's *Patriarcha*.<sup>11</sup> This context involves two elements: (1) the nature, origin, and source of political power and (2) the means of justifying that political power. Locke and Filmer are in fundamental agreement on the second element—power is justified theologically—but are at odds over the first element, is power absolute or moderate?

Locke distills Filmer's position down to two basic propositions. First, "That all Government is absolute Monarchy" and, second, "That no man is born free."<sup>12</sup> Ultimately, Filmer's argument is in favor of the divine right of kings and opposed to the natural right of individuals. Because humans are not born free, it follows that they have neither the liberty nor the right to select their governors or the form of government under which they are to live. Humans are born into slavery because they are born bound to their parents, especially the father, who holds absolute patriarchal authority over his children such that children are to fathers as slaves

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11. That is, for the purpose of this section, Locke's understanding of Filmer—regardless of its merits—will be examined. For more sympathetic accounts of Filmer's *Patriarcha* and the history of patriarchal arguments in political theory, see James Daly, *Sir Robert Filmer and English Political Thought* (Toronto: University of Toronto Press, 1979); John Dunn, *The Political Thought of John Locke: An Historical Account of the Argument of the Two Treatises of Government* (Cambridge: Cambridge UP, 1969), chapter 6; and Gordon J. Schochet, *Patriarchalism in Political Thought: The Authoritative Family and Political Speculation and Attitudes Especially in Seventeenth-Century England* (Oxford: Basil Blackwell, 1975). More generally, see Arthur O. Lovejoy, *The Great Chain of Being: A Study of the History of an Idea* (New York: Harper & Row, 1960); and, for a comprehensive anthology of the key texts in the English divine right tradition, see David Wootton, ed., *Divine Right and Democracy: An Anthology of Political Writing in Stuart England* (Indianapolis: Hackett, 2003).

12. Locke, *Two Treatises of Government*, TI, §2.

are to masters.<sup>13</sup> A father, for Filmer, is both master and monarch of his children. By analogy, subjects are to a king as children are to their father; the king is the father of his subjects. Just as children do not choose their fathers by consent or contract, subjects are likewise unable to select their king by consent or contract. The only possible justification for a king's rule is divine right modeled on the power of a father. Filmer identifies Adam, and subsequently Noah, as the first kings and bearers of divine right because they are also the first fathers, both given the divine commandment to subdue and populate the earth. Consequently, all subsequent kings derive their authority directly from Adam by inheritance. That is, all kings are the direct descendants of Adam, who is singled out by God in Genesis as having been granted the right of dominion over the "fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth."<sup>14</sup> Indeed, the dispute between Filmer and Locke turns on the correct interpretation of a simple word: Adam.

In Locke's view, Filmer's argument has a certain circularity to it because it appears as though the "Royal Authority" and the "Fatherly Authority" are one and the same. The result is that the father has the right of a king and a king has the right of a father; a king is a king because he is a father and a father

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13. This is the *vitae necisque potestas* of the Roman *pater familias*.

14. Genesis 1:28.

is a father because he is a king. Consequently, Filmer is unable to specify the nature of each form of authority except through recourse to “a Divine unalterable Right of Sovereignty” where the father/king has an “Absolute, Arbitrary, Unlimited and Unlimitable Power, over the Lives, Liberties, and Estates of his Children and Subjects; so that he may take or alienate their Estates, sell, castrate, or use their Persons as he pleases, they being his Slaves, and he Lord or Proprietor of every Thing, and his unbounded Will their Law.”<sup>15</sup> There is an obvious problem in the logic of Filmer’s argument insofar as there there are many fathers, but only one king. How, then, does the king raise himself over and above the other fathers if they possess their power by the same right as the king? Further, if all humans are descendents of Adam’s, why don’t all men have the same power, thus leading to an assembly of patriarchs rather than a monarchy? Again, Filmer traces the Royal and Paternal authorities to the donation of dominion to Adam before the Fall and the renewal of that donation with Noah following the Flood.<sup>16</sup> Thus, Adam and Noah

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15. Locke, *Two Treatises of Government*, TI, §9.

16. There are significant differences between the two donations. Adam’s dominion is limited: he may eat the “herb and tree” as his meat and this right to herbs and fruits is to be shared with animals; Adam was not granted the right to eat animals as his meat. Noah’s dominion is extended to allow the consumption of animals. Adam was a vegan; Noah was an omnivore. Locke does not comment on this problem even though it presents clear difficulties for his theory of property: why are cows property if you can’t eat their meat or drink their milk? Given an Edenic situation of plenty, agriculture would not be necessary, hence oxen would not be needed to plow fields. Indeed, labour does not commence until after the Fall, which comes after the donation of dominion. Might this not suggest, taking Locke’s argument seriously, that Adam’s dominion did not mean ownership but rather stewardship and defense of the cattle from the noxious and evil creatures? The Fall complicates the matter because when Adam and Eve are expelled from Paradise, they are forced to take up agriculture (ownership of animals as tools would now be

are to God—both his children and slaves—as everyone else are to Adam *before* the Flood and to Noah *after* the Flood. Locke’s strategy is to attack Filmer’s understanding of the forms of authority: “That the Power of a Magistrate over a Subject, may be distinguished from that of a Father over his Children, a Master over his Servant, a Husband over his Wife, and a Lord over his Slave.”<sup>17</sup> Filmer’s problem was that he was unable to distinguish between these powers, especially when they coincided in a single person. While a given man may simultaneously be magistrate, father, master, husband, and lord, the relation of authority between magistrate and subject, father and child, master and servant, husband and wife, and lord over slave involve different powers and different relations of rights and duties. Hence, these different forms of power and authority should not be confused with one another. Locke’s primary concern is in distinguishing specifically political power from the other forms of power: “Political Power then I take be a Right of making Laws with Penalties of Death, and consequently all less Penalties, for the Regulation and Preserving of Property, and of employing the force of the Community, in the Execution of such Laws, and in the defence of the Common-wealth from Foreign Injury, and all this only for the Publick Good.”<sup>18</sup> Of particular importance to their

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permissible) but still cannot eat animals or animal products (ownership of animals as food would still be impermissible.) The meaning of dominion remains controversial in the present. See F.B. Welbourn, “Man’s Dominion,” *Theology* 78 (1975): 561–8 and Lynn White Jr., “The Historical Roots of Our Ecologic Crisis,” *Science* 155, no. 3767 (1967): 1203–7.

17. Locke, *Two Treatises of Government*, TII, §2.

18. *ibid.*, TII, §3.

respective understandings of power is the nature of property and the status of the body in relation to property. For Filmer, the patriarch has “Absolute, Arbitrary, Unlimited and Unlimitable Power, over the estates [i.e., property] of his Children and Subjects; so that he may take or alienate their Estates” and destroy or enslave the bodies of his children and subjects.<sup>19</sup> The result is that children and subjects persevere in life and maintain their possessions only through the permission of the patriarch, which can be revoked at any time and for any reason. Children and, consequently, subjects are secure neither in their possessions nor in their bodies. Likewise, the patriarch only maintains his authority and life at God’s will. But, for Locke, there is a close connection between the body and property such that government, or “political power,” exists for the sake of the integrity of both the body and property. Indeed, self-ownership of the body is the foundation of other forms of private property. Locke must therefore develop his theory of property through the relationship of the self-owning to that which is owned. Thus, because government is constituted for the sake of, among other things, the preservation of body and property, it follows that the ability of the government to infringe upon either—for instance, through confiscation of or taxation on property or the vital forces of the body—must be strictly limited through the ground rules established by members of the community.

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19. Locke, *Two Treatises of Government*, TI, §9.

### 5.3 Locke, Filmer, and Hobbes

The summary of the *First Treatise* provided above might lead the reader to suspect that Locke's *sole* concern was Sir Robert Filmer's divine right theory. This is not entirely the case. Thomas Hobbes has also been suggested as a target of Locke's given the similar structure of their works (state of nature leads to war and the state is the solution to that war) and their apparently diametrically opposed views (absolute versus moderate political power). While it is certainly the case that Locke read Hobbes first-hand, it does not appear to be the case that Locke engages with Hobbes's arguments in any great or significant detail in the *Second Treatise*. Rather, Hobbes only appears in a spectral form, twice removed and filtered through Filmer. For Filmer, if political power *did not* have its origin in God through his grant of dominion to Adam, then there would be no legitimate foundation to political power outside of the right of the stronger. Filmer identified this position with Hobbes. Filmer was among Hobbes's early critics. In his *Observations Concerning the Originall of Government*, which was written as a critique of Hobbes, Milton, and Grotius, Filmer "praises Hobbes's building" but "mislikes his foundation."<sup>20</sup> That is, Filmer praises the defense of the absolute power of the leviathan, but he dislikes the means through which Hobbes arrives at that defense; *viz.*, his depiction

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20. Sir Robert Filmer, "Observations Concerning the Originall of Government, Upon Mr. Hobs 'Leviathan', Mr. Milton against Salmasius, H. Grotius 'De Jure Belli'," in *Patriarcha and Other Writings*, ed. J.P. Sommerville (Cambridge: Cambridge UP, 1991), 184–5.

of the state of nature and his beginning with natural rather than divine right. Reaffirming his belief in the origin of political power in God's donation of dominion to Adam,<sup>21</sup> Filmer then glosses Hobbes's state of nature as follows:

It is not to be thought that God would create man in a condition worse than any beast, as if he made men to no other end by nature but to destroy one another. A right for the father to destroy his children or eat them, and for the children to do the like by their parents, is worse than cannibals.<sup>22</sup>

Locke's apparent reference to the Hobbesian state of nature bears a greater resemblance to Filmer's depiction than to anything Hobbes himself writes:

that all Government in the World is the product only of Force and Violence, and that Men live together by no other Rules but that of Beasts, where the strongest carries it, and so lay a Foundation for perpetual Disorder and Mischief, Tumult, Sedition and Rebellion.<sup>23</sup>

He concludes that we "must of necessity find out another rise of Government, another Original of Political Power, and another way of designing and knowing the Persons that have it."<sup>24</sup> This, of course, is the project that Locke sets for himself. But what is especially interesting is that he allows Filmer to frame the discussion through his paraphrase of Filmer's gloss on Hobbes: i.e., compare "create man in a condition worse than any beast" and "that Men live together by no other Rules but that of Beasts." Of significance here is that both Filmer and Locke argue

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21. Filmer, "Observations Concerning the Originall of Government," 187.

22. *ibid.*, 188.

23. Locke, *Two Treatises of Government*, TII, 1.

24. *ibid.*, TII, §1.

that Hobbes's anthropological machine fails: animals have not been successfully converted into humans. Or, perhaps more to the point, Filmer and Locke appear to believe that humans are naturally given and that their being is qualitatively different from that of animals. Locke's argument is opposed to absolutism in all of its forms, be it through divine right (Filmer) or realist naturalism (Hobbes). However, Locke clearly seems to view Filmer, rather than Hobbes, as his most important opponent.

#### **5.4 The Inhuman**

Locke and Filmer are in close agreement: humans and beasts must be separated from one another and one must be given absolute power over the other in order for society to be possible, otherwise humans would be trapped in the Hobbesian condition. As with Hobbes, there must be a process of separating between beasts and humans. For Hobbes, human animals in nature, which are indistinguishable from animals, must be transformed into fully human humans in the state by repressing "the wolf-like element" at the core of the human. The movement from the state of nature to the state is produced through the work of the anthropological and sovereign machines. Their proper functioning not only produces a human fit for society, that is, the human completely divorced from the animal, but also the figures of the sovereign and *homo sacer* who are the inverted mirror images of one

another and are characterized by the indistinction between the human and animal they both embody.

The separation between humans and animals in Locke is both tidier and messier than it is with Hobbes. Humans are naturally human and thus are above animals, but at the same time, there are many beings who we have been misled into calling human. These deceptive humans are actually beasts. Likewise, it is possibly the case that we've mistakenly called some beings beasts who are actually human. Because apparent humans are actually beasts and because some beasts are potentially humans, it isn't possible for Locke to make a clear distinction between human and animal. As movement is possible from human to non-human and from non-human to human, Locke must be making his distinction on some other grounds than mere species membership. Warren Montag has suggested, on the basis of Louis Althusser's lecture notes on John Locke, that the entirety of Locke's discourse is sustained by a distinction between the human and inhuman: "the concept of the inhuman proper to Locke remains distinct from both the non-human and the animal, even as it maintains an irreducible relation to these notions."<sup>25</sup> Montag's (and Althusser's) claim is suggestive, but undeveloped. A literal reading of Locke's *Two Treatises*, that is, a reading that reads word-by-word, sentence-by-sentence,

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25. Warren Montag, "Locke and the Concept of the Inhuman" (2008), 1–2. I thank Prof. Montag for kindly sharing his manuscript. The essay has been published in translation: Warren Montag, "Locke et le concept d'inhumain," *Multitudes* 33, no. 3 (2008): 79–90.

paragraph-by-paragraph, section-by-section, and chapter-by-chapter lends support to Montag's claim. For instance, *The Second Treatise* develops the distinction between human and inhuman through six sets of oppositions: reason vs. unreason; equality vs. inferiority; security vs. noxiousness; humanity vs. inhumanity; social vs. anti-social; and self-ownership vs. other-ownership. These are themes which will be returned to throughout the chapter. Some problems arise for Montag's interpretation when the elaborate discussion of the species problem found in *The Essay Concerning Human Understanding* is taken into account. But where this distinction between human and inhuman is potentially valuable is that it avoids the tendency to "over-reduce" the differences between beings. For instance, with Hobbes, the distinction between human and animal is absolute: a given creature is either human or animal. Locke and the concept of the inhuman allows us to see that there are multiple vectors of difference (and similarity) between the human and its others while also recognizing that the political none the less requires a clear distinction between human and non-human. As a result, with the distinctions identified by Montag, we can begin to see how noxious humans undermine the security the community promises and, thus, possess an inhuman threat to the community which must be suppressed. Likewise, as I will argue below, Locke's solution to the wastage proviso in his labour theory of value—money—results in the gradual alienation of the distinctively human—labour and property ownership—into the form

of a congealed force that dominates all social relations.

