PRIVACY:

ITS ORIGIN, FUNCTION, AND FUTURE*

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> The first man who, having enclosed a piece of ground, bethought himself of saying "This is mine," and found people simple enough to believe him, was the real founder of civil society.
> -- Rousseau, Discourse on the Origin of Inequality

Explorers must accept the bad with the good. In the new-found lands gold may lie on the ground for the taking, but pioneers are likely to encounter rattlers and desperadoes. Recently a new territory has been discovered by economists, the intellectual continent we call "privacy." The pioneers are our peerless leaders Posner and Stigler whose golden findings have already dazzled the world. It is high time for rattlers and desperadoes -- that's the rest of us -- to put in an appearance. Of course, I ought to add parenthetically, "new" is relative to one's point of view. Our pioneering economists, like explorers in other places and other times, found aborigines already inhabiting the territory -- in this case intellectual primitives, Supreme Court justices and such. Quite properly, our explorers have brushed the natives aside, and I shall follow in that honorable tradition.

I. What Is Privacy?

So much for flowery introduction. The first issue I shall address is whether our pioneers have correctly mapped the major features of the "privacy" continent. Have they possibly mistaken a peninsula for the mainland, foothills for a grand sierra, or perhaps even misread their compass so as to reverse north and south? Well, not quite so bad as that last,

but I will be contending that the mainland of "privacy" is not the idea of secrecy as our pioneers appear to believe -- secrecy is only an outlying peninsula. The central domain of what we mean by "privacy" is, rather, a concept that might be described as autonomy within society. Privacy thus signifies something much broader than secrecy; it suggests, as I shall be maintaining in detail below, a particular kind of social structure together with its supporting social ethic.

In his 1978 article ["The Right of Privacy"] Posner deals only with aspects of privacy as secrecy, as ability to control dissemination and use of information about (or possessed by) oneself. Stigler's recent paper ["An Introduction to Privacy in Economics and Politics"] has much the same narrow orientation. This limited angle of view perhaps explains why our pioneers' attitude toward privacy is -- occasional qualifications aside -- on the whole hostile. Their tone suggests that we have more privacy than ever before, probably more than is actually good for us or at any rate good for economic efficiency, and, furthermore, that any person displaying a special desire for privacy is probably just out to hoodwink the rest of us.

In his later paper ["Privacy, Secrecy, and Reputation"] Posner does however glimpse the central massif of the privacy continent. He there considers a category of privacy he calls seclusion. The desire for seclusion is regarded by Posner as a more or less inexplicable "taste" -- and one that is not, probably, very widely shared. "Seclusion" approaches, but does not yet arrive at what I take to be the heart meaning of privacy; seclusion denotes withdrawal from society, whereas I am speaking of privacy as a way of organizing society. Still, seclusion does suggest one of the major aspects of the situation, the human desire for autonomy -- for

independence from control by others. Among the group of us assembled here today, due respect for this desire should not be difficult to find. Autonomy of the individual is the bedrock value of that classical liberalism still popular hereabouts.

The etymology of the word "privacy" is suggestive. The basic Latin form is the adjective privus, the original archaic meaning being "single." Standard later use signified that which is particular, peculiar, or one's own -- the implied context being not the solitary human being but rather the individual facing the potential claims of other persons. Clearly, this root idea is what the word "private" still means when we speak of private property. Secrecy, which is an information preserve maintained about oneself, is but one aspect of (or is perhaps an instrumentality of) privacy in this more fundamental sense. Being rung up on the telephone only to hear a recorded message hawking some product would be regarded as an invasion of our privacy, even though no secret information about ourselves is thereby elicited.

The desire for privacy in the sense of private property is most intense insofar as it concerns control of one's own person and one's own time, the felt urgency gradually diminishing in moving outward to embrace family, home, and possessions. But even in the case of material objects, I would argue, our desire to have and to hold them transcends the merely physical benefits derivable therefrom. Possessions are not just things; they are guarantors or at least symbols of our autonomy from others, of our status as self-sustaining individuals.

