

# Jefferson, Morality, and the Problem of Slavery

Ari Helo and Peter Onuf

HOW could Thomas Jefferson, advocate of equal rights to life, liberty, and the pursuit of happiness, have justified his ownership of human beings? How, in his draft of the Declaration of Independence, could he have accused King George III and the British nation of imposing slavery on the American colonies? Jefferson never thought that slavery was morally justifiable. In order to grasp his understanding of the issue of personal guilt, we need to historicize Jefferson's moral thought. Much of modern moral understanding begins with the autonomous individual and his "inalienable rights." We consider all people first and foremost as individuals, fellow claimants to dignity and respect whose inherent and irreducible rights constitute the foundation of modern morality. Our language, borrowed directly from the Declaration, is Jeffersonian. Yet, while the individual is important in his moral thought, Jefferson constantly made judgments about individuals on the basis of his exalted standard of virtuous behavior, recognizing that their capacity to act morally differed widely. In Jefferson's view, men were to be judged according to the manifestation of their moral dispositions. Slaves were beyond—or beneath—such judgments. As long as they were enslaved, they were by definition unable to exercise free will or to enforce claims to rights, inalienable or otherwise, and therefore could not be held morally accountable for their actions.

But if slaves were beyond the pale of moral judgment, the institution of slavery nonetheless raised profound moral problems for the new republic. "Nothing is more certainly written in the book of fate than that these people are to be free," Jefferson wrote in his *Autobiography*, "nor is it less certain that the two races, equally free, cannot live in the same government."<sup>1</sup>

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<sup>1</sup> Thomas Jefferson (hereafter cited as TJ), *Autobiography* [1821], in *Thomas Jefferson Writings*, ed. Merrill D. Peterson, Library of America (New York, 1984), 44.

Jefferson's solution to the slavery problem was to institute a program of gradual emancipation, separate slave children from their parents in order to prepare them for freedom, send them to their own country—perhaps on the west coast of Africa—and “declare them a free and independent people.”<sup>2</sup>

Jefferson's awareness of both the progressive and the destructive elements in contemporary western civilization—both so well exemplified in the history of the French Revolution—fundamentally shaped his understanding of humanity. His optimism about the continuity of certain positive trends in recent history did not lead him to embrace utopian notions of the ultimate moral end of the still ongoing historical process. It is remarkable how little interest Jefferson ever showed in metaphysical speculations about man's essence or in other kinds of extrahistorical “truths” about human nature.

Within this fundamentally historical intellectual framework, Jefferson can be accurately identified as a progressive republican in the Lockean mode, albeit with serious reservations about the dangers of civic corruption under human, and thus historical, government.<sup>3</sup> Jefferson was acutely conscious of the need for general civic education in order to guarantee that citizens would fulfill the promise of their own history. As he lectured the marquis de Lafayette, gaining minimal control over this historical process required “the administration of reasonable laws favoring the progress of knowledge in the general mass of the people.” Otherwise, there could never be an end to the repetitious cycle of falling into a tyranny of “the many, the few, or the one.”<sup>4</sup>

Yet, whatever the limits of Jefferson's faith in the future, his own failure to take effective steps against the institution of slavery—by his

<sup>2</sup> Query XIV, “Laws,” quotation from Jefferson, *Notes on the State of Virginia*, ed. William Peden (Chapel Hill, 1954), 138. TJ elaborated his emancipation scheme most fully in a letter to Jared Sparks, Feb. 4, 1824, in *Jefferson Writings*, ed. Peterson, 1486–87. For further discussion see Peter S. Onuf, *Jefferson's Empire: The Language of American Nationhood* (Charlottesville, 2000), 147–88.

<sup>3</sup> Recognition of the historicist dimension of early American political thought reveals striking historiographical differences in both the “republican” and Lockean “liberal” paradigms, complicating the conventional juxtaposition of the two schools. J.G.A. Pocock's analysis of Machiavellian republicanism as an early, nascent form of modern historicist thinking remains suggestive. Successive “moments” in Pocock's conceptual history—classical, Machiavellian, and Rousseauian—can be seen as part of the complex historical pedigree of what he calls a modern “Western awareness of human historicity” in *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton 1975), 551. Thus the crucial division is not about deciding whether the American past truly reflects liberal, libertarian, or republican paradigms but between all kinds of doctrinaire history writing and the study of history as involving significant changes in human thought throughout the whole history of mankind.

<sup>4</sup> TJ to Lafayette, Feb. 14, 1815, in *Jefferson Writings*, ed. Peterson, 1360.

own account, a major obstacle to the fulfillment of the republican promise in Virginia—remains conspicuous and demands explanation. To uncover the logic of Jefferson's position on slavery, even in the historicist-republican intellectual context delineated above, three fundamental points must be emphasized.

First, throughout his political career, both as a legislator in Virginia and as the president of the United States, Jefferson never aimed to weaken the legal, institutional basis of slavery itself.<sup>5</sup> Breaking with the historical legacy of slavery—an institution as ancient as western civilization itself—would have constituted yet another revolution, as momentous as any in human history. But such a revolution, however desirable, could not violate the fundamental premise of the republican revolution against British tyranny, that the people were the source of legitimate authority and should not be subjected to the rule of the few—even if the few were enlightened enough to discern the direction of historical development.<sup>6</sup> A democratic, majority decision was absolutely necessary before the existing legal order and the property rights in slaves that it secured were overturned.

Second, Jefferson's plan for emancipation required not only separating slave children from their parents before their compelled expatriation from the United States but also their education “to tillage, arts or sciences, according to their geniusses.”<sup>7</sup> He acknowledged that sending slave children away was bound to violate natural human affections among black people. But surely any slave father would rather see his children gain their freedom than entail “his own miserable condition” on them and “the endless generations proceeding from him.”<sup>8</sup>

Third, Jefferson's suspicions about the natural inferiority of enslaved Africans did not constitute his justification for expelling them. His distaste for a permanent mixture of the races derived from his conviction that it would inevitably lead to genocidal violence. He also believed that the formation of a large, racially distinct class of semifree Americans—emancipated, but not expatriated—would jeopardize a process of gradual emancipation and compulsory expatriation that could take as long as a quarter century to complete. Emancipation was only possible if the community of free men came to recognize the moral and political neces-

<sup>5</sup> See Paul Finkelman's strong criticism of TJ in this respect, in “Jefferson and Slavery: ‘Treason Against the Hopes of the World,’” in Peter S. Onuf, ed., *Jeffersonian Legacies* (Charlottesville, 1993), 181–221.

<sup>6</sup> For the accusation that TJ simply chose “political ‘usefulness’” over “active opposition to slavery,” see John Chester Miller, *The Wolf by the Ears: Jefferson and Slavery* (Charlottesville, 1991; orig. pub. 1977), 279.

<sup>7</sup> Query XIV, “Laws,” *Notes on the State of Virginia*, ed. Peden, 137.

<sup>8</sup> Query XVIII, “Manners,” *ibid.*, 163.

sity of destroying an institution that they still believed was fully legitimate. Jefferson was therefore convinced that the determination to emancipate the slaves had to emerge from within the community of free men, as a new, practical standard of virtuous behavior. Any premature effort to interfere with the institution would violate the fundamental rights of free citizens and jeopardize the progress of the community as a whole toward a more enlightened understanding of its true collective interest.

Moral development could only take place in a specific civic context and not as the result of the heroic struggles of a few moral crusaders against the customary complacency, narrow self-interest, and moral obtuseness of established social orders. It is a nice irony that Jefferson himself looms so large in American national mythology as just such a heroic individual, inspired by his implacable sense of the moral corruption of the old regime. But as a revolutionary leader Jefferson did not portray himself as a member of a morally enlightened vanguard, far out in front of the American people. Shortly before his death, he offered an extraordinarily modest assessment of his role in drafting the Declaration of Independence, his most famous contribution to the revolutionary cause. "All American whigs thought alike on these subjects," he recalled. "Neither aiming at originality of principle or sentiment, nor yet copied from any particular and previous writing, [the Declaration] was intended to be an expression of the American mind."<sup>9</sup> Jefferson's self-effacement helps explain the self-righteous moral tone so characteristic of his political writing: progressive moral standards were generated within—and inconceivable without—enlightened civic communities. It was Jefferson's fundamental belief in the righteousness of the American Revolution, the most compelling demonstration of the possibility of political and moral progress in history, that shaped his thinking about all other moral issues, including slavery.

Jefferson's conception of moral development in history is clearly present in his indictment of George III in his draft of the Declaration. By enslaving innocent Africans, "a distant people who never offended him, captivating & carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither," the British king "has waged cruel war against human nature itself, violating it's most sacred rights of life and liberty." The slave trade was a "piratical" form of warfare that was now universally condemned, even by "INFIDEL powers."

<sup>9</sup> TJ to Henry Lee, May 8, 1825, in *Jefferson Writings*, ed. Peterson, 1501. On TJ's authorship see the brilliant discussion in Jay Fliegelman, *Declaring Independence: Jefferson, Natural Language, and the Culture of Performance* (Stanford, 1993).

Participating in this universal moral development, the legislatures of Virginia and Maryland had sought “to prohibit or to restrain this execrable commerce,” but George III rebuffed their initiatives, “prostitut[ing] his negative” in order “to keep open a market where MEN should be bought & sold.” Diverging attitudes toward the slave trade thus reflected profound moral differences that now made it impossible to sustain the idea that Britons and Americans could maintain their identity as a single people. Jefferson suggested that it was their shared sense of moral outrage at these crimes against humanity that enabled Americans both to see themselves as a distinct, independent people and to identify with enlightened people everywhere in their revulsion against a barbarous, retrograde institution.

