

Elizabeth H. Wolgast, *The Grammar of Justice*

Elizabeth H. Wolgast was born in 1929 in Plainfield, New Jersey. She attended Cornell University and received her bachelor's degree in English in 1950. She then enrolled in the graduate program in philosophy at Cornell. After completing her master's degree in 1952, she went to the University of Washington to pursue a doctorate. Upon completing her doctoral degree in 1955, Wolgast accepted a position at the Research Center at the University of Michigan. She later taught at San Francisco State University, the University of California, Davis, and the University of California, Berkeley. In 1968 she joined the faculty at California State University, Hayward, where she remained until her retirement in 1994. Wolgast has been Visiting Professor at Dartmouth College and at the United States Military Acad-

emy in West Point, New York, and has been a Fellow of the American Association of University Women, the American Council of Learned Societies, the National Endowment for the Humanities, Cambridge University, and the Finnish Academy.

Wolgast has published numerous journal articles on the theory of knowledge, ethics, and political philosophy. She is also the author of four books: *Paradoxes of Knowledge* (1977), *Equality and the Rights of Women* (1980), *The Grammar of Justice* (1987), and *Ethics of an Artificial Person: Lost Responsibility in Professions and Organizations* (1992).

A World of Social Atoms

We call on the ideas of social atomism when we reason about political and ethical issues, but, perhaps because they are so familiar, we don't often examine them critically. Here we look at the logic and interconnections of ideas of social atomism and at some of their historical sources.

I. In the seventeenth century a new fashion in thought appeared, one whose motivation was to challenge traditional authorities in a variety of dimensions. René Descartes, for instance, challenged the church's claim to authority on matters concerning God, the soul, and the world God presumably made. Thomas Hobbes and John Locke challenged the traditional grounds given for political authority. In that enlightened time government could not be based on divine right or on natural heredity or paternalism; it needed some more rational basis. David Hume, Thomas Reid, and Immanuel Kant in turn took up the question of the foundation of morality: Why should we accept what anyone says about what is right and morally justifiable?

Standing against the old authorities required a secure point, an Archimedean point from which to strike. So it happened that in a variety of fields—science, theology, political theory, morality—such a point was located in the autonomous, unconnected, rational human individual. Starting with this person and his or her inherent abilities, requirements, and values, one got a neutral and detached perspective on any claim to authority. Thus a new kind of moral, political, and epistemological⁵ justification came into being, one that derived from the natural, free, rational, and morally autonomous individual. It was an unbinding of the inquiring spirit; it was a new premise for shedding a critical light on old orthodoxies.

Contemporary American social and moral theories and our political arguments bear the mark of this bold anti-authoritarianism. The new ideas of the Enlightenment became unshakable American principles. Nonetheless, new problems followed upon this advance, and we face them still.

II. Descartes' anti-authoritarianism appears in his claim that men are equal in their reason. No one is distinguished by intelligence, rather "good sense is of all things in the world the most equally distributed . . . [and] the power of forming a good judgment and distinguishing the true from the false . . . is naturally equal in all men."¹ One finds it astonishing that an indisputable and not very modest genius should say such a thing if one neglects its importance for the challenge he took up in theology and science. For if all people are alike in their ability to learn and know, and there are no experts, then a person who wants to understand God or the soul or the universe doesn't need anyone else. We can all figure it out for ourselves.

Along with this intellectual individualism Descartes proposed a method for investigating problems, a method universally applicable to theology, mathematics, physiology, morals, and every other subject. Its use, he proposed, would guarantee that all attainable human knowledge would be within the reach of everyone. The fruits of the method would be considerable: "Nothing more useful can be accomplished in philosophy than once for all to seek with care for the best of these reasons [concerning God and the soul] and to set them forth in so clear and exact a manner, that it will henceforth be evident to everybody that they are veritable demonstrations." Deductive demonstrations require nothing from outside a person, they do not call on a specialized knowledge, and so "all that which can be known of God may be made manifest by means which are not derived from anywhere but from ourselves" (p. 134). This was something new, a do-it-yourself science and theology. Thus in the end it is Descartes' egalitarianism that provides the power that drives his rational anti-authoritarianism.