So far I have addressed the privacy of an individual as against other members of society. A special case of enormous importance concerns

individual autonomy as against those other members of society who constitute the "government." This is the privacy meant in the line we draw distinguishing the private sphere from the public sphere. In this connection, failure to perceive the centrality of the autonomy conception of privacy leads Posner [PSR] to decry the Supreme Court's recent constitutional doctrine of "sexual privacy," as applied for example in striking down anti-abortion statutes. I would be among the last to defend the usual thought processes of the present occupants of the Supreme Court bench. But their judgment setting sexual matters outside the reach of government control, whether or not soundly based in law or morals, is surely a declaration of a privacy right in the most essential meaning of that term.

Autonomy as against the state is more than the leading special case of the general problem of privacy. Privacy can be attained, to some de facto degree, simply by individual patrolling and self-defense. Nor is this an unimportant phenomenon even today: a person who remains passive in the face of invasions of his rights is unlikely to retain them. But for defending privacy we rely, for the most part, upon the support of law: a system of impersonal third-party definition and enforcement of private property rights. Laws can be enacted by a general town meeting and enforced by a general hue and cry as need arises. But society long ago arrived at (or had imposed upon it) the alternative system of specialization in coercion that is government. A dangerous solution, evidently. How to defend autonomous private rights against the organized professional guardians of those rights is the key problem of liberal political philosophy. But I am not going to solve that problem today. Instead, my purpose is to look both into the sources and the social consequences of what our pioneers regard as the somewhat peculiar "taste" for privacy.

II. On The Evolution of "Tastes"

Economics had not done a good job on "tastes." The use of this trivializing word, suggestive of the choice of French dressing versus Thousand Island, is itself an evasion. If we spoke of human drives or aims, of ingrained ethics, or of value systems or goals for living, we would be inclined to treat the subject with more respect. One hardly need emphasize that what we want is often of greater significance for personal and social life than how precisely we manage to balance marginal cost against marginal benefit in achieving our desires. Even if preferences were arbitrary brute facts, independent of economic forces, simply mapping them should have aroused more interest than it has. But what we call tastes are not completely arbitrary. On the most elementary level, it is not difficult to understand why ice water is more desired in July than in December. In what has been called "the new theory of consumption" [Lancaster, 1966], economists have begun to interpret preferences for observable market goods as derived from and dependent upon more fundamental desires. But lacking an analytical explanation of these latter, our theories have only pushed the underlying arbitrariness back a notch.

Starting with Alchian [1950], a number of economists have analyzed how the market environment selects for commercial survival only those firms choosing the "best" decisions -- even though those decisions were very likely made via a process of at best limited rationality [Simon, 1955]. Thus, the blind forces of environmental selection lead to a simulation of conscious rationality. The solutions we see in the world about us tend to be well-adapted because they have survived, however arrived at.

Curiously, and undoubtedly because of the tunnel vision that enables us not to see "tastes" as an economic problem, economists have never attempted to apply the idea of evolutionary selection to the essential makeup of the human fabric itself. Even in the "new theory of consumption," the provenance of our underlying deeper desires remains an unanalyzed mystery. But the biologists, in a long tradition starting with Darwin's Descent of Man and recently flowering as a topic under the heading of sociobiology, have been better economists than we. They have shown that not only our physical but our psychic constitution -- what we desire, what "tastes sweet" to us [Barash, 1979] -- is what has been found by natural selection to work as a genetically implanted motivator. I hasten to interpolate a word of warning, however: our implanted structures and orientations represent successful evolutionary solutions in the past, and there is no implication that they will continue to succeed in the future. Nor is there any implication that these solutions are "right" by any other standard apart from success -- for example, by the standard of ethics.

We do not usually dignify the implanted tropisms of primitive organisms, to seek or avoid light or heat or water, by calling them desires. They are "hard-wired" controls on behavior. Higher organisms have genetic controls that tend to be more "soft-wired," increasingly so as we approach the human level. Such controls permit the organism to choose, to some degree, among the implanted ends -- for example, by deferring gratification. More important for our purposes, the controls are subject to social influence. Man is, pre-eminently, the indoctrinable -- the teachable -- animal [Wilson, 1975]. We do not munch grass, like the cows, because our genetic

constitution forbids it; we do not drink animal blood, like the Masai, because our cultural constitution forbids it.