Modern commentators are united in their contempt for Jefferson’s moralizing about George III’s culpability for imposing an institution on the Americans that was the basis of their material prosperity and even, in the case of the staple-producing plantation colonies, of their very existence. Jefferson’s congressional editors thus get high marks for expunging this embarrassing passage. They saw what seems so clear to us: that American slaveholders were much better advised to deflect attention away from the institution and their implication in it, but that it would be a mistake to conclude that Jefferson’s charge was merely opportunistic. Instead, we suggest, Jefferson’s indictment of George III was grounded in a coherent and deeply held moral perspective: if he had wanted to score rhetorical points, he surely would have been more circumspect.<sup>10</sup>

Let us be clear about what Jefferson is saying in this controversial passage. First, he is not displacing responsibility for slavery from American slaveholders to British slave traders. When the institution was established in the American colonies, it was not yet clear to either merchants or planters that the traffic in human flesh violated the norms of civilized society. Nor did the question concern the slave trade alone. Jefferson recalled this condition of universal moral obtuseness in a letter to Edward Coles in 1814: “Nursed and educated in the *daily habit* of seeing the degraded condition, both bodily and mental, of those unfortunate beings,” colonial Virginians had few doubts that their slaves “were as legitimate subjects of property as their horses and cattle.” Having been educated in such a daily habit, the majority of Virginia slaveholders were “not reflecting that that degradation was very much the work of *themselves & their fathers.*”<sup>11</sup> Yet if the establishment of this monstrous

<sup>10</sup> The most persuasive critique along these lines may be found in Pauline Maier, *American Scripture: Making the Declaration of Independence* (New York, 1997).

<sup>11</sup> TJ to Coles, Aug. 25, 1814, in *Jefferson Writings*, ed. Peterson, 1344.

institution was very much the work of Jefferson's Virginian forebears, it did not follow that they were morally responsible for it. They could not then know, given the primitive state of moral development, that they were entailing a legacy of degradation on their descendants. It is important to emphasize that it is the fathers, not the sons, who are getting the clean bill of health here: because slavery has become a moral problem, it is incumbent on the younger generation to do something about it. And this is the same criterion for judging George III—and not his ancestors, who also knew no better.

In their admittedly modest efforts to regulate slave imports, Virginia and Maryland had nonetheless demonstrated their responsiveness to the broadening moral horizons of an enlightened age. These were tentative steps, to be sure, and Jefferson would doubtless acknowledge that prudential and economic considerations influenced legislators concerned about the continuing growth of an apparently redundant and potentially dangerous servile population: after all, such considerations had always been a spur to moral progress. Virginians began to recognize their moral dilemma as they came to understand that the buyer or driver of slaves was equally responsible with the slave trader for the increasingly conspicuous injustice of the institution. This knowledge came to them from the outside world, from their exposure to evolving moral standards, and from their vulnerability to the despotism of King George's corrupt, retrograde imperial regime that perpetuated the slave trade—making war on “a distant people who never offended him”—and now compounded the crime by “exciting those very people to rise in arms among us, and to purchase that liberty of which he has deprived them, by murdering the people on whom he also obtruded them: thus paying off former crimes committed against the LIBERTIES of one people, with crimes which he urges them to commit against the LIVES of another.” In this critical passage, Jefferson simultaneously identified with the innocent victims of George III's war against human nature and cast those victims in the role of the revolutionaries' most bitter enemies. This was the crux of the American dilemma. The patriots constituted a moral community, and if their quest for independence had world historical significance it was because they resisted their former sovereign on the moral grounds that were so fully—and, for us, tediously—elaborated in the body of the Declaration. But they were also locked in an ongoing war with their own slaves, for that is precisely what slavery was: an institutionalized state of war. It was therefore morally incumbent on Virginians and on Americans generally to work toward a just peace that would vindicate their own claims to nationhood.

Contemporary moral and political philosophy enabled Jefferson to formulate the problem of slavery, and the passages excised from the

Declaration reveal the direction of his thinking. Jefferson cribbed shamelessly from John Locke in his eloquent invocation of social contract theory and the right to revolution in the Declaration's opening paragraphs. But Locke's teaching on war and slavery was much less useful to Jefferson. The few passages on slavery in Locke's *Two Treatises of Government* (1690) were probably meant to emphasize the dangers of political oppression to the rights of free Englishmen rather than to justify the contemporary British involvement in the African slave trade. Yet Locke failed to anticipate the subsequent progress of enlightened thought on this crucial question. Jefferson's indictment of George III is also, implicitly, an indictment of Locke. Jefferson's dissent from Locke on slavery was prophetic, for the liberal apotheosis of property rights would be the slaveholders' most powerful defensive bulwark.<sup>12</sup>

Locke asserted that slavery was the legitimate outcome of a just war. By turning the state of peace into a state of war without justification and thus wantonly violating the natural rights of other men, the instigator of violence became a criminal who deserved the death penalty. This is Locke's description of "the perfect condition of Slavery, which is nothing else but the State of War continued, between a lawful Conquerour, and a Captive":

This Freedom from Absolute, Arbitrary Power, is so necessary to, and closely joynd with a Man's Preservation, that he cannot part with it, but by what forfeits his Preservation and Life together. For a Man, not having the Power of his own Life, cannot, by Compact, or his own Consent, enslave himself to any one, nor put himself under the Absolute, Arbitrary Power of another, to take away his Life, when he pleases. No body can give more Power than he has himself; and he that cannot take away his own Life, cannot give another power over it. Indeed having, by his fault, forfeited his own Life, by some Act that deserves Death; he, to whom he has forfeited it, may (when he has him in his Power) delay to take it, and make use of him to his own Service, and he does him no injury by it. For, whenever he finds the hardship of his Slavery out-weigh the value of his Life, 'tis in his Power, by resisting the Will of his Master, to draw on himself the Death he desires.<sup>13</sup>

<sup>12</sup> We are indebted here to Jan Lewis, "The Problem of Slavery in Southern Discourse," in David Thomas Konig, ed., *Devising Liberty: Preserving and Creating Freedom in the New American Republic* (Stanford, 1995), 265–97.

<sup>13</sup> Locke, *Second Treatise*, in *Two Treatises of Government: A Critical Edition* . . . (Cambridge, 1960), ed. Peter Laslett, §§ 23, 24. On the concept of the state of war in Locke, see *ibid.*, §§ 7, 19, 212.

The victor in a just war had the moral authority to postpone the death sentence by enslaving any individual who had violated his rights. Because the slave had divorced himself from the law of nature, he ought to desire his own death: in terms of Locke's normative view of morality, the slave did not deserve to live. But Locke did not make it the duty of the lawful conqueror to punish his enemies by either death or slavery. Instead, the conqueror "may" demand such retribution for the injustice he had suffered. And even if the conqueror should enslave his captives, his right did not extend to the captive's estate or family connections.<sup>14</sup>

Whether Locke's justification of slavery in his writings and in his personal life is consistent with his philosophy, his position is ambiguous in only one respect.<sup>15</sup> His acceptance of African slavery in the American plantations as an inheritable condition must either be attributed to sheer racism or to some unarticulated line of reasoning, such as that, for instance, when an enslaved individual is deprived of his land—or his country—nothing in natural law prohibits his children from inheriting his new, degraded status.

Locke insisted that a slave could not make a compact regarding his servitude because he had alienated his natural right to life by his fault—that is, by some act that deserves death. The slave did not possess the moral power to consent to a compact. Even a servant was presumed to possess such a power when negotiating a compact that rendered him utterly dependent on his master—and therefore incapable of entering into other compacts—during a fixed term of service.<sup>16</sup> In Locke's view, any man worthy of his natural rights could only sell his freedom and consent to drudgery under the authority of another man on a temporary basis, as an indentured servant.<sup>17</sup> Permanent enslavement, by contrast, presupposed a kind of moral death of the enslaved individual. Lockean or non-Lockean, inheritable slavery necessarily excluded the notion of the morally competent and accountable individual, the central figure of modern moral philosophy.

<sup>14</sup> Ibid., §§ 183, 189.

<sup>15</sup> Our reference is to Locke's well-known involvement in drafting the *Fundamental Constitutions of Carolina*, which established slavery there, as well as to his financial connections with the slave trade. Laslett remarks that, in the light of the Instructions to Governor Nicholson of Virginia (1698), Locke "seems satisfied that the slave-raiding forays of the Royal Africa Company were just wars of this sort, and that the negroes captured had committed such acts"; *ibid.*, § 24n.

<sup>16</sup> TJ's "Bill concerning Servants" thus provided that no further compact between master and servant was to be regarded as valid, because the servant had consented to such an exceptional compact; Julian P. Boyd et al., eds., *The Papers of Thomas Jefferson*, 29 vols. to date (Princeton, 1950–), 2:474.

<sup>17</sup> Locke, *Second Treatise*, ed. Laslett, § 24. Locke explained here that selling oneself could mean only selling oneself "to *Drudgery*, not to *Slavery*."



Jefferson was not persuaded by such logic. As possessors of certain morally inalienable rights, individuals were free agents; as such they could not coherently forfeit their freedom. Following the lead of more recent writers on the law of nations, such as the baron de Montesquieu and Jean-Jacques Burlamaqui, Jefferson did not believe that even a just war could justify enslaving captured enemy combatants. Further, and more crucial, reprisals and retribution were matters of public international law, according to which war, by definition, was a conflict between nations, not between individual soldiers. By contrast, Locke's interest in punishing individuals indicates that he considered the question of slavery only in terms of his purely theoretical notion of political society, an ahistorical category that functioned as the judicial criterion for assessing different historical governments in moral terms.<sup>18</sup> It was evident for Jefferson that the black slaves of the Old Dominion were held in bondage, not justly according to the tenets of natural law, but rather because of unfortunate human errors in moral reasoning—exemplified by Locke's teachings. Those errors had excused the establishment and consolidation of the institution of slavery during the formative decades of colonial development. Jefferson's conception of the origins of slavery in a British error of natural jurisprudence was fundamental to his indictment of George III in the Declaration and continued to shape his understanding of slavery as a moral problem in future decades.