## 5.5 Nature

The chapter on the state of nature begins with two foundational principles that serve to explain Locke's understanding of political power. The state of nature is, in essence, the conjunction of two separate states: the "State of perfect Freedom" and the "State of Equality."<sup>26</sup> Freedom here is defined entirely negatively: it is the absence of external impediments to action. Hence, freedom is the power to "order actions" and "dispose of possessions," including the body, as is thought necessary without the consent or permission of any one else. Freedom is defended on particularly simple grounds: "we are *born Free*, as we are born Rational."<sup>27</sup> I'll return to why humans are born rational below, but, for the time being, if a creature is rational, then it must be free.

Equality has a strange meaning for Locke: "all the Power and Jurisdiction is reciprocal, no one having more than another" (TII, §4). "Power and Jurisdiction" in this case refers to the power to "preserve the innocent and restrain offenders,"<sup>28</sup> that is, to punish those who violate the natural law.<sup>29</sup> Equality does not refer to

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26. Locke, *Two Treatises of Government*, TII, §4.

27. *ibid.*, TII, §61.

28. *ibid.*, TII, §7.

29. Punishment is essential to Locke's theory as a whole, especially in the distinction between

ability or moral worth, but to the equal right to punish those who transgress natural law. Recall, that for Locke, political power is the power to make laws carrying the penalty of death, and thus all lesser penalties, in order to protect private property, which includes the body and thus its integrity.<sup>30</sup> Political power is a juridical power: the power of a magistrate to order the relations between subjects. If the meaning of equality is strange, the defense of equality is the more so. Locke's argument is worth quoting in full:

there being nothing more evident, than that Creatures of the same species and rank promiscuously born to all the same advantages of Nature, and the use of the same faculties, should also be equal one amongst another without Subordination or Subjection, unless the Lord and Master of them all, should by any manifest Declaration of his Will set one above another, and confer on him by an evident and clear appointment an undoubted Right to Dominion and Sovereignty.<sup>31</sup>

The short version of the argument is as follows: all animals of the same species are born more or less equal in ability, however being born more or less equally in ability does not imply equality in capacity or outcome, consequently, it is impossible to speak of natural inequality unless God has clearly dictated His will that one individual be the ruler of the rest, but this is not the case. Therefore, all are born equal to one another within their species. The important implication here is that

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human and inhuman. Despite its importance, it is beyond the scope of this chapter, which focuses on property. What is significant about the theory of punishment, is that the criminal rationally and deliberately decides to be irrational; he "declares himself to quit the Principles of Human Nature, and so be a noxious Creature," Locke, *Two Treatises of Government*, TII, §11.

30. *ibid.*, TII, §3.

31. *ibid.*, TII, §4.

while there is equality *within* the species, there is not necessarily equality *between* species because species differ in their abilities.<sup>32</sup>

Locke's argument for natural equality rests on whether or not his claim (pace Filmer) that God has not granted to Adam "an undoubted Right to Dominion and Sovereignty" over the rest of humanity is correct or not. We have no option but to consult Locke's argument against Filmer, which is found in the fourth chapter of the *First Treatise*. The argument turns on the proper interpretation of Genesis 1:28,

And God Blessed them, and God said unto them, be Fruitful and Multiply and Replenish the Earth and subdue it, and have Dominion over the Fish of the Sea, and over the Fowl of the Air, and over every living thing that moveth upon the Earth.<sup>33</sup>

Filmer concludes from this passage that

The first government in the world was monarchical, in the father of all flesh. Adam, being commanded to multiply, and people the earth, and to subdue it, and having dominion given him over all creatures, was thereby the monarch of the whole world. None of his posterity had any right to possess anything but by his grant or permission, or by succession from him.<sup>34</sup>

For Filmer, Adam's title to absolute political power derives from the donation of dominion over the "Fish of the Sea, and over the Fowl of the Air, and over every

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32. Returning to punishment, having "quit the Principles of Human Nature," the inherent equality between humans can be set aside, thus allowing punishment to be in accordance with the inherent inequality between species.

33. I use the KJV throughout this chapter because that is the translation Locke cites.

34. Sir Robert Filmer, "Observations Upon Aristotles Politiques Touching Formes of Government, Together with Directions for Obedience to Governours in Dangerous and Doubtful Times," in *Patriarcha and Other Writings*, ed. J.P. Sommerville (Cambridge: Cambridge UP, 1991), 236.

living thing that moveth upon the Earth.” Filmer includes humans *other than* Adam under the category of “all creatures.” For Filmer, the donation of dominion was to an individual named Adam, who happened to also be the only member of the human species.<sup>35</sup> Locke strongly disagrees with this interpretation and, if the private dominion over all creatures does not include humans, then the entirety of Filmer’s argument must fall apart. Consequently, Locke delves into a detailed exegesis of Genesis 1:20–30, which recounts the creation of fish, fowl, and creeping creatures.

Against Filmer, Locke forwards two points. First, God gave no donation of power to Adam over any *human*, be they his children or any other, and, consequently, Adam cannot be conceived of as a ruler. Second, the donation of dominion was not the “private dominion” of Adam over “the Inferior Creatures,” but was a right shared “in common with all Mankind.”<sup>36</sup> The donation of dominion was to Adam as sole member and representative of the species. Locke does, however, agree that the donation of dominion is an essential passage and he bases both his theory of equality and property on it.<sup>37</sup>

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35. This is scripturally incorrect. Genesis 1:27 makes reference to the creation of male and female at the time of the creation of the human. If a single individual was created, then that individual was created both male and female from which, later, the separate sexes were created, when Eve is created from Adam’s rib.

36. Locke, *Two Treatises of Government*, TI, §24.

37. Locke also points out that there appears to be no distinction between men and women at the time of the donation of dominion, repeatedly pointing out that Eve has as much right to dominion over the animals and earth as Adam. Given that inequality is *between* species and not *internal*

The donation of dominion is a “manifest Declaration of [God’s] Will,”<sup>38</sup> but being manifest, this entails that careful consideration must be given to the words in which the declaration is written.<sup>39</sup> Locke isolates “every living thing that moveth” as a key phrase and points out that God created the fish and fowl on the fifth day and “the Irrational Inhabitants of the dry Land” at the beginning of the sixth. He further points out that “every living creature that moveth” was created on the morning of the sixth day while Adam was created at the *end* of the sixth day. Hence, humans are not and should not be considered one of the “living creatures” subject to dominion. The “Irrational Inhabitants” are also called by Locke the “brute Inhabitants,” as well as “Living Creatures,” which he indicates is the “General Name” of the terrestrial creatures. The “Living Creatures” divide into three subtypes: (1) Cattle, creatures which are or might be tame and so are actual or potential property; (2) Beasts, creatures that are wild and will remain wild and so cannot be property; and (3) the Creeping Animals, of which Locke points to “Reptils” as paradigmatic. These three subtypes correspond, respectively, to valuable, noxious, and evil.<sup>40</sup>

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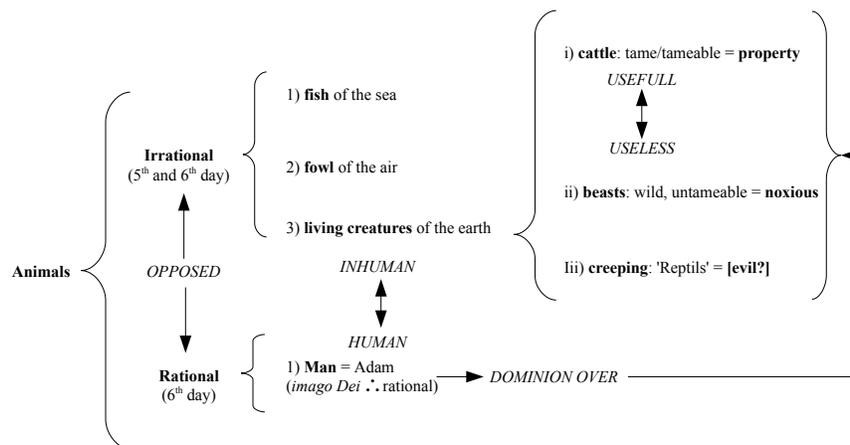
to species, Locke’s argument appears to support the fundamental equality of the sexes.

38. Locke, *Two Treatises of Government*, TII, §4.

39. “[A]ll Positive Grants convey no more than the express words they are made in carry,” *ibid.*, TI, §25. This point on the importance of the meaning of words is developed in the *Essay Concerning Human Understanding* in relation to species—see below.

40. A complete account of Locke’s theory of animals would consider the connection between snakes and evil. However, in this chapter I concentrate on valuable and noxious.

Figure 5.1: Locke's Interpretation of Genesis 1:20–30



The essential point that Locke is trying to make concerns that which was created on the sixth day: both the “Living Creatures” and humans were created on the sixth day. Locke wants to exclude humans from the category of “Living Creatures” because if humans were a part of that category, then humans—other than Adam—would also be subject to Adam’s dominion, a conclusion Locke can neither accept nor tolerate. Thus, Locke establishes the point that the “Living Creatures” were created at the *beginning* of the sixth day and that humans were created at the *end* of the sixth day. Hence, humans were created after the living creatures and cannot be counted among them. On this basis, Locke introduces a further distinction: in the morning the “Irrational Inhabitants” were created while in the afternoon the “Rational Inhabitants” were created. Humans, unlike all the other creatures, are rational because they are created *imago Dei*—in the image of God, which must necessarily include rationality. “God makes him *in his own Image after his own Likeness*, makes him an intellectual Creature, and so capable of *Dominion*.”<sup>41</sup> The reasoning here can be expressed rather simply: God, by definition, must be both free and rational. If God were not free and rational, then, first, God would not have the freedom to create (which is absurd) and, second, if God were not rational, then he could not create both rational *and* irrational creatures (which is also absurd). Consequently, to be created *imago Dei* is to be created both rational and free. The

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41. Locke, *Two Treatises of Government*, TI, §30.

rational inhabitants are a category of one—Adam=species—and it is the rational inhabitants who have been given dominion over the irrational inhabitants. Further, because God is able to create rationally and freely, he is thus capable of dominion: only the rational and the free can exercise power.

Another contrary, naturalistic and non-theological ordering of animals in relations to humans can be found in an obscure text of Locke's called *Elements of Natural Philosophy*.<sup>42</sup> This short post-humous work, probably written as a textbook for a pupil, presents Locke's understanding of the natural order of the world from the simplest, "Matter and Motion," to the most complex, "Of the Understanding of Man," without any reference to God or theology, except in a brief discussion of the orbit of the Earth and the moon. The ninth chapter, "Of Vegetables, of Plants," turns away from the discussion of inert matter to a discussion of living matter. Plants are closely related to the earth because while they are "fastened" to the ground, they are distinct from the ground. The tenth chapter, "Of Animals," introduces an important distinction between plants and animals: plants are a "part" of the earth while animals are "inhabitants" of the earth: "they are not fixed to any one place, but have a freedom of motion up and down, and, besides, have sense to guide them in their motions." Thus, all animals—brutes and humans alike—possess freedom of motion, which is guided by a sensory apparatus. How-

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42. John Locke, "Elements of Natural Philosophy," in *The Works of John Locke in Nine Volumes*, 12th ed., vol. 2 (London: Rivington, 1824), 415–40.

ever, Locke maintains that there is a huge gap between brutes and humans: “Man and brute divide all the animals of this globe.”<sup>43</sup> All animals are *either* human *or* brute.<sup>44</sup> Once again, Locke divides brutes into categories on the basis of their environment: aerial (birds and flies), terrestrial (beasts, reptiles, and serpents), aquatic (fishes), and amphibious. He also recognizes that many fall “betwixt” each major category, such as bats which are both terrestrial and aerial creatures. As we will see in the discussion of monsters below, “betwixt” animals are essential to his account of species.