Descartes' English contemporary Thomas Hobbes used the autonomous individual in a very different way—to give a novel justification for government. From the Archimedean point of such

individuals Hobbes believed he could justify the existence of government—of any form—in a way that anyone would have to accept. His justification would not appeal to natural, divine, or hereditary right but only to human nature and human rationality. A government comes into existence through a contract, he proposed, a covenant that free and independent individuals make with one another. The resulting government is then a kind of artifact.

Before there was government, Hobbes's theory said, people managed to exist, but not well and not peacefully. For in that presocial state men separately governed their activities—that is to say, each pursued his own interest and depended entirely upon himself for protection. People in this condition were roughly equal, Hobbes held:

Nature has made men so equal, in the faculties of body, and mind . . . [that] when all is reckoned together, the difference between man and man, is not so considerable, as that one man can . . . 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. . . . And as to the faculties of the mind . . . I find yet a greater equality amongst men, than with strength.

Equality of people both mentally and physically, combined with desires and motives of self-interest, yielded competition as a natural way of life, competition that was unrelenting, harsh, deadly:

From this equality of ability, arises equality of hope in the attaining of our ends. And therefore if any two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies; and . . . endeavor to destroy, or subdue one another. . . . If one plant, sow, build, or possess a convenient seat, others may probably be expected to come prepared with forces united, to dispossess, and deprive him, not only of the fruit of his labor, but also of his life, or liberty.

¹ René Descartes, *Discourse on Method*, in *The Philosophical Works of Descartes*, trans. Elizabeth Haldane and G. R. T. Ross, vol. 1 (Cambridge, England: Cambridge University Press, 1967), p. 81.

This natural state was consequently barren of the goods of civilization: “There is no place for Industry [systematic labor]; because the fruit thereof is uncertain: and consequently no Culture of the Earth, no Navigation . . . ; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continual fear, and danger of violent death; And the life of man, solitary, poor, nasty, brutish, and short.”²

In Hobbes’s picture of equal autonomous agents, people can be likened to molecules of gas bouncing around inside a container. Each molecule proceeds independently, is free to go its own way, although it occasionally bumps into others in its path. As molecules have their energy, people are driven by their passions, and their relations with one another reflect both their “love [of] liberty, and [love of] dominion over others” (p. 87). No atom helps or moves aside for another; that wouldn’t make sense. They are a collection of unrelated units. This fundamental picture I call “social atomism,” for it shows society as a simple collection of independent, self-motivated units.

In Hobbes’s view, government is justified as an instrument by which people further their security and thus their self-interest. It is the people’s creation, and its irreplaceable function is to create a state of peace and security in which the human atoms can pursue their interests without fear. That function and that alone justifies government’s existence; therefore it cannot have interests that are not ultimately reducible to the interests of its members. So Hobbes reserved for citizens the right to disobey their government in the face of threats to their lives or security. Insofar as government was a creation of the people who were to live under it, this was a do-it-yourself political theory.

Atomism need not be associated with such a dismal account of human nature as Hobbes’s. Another social atomist of this period, John Locke, held a more generous view. For him people are generally sociable and not naturally at war; only a few create problems:

² *Leviathan* (New York: Everyman, 1947), Part I, Chapter XIII, pp. 63-65.

“Were it not for the corruption and viciousness of degenerate men, there would be no need” for a contract or government. Human nature did not generally need restraint by government, and the value people placed on liberty, property, and political equality needed to be respected by government. Still the autonomous, independent individual is the central motif. “Men being . . . by nature all free, equal, and independent, no one can be put out of this estate and subjected to the political power of another without his own consent. The only way whereby any one divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing with other men to join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties, etc.”³ Individuals have the power to keep or give away authority over them. Therefore at bottom of political authority is the idea of individual independence and autonomy: the authority one has over oneself. . . .

III. In form, social atomism appears scientific, and its analogues in science are easy to recognize. For we understand what physical compounds are when we know what they’re made of. A wall of bricks is understood as an assemblage of separate bricks. A molecule of water is made up of separable atoms, and to understand what water is you must know about those atoms. Often we talk about compounds in terms of their parts; why not apply the same method to a society? Thus we can understand a society if we know what it’s made of. The resulting theory of society can then claim a truth that is abstracted from historical contexts, can claim the lasting and objective validity of physics or chemistry. It will include the features that a society not only has but must of necessity have. In giving social theory this foundation, Hobbes became one of the founders of political and social “science.” . . .