Henry Home, Lord Kames, provided Jefferson with the profoundly historicized view of the issue of morality that led him to challenge Locke—and indict King George.<sup>19</sup> Our "sense of common good is too

<sup>18</sup> For Laslett's widely accepted view that the Lockean notion of political power is fundamentally judicial, see *ibid.*, 84. On Locke's account of the origins of property as linked to his views on the origins of political society see, for example, James Tully, *A Discourse on Property: John Locke and His Adversaries* (Cambridge, 1980). On Locke's anti-Hobbesian conception of the so-called historical origins of government consider, for example, his formulation that "whether a *Family* by degrees *grew up into a Common-wealth*, . . . or whether several *Families* . . . at first put the rule into the hands of a single person, certain it is that no body was ever intrusted with it but for the publick Good and Safety." It was only because of the general human inclination to ambition and luxury that "Men found it necessary to examine more carefully *the Original* and the *Rights of Government*"; Locke, *Second Treatise*, ed. Laslett, §§ 110, 111. Francis Hutcheson, in *A Short Introduction to Moral Philosophy* . . . (Glasgow, 1747), 282, made the case against the apparently realist "origins" of civil government in even more simple terms. While "a potent head of a family . . . might have conquered and thus compelled his neighbours around to submit to him as their prince," wrote Hutcheson, "we are not inquiring into the possible injurious methods of usurpation, but into the just causes of just power."

<sup>19</sup> Important works on Kames include William C. Lehmann, *Henry Home, Lord Kames, and the Scottish Enlightenment: A Study in National Character and in the History of Ideas* (The Hague, 1971); Arthur E. McGuinness, *Henry Home, Lord Kames* (New York 1970); Ian Simpson Ross, *Lord Kames and the Scotland of His Day*

complex, and too remote an object to be a solid foundation for any positive law, if it has no other foundation in our nature," Kames wrote.

What is just now observed will lead us to a more rational account of these laws. They are no other but gradual refinements of the original law of nature, accommodating itself to the improved state of mankind. The law of nature, which is the law of our nature, cannot be stationary. It must vary with the nature of man, and consequently refine gradually as human nature refines. Putting an enemy to death in cold blood, is now looked upon with distaste and horror, and therefore is immoral; tho' it was not always so in the same degree.<sup>20</sup>

This was the passage that inspired the young Jefferson to challenge Locke on the slavery issue in an extraordinary marginal note. The more humane treatment of prisoners, wrote Jefferson, constituted a

remarkable instance of improvement in the moral sense. the putting to death captives in war was a general practice among savage nations. when men became more humanized the captive was indulged with life on condition of holding it in perpetual slavery; a condition exacted on this supposition, that the victor had right to take his life, and consequently to commute it for his services. at this stage of refinement were the Greeks about the time of the Trojan war. at this day it is perceived we have no right to take the life of an enemy unless where our own preservation renders it necessary. but the ceding his life in commutation for service admits there was no necessity to take it, because you have not done it. and if there was neither necessity nor right to take his life then is there no right to his service in commutation for it. this doctrine is acknowledged by later writers,

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(Oxford, 1972). On Kames's legal thinking, see David Lieberman, *The Province of Legislation Determined: Legal Theory in Eighteenth-Century Britain* (Cambridge, 1989). One of the central themes of the Scottish common sense school was to block routes to moral skepticism that Berkeley's and Hume's treatment of the general Lockean epistemology seemed to offer. For a good introduction to the problematic issue of how to see Locke's moral thought as the link between the older school of natural law theorists and the Scottish Enlightenment, see Knud Haakonssen's highly illuminating account of contemporary natural jurisprudence and its religious premises in Thomas Reid, *Practical Ethics: Being Lectures and Papers on Natural Religion, Self-Government, Natural Jurisprudence, and the Law of Nations*, ed. Haakonssen (Princeton, 1990), passim.

<sup>20</sup> Kames, *Essays on the Principles of Morality and Natural Religion* (Edinburgh, 1751), 147.

Montesquieu, Burlamaqui &c. who yet suppose it just to require a ransom from the captive. one advance further in refinement will relinquish this also. if we have no right to the life of a captive, we have no right to his labor; if none to his labor we have none to his absent property which is but the fruit of that labor. in fact, ransom is but commutation in another form.<sup>21</sup>

The natural lawyers' first law of nature, self-preservation, simply did not provide a sufficient basis for enslaving human beings, however they may have violated the natural rights of their combatants. In this respect, even Locke's theoretical considerations had been hopelessly equivocal. According to Jefferson's marginal note, the Lockean state of war could not be prolonged by the act of enslavement once the state of peace had resumed.<sup>22</sup> This principle had now been incorporated in the law of nature and nations, superseding the contrary views of earlier authorities. As Jefferson noted, this was a remarkable example of the Kamesian notion of the improved state of mankind, resulting from the progressive refinement of sentiment in an enlightened age and manifest in the development of academic jurisprudence. It had overcome John Locke's historically determined and restricted view.

Kames, whom Jefferson called "one of the ablest" of the moral sense philosophers, attempted to resolve the controversy between Francis Hutcheson and David Hume about the human sense of justice as either a natural or an artificial virtue.<sup>23</sup> Kames criticized Hutcheson for a too

<sup>21</sup> TJ marginalia, quoted in E. Millicent Sowerby, comp., *Catalogue of the Library of Thomas Jefferson*, 5 vols. (Washington, D. C., 1952-1953), 2:2:11-12.

<sup>22</sup> Garry Wills's contention, in *Inventing America: Jefferson's Declaration of Independence* (Garden City, N. Y., 1978), 293-94, that this extract separates TJ's position from Locke's understanding of the state of war being continued between the master and his slave is misleading. Wills's adherence to the notion of all-embracing benevolence as equivalent to the emotionally determined moral sense of man leads him to the erroneous conclusion that TJ rejected the Lockean understanding of the state of war. The argument merely affirmed the validity of the Lockean notion of the state of war between the oppressor and the oppressed without any suggestion that human affections could alter the situation in moral terms.

<sup>23</sup> See TJ to Thomas Law, June 13, 1814, in *Jefferson's Extracts from the Gospels*, ed. Dickinson W. Adams, *The Papers of Thomas Jefferson*, 2d Ser., ed. Charles T. Cullen (Princeton, 1983), 358. TJ's moral statements convey a moderate skepticism about all moral theories rather than any definite position between such moral sense theorists as Hutcheson, Kames, Reid, and the earl of Shaftesbury. Modern philosophers still differ on how to interpret Hutcheson's moral sense doctrine. See, for example, P.J.E. Kail, "Hutcheson's Moral Sense: Skepticism, Realism, and Secondary Qualities," *History of Philosophy Quarterly*, 18 (2001), 57-77, where Hutcheson's approach is analyzed as a kind of "non-realism" and contrasted with the old interpretations of Hutcheson's sentimentalism as well as with his alleged moral realism.

idealistic conception of the moral sense as distinguishable from all considerations of self-interest. In Kames's view, Hutcheson's position would compel us to handle the very notion of human justice as something less than a morally motivated phenomenon and thus leaves his whole system an easy prey for Hume's criticism. Kames's main target, however, is Hume, for whom justice is a more or less sociologically derivable "artificial virtue." Because a peaceful, just social order requires nothing more than proper understanding of our self-interest as social beings, Hume suggests, our sense of justice is, *morally speaking*, artificial: it precedes all strictly unselfish motives of truly virtuous action.<sup>24</sup>

Kames's response to this problem is based on the notion that every mode of social behavior has a moral dimension. On the whole, Kames holds that in order to conceive of human action in moral terms, we must consider all human behavior as already regulated by some more or less internalized natural principles of action. Even savage people act according to the minimum standards of justice. Their cruel customs represent neither immorality nor amorality but morally underdeveloped "brutish principles of action." It is only through the process of "great refinement in the art of living" that the Kamesian natural principles of action—self-preservation, self-love, fidelity, gratitude, and benevolence—can develop into complex, practical ideas of proper behavior.<sup>25</sup> Contrary to the general scholarly understanding, therefore, the so-called new social virtues in Kames's theory cannot be distinguished from moral virtues. Rather than making distinctions between virtues, Kames distinguishes between our social and properly moral "affections," the latter being those that we "indulge" or "restrain," according to our inborn moral sense.<sup>26</sup>

Proceeding from his premise that man is an active being, Kames first challenges the Lockean view of our motives as derivable either from our selfish inclination to avoid pain and seek pleasure or from our natural, but equally self-centered desire for happiness.<sup>27</sup> Kames insists, pre-

<sup>24</sup> Hume, *A Treatise of Human Nature* (London, 1739), bk. 3, pt. 2, § 1; Kames, *Essays on the Principles of Morality and Natural Religion*, passim. Hutcheson, according to Kames, "says, there is naturally an obligation upon all men to benevolence," a view that "falls far short of the whole idea of obligation." For Kames, the term obligation covers, first and foremost, the necessary duties of justice without which no human society can survive. It is something we, indeed, occasionally neglect, but only against our instinctive orientation towards the moral good so that conscious reflection is always involved when "a wrong" is done; *ibid.*, 57, 70.

<sup>25</sup> Kames, *Essays on the Principles of Morality and Natural Religion*, 136, 111, 88–90.

<sup>26</sup> *Ibid.*, 76–77.

<sup>27</sup> On criticism of Locke, see *ibid.*, 15. For the distinction between social and moral affections, see *ibid.*, 23–25, 38, 119, 132.

sumably against Locke, that once we distinguish our instinctive appetites and affections from their objects, we can see that sympathetic, social affections are fully natural to man. The miseries of others prompt sympathy without causing any feeling of aversion. To an extent, therefore, human feelings of sympathy do not devolve from sheer self-love, even while they are compatible with our interests as social animals. Such natural affections, in fact, comprise “the cement of human society,” claims Kames, thus inverting Blackstone’s notion of our natural weakness as such cement.<sup>28</sup> But most important, the Kamesian view of man as an emotionally social being is distinguishable from his image of man as a moral agent.<sup>29</sup>

Kames’s long second essay most fully elaborates his view of man as capable of moral development in terms of his moral affections. The foundation of natural law, he asserts, cannot be anything other than human nature itself. Thus an effective system of laws should accord with the historical development of human nature in a particular community. Kames aims at constructing a practical system of law that fully complies with “humanity” itself, while neither requiring an unrealistic commitment to benevolence in our everyday life nor precluding progressive changes in our common standards of behavior.<sup>30</sup>

In elaborating the theoretical basis for his principles of action, Kames offers a fully teleological account of our “internal constitution” as a species. Like all other species, men must have been created with certain functional characteristics that are reflected in their behavior. The internal constitution of each species “manifests itself in a certain uniformity of conduct,” for “two things cannot be more intimately connected than a being and its actions.”<sup>31</sup> It is not clear whether Kames believes that the notion of creation is needed to make his argument comprehensible, but it is crucially important to his theory that the manifestation of the human constitution can be viewed as epistemologically equivalent to our actual behavior.