Culture is evidently important, exceptionally so on the human level, but it does not abolish biology. For one thing, the genetic foundation sets a limit upon the cultural superstructure: human beings cannot even be taught to digest grass. For another, the human capacity for culture -- the fact that our innate instructions are soft-wired -- is itself a biological adaptation. Finally and most important of all, cultural and genetic factors are simultaneously under the sway of natural selection. Within economics this idea has played a notable role in the thinking of the Austrian school, which emphasizes that human social structures typically emerge without rational planning on anyone's part [Hayek, 1979]. Nor need they be any the worse for that lack; there is not only a "wisdom of Nature" but a "wisdom of culture." Of particular relevance for us is the law as one of the social structures that follows an evolutionary course [Rubin, 1977], possibly doing better the less the purportedly "rational" element in its unfolding development. Again, however, a word of caution. Nature is not always wise [Ghiselin, 1978], and cultures (including our own) are also likely to have evolved seriously disfunctional characteristics. Natural selection selects for survivability pure and simple, and a trait may survive that is bad for the ecology or for the species or even for its individual bearer.

Having made these general points about tastes, it is time to become more specific about privacy. Has the genetic origin of mankind, or alternatively have successful cultures like our own, implanted within us as individuals "a taste for privacy"? In this context, the word ethic

is a more accurate term than "taste." We are dealing with a two-sided situation, a balancing of autonomy and sociality. The privacy ethic, whether internalized as Adam Smith's Impartial Spectator or some analogous metaphor, would urge the individual to insist on his own claims to inviolability of person and property, while being prepared to concede corresponding rights to others. The question is whether we are, as individuals, driven internally (at least to some degree) by this ethic.

Consider "economic man." This intellectual creation, acting dispassionately yet ruthlessly in pursuit of self-interest, is free of implanted social controls. If he concedes rights to others, it is only as a means of self-gratification: honesty may be the best policy. But actual man as we know him does sometimes sacrifice his interests for others in a way not purely instrumental to his own goals. The biological explanation is interesting. There is ultimate relentless selfishness in Nature, but on a level deeper than the individual -- on the level of the gene [Dawkins, 1976].[1] Organisms are just survival machines designed to carry packets of genes over from generation to generation. Most obviously when it concerns one's offspring, therefore, a selfish gene might instruct the individual to be unselfish. Generalizing from this, the biologists have shown that shared genetic endowments among kin lead to natural selection in favor of the trait of helping one's relatives [Hamilton, 1964]. And even beyond the kinship tie, group selection may lead to the genetic implanting of an ethic of loyalty to neighbors and allies,[2] as will be discussed further below. And finally, building upon this genetic base, natural selection operating on cultures undoubtedly has promoted ethics of self-sacrifice for larger groups identified by language or ethnicity or ideology.

III. Three Structures of Sociality and Their Supporting Ethics

There are some animal species whose members are social isolates, whose biologically driven coming together is limited to the sexual act. Jean-Jacques Rousseau put natural man in this category: "...wandering in the forests, without industry, without speech, without domicile, without war and without liaisons, with no need of his fellow-men, likewise with no desire to harm them, perhaps never even recognizing anyone individually, savage man, subject to few passions and self-sufficient, had only the sentiments and intellect suited to that state..." [Rousseau, Discourse on the Origin of Inequality].

This passage sounds rather like "economic man." Egoistic economic man might, in view of the material advantages of cooperation (in production, in trade, or in defense), associate with others -- but only a quid-pro-quo basis expressed as the famous social contract. This is not quite the line of Rousseau's thinking, which is rather more complex (not to say confused); Rousseau also postulated a certain natural goodness and sense of compassion in primitive man. The early Sophists were more consistent in their view that our basic nature is entirely selfish, that the social contract is only of instrumental significance for mankind [Masters, 1978].

Theories of a social contract among truly economic men have difficulty with the problem of enforcement. In the absence of a social ethic, individuals carry out their shares of the social bargain only as they can be forced to do so. But enforcement services are a public good in many respects; punishing a malefactor tends to benefit the community, whether or not it makes the injured party whole. Hence we would expect enforcement services to be under-supplied by economic men. There is no doubt that, from the most

primitive to the most advanced stages of society, a higher degree of cooperative interaction (including "moralistic aggression" [Trivers, 1971] against malefactors) takes place than can be explained simply as a pragmatic option for totally egoistic man. In evolutionary terms, monkeys do not decide whether or not to form monkey troops; monkeys naturally form troops. Indeed, monkeys would not be as they are if their evolutionary history did not involve going in groups. And the same holds for men.