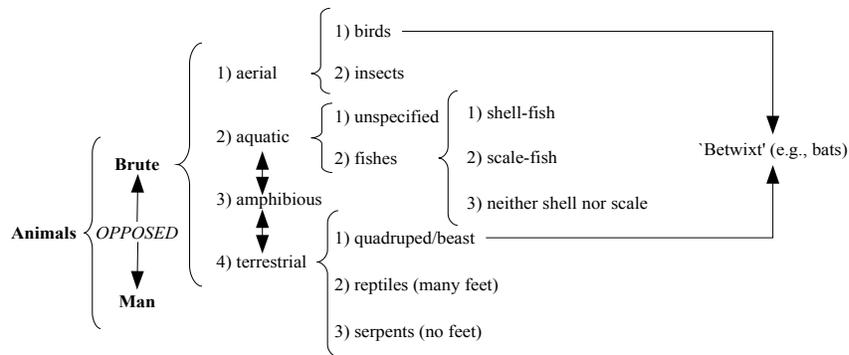
Again, the distinction between humans and beasts becomes problematic because they share many of the same biological and anatomical features. “The greatest part of animals have five senses” and “the way of nourishment of animals” are “common to man with beasts.” To re-open and maintain the separation of human and beast, Locke must turn to how humans “understand” the world. That is, how their consciousness differs from that of the beasts. This is where Locke notices a significant difference between the two categories: “The understanding of man does so surpass that of brutes, that some [i.e., Descartes] are of the opinion brutes are

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43. This distinction, between man and brute, appears to be typical of much seventeenth century thought, both in England and on the Continent. “Animal” is used to refer to both humans and brutes, “man” is used to refer to humans, and “brutes” is used to refer to non-human animals. The distinction between human and brute tends to correspond to the distinction between rational and irrational, even when that distinction is not subtended by creation *imago Dei*.

44. Recall the opening problematic: if humans are not free and rational, then there is only the law of brutes, which is the right of the stronger (i.e., a principle of inequality).

Figure 5.2: Locke's Naturalistic Understanding of Animals



mere machines, without any manner of perception at all. But letting this opinion alone as ill-grounded [...].” Locke ends up distinguishing between perception and understanding: both beasts and humans “perceive,” but only humans “understand” through the formation of abstract concepts; that is, only humans are fully rational.

With this discussion in place, it is possible to return to the argument in favour of natural equality. Natural equality applies to all members of a species: all members

of a given species are more or less equal to one another in ability, but not necessarily in outcome, and it is the case that some species are superior to others. In terms of superiority, naturally considered, humans are superior to all other animals because (1) they are rational, (2) they are free, and (3) God has given the rational dominion over the irrational. This is the point of entry into Locke's strange proof of equality: "all [...] Power and Jurisdiction is reciprocal."<sup>45</sup>

Locke points out that the state of nature is "a State of Liberty, yet it is not a State of Licence"<sup>46</sup> implying that there are natural limits to liberty.<sup>47</sup> The natural limit to liberty is that while a "man" has the right to "dispose of his Person or Possessions, yet he has not Liberty to destroy himself." "Dispose" in this case does not mean to destroy, but to alienate, to dispossess: a "Man" can alienate his person and his possessions, but he cannot destroy himself," or "any *Creature* in his possession" (emphasis added) except where there is a "nobler purpose" extending beyond "bare Preservation." Locke does not expand upon this "nobler purpose," but presumably he means the difference between killing for flesh, fur, and fibre, which is (presumably) rational, and killing for the sake of killing, which is irrational. The "nobler purpose" must extend beyond mere violence and into rationality. (This

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45. Locke, *Two Treatises of Government*, TII, §4.

46. *ibid.*, TII, §6.

47. Locke has constant recourse to natural limits; e.g., see the discussion of the natural limits to property below.

is, again, the distinction between the rule of beasts and the law of nature.) Upon making this point, Locke quickly shifts gears—what might be or is the guide to determining the line between a “nobler purpose” and “bare Preservation”? Natural liberty is limited by the law of nature. What, then, is the “Law of Nature”? The answer is simple: “Reason,” which “teaches all Mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his Life, Health, Liberty, or Possessions.”<sup>48</sup> This is an important passage. The law of nature and reason are identical with one another (“Reason which is that Law”) and humans being inherently reasonable (per the argument about Creation on the basis of *imago Dei*) have immediate access to the law of nature should they but take a moment to consult their own reason. In essence, Locke has created a set of equivalences: humans are rational; the law of nature is rational; thus humans, being rational, must know natural law. Before returning to his main discussion—the issue of “Power and Jurisdiction”—Locke reiterates one last point:

And all being furnished with like Faculties, sharing all in one Community of Nature, there cannot be supposed any such Subordination among us, that may Authorize use to destroy one another, as if we were made for one anothers uses, as the inferior ranks of Creatures are for ours.<sup>49</sup>

The problem Locke wants to address is that if there is no natural subordination within a species, how is it the case that all members of the species, in this case

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48. Locke, *Two Treatises of Government*, TII, §6.

49. *ibid.*

humans, have the right to punish criminals? Natural subordination, and thus inferiority, only exists between species and only a superior creature is permitted to destroy an inferior creature. How, then, can a murderer be punished? Recall: political power is the right to make laws with the penalty of death; political power derives from the natural “Power and Jurisdiction” possessed by each individual; thus, each individual must have the natural right to condemn criminals to death.

This is where Locke’s argument gets quite interesting with respect to the distinction between human and animal. Most simply understood, humans are rational while animals are irrational because humans, unlike the animals, are created *imago Dei*. The problem is that some apparent humans act in clearly irrational ways. How can we make sense of this? At this point, a second set of categories, human/inhuman, steps in. This second set of categories attempts to account for why a being that has the form of a human is acting otherwise than human: that irrational being possessing the form of a rational being must be inhuman. For Locke, a species can not be and is not determined on the basis of form. Just because something looks like it is a human or a goldfish does not mean that it is a human or a goldfish. It is important to note here that human/animal and human/inhuman do not map directly on to one another. The human/inhuman distinction operates at a more fundamental level than the human/animal distinction and, thus, presupposes the prior functioning of that distinction. For instance, Locke accepts that there are

rational beings that are not human, but that are also not animals; for instance, God and angels, who are both rational and inhuman. Likewise, Locke accepts that there are inhuman things that are not animals, such as all that which was created by God between the first and fourth days such as light, matter, form, etc.

## 5.6 The Species Problem

While the problem has come into close relief in the wake of modern Darwinian biology and the theory of evolution, there has been a long-standing and ancient awareness that the concept of species presents a certain number of problems. Contemporary philosophy of biology recognizes roughly twenty-three active, distinct, and more or less viable concepts of species.<sup>50</sup> This is a case of more information leading to uncertainty and conceptual problems.

Ancient Aristotelean philosophy was the first to develop analytical terms for discussing species. However, it inconsistently alternated in the use of *eidos* (form) and *genos* (kinship group, traditionally a method of organizing human families). The Latin translators of Aristotle tended to be likewise inconsistent, translating *eidos* as both “form” and “species.” Consequently, for centuries, the distinction between “species” and “genus” was latent rather than manifest. As a result, many naturalists and philosophers were content to maintain the relation between species

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50. Grene and Depew, *The Philosophy of Biology: An Episodic History*, 292.

and form captured by the single word *eidos*. By the late seventeenth and early eighteenth centuries, conceptions of species were slowly beginning to transform, although no definitive change would happen until the great natural historians, Linnaeus and Buffon, published their works. (Linnaeus analyzed at the level of genus; Buffon preferred to analyze at the level of reproduction—this already indicates a significant problem with the proper identification of the constitutive object of the discourse of natural history.) In many ways, Locke, in his *Essay Concerning Human Understanding*, anticipates these mid- to late-eighteenth century debates when he opposes the real essence and the nominal essence of species to one another. The result of Locke's analysis is that he adopts an idealist and nominalist account of species.

Until the advent of modern natural history, species was a generic term roughly equivalent to “a class of things bearing certain essential resemblances with one another.” Thus, it would be possible to speak of watches and clocks as different species of time-pieces or of boots and shoes as different species of footwear. Species was applicable to *any* sort of thing, and not just biological entities such as plants or animals. Species was equally applicable to artificial and natural entities (gold is a species of metal and an airplane is a species of flying mechanical objects).

Locke proceeds through the chapter, “Of the Names of Substances,”<sup>51</sup> system-

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51. Locke, *An Essay Concerning Human Understanding*, III.vi.

atically destroying competing conceptions of species. His three primary targets are species as real essence, species as reproductive unit, and species as appearance or form. Locke identifies species as real essence as distinguishing between the inessential outward appearance of the thing (size, shape, color, etc) and the real internal essence of the thing (the stuff in which the outward appearances coincide). In reply to this distinction between, as it were, perception and some sort of ineffable stuff, Locke says, “A blind man as soon sort things by their colours, and he that has lost his smell as well distinguish a lily and a rose by their odours, as by those internal constitutions [i.e., real essences] which he knows not.”<sup>52</sup> The argument against species as reproductive unit and species as form proceeds in a similar way: if two members of the same species reproduce in order to make a new member of that same species, how do we account for monsters? (The argument here is that two cats should produce offspring that *looks like* a cat [form] and two cats should produce offspring that *is* a cat [reproduction].) Locke happily provides a number of examples to disprove these two concepts of species:

But in those too it is not sufficient: for if history lie not, women have conceived by drills [baboons]; and what real species by that measure such a production will be in nature, will be a new question; and we have reason to think this is not impossible, since mules and jumarts, the one from the mixture of an ass and a mare, the other from the mixture of a bull and a mare, are so frequent in the world. I once saw a creature that was the issue of a cat and a rat, and had the plain marks

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52. Locke, *An Essay Concerning Human Understanding*, III.vi.9.

of both about it.<sup>53</sup>

He picks up this line of argumentation shortly thereafter,

Who would undertake to resolve what species that monster was of which is mentioned by Licetus, with a man's head and a hog's body? or those other, which to the bodies of men had the heads of beasts, as dogs, horses, &c? If any of these creatures had lived, and could have spoke, it would have increased the difficulty. Had the upper part to the middle been of human shape, and all below swine; had it been murder to destroy it?<sup>54</sup>

The obvious reply to Locke is that the swine/human or rat/cat are not monstrous productions at all because they could *only* be monstrous if they violated some real essence,<sup>55</sup> which Locke has already rejected, but rather that these monstrous productions are the genesis of new species: monstrosity is the mechanism through which novelty is introduced into the world.

Locke uses monstrosity to introduce his own concept of species based upon what he calls "nominal essences." To arrive at Locke's nominal conception of species, we must backtrack through what has already been said. A "sort," Locke's translation of both *genera* and *species*, "depend[s] on such collection of ideas as men have made."<sup>56</sup> However we approach sorts, from the perspective of realism or nominalism, it remains the case that two sorts are necessarily distinct from one another.

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53. Locke, *An Essay Concerning Human Understanding*, III.vi.23.

54. *ibid.*, III.vi.27. Note the importance Locke attaches to speech.

55. In this sense, a monster would be a miracle: an inexplicable break in the natural order of things.

56. Locke, *An Essay Concerning Human Understanding*, III.vi.1.

(If there were no distinction, then there would only be one sort; two or more sorts, therefore, implies necessary distinctions.) That is, there must be a boundary between sorts “whereby it is constituted that particular sort and distinguished from others.”<sup>57</sup> Each particular sort must have an essence. The question, then, is the location of that essence: at the level of discourse (nominalism) or the level of substance (realism)? Again, regardless of whether we adopt a nominalist or realist theory, it is only in and through language that we can act abstractly on things and determine what sort that thing is. Hence, the essence of a thing “is nothing but that abstract idea to which the name is annexed.”<sup>58</sup> This “abstract idea” constitutes the “nominal essence” and it is distinct “from that real constitution of substances upon which depends this nominal essence.”<sup>59</sup> The “real constitution” is the “real essence.” Here Locke makes his point with reference to gold. The nominal essence of gold is the abstract idea named by the word gold; *viz.*, “a body yellow, of a certain weight, malleable, fusible, and fixed.”<sup>60</sup> In comparison, the real essence is “the constitution of the insensible parts of that body, on which those qualities and all the other properties of gold depend.”<sup>61</sup> Of course, being *insensible* the substantial

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57. Locke, *An Essay Concerning Human Understanding*, III.vi.2.

58. *ibid.*

59. *ibid.*

60. *ibid.*

61. *ibid.*

basis of gold is unknowable, except to angels and the Maker.<sup>62</sup>

The important question becomes the level of reality described by an abstract idea—the sort or the individual—because otherwise we run the risk of confusing the abstract idea and the real essence, a confusion to which no one would agree because this would mean that either language is substance or substance is linguistic. The reason for this is that two individuals of the same sort may share very few outward appearances with one another. How then can we say that they are of the same sort? Locke concludes that “*nothing* [is] essential to individuals.”<sup>63</sup> Put in other terms, it is not the individual who is placed within the boundary of the sort, but the content of the sort that is applied to the individual.

The line of argument Locke adopts to demonstrate that essences operate at the level of sorts rather than individuals is, so to speak, essential. Essences apply to sorts and are applicable to individuals only insofar as they are a member of that sort. Thus, there is not anything essential to any particular being. A particular being just *is* and it is not anything in particular except insofar as “God and nature has made [it] so.”<sup>64</sup> This, Locke thinks, is demonstrable through an analysis of form. Accidents may occur that may alter my shape or the functioning of my faculties or other beings may share my shape without being of the same sort:

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62. Locke, *An Essay Concerning Human Understanding*, III.vi.3.