<sup>28</sup> Ibid., 24. “The most sociable” people are the most interested in reading histories, novels, and plays that excite sympathy for the suffering of their protagonists; *ibid.*, 1–30, quotation on 18. On Blackstone, see Haakonssen, “From Natural Law to the Rights of Man: A European Perspective on American Debates,” in Michael J. Lacey and Haakonssen, eds., *A Culture of Rights: The Bill of Rights in Philosophy, Politics, and Law—1791 and 1991* (New York, 1991), 41.

<sup>29</sup> Kames is not Hume, who erroneously (according to Kames) “endeavours to resolve the moral sense into pure sympathy”; Kames *Essays on the Principles of Morality and Natural Religion*, 57.

<sup>30</sup> Ibid., 34. Here Kames criticizes both utopian and skeptic philosophical positions as unsuitable for any system building: moralists tend either to require “angelic nature” from us, or simply to reduce us to a level “more suitable to brutes than to rational beings.”

<sup>31</sup> Ibid., 37–38.

The inescapable implication of Kames's empirical observation that moral codes have varied among different nations at different times is that human action—unlike the merely instinctive modes of behavior of other species—is susceptible to progressive development. The ancient practice of killing war prisoners “is now looked upon with distaste and horror, and therefore is immoral; tho' it was not always so in the same degree.” Building on the premise, generally accepted by the natural law writers, that the substance of natural law is not yet known in its details, Kames derives the principles of his morality from his understanding of the evolution of human behavior. All principles of action, moral as they must be, must be compatible with the ideal of “universal equal benevolence” and function as guides to real action in developing human systems of laws. The figure of man in Kames's theory arises from this capacity to see the world of human action in moral terms.<sup>32</sup>

Kames's moral theory is based on the idea that our given, internal constitution as actively social, natural beings can be viewed as a “system of benevolence” encoded in every individual. As he states the issue: “to say all in one word, this system of benevolence, which is really founded in human nature . . . is infinitely better contrived to advance the good and happiness of mankind, than any *Utopian* system that has ever been produced, by the warmest imagination.”<sup>33</sup> The view of man as endowed with a system of benevolence thus provides the theoretical basis for understanding the logic of our morals and indeed for any systematic effort to construct a workable system for promoting our moral development.<sup>34</sup>

<sup>32</sup> *Ibid.*, 84, 147. For an almost identical formulation, see Kames, *Principles of Equity* (Edinburgh, 1760), v. In accordance with four-stage theories of history, Kames took all non-western societies to be mere relics of the previous stages of human refinement, reflecting the common past of all mankind. It was not coincidental that Kames was inclined to find moral unity in time (in the continuity of history) rather than in any utopia, since that was precisely what the burgeoning notion of history as a singular concept, concerning the whole of mankind throughout time, amounted to.

<sup>33</sup> Kames, *Essays on the Principles of Morality and Natural Religion*, 86.

<sup>34</sup> *Ibid.*, 82. What the moral sense qualifies is not a mere natural affection, but a natural *principle* of action. To clarify this crucial point Kames proclaims that “our nature, so far as concerns action,” is made up of two things: first, there are the natural principles of action consisting of our various appetites, passions, and affections, and second, there is the moral sense that provides us with the simple ideas of approbation or disapprobation of any act initially motivated by those principles. This is why he claims that, since the moral sense remains “our guide only, not our mover,” the “principle of benevolence,” can be founded only on the cooperation between our natural principles of action and the moral sense; *ibid.*, 76–78. What needs to be grasped here is that, for example, the *principle* of “self-love” cannot be a merely instinctive impulse for action, because it necessarily involves the agent's rational capacity for considering some means as contributing to the proposed end, in this case, the agent's own well-being. See *ibid.*, 11. Thus, whenever thought of as principles, even our natural affections involve the classical notion of practical reasoning

For Kames, our moral sense is an innate, pre-reflective perceptual capacity for gathering data about human actions “proceeding from deliberate intention.” Such actions are the “object” of the “power or faculty” that “passes under the name of the moral sense.” Moreover, the moral sense never ceases to affect even our reflective capacities, for, as Kames notes, “the moral sense, both in the direct feeling, and in the act of reflection, plainly supposes and implies liberty of action.”<sup>35</sup> According to Kames, the fundamental error of utopian moralists such as Shaftesbury and Hutcheson is their claim that “partial benevolence” would not count as benevolence at all. Even when originating in emotions rather than in rationality, Kamesian morality remains a matter of learning morality by its constant practice. History, in this view, appears not only as the narrative of man but as the very process by which morality is actualized.<sup>36</sup>

Kames believes that civilization is a moral blessing to mankind as a whole. But because human action always takes place in particular circumstances, people must resort to more specific and practical abstractions such as “our country” and “our government.” These terms are useful not only owing to their communicative value in a single society but also because “they serve for a much nobler purpose, to excite us to generous and benevolent actions . . . not confined to particulars, but grasping . . . all mankind.”<sup>37</sup> The methods for achieving these nobler

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concerned with the ends and means relation. Kames further distinguishes these principles as natural, moral, and legal principles of action; *ibid.*, 89–90, 125–26, 129–30. Even so, all of them begin with natural, human inclination to self-preservation and end with a more or less extensive notion of benevolence.

<sup>35</sup> *Ibid.*, 50, 70. This brings Kames’s moral argumentation close to that of ancient virtue ethics, albeit with a stern historical conviction that the domain of morality should be conceived of as a process leading man toward a more refined mode of behavior. Hutcheson’s tenet that we are “obliged” to the notion of equal and universal benevolence is, in Kames’s opinion, simply utopian and uninformative. On the other hand, he aims to explain or, at least, crucially diminish the Humean tension between “ought” and “is” by situating it in time. This move, consequently, demands viewing refinement as a moral rather than simply a social phenomenon. While Kames holds that refinement requires social intercourse, he also notes that by giving up “those principles of action which operate by reflection, and whose *objects are complex* and general ideas,” we would end up endorsing some more primitive principles; *ibid.*, 141 (emphasis added).

<sup>36</sup> For Kames’s remarks on the utopian notion of “benevolence” that erroneously “excludes justice,” see *ibid.*, 55, 121. Haakonssen, *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment* (Cambridge, 1996), 239, characterizes Dugald Stewart—another TJ favorite among the Scottish philosophers—as one of the optimists about the progress of civilization for whom it appeared evident that the thus far merely “natural history” of man “would soon be changed into a no less natural, but now properly moral, history.”

<sup>37</sup> Kames, *Essays on the Principles of Morality and Natural Religion*, 85–86.

purposes are strictly related to the progress of civilization. It is, therefore, only “by education and practice that we acquire a facility in forming complex ideas, and abstract propositions. The ideas of common interest, of a country, of a people, of a society under government, of publick good, are complex, and not soon acquired even by the thinking part of mankind. They are scarce ever to be acquired by the rude and illiterate; and consequently do not readily become the object of any of their affections.”<sup>38</sup> Kames also rejects all notions of the inevitable progress of human development: “nations” may well “advance to industry, commerce, and perhaps to conquest and empire,” but “this state is never permanent,” for “luxury has been the ruin of every state where it prevailed.”<sup>39</sup> Acquiring and maintaining a refined sensibility to genuinely moral aspects of our social development necessitate a constant and conscious practice of the virtues. As Kames warns us, even our desirable passions “decay by want of exercise.”<sup>40</sup>

It is logical for Kames to assert that “the moral sense, tho’ rooted in the nature of man, admits of great refinements by culture and education.”<sup>41</sup> Kames distinguishes our natural affections, which comprise the cement of society, from the ongoing development of moral feelings that arise from the dialectical relation between our instinctive moral capacity and abstract, practical thinking. Thus he writes: “Refinement in taste and manners, operating by communication upon the moral sense, occasions a stronger feeling of immorality in every vicious action, than what would arise before such refinement.”<sup>42</sup> According to Kames, our “moral sense becomes daily more acute . . . in a civilized society” and our duties “multiply by variety of connections” so that “benevolence becomes a matter of conscience in a thousand instances which formerly were altogether disregarded.”<sup>43</sup> In terms of our growing moral sensitivity, human nature itself may change in the course of history.

Kames taught that moral progress can only take place in particular civic communities, in “a society under government.” The critical challenge for Jefferson and his fellow revolutionaries was to prove to the world—and to themselves—that they constituted such a community. After all, they had been free people with their own colonial governments

<sup>38</sup> *Ibid.*, 139–40.

<sup>39</sup> On the recurrent theme of corruption as related to both the Kamesian notion of civilization as well as to his esthetic theory, see McGuinness, *Henry Home, Lord Kames*, 120–39; the quotation from Kames is *ibid.*, 125.

<sup>40</sup> Kames, *Essays on the Principles of Morality and Natural Religion*, 28.

<sup>41</sup> Kames ascribes both the lack of the moral sense and its abundance to “peculiar circumstances.” This is why developing society is so central in his scheme; *ibid.*, 138–43.

<sup>42</sup> *Ibid.*, 146.

