

# Spinoza on Natural Rights

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## 0. Introduction

Underlying Jonathan Israel's book *Radical Enlightenment: Philosophy and the Making of Modernity 1650–1750* (Oxford 2001) are three broad claims, which in an admittedly crude way could be summarized as follows: 1) *Modernity* (described as a package of values like freedom, tolerance, democracy, equality) is the continuation of *Radical Enlightenment*; 2) *Radical Enlightenment* is actually *Spinozism*; 3) the contribution of *Moderate Enlightenment* to *Modernity* (in the sense explained earlier) is negligible. Although there is much reason to be grateful to Israel for unearthing a wealth of interesting material, I disagree. Unless *modernity* is used in a normative sense ('to be really modern one *should*...') it is not identical with Enlightenment, let alone Radical Enlightenment, but is also characterized by criticism of, and uneasiness with, Enlightenment — Hume (1711–1776), Kant (1724–1804), and Rousseau (1712–1778), all concerned with the limits of the Enlightenment, are closer to *Modernity* than, say, La Mettrie (1709–1751) or the Baron d'Holbach (1723–1789). Moreover, although it is arguable that *as a set or package* the values Israel holds to be representative of modernity (freedom, democracy, toleration, equality) have their source in the 18<sup>th</sup> century (individually some are definitely older), it is *Moderate* rather than *Radical Enlightenment* one should think of — Locke (1632–1704), who was anything but a *Radical* in Israel's sense, came close to having a fairly coherent and comprehensive theory of those values. Finally, any agreement between Enlightenment and *Modernity* must be situated on a highly abstract level. Although most Enlightenment philosophers defended freedom and equality and some went as far as to propagate democracy, even the most *enlightened* would not go as far as to extend toleration to atheists or gays, or equal rights to workmen, women or blacks — indeed, Locke and Bayle (1647–1706) had strong hesitations even about the toleration of Roman Catholics. Here I am more particularly concerned with Israel's interpretation of Spinoza's moral and political philosophy. I shall concentrate on the question of *rights* (particularly *natural*, or *human*, rights) if only because most of the values Israel believes are characteristic of modernity (freedom, pursuit of happiness, democracy, equality) are covered by that label.

## 1. *A Metaphysics of Rights*

According to Spinoza's *Political Treatise* we can adequately conceive (*adaequately concipere*) a finite thing without making any claim about its existence or non-existence, or, in other words, the existence of any finite thing does not follow from the concept of that thing.<sup>1</sup> Things exist and operate in virtue of the eternal power of God, who alone exists in virtue of his own power. This would make it easy to explain

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<sup>1</sup> For the following see TP ii, 2–4.

*natural right*. God's *right* is God's power in so far as it is 'absolutely free.' So each natural thing obtains from nature as much *right* as it has *power* to exist and operate:

By the Right of Nature (*Ius Naturae*) I understand the very laws or rules of nature (*ipsas naturae leges seu regulas*), in virtue of which all things happen, that is, the very power of nature (*ipsam naturae potentiam*). So the natural right of nature as a whole and therefore of every individual thing extends as far as its power. Consequently, whatever a man does in virtue of the laws of his own nature, is done with the fullest natural right; and over [the rest of] nature he has as much right as his power allows him (*quantum potentia valet*).<sup>2</sup>

Accordingly, there is a threefold metaphysical basis for natural right: 1) a thing is not its own cause; 2) it owes whatever it is to God; 3) it is free to exercise all its power. Let us have a closer look at these arguments.

According to Spinoza an *adequate concept* of finite natural things does not entail any existential claim — the existence (or non-existence) of no finite thing can be deduced from a concept of that thing. Although in itself that is fair enough, it already creates some confusion if looked at from Spinoza's own philosophy. According to Spinoza, indeed, a possible thing is neither an item of a possible world (something free from contradictions but not necessarily in accordance with the laws of the actual world), nor a simply possible item of the actual world (something not contrary to the laws of the actual world but not necessarily realized) but at best a necessary item of the actual world (although not necessarily realized *so far*) — possibility remains a purely subjective category, which follows from lack of knowledge.<sup>3</sup> Moreover, to *adequately* conceive a *particular* thing we should also have an idea of the way that thing is embedded in the actual world, that is, of the way it is actually necessary — in fact, the idea of a simply possible thing changes into the idea of a necessarily existing thing according as it grows more adequate.<sup>4</sup>

As a result, Spinoza's claim makes sense only if we assume that he is referring, not to *adequate* ideas of *particular* things, but to *universal* or *general* ideas, that is, to ideas of classes of things — a class of ideas which neither in the *Treatise on the Improvement of the Intellect* nor in the *Ethics* he is ever prepared to call 'adequate.'<sup>5</sup> Apparently we should understand *adequate* in a loose, not specifically Spinozistic, sense. Provided Spinoza's claim is interpreted in that way, it is not hard to admit that it makes some sense, or in any case that some sense can be made of it. In fact, ever since Plato it has been the standard argument on the relation between the *essence* (a universal that can be expressed in a definition) of a thing and its *existence* (the

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<sup>2</sup> TP ii, 4.

<sup>3</sup> Eth i, prop. 29, II, 70; prop. 33 (with *scholium* 1), II, 73–74. The problem is basically that Spinoza thinks of natural laws in pre-Humean terms, that is, as logically necessary rules, which follow from the nature of things. Accordingly, although it is true that God necessarily creates every possible world, any actually possible world is entailed by the actual world. In fact, God is at a disadvantage as compared to humans: Humans have their imagination by means of which they may represent many worlds they believe to be possible; God conceives only those worlds he understands to be possible. Given the fact moreover that the power of the imagination decreases according as the power of the intellect increases, God 'knows' the worlds imagined by humans only to the extent that he understands the workings of their mind.