63. *ibid.*, III.vi.4.

64. *ibid.*

Other creatures of my shape may be made with more and better, or fewer and worse, faculties than I have: and others may have reason and sense in a shape and body very different than mine.<sup>65</sup>

The significant words in this passage are “other creatures.” Locke is referring to creatures other than humans. The same shape may have different faculties and the same faculties may be found in different shapes. The relation between shape and the faculties can only be accidental in any given individual being. Hence, what is important is that the same relation of elements be named by the same abstract idea. It is only when the abstract idea is applied by the mind to the individual that elements of a particular being become necessary. For instance, if a particular piece of matter has the abstract idea “gold” applied to it, then it is necessarily the case that it is “a body yellow, of a certain weight, malleable, fusible, and fixed.”<sup>66</sup> If that piece of matter does not possess *all* those qualities, then the abstract idea has been incorrectly applied. For instance, if the piece of matter is actually grey, then it is improperly called “gold” and properly called “lead.” Hence, “whatever particular thing has not in it those qualities which are contained in the abstract idea which any general term stands for, cannot be ranked under that species, nor be called by that name, since that abstract idea is the very essence of that species.”<sup>67</sup>

This brings us back to the boundary between species. It is impossible to make

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65. Locke, *An Essay Concerning Human Understanding*, III.vi.4.

66. *ibid.*, III.vi.2.

67. *ibid.*, III.vi.4.

distinctions or mark boundaries at the level of the real essence. Consequently, the boundary between species can only exist or be operative at the level of the nominal essence. A species is a discursive artifact rather than a property of the world, which is demonstrated by the monster: even beings of radically different sorts as humans and pigs or cats and rats can nonetheless produce monstrous offspring. Monsters are failures of language rather than failures of reality because we do not have adequate abstract ideas and general names to describe them. Consequently, Locke must reject any cosmology predicated upon radical breaks and discontinuities between species and classes of species:

That there should be more species of intelligent creatures above us than there are of sensible and material below us, is probable to me from hence, that in all the visible corporeal world, we see no chasms, or gaps. All quite down from us the descent is by easy steps, and a continued series of things, that in each remove differ very little one from the other.<sup>68</sup>

Locke is making a number of important claims here. First, humans are closer, from the perspective of species, to other animals than they are to God because the “distance” between God and humans is greater than it is between humans and animals. The demonstration of this is significant: there are no visible or otherwise perceptible “chasms or gaps” in the natural world. Locke provides what he calls “betwixt” animals in his *Elements of Natural Philosophy* as evidence, such as flying

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68. Locke, *An Essay Concerning Human Understanding*, III.vi.12. In other words, Locke is taking the idea of the Great Chain of Being to its logical conclusion: differences between beings infinitely small such that there are no gaps between beings. Lovejoy, *The Great Chain of Being: A Study of the History of an Idea*, 228-30.

fish, bats, and, of course, the aforementioned monsters. Locke is further willing to extend this analysis across “kingdoms” of beings: the differences between the lowest animal and the highest vegetable or between the lowest vegetable and the highest sort of matter are such that differences are nearly imperceptible and differences are only in “insensible degrees.”<sup>69</sup> Ultimately, because being is a “continued series of things” differing only in “easy steps,” it is nearly impossible for humans—although possibly not for angels—to make real distinctions between species. The only possible grounds for making distinctions accessible to humans is nominal, through the creation of abstract ideas, which are “made by the mind, and not by nature,”<sup>70</sup> and the rigorous application of those abstract ideas to particular cases. Second, because gradations of difference can be so small and imperceptible, we often have a tendency to resort to form when applying abstract ideas and ignoring the actual content of the abstract idea: “There are *some* brutes that seem to have as much knowledge and reason as *some* that are *called* men.”<sup>71</sup> The problem Locke identifies here is that some exceptional brutes are more apt to be called human than some marginal humans who are human in name only: some humans are more brutish than some brutes and some brutes are more human than some humans. The boundaries between species (cat/rat) and between classes of species (human/animal) are ex-

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69. Locke, *An Essay Concerning Human Understanding*, III.vi.12.

70. *ibid.*, III.vi.26.

71. *ibid.*, III.vi.12, emphasis added.

ceptionally porous allowing for nearly free movement between categories. “Wherein then, would I gladly know, consist the precise and unmoveable boundaries of that species? It is plain, if we examine, there is no such thing made by nature, and established by her amongst men.”<sup>72</sup> The boundaries between species are “so uncertain” that the swine/human raises questions of its legal and theological status: what ratio of swine to human grants the monster legal protection from murder? What is the necessary ratio for baptism? This free movement—and the chaos it causes for other categories, especially legal, political, and moral, which presuppose static boundaries—demands the rigorous application of abstract ideas: if a being with the form of a seagull meets the criteria of the abstract idea “human,” then it *is* a human despite its form; likewise, if a being with the form of a human meets the criteria of the abstract idea “camel,” then it *is* a camel despite its form.<sup>73</sup>

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72. Locke, *An Essay Concerning Human Understanding*, III.vi.27.

73. The emphasis on the rigorous application of abstract ideas conflicts with the source of the empirical data for the construction of those abstract ideas: that is, sense-perception. With the above example, we have the problem that the form and the idea contradict: it looks like a human, but meets the definition of camel. What is it? What do we trust: our ideas or our senses? The answer, I think, has two possible approaches. On the one hand, no human will ever be confused with a camel (or vice versa). The problem is when a creature has features of both: if it is part camel and part human, do you ride it or invite it over for dinner? That is, what do you do with monsters? Or, in contemporary terms, what if an obviously sapient and sentient synthetic life form is produced? Is it a person or a copyright? The other approach concerns marginal cases. Almost all whales, dolphins, and great apes have cognitive capacities that exceed those of many humans, ranging from those with cognitive disabilities, to the very young, to the very old. Should toddlers and great grandparents, having fewer cognitive capacities than bonobos, be used in HIV or cancer research? If not, why are great apes used in this research? These are not mere academic questions for Locke because, as was discussed above, the criminal in the state of nature has “quit the principles of human reason” and become a lion which, in turn, justifies the killing of the criminal.

## 5.7 Property

Locke's theory of private property must overcome one major obstacle: his interpretation of dominion shows that all was originally owned in *common* by the species, how then did it become transformed such that it can be *privately* owned by individual members of the species? From the perspective of "natural Reason," Locke points out that all men have "a right to self preservation" and, therefore, "to Meat and Drink, and such other things, as Nature affords for their Subsistence."<sup>74</sup> Seventeenth century use of "Meat" differs from contemporary usage: in this context, meat does not exclusively refer to flesh of an animal, but encompasses any solid food, be it vegetable or animal in origin (e.g., the meat of a nut or horse meat—much in the same way that we presently speak of the flesh of a fruit). The conclusion to be drawn from this is that the world is given to the species in common in order to ensure for the preservation of individual members of the species. Locke continues his argument pointing out that Revelation likewise grants dominion to "Mankind in common" in at least three instances: to Adam in the Garden of Eden, to Noah and his sons following the Flood, and in a variety of references to "the children of men."<sup>75</sup> Locke interprets these passages in the same way as he interprets the dictates of natural reason: the earth is given to mankind as a species in common

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74. Locke, *Two Treatises of Government*, TII, §25.

75. Genesis 1:28, 9:2–3, and Psalm 115.

in order to enable individual self-preservation and, through that, the preservation of the species as a whole. But, this all just a pre-amble to the relevant question: how do we go from a situation in which the entire earth is owned in common by the species to a situation in which the entire earth is owned (or potentially owned) by particular individual members of the species? Or, put another way, how is the common transformed into the private? Further, how can the privatization of the commons be maintained without the universal consent of mankind? That is, if all of us own that particular thing or piece of land, why would any of us ever agree to grant universal jurisdiction over that thing or piece of land to any one individual?

Once again, Filmer is the primary target. Both Filmer and Locke cite the two donations of dominion: the first donation to Adam in the Garden of Eden and the renewal of that donation to Noah and his sons following the Flood. Locke, but not Filmer, also cites the Psalm wherein the earth is given to “the children of men.” Sticking with Filmer, there are two possible interpretations of these passages: either God granted dominion to Adam to the exclusion of all others or Adam’s children divided up the earth by agreement.<sup>76</sup> In the first, Adam is a particular individual and, in the second, Adam stands in for the species. Both interpretations are important because at the time of the donation of dominion, Adam was both

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76. Of course, it is strange to speak of property at all in the Garden of Eden prior to The Fall, which was a state of total perfection and absolute plenty—the exclusive right to an object could not have emerged as a problem to Adam.

the entirety of the species and an individual. Filmer adopts the first position: God granted dominion to Adam the individual. Consequently, Adam exclusively owns the earth and others “own” property only at Adam’s will such that Adam can revoke any right to property at will and without any reason. For Filmer, Adam corresponds directly to the sovereign. While defending the absolutist/exclusivist interpretation of dominion, Filmer is also the first to identify primitive communism as a theoretical problem, which relates to the interpretation of dominion that Adam represents mankind as a species. Filmer develops this point especially in opposition to Grotius.<sup>77</sup> For Grotius, the laws of nature are immutable. If the world was given to mankind in common as a species, how is it the case that there is now private property? Filmer believes this reveals a key contradiction in Grotius’s thought between the claims of the universal *jus naturae* [e.g., property in common as a law of nature] and the particular *jus gentium* [e.g., private property as a positive law]. Hence,

If there hath been a time when all things were common and all men equal [ *jus naturae*], and that it be otherwise now, we must needs to conclude that the law by which things were common, and men equal, was contrary to the law [*jus gentium*] by which things are proper [i.e., private property] and men subject.<sup>78</sup>

The conclusion Filmer is working towards is that the common, owned collectively

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<sup>77</sup> Filmer, “Observations Concerning the Originall of Government,” 208–10. See Daly, *Sir Robert Filmer and English Political Thought*, 87–91.

<sup>78</sup> Filmer, “Observations Concerning the Originall of Government,” 210.

by the species in the natural state, could only be transformed into private property with the consent of all because, if appropriation without consent was possible in the natural state, then there would be no way to distinguish between *jus naturae* and *jus gentium* in terms of property. Put another way, Filmer believes that appropriation without consent in Grotius's system would result in positive law being the only law, when it is clearly the case that Grotius wants to maintain a separation between the two. Consequently, Filmer believes that his position stands, "If we will allow Adam to have been lord of the world and of his children, there will need no such distinctions of the law of nature and of nations."<sup>79</sup> That is, Adam in turn sublets the right to possess property to his children.

Locke, clearly, needs to develop a different position: dominion was not granted to Adam *qua* individual, but to Adam *qua* species, and property cannot have its basis in universal consent because it would lead to the absurd situation that each individual would require the permission of all other individuals if they wanted to pick an apple off a tree and eat it.

In order to avoid the absurd conclusion of universal consent, Locke sets out a series of propositions:

1. God has given the world to "Men in common;"
2. God has given "Men" "reason to make use of it [the world] to the best ad-

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79. Filmer, "Observations Concerning the Originall of Government," 210.

vantage of Life, and convenience;”

3. “The Earth” and all that it contains has been “given to Men for the Support and Comfort of their being;”
4. Specifically, “the Fruits” and “Beasts” belong to “Mankind in common” because “they are produced by the spontaneous hand of Nature;”
5. Consequently, “no body has originally a private Dominion, exclusive of Mankind, in any of them [the fruits and beasts and, presumably, the Earth itself], as they are thus in their natural state [i.e., neither cultivated nor domesticated];”
6. Because the earth, fruits, and beasts have been “given for the use of Men,” there “must of necessity be a means *to appropriate* them some way or other before they can be of any use, or at all beneficial to any particular Man” [emphasis in original];
7. This must be the case in the state of nature (“The Fruit, or Venison, which nourishes the wild Indian”) where there is “no Inclosure” and the world is held in common, must yet “be his, and so his, i.e., a part of him” such that “another can no longer have any right to it;” and it must also be the case in civil or political society.<sup>80</sup>

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80. Locke, *Two Treatises of Government*, TII, §26.

Much can be said about this complex set of propositions. The passage is characterized by a great deal of lexical and semantic ambiguity: Locke keeps shifting between “world,” “earth,” and “nature,” on the one hand, and “man,” “men,” and “mankind,” on the other.