<sup>43</sup> Kames, *The Principles of Equity* (Edinburgh, 1760), 8.



even before the Revolution, unwilling to be “reduced to a state of nature” by Parliament’s effort to dissolve those governments.<sup>44</sup> By detailing the progressive alienation of the English king’s American subjects, the Declaration gave a new people an instant historical pedigree. Made conscious of themselves as a community through their accumulated grievances, American patriots were now called to act on the stage of world history. Kames’s historical conception of morality thus fit their situation perfectly. On one hand, his writings encouraged Jefferson to measure morality by making cross-cultural comparisons: the English failure to foster the progress of political civilization stood in stark opposition to the Americans’ heroic efforts to vindicate their rights. At the same time, Kames’s morally charged notion of human history mitigated the impact of universal, ahistorical natural rights principles on revolutionary thought and practice. This is why Jefferson was not interested in the ahistorical individual, abstracted from the civic and cultural context that made him a responsible moral agent. Slaves were no part of the revolutionary civic community, but rather a captive nation, only kept from unleashing vengeance on its oppressors by the institution of slavery. Jefferson’s notorious commentary on racial differences in *Notes on the State of Virginia* was yet another cross-cultural comparison that illuminated the challenges confronting the revolutionary Virginians’ capacity for continuing moral development and underscored the danger of an unjustly enslaved and hostile servile population to Virginia’s very existence.<sup>45</sup>

All civil legislation was based on the notion of reciprocity of rights. But there could be no such reciprocity under slavery, for the slave by definition could claim no rights at all.<sup>46</sup> This made it difficult for Jefferson to define rebellious slaves as either criminals or as enemies in a “civilized” war. The insurgents in Gabriel’s Revolt in 1800 had justice on their side—again, by definition. However, the original breach of natural law could not be imputed to the living generation of slaveowners, but rather to their forefathers who had been unconscious of the injustice.

Here, not coincidentally, was another flattering cross-cultural, or rather transhistorical, comparison that enabled Jefferson to situate revo-

<sup>44</sup> TJ, *A Summary View of the Rights of British America* (1774), in *Jefferson Writings*, ed. Peterson, III.

<sup>45</sup> These themes are elaborated in Onuf, *Jefferson’s Empire*, 147–88.

<sup>46</sup> Because TJ thought that no “just war” could justify the institution, it followed that the only method to reestablish reciprocity was to abolish the institution. Its liberalization would have made no difference in this respect. James Oakes, *Slavery and Freedom: An Interpretation of the Old South* (New York, 1990), 204, points out that it was well after the Civil War that the real disfranchisement of the African American took place: “defining slavery not as a labor system, which had clearly been destroyed, but as one of ‘race control,’ which was now being restored, leading Southerners argued that the social order of their own age was largely continuous with its antebellum counterpart.”

lutionary Virginia in the grand sweep of moral progress. The problem of defining the status of African Americans did not reflect a phobic obsession with proving the racial inferiority of the slaves.<sup>47</sup> Jefferson instead approached the problem from the perspective of historical jurisprudence. Free Americans were dealing with an enslaved people who had been carried to America against their will. As a result, Jefferson lamented, slaves and their masters alike were victims of the institution of slavery, locked in a perpetual war that threatened to destroy both peoples.<sup>48</sup> For Jefferson, national identity itself was thoroughly associated with the historical, institutionalized forms of freedom that had developed in the Anglo-American colonies. The inalienable rights of free men constituted the normative, extrahistorical basis of all free institutions. Such institutional arrangements, however, naturally varied among nations because they reflected only the contemporary level of the Kamesian "refinement in taste and manners" among the people in question. In this respect, Jefferson's profound cultural concerns encompassed not only African Americans, but also Native Americans and ignorant European urban masses. Similarly, it can be seen in Jefferson's never-fading concern about the dangers of civic corruption in his home state. As he made clear in the case of the newly liberated Colombian people in 1816, "the ignorance and bigotry of the mass" made them temporarily unable "to understand and to support a free government." Thus he advised P. S. Dupont de Nemours to assume the role of a Solon, giving "your Columbians, not the best possible government, but the best they can bear."<sup>49</sup>

Enslaved Africans had been deprived of their rights when they were brought to the New World against their will and therefore could not

<sup>47</sup> See TJ to James Monroe, Nov. 24, 1801, in *Jefferson Writings*, ed. Peterson, 1098, for his confusing, ambiguous formulations about the relation between the colonization of Virginia slaves and slave rebellions with such remarks as that "acts deemed criminal by us" might be deemed "meritorious, perhaps, by" the Haitian revolutionaries.

<sup>48</sup> The concept of perpetual war was constantly present in TJ's remarks about the nature of the institution of slavery. In his *Notes*, TJ invoked the specter of genocide: "Deep rooted prejudices . . . will divide us into parties, and produce convulsions which will probably never end but in the extermination of the one or the other race." "The slave rising from the dust, his condition mollifying, the way I hope preparing, under the auspices of heaven, for a total emancipation, and that this is disposed, in the order of events, to be with the consent of the masters, rather than by their extirpation"; Queries XIV, "Laws," XVIII, "Manners," *Notes on the State of Virginia*, ed. Peden, 138, 163.

<sup>49</sup> TJ to P. S. Dupont de Nemours, Apr. 24, 1816, in *Jefferson Writings*, ed. Peterson, 1388. TJ's caution about the prospects for political progress also made him favor only very moderate reforms in revolutionary France in 1789. He later confessed to having been too skeptical about the capacity of the French to acquire a republican form of government. In 1815 it was, once again, evident to TJ that the political edu-

enjoy the benefits of this institutional development. Instead, as slavery itself became institutionalized, free whites claimed and exercised rights over their slave property. Jefferson would never have assented to the proposition that he violated the natural rights of man simply by virtue of being born into a slaveholding family. If he had believed this, the emancipation of his own slaves would have discharged him of further moral responsibility. The challenge instead was to find a practical solution to the slavery problem that would enable Virginians collectively to extricate themselves from the institution, reversing the process of historical development that had deprived Africans of their freedom, but doing so in a way that would not jeopardize the free institutions that were themselves the products of history. Everything would be lost, Jefferson feared, if he moved too precipitately. He could not risk jeopardizing civic community, and therefore the very possibility of moral action, by alienating fellow-citizens who were equally endowed with inalienable rights.

Jefferson's historical conception of morality explains both his legendary caution on the slavery issue—a caution amounting to inactivity—and his apparent obtuseness to the damage done to the human victims of the institution. His primary goal was not to free black people but to free white people from the moral evil of being slaveholders. By definition slaves could not suffer any violation of rights in the jurisprudential meaning of the term. Only by uniting under some government and determining their own destiny as a people, could a group of individuals claim rights and become proper historical subjects. In the case of Virginia's slaves, this was not going to be the government that white Virginians had constituted for themselves. As Jefferson wrote in one of his letters on "ward republics," even if Virginia "were . . . a pure democracy, in which all its inhabitants should meet together to transact all their business, there would yet be excluded from their deliberations, 1. infants, until arrived at years of discretion. 2. Women, who, to prevent depravation of morals and ambiguity of issue, could not mix promiscuously in the public meetings of men. 3. Slaves, from whom the unfortunate state of things with us takes away the right of will and of property."<sup>50</sup> The civic community should be expanded, the radical

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cation of a whole new French generation would be necessary before that nation could ever secure itself from falling into tyranny again; TJ to Lafayette, Feb. 14, 1815, *ibid.*, 1361.

<sup>50</sup> TJ to Samuel Kercheval, Sept. 5, 1816, in Andrew A. Lipscomb and Albert Ellery Bergh, eds., *The Writings of Thomas Jefferson*, 20 vols. (Washington, D. C., 1903–1904), 15:71–72. Writing about political developments in France, TJ asserted that the "government she can bear, depends not on the state of science, however exalted, in a select band of enlightened men, but on the condition of the general mind"; TJ to Lafayette, May 14, 1817, in *Jefferson Writings*, ed. Peterson, 1407.

democratic reformer urged, but never beyond the limits of contemporary public opinion. In the case of slaves, the community's progress toward achieving universal and equal benevolence was fundamentally circumscribed by the deeply rooted racist suspicions of white society. These were suspicions Jefferson confessedly shared, though they were at least partially qualified by his skepticism about the present state of natural sciences. Even as "a lover of natural history," he was a man of prudence who preferred the precautionary principle that seemed to offer him an "excuse" to keep the human races "as distinct as nature has formed them."<sup>51</sup>

Jefferson elaborated his historical-legal conception of the "nation of Virginia" and its moral agency in another well-known letter, in this case explaining his opposition to federal common law jurisdiction to Edmund Randolph. Virginians had developed institutions of government and made laws for themselves and so had emerged as a distinct people with a civic and moral identity long before the American Revolution. "The common law . . . was not in force when we landed here," Jefferson asserted, nor was it "till we had formed ourselves into a nation, and had manifested by the organs we constituted that the common law was to be our law." The American "nation," by contrast, only came into being with independence and then "only for special purposes, to wit, for the management of their concerns with one another & with foreign nations, and the states composing the association chose to give it powers for those purposes & no others."<sup>52</sup>

The "axiom of eternal truth in politics" dictates that political "independence can be trusted nowhere but with the people in mass," Jefferson later told Judge Spencer Roane, hurrying to add that the people "are inherently independent of all but moral law."<sup>53</sup> Jefferson's understanding of the law of nature and nations proceeded from the notion of a moral agent, whether it be an individual or a nation, progressively reinterpreting the meaning of that moral law under constantly changing historical circumstances.

The very concept of nation denoted a free agency within the historical domain of natural law. As John Taylor of Caroline, the leading Old

<sup>51</sup> "Will not a lover of natural history," viewing "the gradations in all the races of animals . . . excuse" his preference for keeping "those in the department of man as distinct as nature has formed them"; Query XIV, "Laws," *Notes on the State of Virginia*, ed. Peden, 143. With regard to women's political rights, the principle appears to have been the same; TJ stated that the "appointment of a woman to office is an innovation for which the public is not prepared, nor am I"; TJ to Albert Gallatin, Jan. 13, 1807, in *The Works of Thomas Jefferson*, 12 vols., ed. Paul Leicester Ford (New York, 1904–1905), 10:339.

<sup>52</sup> TJ to Randolph, Aug. 18, 1799, in *Jefferson Writings*, ed. Peterson, 1068.

<sup>53</sup> TJ to Roane, Sept. 6, 1819, *ibid.*, 1426.