It may seem self-evident that one way to understand a thing is to take it apart, but notice what this idea assumes. It assumes that a

³ John Locke, *Second Treatise on Civil Government, in Two Treatises on Government*, ed. Thomas I. Cook (New York: Hafner, 1966), Chapter 9, p. 185; Chapter 8, pp. 168-169.

part will be a discrete thing with its own nature, and that if we know the component parts, we will understand the whole. But not every compound or complex thing can be understood by this means. Take a machine: It is not just a collection of parts, but a collection of parts assembled in accordance with a particular design and in a particular order. If we have only the assorted parts or a list of them, we may altogether fail to understand how the assembled parts function. We still need a diagram or design, a conception of how the machine works, maybe an idea of its eventual purpose. Then are the design and purpose *parts of* the machine? Hardly. But if the machine is not understandable without the design and can't be assembled without it, how can the machine be understood in terms of parts? Or take a cake: It's a collection of ingredients, but not ingredients assembled any which way. It needs a method or recipe, or else it can't be accounted for; putting the same ingredients together at random may yield a disaster. Then is the recipe *part of* the cake? No. Nonetheless, the cake cannot be understood in terms solely of its parts or ingredients.

Consider the following argument, then. Some things cannot be understood in terms of simple units, units that exist originally in isolation; an understanding even of the parts may depend on their being in an appropriate context and related within a whole. Take a part of a flower, a pistil, for instance. What is it? It's part of a particular flower, with a function in the life of the plant and the generation of new plants, a function in a whole pattern of the plant's growth and its relation to other things. It is the pistil of that flower, functioning with respect to it; that is what it is. The same problem applies to some parts of machines. Think of finding an odd-looking piece of metal in the road; how does one describe or identify it? Most commonly, perhaps, as a part of some kind of machine, a piece that has a characteristic place and function in various mechanisms. Some fairly standard parts—bolts, screws, wheels—are describable individually because, like atoms and bricks and marbles, they are interchangeable and their functions standardized. But in any case they are identified as things with a certain function in a larger whole. Therefore while an atomistic approach works to explain some things,

we can't assume it will provide an adequate understanding of society, though it will certainly press out a crisp and simple theory.

Among those who have held anti-atomistic views were the ancient Greeks. Aristotle, for instance, believed that a man is a particular individual only in the context of his community. To understand the individual, then, we must begin with the community he or she belongs to, "for the whole must be prior to the part. Separate hand or foot from the whole body, and they will no longer be hand or foot except in name, as one might speak of a 'hand' or 'foot' sculptured in stone." Moreover, without a state, a man is without family, heritage, and home, for these things have reality only within a political community. More: "He is mad on war: He is a non-cooperator like an isolated piece in a game of [checkers]."⁴ The community is the right place for a person, and humans need to be seen in that context if we want to understand them.

For Aristotle a person *is* the legal child of So-and-so, the husband of So-and-so, the father of So-and-so, the owner of such land, the person who trades in such goods, the one who holds such office and votes under such-and- such name. These social properties and relationships define a person. They do so by referring to other people, some of them closely related, others more distant, others who are fellow citizens, and eventually to the community itself. The individual is nothing without these relationships, has no importance, is nobody; for it is in this framework that he is credited and counts as an individual. The whole makes the part comprehensible. . . .

IV. The question of what a society is made up of seems to many to have an obvious answer: It's made up of individual people, as bricks in a wall, as molecules in a substance. What else is there besides individuals?