These two semantico-lexical chains cut across the set of propositions thus making what Locke considered self-evident claims all the more complex and confusing. First, God has given the world to men in common. In accordance with this donation of dominion to men, God has also given men the requisite reason to make use of the world “to the best advantage of life and convenience.” Life, in this case, refers to self-preservation or the perseverance in existence through eating food, creating shelter, and the like. Convenience does not refer to ease (there is very little that is easy about the state of nature), but, rather, that the world has been created such that it is well-adapted to be navigated or manipulated by man when he makes use of reason. Hence, there is a correspondence between the structure of the world (it is reasonable) and the primary characteristic of man (he, possibly alone in the world, possesses reason). Given the convenient correspondence between the world and reason, life, or self-preservation, is more or less easy (or convenient in the modern sense). In addition to being given reason in order to exploit the world, the world has also been given to man to be exploited (the third proposition). Hence, the world given in common to man and all that it contains (in this case, vegetable and

animal life, as well as inert matter) has been “given to Men for the Support and Comfort of their being.” Again, while reason exists in order to exploit the world in order to maintain existence, the world has been given to men for their support, that is, for the preservation or sustenance of their being. But, in addition to this support or mere existence, the world has also been given for “comfort,” that is, a way of living that exceeds mere existence; a sort of flourishing or, at the very least, a commodious way of living. Man is not just meant to live, but also to live well.

Locke recognizes a certain problem in this chain of reasoning: it is not necessarily the case that because the *earth* was given to man that all the things *of* the earth was also given to man. Rationally, if man was made to live, then man also has the right to take what is necessary to keep living. It is for this reason that Locke inserts the fourth proposition, all that is “produced by the spontaneous hand of Nature” also belongs to “Mankind in common.” Created spontaneously by nature means that there is no original title or claim to ownership, hence the spontaneous products of nature become the common property of the human species by default. The two most notable spontaneous products of nature are “the Fruits” and “Beasts.”<sup>81</sup> As such, man is licensed to exploit both vegetable and animal in order not only to live, but also to live well. This proposition also serves the function of setting up the

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81. Locke’s lexical slippage should be noted. “Beasts” were previously argued to be one of three subtypes of “living creatures” and comprised the class of “dangerous” or “noxious” animals. Keeping with earlier terminology, Locke should have written living creatures.

next two propositions.

The fifth proposition claims that no particular individual person had private dominion to the exclusion of all others to either the fruits or the beasts. But, Locke ends the proposition with an important phrase: insofar “as they [the fruits, beasts, earth] are thus in their natural state.” So long as the earth has not been modified by any particular man, the earth remains held in common by all men. This leads to a conclusion contrary to reason: individuals, therefore, would not have the right to claim pieces of the fruits or beasts as food and, thus, they would die because the meat of the earth would be owned in common by mankind. Consequently, there must be means through which a part of the common can be transform by a particular individual such that it can become “beneficial to any particular Man.” Locke claims there “must of necessity be means to appropriate” the fruits, beasts, and earth.

This leads to the final proposition: the means of appropriation be natural; they must be valid for the “wild Indian”<sup>82</sup> as well as for the citizen in “political society.” Hence, the means of appropriation are independent of any “Inclosure,” which in this case means a positive institution of property existing within a political society. Property must be a natural institution. In Grotius’s terms, the mechanism of converting the common into property must belong to *jus naturale* and not to

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82. Note: recall “wild” in relation to Locke’s classification of living creatures.

*jus gentium*. The means of appropriation must enable the transformation of the commons into property so to “be his, and so his, i.e., *a part of him*” (emphasis added) such that no one else has any right to it.<sup>83</sup>

## 5.8 Appropriation

The “means to appropriate” the common and thus transform it into private property is absolutely essential to Locke’s political theory and has significant consequences for the theory of political or civil society including the right of resistance to tyranny because “political power [is] a Right of making Laws [...] for the Regulation and Preserving of Property,”<sup>84</sup> “no Political Society can be, nor subsist without having in it self the Power to preserve the Property [...] of all those of that Society,”<sup>85</sup> “Government has no other end but the preservation of Property,”<sup>86</sup> “The only way whereby one devests himself of his Natural Liberty, and puts on the bonds of Civil Society is by agreeing with other Men to joyn and unite into a Com-

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83. Locke’s account of the person differs somewhat between the *Two Treatises of Government* and *An Essay Concerning Human Understanding*. The most pertinent difference is that in the *Two Treatises*, a person is its bodily substance and forces, while in the *Essay*, a person is understood in terms of its psychological organization, that is, a self that is conscious of its own sense-experience, such as pleasure/pain, happiness/misery, and the capacity to perceive the external world. These two different versions of the person are not necessarily in contradiction with one another, but are more likely the same object viewed from different perspectives; *viz.*, politics and epistemology.

84. Locke, *Two Treatises of Government*, TII, §3.

85. *ibid.*, TII, §87.

86. *ibid.*, TII, §94.

munity, for their comfortable, safe, and peaceable living one amongst the another, in a secure Enjoyment of their Properties, and a greater Security against any that are not of it,”<sup>87</sup> “And ’tis not without reason, that he seeks out, and is willing to joyn in Society with others who are already united, or have a mind to unite for the mutual Preservation of their Lives, Liberties and Estates, which I call by the general Name, Property,”<sup>88</sup> “The great and chief end therefore, of Men uniting into Commonwealths, and putting themselves under Government, is the Preservation of their Property,”<sup>89</sup> “Men therefore in Society having Property, they have such a right to the goods, which by the Law of the Community are theirs, that no Body hath a right to take their substance, or any part of it from them, without their own consent; without this, they have no Property at all,”<sup>90</sup> “Political Power is that Power which every Man, having in the state of Nature, has given up into the hands of the Society, and therein to the Governours, whom the Society hath set over it self, with this express or tacit Trust, That it shall be employed for their good, and the preservation of their Property,”<sup>91</sup> “When the Governour, however intituled, makes not the Law, but his Will, the Rule; and his Commands and Actions are not directed to the preservation of the Properties of his People, but the satisfaction

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87. Locke, *Two Treatises of Government*, TII, §95.

88. *ibid.*, TII, §123.

89. *ibid.*, TII, §124.

90. *ibid.*, TII, §138.

91. *ibid.*, TII, §171.

of his own Ambition, Revenge, Covetousness, or any other irregular Passion [is a tyrant],”<sup>92</sup> “The Legislative acts against the Trust reposed in them, when they endeavour to invade the Property of the Subject,”<sup>93</sup> and “The Reason why Men enter into Society, is the preservation of their Property; and the end why they chuse and authorize a Legislative, is, that there may be Laws made, and Rules set as Guards and Fences to the Properties of all the Members of the Society, to limit the Power, and moderate the Dominion of every Part and Member of the Society.”<sup>94</sup> This is but a sampling of comments on the importance of property drawn from the *Second Treatise*.

What, then, does it mean “to appropriate”? And is Locke correct in claiming that appropriation makes something “be his, and so his, i.e., a part of him”? Read literally, Locke’s claim is that appropriation of a thing makes that thing *a part of him*. It is not simply that the common is “privatized,” but that the common is made *a part of him*, of a particular individual—a *part of him* not unlike a physical (arm, leg) or cognitive (emotion, identity) attribute.

Appropriation combines two words: *ap-* and *propriation*. The English prefix *ap-* derives from the Latin prefix *ad-*, meaning “to,” especially associated with the idea of “rendering.” The initial meaning of “appropriation” is “to appropriate to.” Pro-

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92. Locke, *Two Treatises of Government*, TII, §199.

93. *ibid.*, TII, §221.

94. *ibid.*, TII, §222.

appropriate derives from the Latin word *proprium*, meaning “one’s own.” Consequently, the etymological meaning of “appropriate” is “to render to one’s own.” I’ll return to this idea of “to render to one’s own” shortly. Propriation has two significant alternate meanings: first, “Annexed or attached to an estate as a piece of property” and “Assigned or attached to a particular person.” The OED suggests that this latter meaning is equivalent to “appropriate.” Looking at appropriate, there are four relevant meanings—all in use when Locke was writing: (1) “To make (a thing) that private property of any one, to make it over to him; to set apart;” (2) “To take possession of for one’s own, to take to oneself;” (3) “To allot, annex, or attach a thing to another as an appendage;” and (4) “To devote, set apart, or assign to a special purpose or use.” Appropriate entered into English via the Old French word *approprier*, which, like appropriate, derives from the Latin words *ad-* and *proprium*. Notably, the entry of this Old French word is most likely the consequence of the Norman appropriation of England in 1066. Again, with *approprier*, we see a similar cluster of meanings: (1) “to assign as private property or possession to; to set apart for a special purpose;” (2) “to assign or attribute as proper to;” (3) “to make one’s own; to take possession of.” *Propre*, here, carries the same sense as “proper” as in “to act properly” or a “proper noun.” Proper has meanings of correctness, but also of self-hood. The same meanings are found in “property”: a particular characteristic (the property of being hard), of belonging to a particular *proprium*

or self, and of propriety or correctness (especially in manners, dress, etc; how one carries and presents oneself to others). Etymologically, “appropriate” appears to carry a number of meanings relevant to Locke’s theory: an idea of self, an idea of annexing, an idea of attaching, and an idea of correctness or decorum.

But, what about “private”? The English word private, like its French equivalent, derives from the Latin word *privatus*. In Latin, something that is *privatus* is “restricted for the use of a particular person or persons;” a private person is someone “not holding public office,” but also an “individual.” In medieval Latin, *privatus* becomes *privatum* meaning both “privy” (as in “privy to secrets”) and, euphemistically, as a “latrine” (as in where one does one’s private business; that to which no one else is privy).<sup>95</sup> Private, in Latin as in English, is opposed to the public, to the common, but is also opposed to openness (in the sense of secrecy, which is hidden) and associated with the genitals (“private parts”) and defecation. Hence, to be private is to be “de-privated” from the public, from the common, and from the open—in essence, to prefer one’s own shit to the company of others. Shit, in contemporary usage, can mean stuff or possession, “Be right there, just need to grab my shit.” Privacy is a state of deprivation. We can see many of these meanings in the Latin words *privare* (to deprive, to rob, to debar from the use of, to prevent from having, to release, to relieve) and *privus* (separate, single, individual, private,

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95. Perhaps ironically, Roman privies were public institutions.

peculiar, deprived). Hannah Arendt is instructive on this point,

To live an entirely private life means above all to be deprived of things essential to a truly human life: to be deprived of the reality that comes from being seen and heard by others, to be deprived of an ‘objective’ relationship with them that comes from being related to and separated from them through the intermediary of a common world of things, to be deprived of the possibility of achieving something more permanent than life itself.<sup>96</sup>

To be private is to be less than fully human. For Arendt, to be fully less than human is to not participate in action, which can only be performed in the full visibility of others, that is, in publicity. To be private is to refuse to be public, to refuse to be human, to be de-privied of one’s essence, and to choose to be an animal; to be inhuman rather than human.

“The thing appropriated is a thing distinct from common property. Now this feature is also shared by all religious and sacred things.”<sup>97</sup> Both *proprius* and *privatus* contain ideas of “setting apart.” This is quite significant because another set of Latin words carry associated meanings. *Sacer*, and a cluster of related words, refers to the gods and anything in their power, to priests, and to those ambiguous objects that have been cut off from the world of the living. The sacred is something that is set aside or set apart from the everyday world of the living and that can only be accessed by particular people in accordance with particular rituals. That from

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96. Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1998), 58.

97. Emile Durkheim, *Professional Ethics and Civil Morals*, trans. Cornelia Brookfield (London: Routledge, 1992), 143. Durkheim also claims that the sacred and property are “fundamentally the same.” *ibid.*, 147.

which the sacred is set aside is the profane—the common, the mundane, the banal, and the everyday. “The sacred thing is, par excellence, that which the profane must not and cannot touch with impunity. [...] Sacred things are things protected and isolated by prohibitions; profane things are those things to which the prohibitions are applied and that must keep at a distance from what is sacred.”<sup>98</sup> But, at the same time as being characterized by this absolute heterogeneity, the sacred is also radically ambivalent: the sacred is just as liable to be accursed as not—the sacred is not necessarily holy or clean or good; it can also be dirty or dangerous or evil. Hence, it is not just the meanings of setting apart that are common to sacred, property, and appropriation, but also the meanings of correctness and dirtiness. Arendt again, “all civilizations have rested upon the sacredness of private property.”<sup>99</sup>

Appropriation, then, as the removal of a thing from the common and the subsequent transformation of that thing into private property, carries a number of potential contradictory elements: correctness, neatness, secrecy, theft, toilets, intimacy, genitals, individuality, separation.

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98. Emile Durkheim, *The Elementary Forms of Religious Life*, trans. Karen E. Fields (New York: Free Press, 1995), 38.