<sup>4</sup> Cf. Eth i, prop. 11, second demonstration, II, 52–53.

<sup>5</sup> Strictly speaking they are not 'conceived' either, being produced by the imagination rather than the intellect.

instantiation of that universal in space and time).<sup>6</sup> Thus, we can form the idea of, say, the dodo, without making any claims about the existence or non-existence of dodo's. Although we may note that the dodo became extinct, the idea of the dodo as such will never allow us to deduce the creature's non-existence, which was caused by purely contingent *facts*, which have little to do with the nature of dodo's. This part of Spinoza's argument is uncontroversial.

Spinoza's second argument is that for its existence and essence each thing depends on God. If interpreted in traditional terms, that, too, is something almost any 17<sup>th</sup> century philosopher could endorse. The common theory was that God created things (*gave them existence*) by realizing a model of some kind — a world known by God to be possible. According to Spinoza, however, God is identical with nature. Moreover, both the essence and the existence of any particular thing is entailed by nature as a whole, which in turn necessarily exists the way it does.<sup>7</sup> To say therefore that the existence of natural things depends on God means that both the essence and the existence of a finite thing presuppose the world as a whole; that for every aspect of its being a finite thing or *modus* has as its precondition the totality of other finite things or *modi*.

One might call this the *equality claim*, which means that, in being possible, that is, in being a *necessary* part of the actual world, every thing has the same right to be and to do whatever it can be or do as every other thing, that is, that in terms of rights all things are equal; that man has no privileged status; that, like other things he depends on the rest of the world to realize his being; that he is not like 'a state within the state.'<sup>8</sup>

Spinoza's third argument is that *natural right* is 'free,' his argument being that God is *free*: 'given the fact that the power of every natural thing, in virtue of which it exists and operates, is the very power of God (*ipsissima Dei potentia*), which is absolutely free, every natural thing has from nature as much right as it has power to exist and operate.'<sup>9</sup> So no thing can use its power in a way which is *against natural right*; whatever a thing does is by definition *in accordance with natural right*. And that may be called the *universal legitimacy claim*.<sup>10</sup>

So Spinoza's idea of *natural right* would rest on two specific claims, which however are contrary to some fundamental intuitions:

1. With the possible exception of *animal rights* we reserve the language of *rights* (and *duties*) for *human* beings; indeed, we do not speak of a stone's duty to fall, of the gunpowder's right to explode, or the cancer cell's right to divide. And even in the case of animals the term *right* does not denote what they do, but what others (that is, we) are entitled to do to them (which is against the *equality claim*).
2. *Right* presupposes a choice of some kind or in any case the possibility of an alternative. For an act to be *legitimate* an *illegitimate* alternative should at

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<sup>6</sup> TIE §52–55, II, 19–21.

<sup>7</sup> Eth i, prop. 25, II, 67; cf. prop. 17, schol., II, 63; CM i, 2, I, 238.

<sup>8</sup> Eth iii, praef., II, 137.

<sup>9</sup> TP ii, 4.

<sup>10</sup> Both the equality claim and the universal legitimacy claim figure in various ways in Spinoza's work; see especially Eth i, prop. 33, schol. 2 (II, 74–76).

least be conceivable; for an act to be *right* a different, and *wrong*, act should be possible (which is against the *universal legitimacy claim*).

That the notion of *natural right* is highly problematic from Spinoza's point of view becomes even more clear if we examine the details. In the passage under consideration Spinoza apparently interprets the relation of God and things as one of whole and parts rather than substance and properties; otherwise he could not conclude from the freedom of God to the natural freedom of things and beings.<sup>11</sup> *Properties* (qualities, *modi*) usually do not themselves have the properties which they denote — yellowness and roundness are not themselves yellow and round; *parts* however must share some properties at least with the *whole* of which they are parts — an arm and a leg are extended, consist of living tissue, etc., like the body to which they belong. The only thing is that that does not work with freedom. A part of a free agent is not itself free — even if I am free my arm or my nose are not free; indeed, if they were that would diminish my control over them and as a result my freedom. So the fact that God is free does not imply that parts of God are also free. That much is clear, they cannot be free in the same sense in which God is free. God is *free* to the extent that he 'exists in virtue of the necessity of his own nature.'<sup>12</sup> The very finitude of a thing, however, entails its being dependent on other things, that is, its being essentially unfree.

More particularly, *right* and *legitimacy* presuppose the existence of a *norm*, with which things may or may not conform. But Spinoza cannot accommodate that notion at all.<sup>13</sup> In fact, one of Spinoza's main points, not only in the *Ethics* but also in the *Theologico-political Treatise*, is that God cannot be a lawgiver; that all things enjoy all the perfection they can enjoy, that is, that they have all the reality they can have.<sup>14</sup> Moreover, if we are to speak of *natural right*, that norm should be provided by the order of nature, which is a notion Spinoza cannot accommodate either.<sup>15</sup> To be sure, the world is ordered in the sense that it is subject to uniform and intelligible laws; but not in the sense that over and above those laws it would display an order of a moral or teleological kind. In brief, the notion of *natural right* seems incompatible with Spinoza's metaphysics.