Republican ideologist, maintained, it was clear that “a nation is both a natural and a moral being. Its natural powers we call physical, its moral, metaphysical or political.” It was equally “obvious, that a nation, like an individual, could never become a tyrant over itself.”<sup>54</sup>

How could this moral being—Virginia—be persuaded to engage with the slavery problem? The enlightened Jefferson might well believe, as he wrote in his Autobiography, that “nothing is more certainly written in the book of fate than that these people are to be free.”<sup>55</sup> But Jefferson could not compel other free men to share his vision or obey his will. As long as they submitted to a legal regime that expressed the moral sense of their fellow citizens, Virginians could not be deprived of their property in human beings. Jefferson’s constant advocacy of both public education and the widening of the Virginia electorate to nonfreeholders reflect his hopes that the legislature would one day better reflect the sentiments of a more refined majority of the free citizenry. Only when the community as a whole progressed toward a fuller understanding of its moral responsibilities could effective steps be taken against the institution. In the meantime, Virginia’s slaves remained a nation in chains.

Masters and slaves belonged to distinct, hostile nations. Only when emancipated slaves became a “free and independant people” in a country of their own could they consider their former oppressors as they would “the rest of mankind, enemies in war, in peace friends.”<sup>56</sup> “If a slave can have a country in this world,” Jefferson wrote in his *Notes on the State of Virginia*, “it must be any other in preference to that in which he is born to live and labour for another: in which he must lock up the faculties of his nature, contribute as far as depends on his individual endeavours to the evanishment of the human race, or entail his own miserable condition to the endless generations proceeding from him.”<sup>57</sup> Eventually, Jefferson persuaded himself, his fellow Virginians would recognize that emancipation and expatriation were morally imperative. The slave himself would surely welcome the opportunity to develop his own moral potential, to unlock the faculties of his nature. It was unimaginable to Jefferson that any man would prefer remaining a slave to gaining freedom, wherever he could find it.

<sup>54</sup> Taylor, *An Inquiry into the Principles and Policy of the Government of the United States* (Fredericksburg, Va., 1814), 394, 390; For TJ’s favorable commentary on this part of Taylor’s work, see TJ to John Taylor, May 28, 1816, in *Jefferson Writings*, ed. Peterson, 1391–95.

<sup>55</sup> TJ, Autobiography [1821], in *Jefferson Writings*, ed. Peterson, 44.

<sup>56</sup> Declaration of Independence, *ibid.*, 23.

<sup>57</sup> Query XVIII, “Manners,” *Notes on the State of Virginia*, ed. Peden, 163.

But neither slaves nor free blacks could claim equal rights until white Virginians were prepared to act—and Jefferson could always say that that day had not yet come. From the standard, obligation-centered moral perspective of our day, Jefferson's accommodation to community sentiment in a society of slaveholders epitomizes the failure of moral reasoning. The lesson that he drew from Kames, however, was that moral problems always arise within particular historical frameworks and that effective solutions depend on taking historical reality into account. Man was always bound to find himself practicing morality in some historically circumscribed role.<sup>58</sup>

When Jefferson approached the problem of American independence, Kamesian logic made him a radical who believed that he spoke for a suddenly enlightened community determined to vindicate its rights. And as he made the kind of historical and intercultural comparisons favored by the Scottish school, Jefferson became absolutely convinced that a great moral gulf separated righteous revolutionaries from their oppressors. The same logic counseled caution in the case of slavery: an administratively dictated revolution in Virginia's social order would jeopardize the whole American experiment in republican self-government as the basis of its legal—and moral—evolution. The only solution was to eliminate the institution of slavery and remove the former slaves to some distant location so that white Virginians could fulfill their moral potential as a civilized community.

Jefferson drew a crucial distinction between habitual human behavior and the beneficent actions that a man may practice in his own society without compromising his personal honesty. Karl Lehmann's classic study of Jeffersonian humanism demonstrates that Jefferson's attachment to the notion of the moral sense—as an instinctive capacity that develops or deteriorates with the communal standards of time and place—can be inferred without so much as a single reference to Francis Hutcheson. All the essential elements of this historically charged moral view are present in a quotation from Cicero in Jefferson's *Literary Commonplace Book*: "The seeds of virtue are inborn in our dispositions

<sup>58</sup> It is important to bear in mind that for most 18th-century moral philosophers "duty" denoted the virtues of man in his various roles as a family member, a statesman, or an individual under the moral law of nature. Alasdair MacIntyre, *After Virtue: A Study in Moral Theory*, 2d ed. (London, 1985), 58–59, illustrates the meaning of the functional notion of man in moral theory by noting that "it is only when man is thought of as an individual prior to and apart from all roles that 'man' ceases to be a functional concept." The various theories about the most extensive catalogue of Ciceronian "daily" duties must be kept separate from the highly complex question of the extent to which the obligatory notion of morality was elaborated in the various pre-Kantian moral doctrines with which TJ was familiar.

and, if they were allowed to ripen, nature's own hand would lead us on to happiness of life." Unfortunately, "as soon as we come into the light of day . . . we at once find ourselves in a world of iniquity amid a medley of wrong beliefs" and are easily led astray.<sup>59</sup> Human morality was about constant and conscious practice of man's capacity for proper action, his natural virtue. And failing to provide a favorable social environment for each man's development in his moral and intellectual capacities meant that only a general corruption would follow. This was the premise of Jefferson's lifelong concern with public education as the only means for making the mass of the people capable of self-government.

All this fits well with the general Kamesian, historicist position described above as well as with Hutcheson's general view of the subject in his *Short Introduction to Moral Philosophy*. There Hutcheson affirms the correctness of the Ciceronian doctrine of virtue as "the sole good" and then states that, as moral philosophy also deals with natural goods, it may well be viewed as "the art of regulating our whole life."<sup>60</sup> Dugald Stewart—the best metaphysician alive, according to Jefferson—could offer just as much intellectual support as Hutcheson or Kames. Stewart explains the common-sense thinkers' "active and moral principles" by invoking Hutcheson's and Adam Smith's speculations about human sentiments. The argument, in brief, is that any principle of action may lose its link to its original end and thus to its "utility." Avarice, for example, is a perverted natural desire for the mere means of acquiring our daily necessities, money. According to Stewart's formulation, when human desires descend into the class of "secondary affections," as they frequently do, a natural human pattern of action is simply turning into a vice. Thus, the corruption of human desires is explained as both a social and a moral phenomenon.

Utility, in this account, has very little to do with the later utilitarian moral argument, for it refers simply to the given teleological connection between an act and its end as either natural or moral. Stewart's moderate

<sup>59</sup> See the discussion in Karl Lehmann, *Thomas Jefferson, American Humanist* (Charlottesville, 1985; orig. pub. 1947), 122. Quotation from *Jefferson's Literary commonplace Book*, ed. Douglas L. Wilson, *Papers of Thomas Jefferson*, 2d Ser., ed. Cullen (Princeton, 1989), 60n.

<sup>60</sup> Hutcheson, *Short Introduction to Moral Philosophy*, iii, 1. Even if TJ, as Michael P. Zuckert, *Natural Rights and the New Republicanism* (Princeton 1994), 19, asserts, "never spoke of Hutcheson at all," "never once recommended Hutcheson's books to those who sought guidance on reading in politics and law," and "never owned Hutcheson's major work," this book was recommended by TJ to John Minor for studies in no lesser field than that of ethics and natural religion; TJ to Minor, Aug. 30, 1814, in *Works of Jefferson*, ed. Ford, 11:422n. In addition to this book, TJ owned Hutcheson's *An Inquiry into the Original of our Ideas of Beauty and Virtue* (London, 1753); Sowerby, comp., *Catalogue of the Library of Thomas Jefferson*, 2:13.

skepticism about human dignity, which he attributes to the teachings of Mandeville and Hobbes, flows from the view that all our “principles” are “acquired.” Not at all surprisingly, Stewart also holds, against Kames, that no theory is yet possible for discerning such principles as “laws” of nature by any scientific criterion. Even so, moral principles can only be understood in terms of the practical, teleological notion of an end and the act in question. Whenever the notion of “private happiness” is inconceivable as the ultimate end of our approbations and affections, proclaims Stewart, we are dealing with something “properly called habits.”<sup>61</sup>

When Jefferson insisted that “habit alone confounds what is civil practice with natural right,” he simply held that habits often reflect corrupt morals, because they are no longer associated with our ideas of the law of nature. This was not to claim that civil practice, even while always seeking to take natural jurisprudence into account, could ever fully reflect divine natural law.<sup>62</sup>

Jefferson’s understanding of moral duties was compatible with the Ciceronian notion of “offices.” Cicero first invoked the conception of honesty, *honestum*, as the sum of all virtue that governs the agent’s response to every particular situation he confronts so as to preserve his moral rectitude; secondly, however, the honest man’s rational consideration of which course of action to choose was affiliated with its utility, *utilitatem*. What the Scottish Enlightenment taught Jefferson was that there had to be some instinctive foundation for honesty, while he appears to have thought it inconsequential whether such a moral perspective was acquired—or, more accurately, rationalized—by naturalistic, deistic, or ontological reasoning.<sup>63</sup>

When Jefferson affirmed his belief in the existence of the moral sense in his letter to Thomas Law in 1814, he invoked the language of virtue ethics. “Nature has constituted *utility* to man the standard and

<sup>61</sup> Stewart, *The Elements of the Philosophy of the Human Mind* (1792), vol. 1 of *The Works of Dugald Stewart* (Cambridge, 1829), 237 (quotation), 284–89.

<sup>62</sup> TJ to Thomas Earle, Sept. 24, 1823, in Lipscomb and Bergh, eds., *Writings of Thomas Jefferson*, 15:471.