99. Arendt, *The Human Condition*, 61.

## 5.9 The Common

How, then, does Locke account for appropriation? He develops the relationship between the individual body and the creation of private property out of the common. As is well-known, the basis of Locke's theory of appropriation is personal self-ownership and, as such, of the body and its forces. The initial problem is removing the body and its forces from the domain of the common. Why are individual bodies owned by their persons and not by other persons or God? Why aren't all individual bodies equally part of the common? Why should I not have as much right to your body and its forces as I have to the body of a possum or a leek? Locke does not provide a clear answer to these questions, but, presumably the answer is to be found in self-preservation: I have the right to persevere in existence and so I must also have the exclusive right to the vehicle of my existence: *viz.*, my body. Locke, however, does not explicitly adopt this position, perhaps because the natural right to self-preservation leads to irrational results as demonstrated by Hobbes where my right to self-preservation includes my right to eliminate you as a potential or actual enemy.<sup>100</sup> As a result, Locke only has recourse to the earlier theological argument

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100. Locke, unlike Hobbes, does not appear to recognize that animals appropriate and kill with the same right as humans—for self-preservation. Appropriation only makes sense to Locke in the context of property. Animals are, by definition, themselves property and thus cannot own—or appropriate—property. Any appropriation by an item of property shifts ownership to the owner of that property. Hence, the farmer owns the product of the labour of the bull and the grass eaten by a domesticated horse does not belong to the horse, but to the horse's owner. Locke, *Two Treatises of Government*, III, §28.

that humans are not subject to dominion, but animals are: “Though the Earth, and all inferior creatures be common to all Men, yet every Man has a Property in his own Person.”<sup>101</sup> But there seems to be nothing in the donation of dominion suggesting humans have ownership of their *own* persons as well as of domestic animals. The donation of dominion seems to suggest that humans are unowned and potentially un-ownable, perhaps because they are ultimately owned in some sense by God. Hence, Locke does not so much defend self-ownership as develop a distinction between that which owns itself and that which is owned in common by others: Man owns his own person (i.e., *proprium*; the repetition of “own” here is unavoidable and only underlines the general point) and Men in common own the inert matter of the earth, vegetation, and animals. Living things are divided into two groups: those who own themselves (“men,” humans) and those who do not own themselves (the “inferior creatures,” inhumans); or, again, the living creatures of the world are divided into humans and beasts.

Following from self-ownership are the grounds upon which the common can be transformed into private property, “must be his, and so his, i.e. *a part of him*.”<sup>102</sup> The structure of the argument is simple enough. Initially, all is owned in common by mankind as a species, with one significant exception: particular individual men

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101. Locke, *Two Treatises of Government*, TII, §27.

102. *ibid.*, TII, §26; emphasis added.

own their own persons. Hence, even in the initial situation there are small pockets of private property amidst the common: each and every individual human body. (Recall Arendt's analysis that the *privatus* is de-priv'd from the common.) The powers of a human body are an inseparable part of the human body and accordingly each individual owns their bodily forces. Labour is the fundamental bodily force. Humans navigate the world and interact with the world and its occupants through the labour of the body. Thus, "the Labour of his Body, and the Work of his Hands, we may say, are *properly* his."<sup>103</sup> This act of imposing bodily forces on the common is a process of removing. The body imposes its forces on the world, and thus the common, through labour and through this imposition of labour that thing upon which labour is expended is removed from nature and the common: that thing, now property, is set aside or appropriated from nature or the common. Consequently, "he hath mixed his Labour" with nature "and joynd to it [i.e., nature] something that is his own [i.e., labour], and thereby makes it his Property."<sup>104</sup> Labouring removes things "from the common" and thus "annexes" that bit of the common to the body.<sup>105</sup> Now being "his, and so be[ing] his, i.e. a part of him" that bit of property belongs to the labouring individual as much as their fingers, toes, and eyes.

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103. Locke, *Two Treatises of Government*, TII, §27; emphasis added.

104. *ibid.*, TII, §27.

105. *ibid.*

That is, it has been “excluded from the common right of other Men.”<sup>106</sup> The sole exception to this is that every individual must leave nature “at least where there is enough, and as good left in common for others.”<sup>107</sup> Consequently, there are natural limits to accumulation: one may only appropriate to the extent that enough of the common remains for the self-preservation of others. Locke’s subsequent goal is to provide justification for overcoming those natural limitations to accumulation.

## 5.10 The Problem of the Commons

The reception of Locke’s *Second Treatise*, especially the chapter on property, has been marred by a fundamental confusion surrounding the differences between the common and the commons, as well as the differences between appropriation and expropriation. This is a historical error. While it is true that Locke was writing in the midst of the enclosure movement, his theory of property was not aimed at the enclosures, even if he adopted—or appeared to adopt—the language of enclosures. Peter Laslett’s commentary on §28 in his edition of *The Two Treatises* is revealing on this point:

Locke is using here the language of agrarian enclosure, the parcelling out of the common fields of the traditional manor as private property, which was so marked a feature of English economic history in the sixteenth century, in his own time to some extent, and even more in the eighteenth century. [. . .] It is not quite consistent with his statement about

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106. Locke, *Two Treatises of Government*, TII, §27.

107. *ibid.*

enclosure and the Indians in II, §26, for the Indian lived in a state of nature, before compact had taken place. Here “Commons” must mean the common land of the traditional manorial system, remaining so “by Compact”. As Locke makes clear in II, §35, only men of the manor, and not just anyone, could usually graze, turf and mine on the common land, and then only if the custom of the manor allowed. It is a bad example of communism.<sup>108</sup>

It is true that Locke discusses the “Commons” in this passage, but he discusses the “Commons” in relation to “the common.” “We see in Commons, which remain so by Compact, that ’tis the taking any part of what is common, and removing it out of the state Nature leaves it in, which begins the Property; without which the Common is of no use.”<sup>109</sup> The repetition of Commons/common is essential here. What Locke is discussing is the movement from the common to the Commons. That is, from property held in common *to a particular form of private property* called the Commons.<sup>110</sup> Hence, what is at issue is appropriation and not expropriation. The

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108. Peter Laslett, ed., *John Locke: Two Treatises of Government* (Cambridge: Cambridge UP, 1960), 288–9.

109. Locke, *Two Treatises of Government*, TII, §28.

110. Later, Locke writes, “the Ocean, that great and still remaining Common of Mankind.” *ibid.*, TII, §3. This clearly indicates that when Locke is talking about the Common, he does not mean the system of the Commons and the Enclosures because there is no law of property governing the ocean, other than the law of nature, as that would require the consent of all. The sole exception, unmentioned by Locke, would be where there is an existing international law governing access to particular parts of the ocean, such as the distinction between coastal waters and high seas. This body of international law developed through the seventeenth and into the eighteenth century as England was becoming an ever increasingly powerful maritime nation. In essence, coastal waters are an extension of territorial sovereignty into the sea such that what happens in those waters is governed by the law of that nation. Thus, there could be English laws of fishing or piracy, but also international laws of fishing or piracy. The international laws would only apply to the high seas. Thus, Locke clearly understands the high seas to be held in Common. However, for Locke, those English laws could only apply to English vessels because English laws only apply to the English. Spanish pirates in English waters, unlike English pirates (even if they were on the same ship),

original creation of the system of the Commons was an act of *appropriation*. In contrast, the Enclosures is an act of *expropriation*; that is, the Enclosures are an appropriation of an appropriation or, more simply, an expropriation. The Commons, like any other form of private property, has its basis in, first, labour and, second, where there is a state, in positive law. Given the absence of the state, but the existence of property on the basis of labour, the “wild Indian” had every right to their property (i.e., the common), but due to the lack of the state, the “wild Indian” did not know the Commons. In other words, contra Laslett, the “wild Indian” in the state of nature is, in fact, a good example of primitive communism.

The Commons were a particular form of private property whereby people other than the legal owner also had traditional rights (largely subsistence) to the property, such as grazing, mining, scavenging, etc. Laslett is correct that the Commons are “a bad example of communism.” But this is only because they are not an example of communism at all. They are, however, an example of communalism: private property where the larger community also has access and use rights. In modern property law, this is comparable to right of way, deeded access to public goods such as water and easements. “We must never forget that even the serf was not only the owner [of the Commons], if but a tribute-paying owner, of the piece of

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would be governed by the laws of nature, which would be executed by the sovereign of England.

land attached to his house, but also a co-possessor of the common land.”<sup>111</sup> Where Laslett’s confusion enters is in the difference between the common—which is an example of communism—and the Commons—which is not.

The communal rights to the Commons were established largely in local tradition and common law and thus varied greatly throughout England. The enclosure movement was an attempt to transform the Commons from one type of private property (let us call it “mixed use”) to another type of private property (let us call it “exclusive use”). Hence, the enclosures were an appropriation of already appropriated properties. Or, more accurately, an expropriation. “In insolent conflict with king and parliament, the great feudal lords created an incomparably larger proletariat by the forcible driving of the peasantry from the land, to which the latter had the same feudal right as the lord himself, and by the usurpation of the common lands.”<sup>112</sup> Marx’s analysis is confirmed by the meaning of the English prefix *ex-* which signifies “to remove, expel or relieve from” and “to deprive of.” An expropriation is a removal or deprivation of a previous appropriation. It is not Locke, but Laslett, who is confused about the status of the common and the Commons among the English and “the wild Indians.”

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111. Karl Marx, *Capital: A Critique of Political Economy*, trans. Ben Fowkes (New York: Penguin, 1990), 717–8n2.

112. *ibid.*, 718.

## 5.11 The History of Property

Having established the means through which appropriation is secured, Locke shifts his attention to a historical discussion of the changing relations between that which is owned, that which is not owned, and owners in order to demonstrate how the natural limits to accumulation can be and are legitimately overcome. Locke divides the history of property into four stages: hunter-gathering (TII, §28–31), agriculture (TII, §32–6), the invention of money (TII, §37), and the creation of urban centers and territorial forms of organization (TII, §38). While the history of property is “stage-ist” in the sense that one stage is followed by another in linear historical time, Locke also constructs his history along another axis: moveable/immovable property. Thus, there is an important connection between hunter-gathering and money as well as between agriculture and territorial organization. In a sense, money exists to help the movement of goods (chattel) while the state exists to stop the movement of other goods (real property). However, because money is ultimately the solution to the wastage proviso and thus legitimates potentially unlimited acquisition, Locke seems to be pushed into a position that legitimates the increased “inhumanization” of social relations through their increased mediation by money.

The discussion of hunter-gathering recapitulates much of what has already been analyzed in relation to the common because hunter-gathering is characterized by

a lack of widespread institutions of property, be it real or chattel. Any property that exists only exists as such in the short term and relates to subsistence rather than industrial or commercial practices. Thus, we see many similar examples in these four sections (TII, §28–31): gathering acorns and apples from the woods, deer, fish, ambergris (an animal product, although not a food), and hares. At the theoretical level, the most important part of these sections is to elaborate four essential parts of the labour theory of property. First, the expenditure of labour on the common is sufficient to transform that piece of the common into the property of the labourer: “that *labour* put a distinction between them and common. That added something to them more than Nature, the common Mother of all, had done; and so they became his private right.”<sup>113</sup> Locke also provides a number of other interesting examples: “Thus the Grass my Horse has bit; the Turfs my Servant has cut; and the Ore I have digg’d in any place where I have a right to them in common with others, become my *Property*.”<sup>114</sup> Second, that domesticated animals are also

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113. Locke, *Two Treatises of Government*, TII, §28. The distinction between common/nature/femininity and property/labour/masculinity is quite interesting and pulls back from the feminist consequences of his earlier argument that dominion was granted jointly to Adam and Eve. If this line of thought were to be pursued, it would seem that there is a strongly gendered component to Locke’s theory of property that is in tension with the universalist aspirations of the donation of dominion to Adam and Eve: in reproduction, males ‘work’ on the female to produce property, which the men rather than the women own. The mother loses control of the progeny once it is born. Further, there is little discussion of consent here: men, it seems, can go along taking from nature at will placing Locke’s theory of property uncomfortably close to a natural law of rape. Indeed, the consent of others, including mother Nature, is not required to produce property.

114. *ibid.*

the property of humans, including their products. Animals in this category do not own their own labour and bodily forces; humans do. Hence, the grass a horse grazes from an empty field belongs not to the horse, even though it is in the horse's stomach and already digesting, but to the owner of the horse. Likewise, servants are temporary mules: they have let out of their bodily forces to their employer and, as a consequence, do not own whatever is produced by those bodily forces while they are in the employ of another (although means of payment is not entirely clear, nor is the motivation for entering into someone's service given that the natural state is characterized by abundance). Already here we see how ownership of labour results in some humans—servants, labourers, and employees—being treated as though they are not human; i.e., that they relate to the products of their labour in the same way that a cow does. Third, that the appropriation of property is a part of the “Law of reason” and thus natural such that deer killed by an “Indian” belongs to that “Indian.” As a result, the positive laws of “the Civiliz'd part of Mankind” are but elaborations upon the natural law.<sup>115</sup> Finally, the wastage proviso is re-articulated. While the obvious point here is to limit wastage, which is a superfluous point anyway because the state of nature is characterized by natural abundance such that there is always a natural excess beyond the needs of the species, the underlying point that Locke wants to develop is a natural defense of congealed surpluses. That is,

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115. Locke, *Two Treatises of Government*, TII, §30.

Locke is ultimately trying to discover a loophole that will justify accumulation while not being subject to the wastage proviso. The solution to this problem is money, which as an abstract form of exchangeable property has the effect of externalizing humanity and then ordering human social relations in accord with this externalized humanity. The result is that this external force, money, comes to organize and dominate human social relations such that humans, rather than controlling the inhuman, are dominated by the inhuman.