## 2. *Natural Rights*

In a general way a *right* can be defined as a *legitimate power* (or *claim*, or *privilege*, or *immunity*).<sup>16</sup> A *natural right* is held as the effect, not of a positive law, but of the fact that mankind forms a moral community. A natural right does not depend on

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<sup>11</sup> The language of whole and parts is used in TTP, xvi, 2, III, 189; see also the comments of Jonathan Bennett, *A Study of Spinoza's Ethics*, Indianapolis: Hackett, 1988, 92–96. The argument as it is given in the *Political Treatise* is obviously elliptic. It could be interpreted as I do in the text but it could also have the simply negative meaning that, given the fact that God is not a lawgiver, no norm can be given.

<sup>12</sup> Eth i, def. 7, II, 46; prop. 17, cor. 2, II, 61.

<sup>13</sup> The notion of norm is used only in the epistemological context of the *Treatise on the Improvement of the Intellect* (TIE §38, II, 15–16; §§43–45, II, 17). A true idea is used as *norm* of true and false in the sense that any idea that is evidently true (say A) divides the totality of all ideas into two classes: those which agree with A (which therefore are possibly true) and those which do not agree with A (which therefore are certainly false).

<sup>14</sup> For all this see my *Spinoza's Theologico-political Treatise: Exploring "the Will of God."* Aldershot: Ashgate, 2003.

<sup>15</sup> Eth i, app., II, 82.

<sup>16</sup> For the following see Jack Donnelly, *The Concept of Human Rights*, London: Croom Helm, 1985.

positive law; indeed, it can overrule positive law. Still, natural rights are not enjoyed ‘naturally’ in the sense of ‘automatically’ — they must be protected and usually are protected by positive law. The reason why we expect the state to protect human rights is precisely because human rights are threatened, not by people acting individually, but by states. So a discussion of natural rights should concentrate on these two points: 1) why are there any specifically *human* rights; 2) why do those rights overrule the right of the state? Let us see how these questions are dealt with by Spinoza.<sup>17</sup>

According to Spinoza *good* and *evil* are no more than a measure of the utility of a thing (situation, act) as compared to other things.<sup>18</sup> Moreover, all conscious willing is no more than the mental manifestation of a more fundamental drive, which Spinoza calls *conatus* — that is, the attempt to preserve oneself.<sup>19</sup> To ‘will’ something therefore is the rationalization of a drive which in itself is neither rational nor even necessarily conscious (it is only in so far as we are conscious of our desires that we call the *conatus* ‘will’).<sup>20</sup> In any case, reason cannot be the source of natural right:

If human nature were such that men would live only in accordance with the precepts of reason, than *natural right as proper to the human species would be determined only by the power of reason*. Actually men are led by blind desire (*cupiditas*) rather than reason, so man’s natural power, or right, is not determined by reason but by any motive that makes him act and by which he tries to preserve himself.<sup>21</sup>

This theme receives many variations. Thus, in the *Theologico-political treatise*: ‘Men are not naturally determined to act in accordance with the rules and laws of reason but are born in complete ignorance of them; before they have learnt to live in the right way and acquired the habit of virtue, the greater part of their life is over.’<sup>22</sup> Or also: ‘Nature is not restricted (*intercluditur*) to the laws of human reason, whose only aim is the utility and conservation of men, but to countless other laws, which relate to the eternal order of nature, of which man is but a small part.’<sup>23</sup> Rationality is neither universal nor privileged: ‘Wise or ignorant, man is always part of nature, so whatever makes him act must be referred to the power of nature, in so far as this is defined by the nature of this or that man’<sup>24</sup> — that is, by each man’s *conatus*. As a result, natural

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<sup>17</sup> Of course, it would be absurd to expect any 17<sup>th</sup> century philosopher to have a modern theory of subjective natural rights. However, the roots of that theory are located, according to some, at the end of the 12<sup>th</sup> century; cf. Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law 1150–1625*, Grand Rapids: Eerdmans, 2001. In any case, Locke came close to having a theory comprehensive enough to eventually form the basis of some of the classic documents of subjective and human rights like the *Declaration of Independence* (1776) and the *Déclaration universelle des droits de l’homme et du citoyen* (1787). So at the beginning of the 17<sup>th</sup> century a conceptual apparatus was available, which Spinoza could have used. In fact, his first priority is to repudiate it.

<sup>18</sup> ‘Maar aangezien dat goet en kwaad niet anders is als betrekkinge, zo ist buyten twyffel datze onder de *entia rationis* moeten geplaatst worden, want nooyt zeid’ men dat iets goet is, ten zy in opzigt van iets anders, dat zoo goet niet en is, of ons niet zoo nuttelyk als iet anders.’ KV i, 10, I, 49; Mignini 0000

<sup>19</sup> Eth iii, prop. 6, II, 146.

<sup>20</sup> Eth iii, prop. 9; prop. 10, schol., II, 148.

<sup>21</sup> TP ii, 5 (my italics). ‘Each man’s natural right is determined, not by sound reason, but by his desire and power’ (*cupiditate et potentia*). TTP xvi, 3, III, 190.

<sup>22</sup> TTP xvi, 3, III, 190.

<sup>23</sup> TTP xvi, 4, III, 190–191.