To explain a community in terms of these units is to imply that people are complete in themselves, that they are self-contained, inde-

⁴ Aristotle, *Politics*, trans. T. A. Sinclair, rev. Trevor Saunders (New York: Penguin, 1981), Book I, Chapter 2, p. 60.

pendent, self-motivated, energized from within—by passions and desires, Hobbes would say. They are complete and real, each in him- or herself, and their autonomy is related to a certain independence. As Joel Feinberg writes of self-reliance: “The morally independent person does not bind himself to others any more than he can help . . . , does not rely on the commitments of others to him. In certain areas of his life, at least, he doesn’t need others, and dispensable needs he doesn’t want.”⁵

Starting with these units, we naturally see society as deriving from their individual interests. In its favor is Occam’s razor, which says that you should make only the minimum assumptions, nothing more. Social atomism needs nothing besides the individual units with their individual interests. It needs no glue to bind people together; self-interest will account for the society . . . accounting for laws and institutions as the natural result of individual choices. Rationality enters here, for on this account we are rational if we recognize our self-interest and act accordingly. Because it is formed to serve people’s self-interests, government can be seen as just; it represents only what the people *chose*. . . .

VIII. Viewed from a distance, the idea that government derives from a contract is intrinsically curious. A contract is a device that is useful under two conditions. First, a contract is useful when two parties wish to bind one another formally—that is, when they do not trust one another sufficiently to accept a promise or some other mere signal of intent: Being legally binding is what you might call its primary feature. Second, and in consequence, a contract is useful when some authority exists to enforce it. It would make no sense for two people to draw up a contract on a desert island where no enforcing authority existed. They might agree to do something—act cooperatively, say—but that wouldn’t be a contract. The authority doesn’t need to be a government in the fullest sense; a community might enforce contracts by informal means, by social pressure, for

example. But some authority must exist or there is no difference between a contract and a promise.

Now it is clear that the state of nature [i.e., the situation before the formation of political society] by any definition—Hobbes’s, Locke’s, or Rousseau’s—lacks the second condition. The point of their social contracts was to *set up* an enforcing authority. But to set up such an authority *by contract* involves a *petitio principii* [assuming the point to be proven]. Who will enforce *this* contract? Surely not the authority that the contract itself sets up. It cannot enforce what its existence depends on. So it follows that a civil government cannot be set up by a contract if that term is taken strictly. One has to conclude that the contract is at best a metaphor.

Did the framers of the Constitution really take the notion of contract seriously? Consider this passage in the Virginia Resolutions: “That this Assembly doth explicitly and peremptorily declare that it views the powers of the federal government as resulting from the compact to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the states, who are parties thereto, have the right . . . to interpose.”⁶

Their use of the formal language of contracts reflects, I believe, a deep concern of the framers of the Constitution to propose that they were really signing a contract. They wanted not only (like Hobbes and Locke) to depart from traditional justifications of government but to set up a new form of government, a constitutional one that everyone concerned could be said to have agreed to. This form would be *chosen*, much as the terms of a contract are. And in the document they devised, the power of government, the rights of the

⁵ Joel Feinberg, *The Moral Limits of the Criminal Law*, vol. 3 (New York: Oxford University Press, 1986), p. 42

⁶ *Virginia Resolutions*, in *The People Shall Judge: Readings in the Formation of American Policy*, ed. The Staff, Social Science I, College of the University of Chicago (Chicago: University of Chicago Press, 1949), 1:439.

citizens, and the general relation of citizen to government were all explicitly spelled out, just as the terms of a contract are. There were to be no assumptions about the role of authority. Limiting the power of government had an English precedent that the colonists were eager to follow, and a constitution subscribed to by the population was a logical instrument.

Now both a constitution and a contract are documents, both are drawn up and accepted. But their implications are very different. A constitution explicitly sets up a government but is subject to change. A contract, by contrast, is rigid; once made, it isn't subject to alteration except by consent of all parties. Did the framers think that all parties to the Constitution might agree to alter it? Contract theorists have therefore struggled with the question of how the original parties to a contract can bind succeeding generations; as the theory of contracts is usually construed, they cannot. One free agent cannot bind another.

But in any case a constitution is not a contract: From the beginning the enterprises are different. For one thing, a contract is a deal, an exchange of one thing for another. This is how Hobbes saw the social contract: Each person gave up some of his rights on the understanding that others would give up some of theirs. But writing a constitution is a creative enterprise whose distinctive feature is not exchange of goods or services but the exercise of judgment about how a good government can best be guaranteed and made to work. It's a work of imagination. One person could do it, or many; the number of people who participate in the writing doesn't determine the validity or bindingness of the Constitution. Anyone who fails to sign a contract, in contrast, is simply not bound by it. . . .