<sup>63</sup> In TJ’s famous “Head and Heart” letter, it is the heart that explains how the foundation of morals is laid “in sentiment, not in science.” TJ’s commitment to virtues as human excellences characterizes the whole dialogue. Even the head speaks of persons “of the greatest merit, possessing good sense, good humour, honest hearts,” while the heart claims to be capable of such judgments on its own: “I receive no one into my esteem till I know they are worthy of it.” This commonplace distinction between moral and contemplative powers of man can be found in TJ’s other letters as well. To Peter Carr he speaks of the “honest heart” as the “first blessing” and of the “knowing head” as the “second.” See TJ to Maria Cosway, Oct. 12, 1786, in Boyd et al., eds., *Jefferson Papers*, 10:450, 446, 451, and TJ to Peter Carr, Aug. 19, 1785, *ibid.*, 8:406.



test of virtue," Jefferson insisted, adding that "men living in different countries, under different circumstances, different habits, and regimens, may have different utilities."<sup>64</sup> Real virtue had to derive from the notion of justice inherent in every man and to comply with human sociability in its various forms. The distinction between virtue and its mere appearance depended on whether the individual practicing virtue had successfully cultivated a virtuous disposition or—we would say—internalized authoritative norms. Utility was not a moral maxim by itself, but a practical maxim for an individual already committed to the notion of justice.<sup>65</sup>

The principle of utility offered guidance to the moral agent dealing with a practical ethical dilemma in a particular historical situation.<sup>66</sup> As a practical principle, utility referred to the rational consideration not of ends but of the means of achieving ends already known to be fully moral. Jefferson thus endorsed the practicality of a virtuous moral agent who never set his own self-interest above the community's, but who

<sup>64</sup> TJ to Thomas Law, June 13, 1814, in *Jefferson's Extracts from the Gospels*, ed. Adams, 357.

<sup>65</sup> According to TJ's much-discussed summary of his own Epicurean faith, in a letter to William Short in 1819, "happiness" was "the aim of life," and the 4 cardinal virtues—prudence, temperance, fortitude, and justice—were the necessary "means to attain" it. The puzzle to be solved in this account of human virtue concerns the status of prudence as apparently a moral rather than an Aristotelian, intellectual virtue. That some inherently intellectual human capacity, however, was critical to TJ's moral outlook, is clearly discernible in this as well as in other formulations. In his summary of Epicureanism, prudence not only represented the opposite force of "folly," but was the first, key virtue among the (Stoic) virtues, just as it had been in Pierre Gassendi's summary of Epicurean doctrines and in Cicero's *De Officiis*, where it is handled as a kind of practical maxim for the common man in lack of absolute wisdom. Moreover, there was involved "the test of virtue," which was "utility" in TJ's syllabus on Epicureanism. No wonder, then, that reason was one of TJ's 3 standards for sound morality along with justice and philanthropy, "sound" being the type of morality Jesus of Nazareth had taught. Or, as TJ later clarified the issue: the human qualities of wisdom, justice, and benevolence—all of them best embodied by the historical figure of Jesus—were necessary to attain the "social utilities which constitute the essence of virtue." See TJ to Short, Oct. 31, 1819, in *Jefferson Writings*, ed. Peterson, 1433, and TJ to Joseph Priestley, Apr. 9, 1803, *ibid.*, 1121. On "social utilities" see TJ to Short, Aug. 4, 1820, *ibid.*, 1437.

<sup>66</sup> Jean M. Yarbrough's suggestion that TJ somehow misunderstood his own ethics arises partly from her failure to distinguish fully the notion of moral obligation from the widely accepted practical notion of duties as Ciceronian "offices." By equating some more or less given notion of moral obligation with the commonplace, Pufendorf-inspired, catalogues of "duties we owe to others" and those we owe "to God" (and these, in turn, with the Jeffersonian moral virtues), Yarbrough ends up proclaiming that, "for Jefferson, all our *obligations* are meshed together into a seamless web of *social utility*" (emphasis added); *American Virtues: Thomas Jefferson on the Character of a Free People* (Lawrence, Kan., 1998), 153, 194–95. No virtuous action, according to TJ, could be obligatory beyond the minimum contemporary standard of justice, whereas any virtuous act beyond that minimum could be genuinely beneficent to some people if not harmful to any others.

prospered and flourished with his community. When it came to the question of whether the community should wage a just war in the name of “national morality,” Jefferson proclaimed, “the most honest men often form different conclusions.”<sup>67</sup> None of this called into question the purely theoretical, or psychological, view that the human sense of justice devolves from natural human affections (or feelings) rather than from some fully rationalized dispositions. And Jefferson often chose some particular course of action with “a bleeding heart.”<sup>68</sup>

In the much-discussed Adam and Eve letter Jefferson warned his close friend William Short not to be overcome by sentimental scruples when assessing the French Revolution. “The liberty of the whole earth was depending on the issue of the contest,” Jefferson averred and went on to note that his “own affections have been deeply wounded by some of the martyrs to this cause, but rather than it should have failed, I would have seen half the earth desolated. Were there but an Adam and an Eve left in every country, and left free, it would be better than as it now is.”<sup>69</sup>

When President Jefferson refused his public support for Thomas Brannagan’s antislavery pamphlet in 1805, he, again, explained that “it is highly painful to me to hesitate on a compliance which appears so small” regarding the cause “so holy.” But, he went on, “that is not it’s true character,” for his compliance would be injurious to Brannagan’s purposes. “Should an occasion ever occur,” however, “in which I can interpose with decisive effect, I shall certainly know & do my duty with promptitude & zeal.”<sup>70</sup> Satisfying his personal moral sentiments was not the same thing for Jefferson as executing what he knew to be his duty as a statesman.

When Jefferson wrote that “what is practicable [for the statesman] must often controul what is pure theory,” he had a criterion for determining the practicable, namely that “the habits of the governed determine in a great degree what is practicable.”<sup>71</sup> Such a maxim did not sanctify the habits derived from “ignorance and bigotry” of the Colombians or justify the “wrong beliefs” inherited from the ancient Romans, but instead underscored the importance of considering human behavior as the proper subject of continuing education. It was thus in

<sup>67</sup> TJ to Robert R. Livingston, Sept. 9, 1801, in *Jefferson Writings*, ed. Peterson, 1091–95.

<sup>68</sup> TJ to James Monroe, July 14, 1793, in Boyd et al., eds., *Jefferson Papers*, 26:503.

<sup>69</sup> TJ to William Short, Jan. 3, 1793, *ibid.*, 25:14.

<sup>70</sup> TJ to George Logan, May 11, 1805, in *Works of Jefferson*, ed. Ford, 10:141.

<sup>71</sup> TJ to P. S. Dupont de Nemours, Jan. 18, 1802, in *Jefferson Writings*, ed. Peterson, 1101.

perfect accord with Kames's teaching that a people's actual behavior constitute the basis for judging their level of moral development—and that theorizing about an all-embracing, transhistorical ideal of universal benevolence was a waste of time.<sup>72</sup>

How, then, could moral progress take place in relation to the problem of slavery, the unhappy institutional legacy of bad reasoning by less enlightened generations about the requirements of natural law? The only way to gain fuller understanding of natural law was through the progressive refinement of manners. It was precisely for this reason that Jefferson worried so much about the degradation of manners and the lack of moral reflection among slaveholding white Virginians. The ability to grasp and resolve moral problems, Jefferson lectured his nephew Peter Carr, was not a function of social class or formal education: "State a moral case to a ploughman and a professor. The former will decide it as well, and often better than the latter, because he has not been led astray by artificial rules." One crucial condition had to be taken into account, however: both should be "unbiassed by habit." In the real world, the most intractable moral predicaments—most notably, that of slavery in Jefferson's Virginia—were inextricably tied to the habits and customs that governed community life.<sup>73</sup> This was the case with Virginia slaveholders, whose moral instincts suddenly ceased to function when their property in slaves was in question: "What a stupendous, *what an incomprehensible* machine is man!" lamented Jefferson, when noting how an individual could "inflict on his fellow men a bondage, one hour of which is fraught with more misery than ages of that which he rose in rebellion to oppose."<sup>74</sup>

If slaves were victims of a historic injustice, it did not follow that they occupied a higher moral plane in Jefferson's scheme of things. To the contrary, their bias against their oppressors was so absolute—and so perfectly mirrored the slaveholders' bias—that Jefferson considered a genocidal race war the inevitable consequence of emancipation without expatriation. The institution of slavery might restrain their vengeful

<sup>72</sup> In any case, TJ thought the greatest moral teacher, the historical Jesus of Nazareth, had said all that needed to be said on the issue. What Jesus had failed to do was to translate the principle of universal benevolence into a fully developed "system" of morality that would offer guidance in practical decision-making; TJ to Benjamin Rush, "Syllabus of an Estimate of the merit of the doctrines of Jesus . . .," Apr. 21, 1803, in *Jefferson's Extracts from the Gospels*, ed. Adams, 333.

<sup>73</sup> TJ to Carr, Aug. 10, 1787, in Boyd et al., eds., *Jefferson Papers*, 12:15. On either a "savage" or a civilized man being "unbiassed by habit," see TJ, Report on Negotiation with Spain, Mar. 18, 1792, in *Works of Jefferson*, ed. Ford, 6:425.

<sup>74</sup> TJ to Jean Nicolas D meunier, June 26, 1786 (Jefferson's answers to D meunier's queries), in Boyd et al., eds., *Jefferson Papers*, 10:63 (emphasis added).

impulses, but while they remained in bondage slaves necessarily remained uncivilized, outside of history, and without morality. Jefferson was convinced that black people in general acted on the basis of their sensations and appetites, without forethought and deliberation, because they were not educated to exercise and improve their faculties. The slave's as well as the freedman's "disposition to theft" was symptomatic of this moral underdevelopment.<sup>75</sup>

Jefferson's concern with the development of human faculties and the general refinement of manners makes his thoroughly practical view of ethics comprehensible. Manners constituted the practical, reflexive moral sense of a community at a particular moment in history, and therefore the empirical fabric by which the behavior of any group of men could be judged. Freedom meant the free use of human faculties. As Jefferson lectured Jean Nicolas D meunier in 1795, the United States had become an "asylum" for many Europeans offering them only "an entire freedom to use their own means & faculties as they please."<sup>76</sup> He made the same point in his First Inaugural Address: Americans were in possession of a "chosen country," where they could entertain "a due sense of our equal right to the use of our own faculties, to the acquisitions of our own industry, to honor and confidence from our fellow-citizens, resulting not from [our] birth, but from our actions and their sense of them."<sup>77</sup> Even as great a genius as Isaac Newton did not have the right to exercise his faculties in a way that would interfere with the free exercise and development of anyone else's faculties.<sup>78</sup>

The idea that Jefferson's "observations" about his slaves could warrant the "suspicion" that their faculties were naturally inferior was clearly racist or, to use his own term, hopelessly biased. It could not be reconciled with his own conception of moral development through history. What Jefferson did not doubt for a single moment—and this, he would insist, was much more than a suspicion—was that the actual behavior of these people, as he had observed it, was far inferior to the progressively improving standards of the civilized world. Jefferson's comparative judgment on the moral condition of masters and slaves in Virginia is profoundly offensive to modern sensibilities, and even contemporary readers questioned his methodology. He asserted, astonishingly, that "it would be unfair to follow them to Africa for this investigation. We will consider them here, on the same stage with the

<sup>75</sup> Query XIV, "Laws," *Notes on the State of Virginia*, ed. Peden, 142. On freedmen's customary thefts, see TJ to Edward Bancroft, Jan. 26, 1789, in Boyd et al., eds., *Jefferson Papers*, 14:492.