<sup>24</sup> TP ii, 5.

law forbids ‘no quarrel, no hatred, no anger, no deceit — in sum, nothing what inclination (*appetitus*) inspires.’<sup>25</sup>

That all this is directed against the theory of natural right is obvious. It is not clear, though, what precise point Spinoza wishes to make, not only because he uses the word *natural right*, but also because he often refers to *dictates of reason*, *guidance of reason* or *rules of reason*, which, like *natural right* itself, are typical ingredients of the natural right language.<sup>26</sup> Spinoza’s point could be that, *as a matter of fact*, reason does not play a very important role in most people’s lives and that quite often it does not play any role at all. But, presumably, neither Grotius (1583–1645) nor Hobbes (1588–1679) would be much impressed by that argument, their own point being, not that, *as a matter of fact*, man invariably uses reason, but that he *should* use reason — according to Grotius because right reason (*recta ratio*) is the source of moral intuitions; according to Hobbes because calculating reason allows us to avoid total destruction. Grotius even explicitly allows for a tension between *individual* human nature, which may be evil, and human nature as a *universal*, which requires us to be just.<sup>27</sup>

Spinoza undermines this view in at least three different ways.<sup>28</sup> By claiming that every human is permanently and necessarily preoccupied with the preservation of his own being (*conatus*), he suggests first of all that the essence of man is not reason, but *conatus*. But obviously *conatus* is the essence of, not just humans, but all things — indeed, *conatus* is the actual essence (*essentia actualis*) of any finite thing.<sup>29</sup> So, again, Spinoza’s main point might just be that man is nothing exceptional; that the laws that apply to him are no different from the laws that apply to other things.

Moreover, according to Spinoza, reason is instrumental.<sup>30</sup> Reason is not itself a motive but is subservient to other motives, that is, to desires and passions, which in turn are rooted in the *conatus*. So people ‘will’ or ‘desire’ things, never because they are prescribed by reason but only because their body attempts to retain or improve its condition (the success of which is perceived as *pleasure* and called *good*).<sup>31</sup> At best, reason indicates the ways in which a *good*, that is, something believed to be a maximum of pleasure, can be reached.<sup>32</sup> In sum, rational behaviour achieves what it is intended to achieve because it is supported by a sound judgment.

And, finally, by identifying right with *conatus*, that is, by deriving a thing’s natural right from its power to exist and operate (which is different in each individual being), Spinoza implies that rights are not equal. A fly has less power to exist than an

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<sup>25</sup> TP ii, 8.

<sup>26</sup> Eth iv, prop. 35, II, 232; prop. 65–66, II, 259–260; app. cap. 25, II, 272–273; v, prop. 10, schol. II, 287–288; prop. 20, dem., II, 292; prop. 41, dem., II, 207.

<sup>27</sup> *De iure belli*, prol. 22, p. 9 (ed. Molhuysen)/I, 97 (English translation, ed. Tuck).

<sup>28</sup> *De iure belli ac pacis* is not among the books in Spinoza’s library, although it does contain two other books by Grotius. Spinoza certainly knew Hobbes’s *De cive* and *Leviathan*; see my *Spinoza’s Theologico-political treatise*.

<sup>29</sup> Eth iii, prop. 7, II, 146; also called ‘given essence’ (*essentia data*), iv, prop. 4, dem., II, 213. For the term *actual essence* see also Suarez, *Metaphysicae disputationes* xxxi, 2, 11 (Heidelberg: Olms, 1965, II, 232). What is meant (by Suarez in any case) is the essence of a thing, not as eternally given (as an idea or universal) but as a dynamic principle which explains the behaviour and the various properties of a thing.

<sup>30</sup> Here Hobbes would agree, of course.

<sup>31</sup> Eth iii, prop. 9, schol., II, 148; prop. 11, schol., II, 148–149.

<sup>32</sup> This is explained in two pairs of propositions and corollaries of the *Ethics*: Eth iv, prop. 65–66 (with corollaries).

elephant, so has less natural right to exist; a rich and healthy man has more power, that is, more right, to exist than someone who is poor and sickly; men (males) have more power than women and children, so have more right, etc.

Now does this allow an adequate justification of human right? Indeed, does this leave room for *human right* as it is commonly used? *Natural* (or *subjective*, or *human*) rights can be justified in two ways: either with reference to the particular dignity of humans (*status approach*), or with reference to the consequences (*consequentialist* or *instrumentalist* or *utilitarian approach*) of respecting them.<sup>33</sup> Let us first deal with the *status approach*.

### 3. *The status approach*

The status approach, more particularly the idea that man enjoys a specific dignity by which, as a *species*, he distinguishes himself from the rest of nature and which, moreover, is equal for all human beings, is typical of the natural right tradition. According to Grotius what distinguishes men from animals is that in man the instinct of self-preservation is supplemented by moral intuitions, rooted on one hand in man's social nature, on the other in his capacity of reason, that is, of thinking in general terms. In his view this makes it possible for men to devise general rules and principles and apply them, not only to others but to themselves. For even though animals sometimes also 'forget a little the Care of their own Interest, in Favour either of their young ones, or those of their own kind,' Grotius attributes this to 'some extrinsic intelligent Principle' (that is, God), because animals 'do not shew the same Dispositions in other Matters, that are not more difficult than these.'<sup>34</sup> By identifying *Laws of Nature* with *Laws of Reason*, Hobbes, too, acknowledges the specific status of humans as moral beings: Not only do Laws of Nature cover human behaviour only; their outcome depends on an act of judgment. Basically that is what one finds in almost all moral theorists up to Kant (1724–1804).<sup>35</sup> According to Locke, for example, the Law of Nature, that is, Reason, '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>36</sup> But even the idea of many French philosophers, that the organ and source of natural right is *sensibilité* rather than *raison*, more or less fits this pattern.<sup>37</sup> By relying on sensibility and elevating compassion to a rank of moral dignity, one recognizes that sensitive beings are not things; that they deserve special treatment. And in a different way the notion that man enjoys a specifically moral status finally found expression in Kant, who claims that the fact of being able to subject oneself to a general rule gives man *Würde* (moral

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<sup>33</sup> See Leif Wenar, 'Rights.' *The Stanford Encyclopedia of Philosophy* (Winter 2005 Edition), Edward N. Zalta (ed.) (URL = <http://plato.stanford.edu/archives/win2005/entries/rights/>).