With hunter-gathering, the issue at hand is control over the things of the earth, or chattel, such as beasts and fruits; in agriculture, the issue at hand is control over the earth itself, or real property. The question, then, is whether or not the earth itself can be appropriated in the same way as the things of the earth.<sup>116</sup> Locke argues that land is appropriated in the same way as things: “*As much Land as a Man Tills, Plants, Improves, Cultivates, and can use the Product of, so much is his Property.*”<sup>117</sup> The enclosure of land is limited by the wastage proviso (“and can use the Product of”) and is generated through labour (“Tills, Plants, Improves, Cultivates”). It would seem, then, that the earth is not really a special case of property

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116. As with the case of the servant, it is not clear why anyone would seek to possess real property: if there is sufficient food and resources in hunter-gathering, why would anyone ever need to set up a farm? Farming, surely, is a greater expenditure of labour than gathering. Locke is unable and disinclined to explain why people took up farming when hunter-gathering was more than suitable for their needs, especially considering that farming is limited by the same wastage proviso as hunter-gathering; that is, it is subsistence farming.

117. Locke, *Two Treatises of Government*, TII, §32.

in comparison to the things of the earth: they are both appropriated in the same way (labour) and are not an injury to others because of natural plenty (more earth and things than people). Consequently, no single act of enclosure can be of harm to any individual. This is justified theologically. When they were granted dominion, Adam and Eve were commanded to subdue the earth. Following the Fall, they were also commanded to labour. Locke interprets subdue to mean “improve for benefit of life” and improvement can only be done through labour, which creates property. Thus, it would appear that enclosure is a divine commandment and that while the earth was given in common to mankind, it was never intended to remain so. This leads to a new point, which returns to the general problematic of the distinction between the human and the inhuman: not everyone has an equal right to the earth because it was given to “the use of the Industrious and Rational,” i.e., human, and “not to the Fancy or Covetousness of the Quarrelsome and Contentious,” i.e., inhuman.<sup>118</sup> The “Quarrelsome and Contentious,” of course, are “noxious creatures” who have “quit the Principles of Human Nature” and should be treated as criminals and “therefore may be destroyed as a *Lyon* or a *Tyger*, one of those wild Savage Beasts, with whom Men can have no Society or Security.”<sup>119</sup> A second issue Locke is trying to work towards has already been identified: agriculture, unlike hunter-

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118. Locke, *Two Treatises of Government*, TII, §34.

119. *ibid.*, TII, §10, §11.

gathering, tends to produce a surplus. But, agriculture is limited by the wastage proviso, which Locke wants to get around. The only solution to the surplus/wastage problem generated by agriculture is to find a means of converting surpluses into a form that cannot waste; that is, money.

Dominion only gets Locke so far: dominion is able to explain property in hunter-gathering and agriculture, but it does not seem to be able to explain how the movement from chattel property to real property is accomplished because it is unable to get around the wastage proviso. If this were as far as Locke could go, then all of his contemporary societies and nearly all historical societies (with the exception, it would seem, of North American Indians) would be in violation of natural law. That is, many are clearly able to accumulate more than they need while others are unable to accumulate as much as they need. Hence, wealth and poverty presents a problem within society that does not exist in the natural condition.

Agriculture, unlike hunter-gathering, leads to the production of surplus, which in turn leads to problems with the wastage proviso. In Locke's estimation, cultivated land is at least ten times, if not a hundred times, more productive than uncultivated land.<sup>120</sup> However, the wastage proviso only applies to the products of human labour

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120. Locke writes both of the following in the same paragraph: "one acre of inclosed and cultivated land, are (to speak much within compasse) ten times more, than those, which are yielded by an acre of Land, of an equal richnesse, lying in wast in common" and "For I aske whether in the wild woods and uncultivated wast of America left to Nature, without any improvement, tillage or husbandry, a thousand acres will yield the needy and wretched inhabitants as many conveniences of life as ten acres of equally fertile land does in Devonshire where they are well cultivated?"

and not to the “spontaneous products of nature.” If nature is already created with abundance, then agriculture leads to superabundance: “he who appropriates land to himself by his labour, does not lessen but increase the common stock of mankind.”<sup>121</sup> The problem, however, is in transferring that superabundance to others. On the one hand, an especially industrious individual could be charitable and give the surplus to their neighbours in the form of charity. But, this contradicts the previously established distinction between the human and the inhuman: only the human is rational and productive, which would mean that other humans would not require the surplus, which would also mean that humans would be feeding those who would predate upon them. That is, the human would actively be supporting the inhuman and the inhuman is a threat to the human. This would be absurd for Locke and have the consequence of inhumanizing all humans. Why would one feed one’s enemies? On the other hand, industrious individuals would have no need to trade with one another because they are most likely producing the same objects. Even assuming specialization in production, one would trade part of one’s surplus with another, but being unable to convert that part of the other’s surplus into money would still lead to wastage.<sup>122</sup>

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Locke, *Two Treatises of Government*, III, §37. The original dimensions of an acre were one furlong by one chain—roughly the area an average ox could plow in a single day.

121. *ibid.* It is not clear why Locke thinks this increases the *common* stock because the products of agriculture are private property and not common property, thus to take it as though it were common is a violation of natural law.

122. The other possibility, an institution like *potlatch*, is ruled out because it is wanton destruction

In addition to producing surpluses, Locke suggests that the mere production of surplus engenders a radical change in how humans relate to the world. Previously, humans related to the world in search of use-values: they sought out things that had immediate use to them as food, shelter, clothing, and the like. However, with agriculture, it became possible to produce beyond necessity and thus to produce beyond need, which is to say, to produce beyond immediate use, thus shifting to exchange-value. This caused an alteration in the “intrinsic value of things.”<sup>123</sup> Value was no longer measured in terms of the “usefulness to the Life of Man” (TII, §37). The result was that at some point, it had to be “agreed that a little piece of yellow Metal” which had the natural properties of not being subject to waste or decay would become an universal representation of value.<sup>124</sup> Hence, a given sized piece of gold could “be worth a great piece of Flesh, or a whole heap of Corn.”<sup>125</sup> Money, then, as a universal representation of abstract value, can represent any particular value, be it a “great piece of Flesh, or a whole heap of Corn” or a day’s wages.

This move is quite interesting. Up to this point, Locke’s argument had been

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of property, which is contrary to the law of nature. Locke, of course, was unaware of the *potlatch*.

123. Locke, *Two Treatises of Government*, TII, §37.

124. Of course, money only *represents* value and it is not value itself. Similarly, money represents the value of other things without actually being that thing. While money may not rot, the values it represents do rot. The problem of wastage is not actually solved by money.

125. Locke, *Two Treatises of Government*, TII, §37.

structured through maintaining the boundaries between the human and the inhuman. However, with the introduction of money, the inhuman potentially comes to mediate all social relations between humans. Above, in the section on “Nature,” the distinction between the inhuman and the human was developed in relation to living creatures; *viz.*, the cattle, beasts, and reptiles. Humans are clearly neither cattle nor beasts nor reptiles, except in the case of criminals, who are better thought of as beasts of prey, such as lions, tigers, and wolves. This distinction is also operative in other domains. For instance, in *The Essay Concerning Human Understanding*, Locke makes references to angels who are able to perceive the real essence of species and in *Elements of Natural Philosophy*, Locke distinguishes between matter, vegetables, and living creatures. Angels, rocks, cactuses, and hyenas are all inhuman. Gold, clearly, is matter; hence, inhuman. To elevate gold from mere matter into a concrete and abstract vessel of value is to bring an inhuman object into daily human relations. Developing his theory of property through the donation of dominion, Locke made the inhuman the object through which humanity was developed. Through greater control, use, and manipulation of the inhuman world, it would be possible for humanity to thrive. But, the introduction of money transforms this in ways unrecognized by Locke. The circulation of objects between humans is mediated by money rather than direct relationships, such as the exchange of promises or the immediate exchange of one object for another (i.e., barter). The transforma-

tion of surplus into money allows those objects to exist the point of spoilage and wastage. Wheat that would have rotted and decayed becomes gold, which neither rots nor decays. Further, the direct, immediate, and equal relations characteristic of the state of nature and early civilization are replaced by the indirect, mediated, and unequal relations with the advent of money. This, of course, does not need to be a problem for Locke, but it looks like a problem to me because the separation of human and inhuman, along with the domination of the later by the former, becomes reversed. That is, money as an externalized humanity presented in some abstract form—gold—slowly begins to organize the relations that originally constituted it. Thus, rather than the human dominating the inhuman, the inhuman dominates the human. Regardless of how hard Locke tries, he cannot immunize the human from the inhuman.

Not only does money become an object in daily human relations, but it tends to mediate all relations between humans. Thus, in the natural condition (i.e., in hunter-gathering and agriculture), humans relate to one another as humans without any mediation, but with the advent of society (i.e., money which rests upon agreement and consent), humans no longer relate to one another in an immediate fashion, they relate to one another through the medium of money. That is, an inhuman object stands between humans. Society, then, is only possible on the basis of a hidden inclusion of inhuman objects. Money is a surplus of corn or flesh that cannot

rot; it further inhumanizes the already inhuman and inserts itself between humans. “But if they perished, in his Possession, without their due use; if the Fruits rotted, or the Venison putrified, before he could spend it, he offended against the common Law of nature, and was liable to be punished.”<sup>126</sup> While solving one problem—the wastage proviso—Locke potentially creates a new problem—the inhumanization of social relations.

Finally, the same procedure is repeated with respect to real property and the movement to large-scale, territorial forms of organization. Agricultural surplus and the ability to transform that surplus into money allowed for family sizes to increase and thus populate ever greater parts of the land. As these settled lands became denser, the time came when cities were built whereby through consent laws were created setting boundaries in place. Thus, internal to the cities, laws were created to divide property among citizens and, between cities, laws—or at least customs—were created recognizing the jurisdiction of a city over its territory and people. These laws would even allow for the value of real estate to be expressed in money and thus exchanged. Of course, as cities grew in size and economies became increasingly monetized, the inhuman element would increasingly insert itself between humans.

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126. Locke, *Two Treatises of Government*, TII, §37.

## 5.12 Conclusion

In Hobbes's problematic, there was a strict separation between the animal and the human, which was mediated by the monstrous leviathan. This problematic was unable to account for the penetration of the animal within the human community because, by definition for Hobbes, the animal was of nature and not of the community. For Pufendorf, the problem was to account for the sociable nature of humans and how this sociality could only be fully developed in civil society, even if nature was conducive to some sociality. But, the problem Pufendorf ran into was that all attempts to account for human sociality could result in some animals being included and some humans being excluded. Whether the relation between human and non-human is maintained on the basis of the complete separation of nature and culture, human and non-human, as with Hobbes, or if it allows humanity to be projected into nature, but prevents non-humanity being projected into civil society, as with Pufendorf, the problem remains the same: there is no way to completely immunize *all* humans from *some* non-humans. Locke takes the next logical step by attempting to immunize the human from the non-human by allowing the non-human into the state, but only on the condition that it is dominated by the human as property. But, in doing so, the groundwork is laid for the inversion of this process through the domination of the human by the non-human in the form of monetized social

relations.

In this chapter I re-read the theoretical defense of the institution of property through the concepts of human/inhuman, paying particular attention not to the rational structure of the argument—which is the normal approach—but to the theological structure of the argument. Reading the rational structure already privileges the human side of the distinction because as Locke and most of his contemporaries would agree, among the living creatures, only humans are rational. Reading the theological structure of the argument privileges an inhuman source: God. Consequently, the entirety of Locke’s argument flows out of this inhuman source, out of which the human is slowly and painfully constructed in opposition to a variety of inhuman elements. This reading resulted in paying careful attention to the role of inhuman elements in the development of property for humans. Thus, attention was paid to the role of cows, corn, and gold. The result of this reading is that it becomes plainly clear why the human community, for Locke, is thoroughly penetrated with inhuman elements, especially animals. The human domination of the inhuman—animals, vegetables, and land—is the basis of all property relations. This is demonstrated etymologically in the connection between chattel and cattle. Locke rigorously follows through on this in privileging money, which is a form of value that prevents rot and wastage from setting in. Money is an abstract form of value that cannot itself rot, but allows other things to rot. As human communities

develop, money takes on an increasingly important role to the extent that when in nature, humans immediately relate to one another, but by the time they are in society, humans only relate to one another through the mediation of the inhuman: money, which is to say, animals transformed into metal.

## 6 Conclusion

This illusion gives rise to one final delusion: It seems as though man everywhere and always encounters only himself.  
Martin Heidegger, “The Question Concerning Technology,”  
1954.

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### 6.1 Introduction

Many of the concepts of the modern social sciences and humanities found their genesis in the early modern period. Some, such as myself, believe that these concepts are becoming worn out, stale, and obsolete for reasons ranging from transformations in the structure and organization of state, economies, and societies to developments in the natural sciences. They no longer have the explanatory force they once did. What connects the present to the seventeenth century, beyond a genealogy of concepts, is a shared context of radical scientific, technological, and social change. Just as medieval concepts were not adequate in early modernity, modern concepts may not be—and likely are not—adequate to the present and whatever comes next. As a result, just as early modernity had to define a new set of relations between nature

and culture, human and non-human, we, in the early twenty-first century, are being forced by circumstance—if not necessarily by volition—to do the same.

