

Commentary on “Hume’s Natural History of Justice: Social Exchange and Self-Control,” by Mark Collier, (Hume Society Conference, August 2008)
Jennifer Welchman

I want to thank Mark Collier for his very interesting paper and say at once that I fully endorse his suggestions that Hume’s treatment of female chastity deserves more attention than it has received from Hume scholars and that the same may be said of the emerging fields of neuro-economics and experimental game theory. My endorsement of these is in no way diminished by my hesitation about some of Collier’s conclusions.

As Collier notes Hume explains the origin of justice and fidelity as products of strategic reasoning motivated by self-interest and sympathy with others. We realize that it is in our self-interest to develop and respect practices stabilizing possession of vital resources and our self-interested, or ‘natural,’ motivation, is seconded by our sympathetic appreciation of others’ approval for them. We also realize that developing and conforming to systems of contractual exchange of goods and services serves our own self-interest, and again our natural self-interested motivation to be faithful to our contracts is seconded by a moral motivation rooted in sympathy.

But our acquired dispositions to justice and fidelity are opposed by our natural tendency to discount future goods and evils in favor of more immediate ones. Your corn will be ready today, mine tomorrow. It is in both your immediate and long-term interest to agree to help me harvest my corn tomorrow in return for my help today. But tomorrow morning, when your corn is safely in your barn, it will no longer be in your immediate interest to help me. How am I to be assured that your natural tendency to discount the future evils of renegeing on your contract will not prove efficacious?

If you are a near neighbor or relation, I may be able to punish your defection so nearly immediately as to block your tendency to discount the future. Or a similarly nearly immediate prospect of suffering sympathetically from my disappointment may be sufficient to achieve the same result. But in large, complex societies, we are often strangers to one another – how then can we be assured that we will not be the losers in relying on others to be just or to be faithful to agreements about non-simultaneous exchanges?

Hume’s answer in the *Treatise*, *2nd Enquiry*, and the *Essays*, is that we achieve this assurance through the creation of political institutions of governance and of the artificial virtue of allegiance to those institutions. Once these institutions are in place, it isn’t only the distant future threat of general social disorder we have to fear if we renege on our contracts, but the more nearly immediate threat of judicial intervention and punishment. But Collier argues this answer will not do because the individuals that political institutions empower to enforce contracts and rules of justice are subject to the same tendency to discount the future. Collier writes: “it might very well be the case that enforcing reciprocal exchanges promotes [magistrates’] long term interests; but the only way that they could avoid discounting these interests would be to submit themselves to a higher coercive power and so on *ad infinitum*.” Because our ancestors, being strategically rational individuals like ourselves, would have anticipated this problem, “a system of sanctions could never [have been] established in the first place.”¹ Faced with such obstacles to success and inclined by nature to discount the long-term advantages of overcome them, our ancestors would have lacked the motivation necessary to attempt it.

Hume might reply that speculative difficulties of this sort, “which seem unsurmountable in theory, are easily got over in practice.”² For according to Hume’s account of the origins of political institutions, it would have been in the immediate interest of individuals to create institutions of governance whatever the obstacles, because he supposes “the first rudiments of government to arise from quarrels, not among men of the same society, but among those of different societies.”³ Military “camps,” he argues “are the true mothers” of political communities and military leaders, not *pater familia*, the true ancestors of contemporary magistrates. Habits of obedience to politi-

cal institutions established during periods of social discord, Hume argues, would continue to operate even after peace was established. In “The Origin of Government,” he writes, “Habit, soon consolidates what other principles of human nature had imperfectly founded; and men, once accustomed to obedience, never think of departing from that path, in which they and their ancestors have constantly trod, and into which they are confined by so many urgent and visible motives.”⁴ The discomfort of departing from habitual patterns of action would provide an immediate disincentive to disloyalty to established political institutions, one that would, (by and large) counter our temptation to discount the long-term future inconveniences involved.

However, Collier is not persuaded by Hume’s reasoning because he worries that magistrates, then or now, would lack the immediate incentive necessary if they were to perform their function sufficiently well to inculcate strong allegiance in the subjects. Collier remarks in a footnote that Hume assumes: “it is in the immediate interest of the magistrates to serve as a commitment device. But it is hard to see why this would be the case. There would presumably be a wide range of private commercial exchanges towards which the magistrates would be entirely indifferent. They would only be concerned with defections in private exchanges because the might lead to the *eventual* collapse of social cooperation. But the problem is that short sighted creatures would discount these future threats.”⁵

I’m not sure I understand just what Collier is worried about here. Is he worried that Humean magistrates won’t bother enforcing contracts in which they have no personal interest, because they will discount the risk of future disorder in favor of present idleness? If so, the worry seems groundless as performing one’s duties offers the immediate enjoyment of exercising power over others, an enjoyment Hume argues all human beings desire.

Or is Collier’s worry that Humean magistrates will make it their policy to guarantee favorable rulings to those whomever offers the biggest bribe and thus be wholly incapable of the disinterested administration of law? If so, Hume could counter that our tendency to future discounting actually works *in favor of* magistrates being sufficiently disinterested for practical purposes. An old saying in Maryland political circles about official graft has it that ‘Two percent off the top keeps them honest.’ In other words, satisfaction with minor white collar crime suppresses desire for less politically tolerable forms of official corruption. The idea is this: while a magistrate would tend to discount the future evils of adopting a policy of soliciting bribes, given the more immediate financial rewards, he or she will *also* tend to discount the long-term rewards of such a policy – with its many attendant difficulties and risks – in favor of the *still more* immediate and more easily obtained rewards of limiting one’s self to smaller-scale abuse of one’s position (padding expense accounts, taking office supplies home for personal use, etc.) So, thanks to the Humean magistrates’ tendency to discount the future, justice will be served and contracts enforced, for the most part, supplying all the assurance actually required to maintain our systems of social cooperation.

Of course, Collier is quite right that all will go better still if we can be induced to develop strong negative feelings towards injustice or treachery that would assist habit in blocking the temptation to discount the future. Hume agrees, as we know, from his endorsement of the parental practice of playing upon their children’s sympathy to induce the feelings that “the observance of those rules by which society is maintain’d as worthy and honourable, and their violation as base and infamous.”⁶ As Collier points out, Hume offers perhaps his most richly detailed account of the process by which this occurs and the strategic reasoning behind it in his discussion of chastity. Up to point, I would agree with Collier that we can generalize from this case to other artificial virtues such as justice and fidelity. But chastity is arguably a special case because of the special nature of the circumstances in which it develops. Childhood offers a much more fertile field for cultivating feelings of shame or repugnance for sexual promiscuity than for either injustice or infidelity. Young children have no experience of sex, and thus can only conceive of sexual gratification, in Hume’s terms, “under the general notion of pleasure.” “And ‘tis certain,” He writes, “that the

more general and universal any of our ideas are, the less influence they have upon the imagination.”⁷ As children lack experience of sexual pleasure, they also lack any particular desire for it that would block parental efforts to induce distaste for sexual promiscuity. But as every parent of toddlers knows, children experience and desire the rewards of property theft and personal assault long before parents can induce any form of distaste for these activities. The studies Collier discusses support the claim that *if* established, negative emotional responses can be efficacious in guiding decision-making. But difficulties of inculcating such emotions towards injustice and infidelity generally (as compared with chastity), may explain why Hume puts so much more explicit emphasis on political institutions and allegiance to them than on the moral emotions which Collier discusses.