<sup>34</sup> *De iure belli*, prol., 7, p. 5/Tuck I, 82–83.

<sup>35</sup> Cf. Richard Tuck, *Natural Rights Theories: Their Origin and Development*, Cambridge: Cambridge University Press, 1979; Knud Haakonssen, *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment*, Cambridge: Cambridge University Press, 1996; T.J. Hochstrasser, *Natural Law Theories in the early Enlightenment*, Cambridge: Cambridge University Press, 2000.

<sup>36</sup> *Second Treatise of Government* ii, 6.

<sup>37</sup> Cf. Jean Ehrard, *L'idée de nature en France dans la première moitié du XVIII<sup>me</sup> siècle*, Parijs: SEVPEN, 1963; Robert Mauzi, *L'idée du bonheur dans la littérature et la pensée française au XVIII<sup>me</sup> siècle*, Paris: Armand Colin, 1960 (reprint 1979).

dignity).<sup>38</sup> Reason (*Vernunft*) turns humans into *Zwecke an sich* (aims in themselves); into persons (*Personen*) instead of things.<sup>39</sup>

Obviously, the *equality claim* makes it impossible for Spinoza to adopt the status approach. By identifying natural right with *conatus*, that is, with what man has in common with other finite beings, Spinoza rejects this approach as explicitly as he can. According to him, indeed, the status of men is not different from other natural things — and although this may be a useful lesson, also from a moral point of view, it makes it impossible to use man's specific status and dignity as the foundation of moral judgments. But perhaps we should not dismiss the status approach too easily on behalf of Spinoza. For to the extent that Spinoza allows for a special relation of man to God, which he calls *intellectual love*, he does seem to provide human beings with an exceptional status; indeed, it is also in the context of intellectual love that he most often reverts to *normative* or *quasi-normative* language. Speaking of the *Divine Law*, for example, he claims that, 'given the fact that *the best part of ourselves* is the intellect, it is certain that, if we really wish to pursue what is useful, we must try above all to perfect it as much as we can; for in its perfection must reside *our highest good*.'<sup>40</sup> So the fact that we have an intellect, which is also 'the best part of ourselves' gives us a special mission, perhaps not with respect to others but in any case with respect to ourselves — it is only by cultivating the intellect that we reach the *highest good*. It seems, therefore, that the intellect is not only a distinctive feature of human beings but also what allows them to achieve a peculiar kind of perfection which is not available to other beings. As a result, we should perhaps come back on our claim that Spinoza cannot accommodate the status approach.

Needless to say that this theory is controversial and difficult to interpret.<sup>41</sup> Fortunately, the only question that detains us here is whether this doctrine provides new grounds for justifying and accommodating natural rights and duties. To be perfectly clear, the question here is not whether this doctrine is consistent with the rest of Spinoza's philosophy — I am not sure that it is. Nor is it whether the wise, who achieve this state of intellectual perfection, are virtuous, that is, whether the wise habitually do things that are 'beneficial to others' — I suppose they do.<sup>42</sup> The only question is whether the injunction to cultivate our intellect can be understood to entail, directly or indirectly, the *moral* duty to apply to ourselves the same rules as to others.

What is central in all texts concerned with *intellectual love* and *beatitude* is the notion, not of reason (*ratio, reeden*), but of intellect (*intellectus, verstand*). Reason is the instrumental faculty of discursive thinking and of forming general ideas, which, unless it is supported by some form of intuitive awareness, provides no absolute certainty. Although, presumably, reason is a distinctively human feature, it is rooted in the imagination. General ideas and principles, as well as *entia rationis* like time and number, help the imagination to comprehend and compare many different things at the same time. Although they certainly help to conjure the confusion of having to deal with a great number of objects at the same time, they are themselves the source of other confusions because they cannot be *clear and distinct* — indeed, it is realized too

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<sup>38</sup> *Metaphysik der Sitten* ('Tugendlehre'), §38, ed. Weischedel, IV, 600–601.

<sup>39</sup> *Grundlegung zur Metaphysik der Sitten*, 2. Abschn., ed. Weischedel, IV, 59 sqq.

<sup>40</sup> TTP iv, 4, III, 59 (my italics).

<sup>41</sup> 'After three centuries of failure to profit from it time has come to admit that this part of the Ethics has nothing to teach us and is pretty certainly worthless.' Bennet, *A Study of Spinoza's Ethics*, p. 372; 'it is rubbish which causes others to write rubbish.' p. 374.

<sup>42</sup> Spinoza's image of the sage bears a strong relation to the Plotinian ideal of wisdom.

little that apart from *entia rationis* like time and space (which are not ideas anyway) the ideas of reason are not clear and distinct, much less clear and distinct in any case than many false ideas of the imagination.<sup>43</sup> The intellect on the other hand has its own laws, which are not those of the body, and is active.<sup>44</sup> It is by *forming* intellectual ideas that we can achieve intuitive awareness (*cognitio*).<sup>45</sup> Classic examples are mathematical figures, which, provided they are constructed as dynamic entities, make us intuitively aware, not only of an object (a circle or a triangle), but of its hidden properties (to be expressed and demonstrated in propositions relating to circles and triangles).<sup>46</sup> Ultimately, therefore, all certainty must be grounded in an idea of this kind, the most eminent being, of course, the idea of God.<sup>47</sup>

The intellect is also morally significant. According to the *Short treatise*, the moral knowledge provided by reason is *ineffectual* because reason is overruled by *evil passions* — something Spinoza explains by the fact that we are too much attached to the body. However, if we know God by means of the intellect, we know him intuitively. Moreover, if we know him that way, we cannot but see that he is infinitely more perfect than the body and start loving him. Accordingly, love of God detaches us from the body and allows us to overcome the evil passions. In sum, intellectual love of God makes it possible for us to practice virtue — a doctrine which, in a slightly modified form, is restated in Pt V of the *Ethics*.