But the mere fact of natural association does not tell us enough. One hears often about a generalized "social instinct," which is misleadingly over-simple. There are many different kinds of natural societies. While still leaving matters seriously over-simplified, since none of these are probably ever observed as pure forms, as a first approximation it seems possible to classify the main structures of sociality in animals and men according as they are based upon the principles of: (1) communal sharing, (2) private rights, or (3) dominance. It may be easiest to remember these in terms of their underlying ethics. If sharing is the Golden Rule, mutual recognition of private rights is the Silver Rule, while the struggle for dominance is the Iron Rule of social interaction.[3] These structures and ethics have evolved, each only in particular ecological contexts, because individuals so organized turned out to have a survival advantage (through group selection) over those expressing different behavioral traits.

Dominance in social groups, the Iron Rule, does not require any very roundabout explanation. In the evolutionary competition for survival and reproduction, no particular subtlety is involved when selfish genes instruct their bearers to attempt to subordinate other organisms in a continuing

pattern of association. The only problem is why the dominated individuals, having lost the struggle for the alpha position, submit rather than secede. And, in fact, defeated contenders or other dissatisfied group members sometimes do secede. But there are advantages to group affiliation even in a subordinate position; as Hobbes contended, isolation may be worse. There are lone baboons, but they do not survive the leopard long. Furthermore, in an uncertain world there always remain possibilities of promotion; today's subordinate may become tomorrow's alpha.

Is there an ingrained ethic associated with the Iron Rule of dominance? Yes, and this can be seen in various ways. In the combat for top position, animals typically fight by limited conventional means, often not using their most lethal weapons [Lorenz, 1966]. The defeated animal thus does not fight to the death, and his submission is accepted. More generally a degree of noblesse oblige constrains the leader -- for example, he might have to protect weaker group members against predators. And followers must do more than prudently know their place; if the group is to survive severe competition, they must act with a measure of loyal enthusiasm.[4] That the dominance pattern is indeed two-sided is also revealed by the fact that the alpha animal does not always monopolize the male reproductive role.

What of the Golden Rule of sharing? That this might be viable (to some degree) in a world of selfish genes is only superficially paradoxical. As an obvious example, all mammals are tied to a way of life requiring maternal unselfishness toward infants. More generally, kin selection leads to many types of mutual helping among nuclear or extended families in Nature. The extent to which unselfish sharing among unrelated individuals may be favored by group selection is a much debated matter among biologists,

but is clearly operative to some degree [Hamilton, 1975]. (In any case, most natural groupings do involve an important kinship element as well.)

The underlying ethic of sharing is not all hearts and flowers. As in the instance of maternal care, the kin-selection process may have implanted the supportive emotion of love, so that no external pressure is required [Becker, 1976]. Beyond this case, there may be two sides to the story. At least on the human level the less attractive emotions of envy and fear of envy (the latter perhaps internalized as conscience or guilt) may serve as enforcers of the noble Golden Rule [Schoeck, 1970; Willhoite, 1980]. And, as is well known, Adam Smith emphasized self-esteem as a major motivator of unselfish action [Coase, 1976]. So sharing behavior is supported by a complex mixture of internal drives. Nevertheless, imposed societal sanctions may always be required to help repress egoistic self-interest.

The really interesting problems for our purposes concern the Silver Rule. Can Nature actually evolve a social system of private rights with its supporting ethic? It has done so, in fact, in the social structure known as territoriality. Members of many animal species, humans among them, carry about them a bubble of personal space, invasion of which is resisted. How human cultural differences modify the detailed expression of this kind of "taste for privacy" is entertainingly described in Hall [1966]. Many animals also defend geographically fixed territories, defined on the level of the family or of larger bands or troops.