These early modern concepts rested upon a new understanding of the relation between the human and the non-human. I have used the term speculative anthropology to designate the attempt to situate beings into their proper domains. I have claimed that this is a speculative activity closer to science fiction, fantasy, and horror than it is to either science or philosophy. Lacking an adequate knowledge of reality, but wanting to have knowledge of that reality, we are forced to speculate—to project an image of the world on to the world. Of course, the image can never do justice to the world just as the world can never do justice to the image. This is where philosophical (or scientific) anthropology comes into play: given the speculative imagining of the world, how can a coherent system or framework be guaranteed? How, if the world is imagined to be causally determined matter in motion, can there be freedom? How can societies and social relations be voluntary? The result of early modern speculative anthropology—the attempt to reconcile our sense, as humans, that we are exceptional to the order of nature with a scientific view of nature which admits no such exception—was an anthropocentrism that had terrible consequences for millions of *homo sapiens* who found themselves on the wrong side of the human/non-human divide and the trillions of non-humans who were treated as one would expect given their non-human status: inhumanly.

Rejecting the medieval and ancient view that nature was purposive—that it is striving to achieve some end or goal—early moderns developed a conception of the world as matter in motion that can be understood mathematically and which can be described by laws. Such a view of the world is fine—it is orderly, stable, predictable—when limited to mere matter, but it is different when applied to living beings. Life does not appear to be orderly or stable—gardens overgrow, maggots devour rotting flesh, and humans are not especially inclined to heed the very laws they had a voluntary part in creating. As a result, it was necessary to develop a new understanding of what a human is. The first move in this attempt to define the human was to construct two distinct orders: the natural and the cultural. These distinct ontological domains divided into the realm of value-free descriptive science and the realm of culture as a source of normativity, respectively. Humans could exist (under certain definitions of existence as mere survival) in nature, but they could only fully realize their nature as free and autonomous beings in society. Thus, a distinction was required between the human (a cultural, normative being) and the non-human (a being who was nothing more than mere matter in motion). The primary obstacle to fully realizing this speculative division of the world was that the early modern and medieval views of the world turned on the difference between a world which was guided by divine intention (it was teleological) and a world which was the chaotic clash of mere matter in motion (it was non-teleological).

The normative problem with this was twofold: first, it removed humanity from the centre of divine attention and, second, it was incompatible with humanity's sense of itself as being anything but mere matter in motion.

The solution to this problem—on the one hand, mere matter in motion and, on the other hand, more than mere matter in motion—was to divide the world into two realms. The first realm, the non-human realm of nature, would be described by science, whose goal was to uncover the laws regulating the movement of matter. The second realm, the human realm of culture, would be normative and its privileged discourse would be the social and moral sciences. Thus, the early moderns could have the best of both worlds: science and morality, deterministic natural laws and freedom, nature and culture. The only condition to this arrangement was that the two domains would not and could not communicate with one another: the human, in order to stay human, had to be immunized from the non-human.<sup>1</sup> Hence, humans could be described using science, but only insofar as that description was limited to those elements humans *shared* with non-humans. For instance, humans and rocks dropped off a cliff both fall; humans and animals both eat; humans and vegetables both grow. But, these similarities could at once reinforce *and* undermine the distinction between the two. To note similarities was to undercut

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1. This is why the contemporary social sciences are always engaged in an internecine struggle between reductionism and anti-reductionism. However, the issue here is not the normative status of the human relative to the non-human, but the epistemological status of the discipline.

the distinction, but it also pointed to the ways in which the human exceeded the non-human. For instance, humans and animals both vocalize, but only humans speak; humans and rocks both fall, but only humans scream in fear when doing so. Humans, then, could be both mere matter in motion and more than mere matter in motion. So long as emphasis on this excess of the human over the non-human could be maintained, the human could be elevated above the non-human and, thus, form the basis for a new modern anthropocentrism, one which was not based upon being God's most favoured creatures, but on the basis of humans elevating themselves out of inhumanity. But, again, the anthropocentrism could only remain intact insofar as contact between the two realms was prohibited. The problem, of course, was that contact could not actually be prohibited: the human depends upon the non-human in order to live and explanatory reductionism to the natural in the realm of culture is always a temptation. Meanwhile, the temptation to humanize and anthropomorphize the non-human could never be fully eradicated: *my* dog isn't just a dog; he is *my* dog and, thus, participates in some degree of humanity. Hence, in theory, contact had to be prohibited (my dog is just a dog) while, in practice, contact proliferated (my dog is not just a dog).

## 6.2 Review

I suggested four ways that the relation between nature and culture, human and non-human was imagined in early modernity—although I did not claim that this was an exhaustive typology. Each of these imaginings were an attempt to reconcile nature, as a domain of physical laws, with culture, as a domain of freedom, and each of them led to the conclusion that in order for this division to work, humans must be exceptional; that is, set aside from the domain of nature.

With Charles Butler, I looked at how nature was held up as an ideal for societies to attain. The result, for Butler, was that animals—especially insects, perhaps the most alien sort of non-human animal—provide pedagogical and political models: some to be emulated, some to be avoided. This meant that bees, not humans, were the standard to which all communities ought to strive to attain.

For Hobbes and his successors, nature was no longer a model, but a threat to be avoided. Thus, rather than turning to nature for advice, they attempted to articulate how nature could be escaped. Hobbes proposed that nature could be denied and thereby controlled by transforming the human *animal* into the *human* animal. This entailed a strict separation between the two domains: non-humans stayed in nature, humans moved into the state, but this produced a new problem. Scientific discoveries and technological inventions could be turned on the human to

reveal the animal inside, thus demonstrating that these apparent humans were not fit for society.

Pufendorf followed a different strategy. Rather than proposing a strict distinction between the two domains, he projected society into nature, but cut off nature from society upon the formation of the state. I focused on the overlap between nature and society in the state of nature. Pufendorf goes into painful detail in an attempt to establish why humans are sociable while animals are not. However, interestingly, to demonstrate the best and worst characteristics of humans, he almost always has recourse to animal examples. Humans are murderous like wolves—why aren't humans murderous like humans? Why aren't wolves murderous like humans? Pufendorf also runs into the problem of marginal cases: fetuses, which he describes in terms more reminiscent of plants and animals than humans, are fully human; he recognizes that animal parents love their children and practice a form of marriage, but then disavows this as insufficiently human. The outcome of this very inconsistent attempt to articulate human nature is an extreme anthropocentrism.

Finally, with Locke, there is an attempt to address the presence of the non-human inside the human political community. Locke attempts to do this through his theory of property, which has its origin in the donation of dominion to Adam in the Garden of Eden and its renewal with Noah following the Flood. At issue here is *who* is given dominion and what this dominion entails. That is, is dominion

best thought of as stewardship or as domination? Does it apply to the entirety of the earth, or just some parts of it? Are humans subject to dominion, or just non-humans? Locke decides that dominion means the domination of the non-human by the human and deems this to be divinely sanctioned. I suggest that this leads to a problem. If the point of property is to enable the domination of the non-human by the human, the advent of money—which serves the purpose of getting around the wastage proviso—allows for the reversal of the relation between human and non-human: money, as an intermediary in human social relations, comes to dominate and inhumanize those social relations.

In all cases, there is an attempt to organize the world into separate domains: to put humans and non-humans in their respective places. But this attempt is always failing—humans are not always human, animals are not always animal, vegetables are not always vegetable, and matter sometimes matters. The success of this arrangement (or attempted arrangement) is always more speculative than real, even if it has real consequences for untold millions and billions of beings. None the less, the attempt to categorize beings and place them in their ostensibly proper domains cannot be avoided insofar as a distinction between nature and culture is maintained. Hence, speculative anthropology is an unavoidable, but dangerous process that has real consequences for infinite numbers of beings insofar as we remain or imagine ourselves to be modern. The good news is that the presently

accepted speculative anthropology, first articulated in early modernity, is dissolving and an opportunity exists to replace it. The bad news is that it is not the much vaunted powers of human freedom and culture as a source of normativity that has undercut the human/non-human distinction. The distinction has been undercut on the nature/science side rather than on the human/culture side. The early modern attempt to contain nature in order to free the human has failed. It turns out that there is much more non-human in the human than we humans are willing to admit.

### **6.3 Speculative Misanthropology**

The search for human nature or an essence of the species—call it humanity, if you must—is illusory. What I mean is that humanity and non-humanity are produced by the very attempt to define them and account for them. How these terms are defined and understood depends upon what is possible to think at any given time—how the world is understood to be, what life is understood to be, how life is understood to differ from non-life, how the supernatural realms are understood in relation to the mundane world, or if the existence of supernatural realms is denied altogether. The distinction between humanity and non-humanity quickly and necessarily feeds back on itself: the non-human will be found in the human and the human will be found in the non-human. So long as we insist on looking for the human, we will find the human. And, insofar as we insist on looking for the human,

we will insist on finding ways to exclude inconvenient humans—even if it means treating them as sub-human or as outright non-humans, or, indeed, enslaving them or exterminating them.

This is not to say that humanity and non-humanity are infinitely malleable. There are constraints—material, immaterial, and vital—and this is why while individual speculative anthropologists will disagree on the details, they will none the less agree on the generic conventions that determine their activity (for instance, that humanity is a real thing in the world that is also outside of natural determination) and their conclusions will have more in common with one another than differences. Speculative anthropologists will continue to seek the human—they can't help themselves—and they will find the human, but they will not be able to escape the script first written in the seventeenth century.

Looking for a new version of the human is not the solution because this search is contingent upon the ontological split between the natural and the cultural. The problem, however, is that the natural cannot be contained in its own domain: it spills over and, worse, science does not admit to any limits. Everything, in principle, is amenable to scientific description and the work of science is to replace “reasons” and “meanings” with “causes” and “explanations.” That is, science always undercuts the possibility of human exceptionalism, of human freedom, and culture as a source of normativity.

Speculation can and should be preserved, but it must change its orientation from the anthropological to the misanthropological. Whereas speculative anthropology insisted on a strict division between the ontological domains of nature and culture which were populated by, respectively, non-humans and humans, speculative misanthropology denies the possibility of any such distinction, not only between the ontological domains of nature and culture, but also between the human and non-human. It is no longer possible to sustain a belief in either nature or culture nor is it possible to sustain a belief in the human and non-human: all of these must be abandoned.

The problem with this, however, is that we are creatures who are seemingly programmed to see ourselves as exceptional. As Heidegger points out, quoted as the epigram to this chapter, everywhere man looks, man only sees himself. I do not know if it is possible to divorce ourselves from the human, but I dream that it is. I do not know what such a world would look like, but I'd like to see it. Can we train ourselves to see ourselves as unique and singular, but unexceptional? Can we train ourselves to enter into new relations with the plenitude of beings who also occupy the planet with us?

I recently read that a scientist believes he has convincing evidence that life on Earth began on Mars. "We are all Martians," the newspaper headlines read. That "life here began out there" has been a science fiction trope for a long time,

ranging from H.P. Lovecraft's *At the Mountains of Madness* to Ronald D. Moore's "re-imagining" of the "Battlestar Galactica" television series to the recent movie "Prometheus." Speculative fiction has already beat science and this speculation is already armed with a great deal of cultural currency. And, more to the point, this speculative fiction is deeply misanthropic. By misanthropic I do not mean to say that it *hates* humans, but that it recognizes that humans are not the least bit exceptional; that humanism and anthropocentrism are as fictional as Cthuluh and the Easter Bunny.

The social sciences and humanities are always being asked to justify their existence. Why should sociology departments receive funding when engineers are making space probes and business schools are finding ways to monetize your social media accounts? This is why sociologists and philosophers and science fiction authors are necessary. An astrobiologist can determine if life here came from out there, but only speculative misanthropologists can make sense of this. What if our home—Earth—is not our home? What if there is no difference between "synthetic" life and "natural" life? What if the processing powers of computers exceed that of the human brain? Charles Butler, Thomas Hobbes, Samuel Pufendorf, and John Locke were addressing the seventeenth century version of this problem. This speculative anthropology shaped modernity, but that era is passing. Speculation cannot be avoided, but it can (maybe) be directed.

Sociologists are concerned with social relations: of making sense of the world that emerges through interaction. We've erroneously thought that only humans matter, but we are right that something emerges from the constant and interminable re-iteration of relations. If we are willing to finally abandon not only the concept of society, but also of the human, we would be well situated to make sense of the plenitude of relations that happen around us, that involve us, and, sometimes, do not involve us. That is, sociology must become ecological.

An ecological sociology would recognize that so-called non-humans actively create the world around them and it would recognize that so-called humans participate in this creation. But, it would not be deceived into believing that only the work of so-called humans matters. An ecological sociology would be forced to recognize that beings are connected to one another in strange and unexpected ways—in ways that we are not prepared to accept and, indeed, not able to imagine (at least not yet). An ecological sociology would not limit itself to the dispassionate description of relations, but would imagine how these relations can be mutually beneficial: for instance, how humans can benefit from living with animals *and* how animals can benefit from living with humans. An ecological sociology, and one which is, I must add, guided by a speculative misanthropology, is the only one which can help save this world and all of its creatures from the wanton destruction wrought upon the world by early modern speculative anthropology.

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