If *right is power* intellectual love undoubtedly provides a specific *right*, to the extent that it makes it possible to overcome the evil passions, that is, to achieve virtue or self-control. According to Spinoza this is ‘the highest good,’ that is, a good which, once it is enjoyed, cannot be exchanged for any other good. However, it is by no means clear to what extent virtue includes more than autonomy. Moreover, the wise, to whom this type of intellectual and moral perfection is reserved, are few and far between. Spinoza never suggests that the road to wisdom is easy — on the contrary, it requires great assiduity. Finally, although the wise prefer the civil society to the state of nature (if only to protect themselves against the aggression of other people and animals<sup>48</sup>) they could, in principle at any rate, retain their condition of eternal bliss even among the horrors of the state of nature.

If Spinoza’s justification of human rights depend on this particular ideal of wisdom, this would mean that his position is even more peculiar than that of Christians like Grotius and Locke. In any case it is difficult to see how an approach to Spinoza’s conception of rights along this way can be reconciled with the idea of his

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<sup>43</sup> ‘If we do not make a distinction between the imagination and the intellect we believe that whatever we imagine easily is more clear and therefore better understood, whereas all we actually do is to have an image of something.’ TIE §0000, II, 33. The idea (image) of Santa Claus is clear and distinct; it becomes confused only if we believe that Santa Claus exists, or rather, we become confused if we have to explain how this figure is embedded in the actual world; TIE, §0000, II, 24. The *general* idea of *thing* or a *being* or the *abstract* idea of *being* or *existence* is not clear and distinct at all but confused and obscure; TIE §55, II, 20–21. The fact that *clearness and distinctness* as such is not a criterion for truth is also Spinoza’s reason for rejecting the first ‘sign’ usually alleged to warrant prophecy; TTP ii, III, 31; cf. *Spinoza’s Theologico-political Treatise*, chap. 3.

<sup>44</sup> TIE §108, II, 38–39. The distinction between reason and the intellect is fundamental; cf. TIE §90, II, 33; Eth ii, prop. 49, schol., II, 131.

<sup>45</sup> The notion of an intellectual idea comes close to that of ‘adequate cause’ (*causa adaequata*); Eth iii, def. 1, II, 139.

<sup>46</sup> TIE §96, II, 35; cf. §92, II, 34.

<sup>47</sup> TIE §75, II, 28–29; TTP i, 2, III, 15–16; iv, 4, III, 59–60; Eth ii, prop. 45–47, II, 127–129.

<sup>48</sup> TTP iii, 5, III, 46–47.

being ‘radically enlightened.’ It seems, then, that Spinoza cannot accommodate the status approach. Indeed, in so far as man has a specific status he seems to consider it politically irrelevant.<sup>49</sup> Let us see whether Spinoza fares better with the consequentialist approach.

#### 4. *The consequentialist Approach: Natural Rights and State Rights*

According to most 16<sup>th</sup> and 17<sup>th</sup> century theorists the civil society is based on some form of agreement or contract. In this way they emphasize the double nature of civil society as that by which man emancipates from nature (the civil society is a creation of reason), but also fulfills a natural need (without some form of institutionalized trust man cannot survive). Accordingly, even though for most natural rights theorists the state draws its justification from a moral principle, its consequences are not irrelevant to its justification — indeed, for someone like Hobbes the consequences overrule all other considerations. Spinoza is sceptical about this construction. Even though he concedes that a society could be formed in this way, this is at best the exception.<sup>50</sup> The rule is that the state is created and maintained by force. In Spinoza’s view that is even the main difference between himself and Hobbes:

In political matters the difference between Hobbes and me is that I stick with natural right throughout and believe that the Magistrate of a town has only as much right over his citizens as his power exceeds their power — as happens everywhere in nature.<sup>51</sup>

Civil society and the state (which Spinoza does not really distinguish) are part of nature. What distinguishes the state from the so-called state of nature is that it is based on a redistribution of *natural right*, that is, of *power*. In the state of nature power is divided over as many heads as there are people whereas in a civil society there is a double concentration of power: in the sovereign, who has enough power to impose his will on the people, and, *as a result of this*, in the people, who, because they live under a common rule, form a unity and therefore acquire a collective power, which was impossible in the state of nature.<sup>52</sup>

So even a people governed by a tyrant would have more power (and therefore more right) than it used to have when it lived in the state of nature; inversely, sovereign right (that is, the sovereign’s power) would by definition always be limited by the right (that is, the power) of the people: ‘the sovereign’s right is nothing but natural right, limited, however, not by the power of every individual but of the multitude in so far as it is guided by one mind as it were.’<sup>53</sup> As long, therefore, as the people are of ‘one mind’ their power always exceeds that of the sovereign. The ultimate threat of each government are its own citizens, who eventually may use their collective power to overthrow it.<sup>54</sup> In any case, no sovereign right can be absolute — a claim obviously meant as a gloss on contemporary theories of absolute sovereignty.

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<sup>49</sup> That at any rate seems to be the point of the claim that the aim of human laws (that is, positive laws) is completely different from that of the divine law (that is, the injunction to cultivate our intellect); TTP iv, 5, III, 61; and that ‘animi enim libertas, seu fortitudo, privata virtus est, at imperii virtus securitas.’ TP i, 7; cf. ii, 22; iii, 10.