Constitutional government is compatible with a variety of assumptions about human nature. The fact that people agree on how to form a government doesn't guarantee its justice: Any group of men, some good, some bad, can be imagined to form a constitutional government—a band of thieves, for instance. A constitution is like a contract, for both involve some agreed-upon arrangement and neither need be just to be valid.

It was easy to confuse making a contract with setting up a new government when no government or traditional procedures existed. The point of drawing up a constitution was to signify a new beginning, a departure from the old conceptions of government held by Europe's monarchs. The framers were in harmony with Hobbes and Locke on one important point: They wanted and needed a government that represented their standards of political propriety. But for this purpose they did not need those authors' atomistic model. A constitutional government is perfectly consistent with the idea of an organic community and existing traditions regarding justice, as Aristotle thought. And the importance of general agreement to the constitution doesn't require the assumption that all actions are motivated by self-interest, an assumption that conflicted with the framers' moral views. Therefore it is not surprising that the confusion, however natural, should have left a legacy of difficulties.

IX. The atomistic model has important virtues. It founds the values of the community on private values; it encourages criticism of government and requires any government to answer to its original justification; it limits government's powers, as they may threaten to interfere with the needs of atomistic units. It gives us assumptions about the nature of man and the composition of society to start our reasoning, gives us a common ground in the values of freedom, autonomy, respect, equality, and the sanctity of desires. It thus frames a multitude of important political disputes, holds them together, shapes them, and sheds a clear, unequivocal theoretical light on them.

But it leaves a great deal out, as we have seen. In it one cannot picture human connections or responsibilities. We cannot locate friendliness or sympathy in it any more than we can imagine one molecule or atom moving aside for or assisting another; to do so would make a joke of the model. Michael Sandel is right, I believe, when he says that our political and economic theory is "a view about the way the world is, and the way we move within it . . . [and] at the

heart of this ethic lies a vision of the person that both inspires and undoes it.”⁷ The atomistic person is an unfortunate myth.

Complaints against the American version of atomism are plentiful. Tocqueville said that individualism “disposes each citizen to isolate himself from the mass of his fellows and withdraw into the circle of family and friends; with this little society formed to his taste, he gladly leaves the greater society to look after itself.” Those of some economic means “form the habit of thinking themselves in isolation and imagine that their whole destiny is in their hands.” As a result, “each man is forever thrown back on himself alone, and there is danger that he may be shut up in the solitude of his own heart.”⁸

Emile Durkheim concurs with this view: Individualism, he says, “detaches the individual from the rest of the world . . . confines him in himself and closes off every horizon,” and eventually the emphasis on self-interest leads to pessimism, even suicide.⁹ And Alasdair MacIntyre describes the preoccupation of the individualistic tradition in philosophy as “the condition of those who see in the social world nothing but a meeting place for individual wills . . . who understand that world solely as an arena for the achievement of their own satisfaction, who interpret reality as a series of opportunities for their enjoyment and for whom the last enemy is boredom.”¹⁰ The ground of these criticisms is not located in any historical circumstance, but lies squarely in the atomistic model.

On a number of grounds the model needs challenging. A larger picture of human life needs to be considered, one that allows a

firmer juncture between the moral and political realms, between the grammar of good and the grammar of justice. Or, what may amount to the same thing, we need to loosen the hold that the atomistic picture has on our thinking, and recognize the importance that theory has on our judgments and our moral condition.

⁷ Michael Sandel, “The Procedural Republic and the Unencumbered Self,” *Political Theory* 12 (February 1984): 81-96.

⁸ Alexis de Tocqueville, *Democracy in America*, trans. George Lawrence, ed. J. P. Mayer (Garden City, N.Y.: Doubleday, 1969), 2:105, 308.

⁹ Emile Durkheim, “The Science of Morality,” in *Emile Durkheim: Selected Writings*, trans. and ed. Anthony Giddens (Cambridge, Mass.: Cambridge University Press, 1972), 94.

¹⁰ Alasdair MacIntyre, *After Virtue: A Study in Moral Theory* (Notre Dame, Ind.: University of Notre Dame Press, 1981), p. 24.