<sup>76</sup> TJ to D meunier, Apr. 29, 1795, in *Jefferson Writings*, ed. Peterson, 1028.

<sup>77</sup> TJ, First Inaugural Address, Mar. 4, 1801, *ibid.*, 494.

<sup>78</sup> TJ to Henri Gregoire, Feb. 25 1809, *ibid.*, 1202.

whites.”<sup>79</sup> His comparison was made on the basis of how these faculties had been used by African Americans in the context of western civilization. Yet this is exactly what his thoroughly historical and cultural notion of morality required. The standard was not, as we might be tempted to conclude, a self-interested deduction from the sorry state of affairs in a fundamentally immoral society, but rather a conception of the progressive tendencies for moral improvement throughout the “civilized” world that the provincial Jefferson shared with enlightened Europeans.

This interpretation of Jefferson’s historical conception of moral development dissents from Garry Wills’s influential account of Jefferson as a sentimentalist. Wills focuses on Jefferson’s comment in *Notes on the State of Virginia* that, though “nature has been less bountiful” to slaves “in the endowments of the head, I believe that in those of the heart she will be found to have done them justice.” Wills’s conclusion that Jefferson thus acknowledged the enslaved African American as his moral equal only makes sense if we assume that the moral sense was equivalent to good sentiments.<sup>80</sup> The error here proceeds from the unwarranted assumption that Jefferson’s conception of the moral sense made people morally equal regardless of their actual behavior. Even Hutcheson, the leading Scottish sentimentalist—and Wills’s favorite authority—believed that bad conduct did not follow from “any irregularity” in our moral sense, but from wrong judgments.<sup>81</sup> When Jefferson discussed the bad behavior of slaves, emphasizing their disposition to theft, he was chronicling the corruption in morals in a population that had yet to cross the threshold of national identity and moral responsibility.

It did not follow that masters could wield despotic authority over their slaves without violating moral norms. To the contrary, Jefferson insisted, the slaves’ equal endowments of heart meant that they must be treated with respect as fellow human beings. This, however, was equally true of all dependents: in this respect, the black man was equal to a white child. The praiseworthy human qualities of children—or of slaves—did not, however, make them equal to their parents—or masters. Parental authority over children devolved from a more mature understanding and from the moral responsibility resulting from that understanding. Slavery was perpetual, arbitrary childhood: the benevolent instincts that slaves shared with all children would never be nur-

<sup>79</sup> We will forgo extensive quotation from this oft-quoted discussion; Query XIV, “Laws,” *Notes on the State of Virginia*, ed. Peden, 139 (quotation), 143.

<sup>80</sup> *Ibid.*, 142. Wills, *Inventing America*, 224–26.

<sup>81</sup> Hutcheson, *An Inquiry Concerning Moral Good and Evil* (1725–1726, 1964), §§ IV, III:122, in *An Inquiry into the Original of Our Ideas of Beauty and Virtue* (London, 1726).

tured and developed as the moral faculties that ultimately justified claims to equality. In moral terms, uncultivated human faculties were useless.<sup>82</sup> Whether or not their mental endowments were inferior, Virginia's slaves could never develop their individual faculties as long as they remained in bondage—and in Virginia.

For Jefferson, all virtues were specific human excellences. The exercise of the moral faculty was thus necessary to moral development, just as the cultivation of other faculties was necessary for the development of intellectual human virtues. As he wrote to Richard Price, the most prominent spokesman of moral rationalism, "we may well admit morality to be the child of understanding rather than of the senses, when we observe that it becomes dearer to us as the latter weaken, & as the former grows stronger by time & experience."<sup>83</sup> Being cultivated in manners simply meant being a cultural being. Moral conduct was thus to a large extent a product of culture, for the cultivation of an individual's faculties depended on the general capacity of the society surrounding him to absorb a more refined understanding of what constituted morally desirable conduct. Human cultures had to be assessed according to their demonstrated capacity for development as civilized western man understood the term. The central tenet of modern moral thinking, that there is an intrinsic, irreducible value in each individual, was inconceivable to Jefferson. The end of man was to develop his moral conduct in a social setting. Any other form of individualism was of no interest to Jefferson. A thoroughly cultural conception of man thus lurks in the background of Jefferson's image of man and is fully compatible with Kames's maxim that we are how we act. The Jeffersonian "morals of the people" consisted of both the Kamesian taste and manners. Regarding an individual citizen, "the manners of his own nation" are "familiarized to him by habit," wrote Jefferson. Were the manners of the nation not too corrupted, they would enable any free Virginian to reflect critically the immorality of contemporary legalism among pro-slavery Virginians.

<sup>82</sup> This was the thrust of TJ's scheme for public education in Virginia: "By that part of our plan which prescribes the selection of the youths of genius from among the classes of the poor, we hope to avail the state of those talents which nature has sown as liberally among the poor as the rich, but which perish without use, if not sought for and cultivated"; Query XIV, "Laws," *Notes on the State of Virginia*, ed. Peden, 148. When emphasizing that individuals are genuinely different in their talents, TJ also held that it is possible that the "want or imperfection of the moral sense in some men" is just like the want of "the senses of sight and hearing in others"; TJ to Thomas Law, June 13, 1814, in *Jefferson's Extracts from the Gospels*, ed. Adams, 357.

<sup>83</sup> TJ to Richard Price, July 11, 1788, in Sowerby, comp., *Catalogue of the Library of Thomas Jefferson*, 2:9.

Such thinking was only intelligible in the context of some specified culture, namely that of the civilized west. Even this culture was inconceivable as a fixed ideal, however, for it ultimately existed for its own refinement. In this view, even natural law itself appeared self-corrective and self-regenerating according to the growth in human understanding.<sup>84</sup>

When Jefferson spoke of corrupting influences on manners of white Virginians, he could refer to either Indians or African Americans: on one occasion, Virginia seemed to be “sinking into the barbarism of our Indian aborigines,” on another, it was “fast becoming the Barbary of the union and in danger of falling into the ranks of our own negroes.”<sup>85</sup> Freedom distinguished Indians from slaves, though it was not clear that Indians would seize the historic opportunity of moral uplift through assimilation with white Americans. Neither group, in its present degraded condition, could be compared with the enlightened societies of the civilized west.<sup>86</sup> Jefferson’s understanding of human dignity, as expressed in the idea of morally inalienable rights of a free agent, had nothing to do with his assessments of the culturally circumscribed conduct of slaves, or of free blacks, or of Africans, or of the white “mobs of great cities,” or of the white “drunken loungers at and about the court houses” in Virginia.<sup>87</sup> The only culture he was interested in was the culture of human refinement as epitomized in the Enlightenment view of a progressive history.

The ultimate obstacle to the integration of emancipated slaves into republican society was their retarded moral development after generations of unjust captivity and brutal exploitation. In moral terms, they were still children, yet to be raised to even a rudimentary understanding of the requirements of a free society. Either as slaves or as freedmen, they would be dangerous to the success—and perhaps even the survival—of the American experiment and therefore to the general progress of humankind. Jefferson’s standard for making comparisons between ethnic groups was the improvement of man. According to that standard, he con-

<sup>84</sup> Query XVIII, “Manners,” *Notes on the State of Virginia*, ed. Peden, 162.

<sup>85</sup> TJ to Joseph C. Cabell, Jan. 22, 1820, in *Works of Jefferson*, ed. Ford, 12:155; TJ, quoted on the threat of descending to the level of the black man, in Miller, *Wolf by the Ears*, 257.

<sup>86</sup> It was appropriate to let the Indians know only “their present age” of history, while it was equally clear that the Latin American republics were probably incapable of maintaining free government. On the Indians, see TJ to William Henry Harrison, Feb. 27, 1803, in *Jefferson Writings*, ed. Peterson, 1120; on the Latin American peoples, see TJ to Alexander Humboldt, Dec. 6, 1813, *ibid.*, 1311. For further discussion of Indians and the problem of civilization see Bernard W. Sheehan, *Seeds of Extinction: Jeffersonian Philanthropy and the American Indian* (Chapel Hill, 1973), and Onuf, *Jefferson’s Empire*, 18–52.

<sup>87</sup> Query XIX, “Manufactures,” *Notes on the State of Virginia*, ed. Peden, 165; TJ to Cabell, Feb. 2, 1816, in *Jefferson Writings*, ed. Peterson, 1381.

cluded, the moral and political development of the black population would take generations. In the meantime, American republican society would be riven by deep inequalities that would belie and subvert the progressive and enlightened principles on which it was founded. The failure to emancipate and expatriate Virginia's slaves and then "to declare them a free and independant people" would unleash a horrific race war that would reduce both "nations" to the barbaric conditions of an anarchic state of nature in which any sort of moral life—much less its progressive refinement—would be impossible.<sup>88</sup> Thomas Jefferson never imagined a racially or even an ethnically pluralistic America. At the same time, he never suggested that mere obedience to law would provide moral justification for those various sociopolitical inequalities present in every human society, even today.

<sup>88</sup> Query XIV, "Laws," *Notes on the State of Virginia*, ed. Peden, 138.