<sup>50</sup> See my book *Spinoza’s Theologico-political Treatise*, chap. 5.

<sup>51</sup> Ep 50, IV, 238–239.

<sup>52</sup> TP iii, 3, III, 285.

<sup>53</sup> TP iii, 2.

<sup>54</sup> TTP xvii, 4, III, 203–204.

The notion of (absolute) sovereignty had been introduced in reaction to the political effects of the Reformation, which turned religion into a source of revolution and civil war (France, Germany, the Netherlands, England). What was needed in the eyes of Bodin (1530–1596) and later Hobbes was a sovereign with *absolute* power, able to impose a settlement and maintain peace, without having his authority limited or undermined by the Church, the Judiciary, the Army, etc. One may presume that in a general way that theory was supported by Spinoza as well; in fact he explicitly endorses the two main points of the theory, namely, that it is essential that the sovereign alone be entitled to fix the norms of good and evil; and that there can be no division of power.<sup>55</sup> At the same time, as a careful reader of Machiavelli (1469–1527) Spinoza must have realized that power alone can never be enough; that to keep it a ruler has to take into account the social, historical and psychological realities of the moment. Accordingly, he concludes that, being the power of a finite being, sovereign right is essentially finite.

Spinoza concedes nonetheless that a sovereign may come very close to enjoy absolute power: ‘Even though the idea of the sovereign’s right over everything and of the surrender of the individual’s right to the sovereign is in accordance with practice and though practice can be so instituted that it approximates our idea considerably, it must remain in many ways purely theoretical.’<sup>56</sup> In any case, sovereign power is typically power over others (*potestas*). It consists not only of intrinsic power (physical power) but also of authority, that is, respect (hope, fear) on behalf of those over whom power is exercised. To acquire and to keep his power the sovereign must keep in mind a certain number of rules. In the *Political Treatise* Spinoza presents three main rules:

1. ‘In the same way as in the state of nature the man who is led by reason is most powerful and most independent (*sui juris*), so, too, that state (*civitas*) will be most powerful and most independent which is based on, and guided by, reason.’
2. ‘Subjects are dependent, not on themselves, but on the state only in so far as they fear its power or threats or as they love the constitution (*status civilis*); whence it follows that such things as no rewards or threats can induce one to do do not fall within the right of the state.’
3. ‘Things do not belong to the right of the state in so far as they cause indignation in the majority.’<sup>57</sup>

What is the meaning of those rules? Should they be seen as prudential, to be used by everyone who wants to preserve his power? Or are they normative and require the ruler to respect higher moral or legal principles? Again, we should keep in mind, not only that right is power, but also that the sovereign may use any means within his power to enforce obedience: ‘The power of the state is not simply that it can force people by the force of fear but generally by anything it can use to enforce obedience; indeed, it is not the reason for obedience but obedience that turns one into a subject.’<sup>58</sup> Bearing that in mind, let us have a closer look.

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<sup>55</sup> TTP xviii, 6, III, 226; TP iv, 1–2. For the second point see TTP xvi, 8, III, 193 and all of chap. xix; cf. TP iv, 1–4.

<sup>56</sup> TTP xvii, 1, III, 201.

<sup>57</sup> TP iii, 7–9.

<sup>58</sup> TTP xvii, 2, III, 202.

To understand the first rule one must realize that reason is not a source of moral intuitions but an instrument. So if Spinoza claims that the state must be based on, and guided by, reason, this is strictly meaningless as long as we do not know *to what end* reason should be used. In the remainder of the section Spinoza insists on the unity of the state — for the state, apparently, the main condition for survival is its unity. So the rule of reason implies that the sovereign should employ all the means he has at his disposal to preserve the unity of the state, that is, the sovereign should do whatever he can to prevent the desintegration of the commonwealth. This is the most general rule — the other two indicate some of the means by which this can be achieved.

The second rule draws attention to the fact that the means available to the sovereign are severely limited: either he uses hope and fear or he must rely on love of the government (*amor status civilis*).<sup>59</sup> Accordingly, if the sovereign wants to impose a rule, he must be certain that it can be imposed by those means. His guide must be the *majority*:

For the fact that a fool or a madman (*stultus aut vesanus*) can by no rewards or threats be induced to execute orders, or that some individual (*unus aut alter*), because he is attached to this or that religion, judges the rights of the state worse than any possible evil, in no wise annihilates the rights of the state, when (*quandoquidem*) most other citizens respect them. And so, according as those who are without fear or hope are independent (*sui juris*), they are enemies of the state (*imperii hostes*), which it is permitted to restrain by right.<sup>60</sup>

Accordingly, there is no fixed rule, as long as the sovereign actually achieves his aim, which is the preservation of unity and peace.

The third rule, finally, warns the ruler that impopular measures will cause the people to conspire together, ‘either out of common fear or of the desire to avenge a common hurt (*damnum aliquod commune*).’<sup>61</sup> In sum, however great the physical power a ruler has at his disposal (army, police), his position remains vulnerable.

This last rule in particular comes close to providing a consequentialist justification of natural rights: the sovereign will keep his power only when he listens to the will of the people. It certainly makes sense from Spinoza’s own point of view, because, if right is power, the *people* have rights only to the extent that they have power and that their power is recognized by the sovereign. To actually enjoy those rights, however, they should form a unity (for it is only to the extent that they are ‘guided as it were by one mind’<sup>62</sup> that they limit the power of the sovereign). It is but too clear, however, that that leaves very little room for the rights of *individual* citizens. On his own a citizen has no right at all, given the fact that his power is completely negligible: ‘Wherever men have common rights and all are guided by one mind as it were, it is certain that each of them has less right according as the others collectively have more power than he has; in other words, he has no more right over nature apart from what common right concedes him.’<sup>63</sup> The only *individual* right

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<sup>59</sup> For the meaning of *status civilis* see TP iii, 1.