But de facto possession of space is not enough. The supporting ethic is still needed, namely, a complementary reluctance to intrude. This indeed is what occurs. Among many, possibly all territorial species

(man excluded, perhaps) it has been found that "proprietors" defending their territories are almost always able to fight off incursions. Such intrusions as do take place tend to be exploratory rather than determinedly invasive [Ardrey, 1966].[5] Internalized respect for property is what permits autonomy to persist within society.

More than one mechanism for the evolution of this social pattern can be imagined. It has been contended that Nature has somehow gotten the individuals to so behave "for the good of the species" [Wynne-Edwards, 1962; Ardrey, 1966] -- an explanation which fails to cope with the free-rider problem. That is, even if reluctance to intrude is bad for the species on average, it may be good for the genes carried by the intruder. A more plausible argument starts from the observation that, other things equal, a territory is worth more to its proprietor than to the intruder. The proprietor will have a more accurate knowledge of its resources, and indeed may have to a degree adapted them to his own personal requirements (or himself to them). It therefore pays the proprietor to fight harder and longer. This being the case, evolution might have "hard-wired" defensive belligerance into proprietors together with the complementary traits of reluctance to intrude and willingness to retreat on the part of potential challengers -- the two together comprising what I have called the privacy ethic.

As indicated above, social structures and their supporting ethics tend to evolve where they are adaptive in particular ecological contexts. The unselfish sharing represented by maternal care is adaptive where high "quality" of offspring [Becker, 1974] pays off more than large numbers. Selfless sharing in mated pairs is typically observed where severe environments make close teamwork essential to survival [Wilson, 1975, Ch. 15].

Territoriality, by eliminating duplication of effort in exploiting the resource field, is a kind of minimal teamwork; it tends to emerge where resources are fixed in place and more or less uniformly distributed [Wilson, 1975, Ch. 12]. Territories may be held at individual, family, or group levels, depending mainly upon returns to scale. Under severe ecological pressure, individual territoriality has been observed to break down in favor of a group dominance structure.

Summarizing, all three main social principles -- dominance, sharing, and private rights -- have evolved in Nature, each as an adaptation to a particular type of social niche. Each principle also tends to be associated with an ingrained supporting ethic, since a mere "social contract" entered into by purely egoistic individuals is unlikely to survive the free-rider problem. Typically, strands of all three may be woven together in the behavioral pattern of each species. And of course the merely egoistic element probably never totally disappears. Indeed, sometimes what seems superficially to represent an organized social unit may only be a "selfish herd" lacking any real cooperative element [Hamilton, 1971].

IV. On The Natural History of Private Rights

Hayek [1979] has argued that the transition from the small human band to settled communities and civilized life resulted from man's learning to obey the abstract rules of an emergent market order. The alternative to this cultural constraint, Hayek supposed, was for man to remain under the guidance of "innate instincts to pursue common perceived goals" (our Golden Rule). The way of face-to-face communal sharing, probably adaptive to the primitive hunter-gatherer economy in which man may have lived for 50,000 generations, allegedly had to be by-passed if progress was to be made.

There are curious parallels and divergences between Hayek's ideas and those of the Marxist anthropologist Sahlins [1960, 1962]. For Sahlins also, human social development required overcoming innate instincts. But in his view the innate instincts are those of "animality" -- selfishness, indiscriminate sexuality, dominance, and brute competition. Sahlins agrees with Hayek once again, as to the sharing ethic of the primitive human band.[6] But for Sahlins, the shift to the Silver Rule ethic -- associated with the transition from a hunting to an agricultural way of life -- represented moral degeneration rather than progress [Sahlins, 1962].[7]

As indicated earlier, the degree to which alternative social ethics may have been genetically implanted rather than culturally renewed in each human generation will not be emphasized here. Both genetic and cultural inheritances are subject to natural selection; both track environmental change. However, genetic adaptation has much more inertia. It is therefore reasonable to believe that the untold eons of man's primate heritage laid down a foundation of behavioral as well as structural traits that still remain with us; that the 50,000 generations of hunter-gatherer life have also left their mark; that man has partially yet probably only incompletely adapted genetically to the life of regular labor that began with agriculture; and, finally, that modern urban patterns in some ways clash considerably with our deeper ingrained attitudes.[8]

Turning to the historical question, primeval communism and sharing, as an Eden-like stage of early human societal evolution [Engels, The Origin of the Family, Private Property and the State], is a myth.[9] Essentially all known primitive communities have been found to possess relatively elaborate structures of property rights. Though these private rights are

defined in ways that vary from society to society, invasions of them are always strongly resented. Golden Rule motivations were probably present in early man, as they may still be today. But only as one element -- probably the smallest element -- in the human mixed brew of motivations: sheer egoism competing with overlapping (partially conflicting, partially reinforcing) elements of dominance, privacy, and sharing ethics.