<sup>60</sup> TP iii, 8.

<sup>61</sup> TP iii, 9.

<sup>62</sup> TP iii, 2.

<sup>63</sup> TP ii, 16.

a citizen may enjoy under all circumstances (if he can) is, again, the right to think. This is what Spinoza means when he claims that one cannot transfer all one's rights:

For nobody ever will be able to transfer his power, and consequently his right, so completely that he ceases to be human; nor will there ever be a sovereign who manages to have all things done as he wants them. In vain he would command a subject to hate someone who has obliged him by a favour; to love someone who has done him wrong; not to be offended by offenses or not to desire to be free from fear — and other such things as necessarily follow from human nature.<sup>64</sup>

Thinking is an inalienable or even a specific right. But that right, too, can be transferred or fail to be exercised. People can be unable to use their mental capacities; or they can be deceived.<sup>65</sup> Moreover, the fact that, as Spinoza claims, nobody can be forced 'to hate someone who has obliged him by a favour; to love someone who has done him wrong; not to be offended by offenses or not to desire to be free from fear' is hardly a sign of *freedom* — it can also be used to increase the sovereign's power:

He has another under his authority who holds him bound or has taken from him arms and means of defence or escape or inspired him with fear or so attached him to himself by past favour that the man obliged would rather please his benefactor than himself and live after his own. He that has another under authority in the first or the second of these ways holds but his body, not his mind. But in the third or fourth way he has made him dependent on himself the mind as well as the body of the other; yet only as long as the fear or hope lasts for upon the removal of the feeling the other is left independent.<sup>66</sup>

In fact, the commonwealth has the duty to control minds because obedience and respect are 'not so much a matter of outward act as an internal act of the mind.'<sup>67</sup> If the sovereign does not want to rely exclusively on his power he must control the feelings and opinions of his subjects because only 'he who wholeheartedly resolves to obey another in all his commands is fully under another's dominion and consequently he who reigns over his subjects' minds has the most powerful dominion.'<sup>68</sup> This is not beyond the bounds of the possible: 'There is no absurdity in conceiving men whose beliefs, love, hatred, contempt and every single emotion is under the control of a sovereign power,' even if 'command cannot be exercised over minds in the same way as over tongues.'<sup>69</sup> Accordingly, the question is not what the sovereign *is allowed* to do or what he *should* do, but what, without damage for himself and for the state, he *could* do — which in turn depends, not only on the historical circumstances, but also on his own skills.

The inalienability of the right to think does not entail at any rate the impossibility of control. Thus, chap. xix of the *Theologico-political Treatise* is entirely devoted to the various ways in which the sovereign should try and gain control over religion. Those who claim independent authority for the Church 'make a division of

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<sup>64</sup> TTP xvii, 1, III, 201.

<sup>65</sup> TP ii, 11.

<sup>66</sup> TP ii, 10.

<sup>67</sup> TTP xvii, III, 202.

<sup>68</sup> TTP xvii, III, 202.

<sup>69</sup> TTP xvii, III, 202.

sovereignty, paving the way to their own supremacy.<sup>70</sup> Sovereigns are interpreters and guardians of all law, whether of reason, nature or God: ‘justice and in sum all the precepts of true reason, including charity towards one’s neighbour, acquire the force of law and command only from the right of the state, that is [...] from the decree of those who possess the right to command.’<sup>71</sup> However, since ‘it is the duty of the sovereign alone to decide what is necessary for the welfare of the entire people and the security of the state, and to command what he judges to be necessary, it follows that it is also the duty of the sovereign alone to decide what form piety towards one’s neighbour should take, that is, in what way every man is required to obey God.’<sup>72</sup>

### *Conclusion*

Although Israel is right in claiming that Spinoza’s metaphysics is *radical* in the sense that it breaks with all *traditional* moral and religious concepts there is little reason to follow him in his assessment of Spinoza’s social and political philosophy as *radical*. Not only is Spinoza personally opposed to all kinds of revolution (TTP xviii); there is in his works not a trace or element of the political ideology which after 1750 would lead to the great revolutionary movements which shaped the modern world. That ideology was based on the notion of natural rights, that is, rights which it is the duty of the state to protect and promote — indeed, in the eyes of 18<sup>th</sup> century revolutionaries the only reason why there is a state is to protect those rights, define their mutual relations and prevent them from being exercised in a way that would be detrimental to others. Philosophically and ideologically, however, those rights were based on the recognition of the specific dignity of man. The *consequentialist* or *utilitarian* argument, on the other hand, which is the only one available to Spinoza, became useful only against the background of the arguments developed by the early economists, who created the notion of *spontaneous order* — that is, the unintended social order which is the result of economic behaviour.<sup>73</sup> This also allowed a different view of the passions, which no longer had to be seen as essentially disorderly — indeed, it is through the passions (desire, vanity, jealousy, etc) that spontaneous order could arise. Viewed from this perspective Spinoza’s social and political philosophy is, if anything, pre-modern.

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<sup>70</sup> TTP xix, III, 228; cf. xix, III, 235. This ‘seditious’ (xix, III, 234) opinion was of course universally rejected by the theorists of absolute sovereignty.

<sup>71</sup> TTP xix, III, 230.

<sup>72</sup> TTP xix, III, 232.

<sup>73</sup> Cf. Lisa Hill, *The passionate Society: The social, political and moral Thought of Adam Ferguson*, Berlin/New York: Springer, 2006.