I shall be following Hayek and Sahlins in going back to origins of these social ethics. But in contrast with their views, to me it seems clear that the first and deepest layer of human sociality was the Iron Rule of dominance [Tiger and Fox, 1971; Willhoite, 1976]. It is generally agreed that man evolved from a primate line that left the forest to live in the African savannah. In this highly dangerous environment, primates lacking biological weaponry could initially survive only by banding in groups. Sharing is essentially unknown in the primate heritage, and territoriality was not a viable principle in the savannah ecology; in consequence, dominance had to be the governing rule holding the band together. (The baboons, a currently successful savannah-dwelling species, are at this stage today.) That all human history testifies to the importance of the struggle for power and status is too obvious to require underlining. I shall add only two points: (1) the instinctive drive for leadership could only succeed in tandem with the complementary quality of willing <u>followership</u> [Willhoite, 1976], and (2) dominance need not be the result of strictly individual force, but may involve also the ability to form effective coalitions.

The crucial step toward moderation of the Iron Rule was, it seems, the shift to a largely carnivorous diet. Hunting of big game probably placed a greater premium upon a more egalitarian form of cooperation,

requiring distributed individual enterprise and cleverness. The consequence was a reduction in the steepness of the dominance gradient. Something approaching monogamous sexual pairing -- private rights in mating -- may have been the result of the sexual division of labor associated with hunting [Morris, 1967]. At some point the development of tools and weapons opened up another dimension of the division of labor, between hunter and specialized craftsman. It seems likely that the first systematic pattern of exchange of material goods was between tools and weapons on the one side, and meat on the other.[10] The possibility of such exchange required prior mutual recognition of private rights. Already at the primate level, the beginnings of private sexual rights as well as material property rights (in meat) have been observed. Exchange of material goods seems uniquely human, however.[11]

In parallel with the evolution of the privacy ethic, we need not exclude a tendency to broaden the Golden Rule of sharing beyond immediate kin. Successful "begging," a normal behavior pattern between offspring and parent, is found to some extent between unrelated adults among the higher primates, once again in connection with meat [Wilson, 1975, Ch. 26]. In primitive human societies, anthropologists have emphasized, patterns of redistribution are nearly universal as limitations upon property rights. However, it would be misleading to place excessive emphasis upon the Golden-Rule aspects of redistributive sharing; among primitive peoples, reciprocation of "gifts" is almost always expected [Willhoite, 1980].[12] Under conditions of resource variability, sharing may also serve a mutual insurance function [Posner, 1979]. And finally, in some cases where resources are held in common rather than privately partitioned, productive efficiency may provide a satisfactory explanation [Demsetz, 1967].[13]

The uniquely human development of language led to an open-ended increase in the complexity and subtlety of these behavior patterns. One point of great interest concerns inter-band relations. When primate bands split up, for demographic or other reasons, they shortly become strangers. But human bands could retain recognition of kinship ties, could form clan and tribe alliances. The widening field of interaction opened up further possibilities of specialization and exchange, both on the group and the individual level.

The ecological shift to pastoralism and to agriculture was not, if this argument is correct, the origin of private rights. But pastoralism requires private ownership of flocks, and agriculture of crops. The two systems tend to develop rather different human types. Pastoralism is typically associated with extended-family or clan units, relatively strong dominance, and polygyny (as in the patriarchical period pictured in Genesis). Agriculture tends to be associated with the monogamous peasant homestead, unmatchable in efficiency terms by any form of group farming. (On the other hand, the military helplessness of a dispersed farming population tends to lead to their subjection or enslavement by dominant overlords or invaders.)

In fact, the role of war in selection of human types and social structures has been enormous. From the most primitive times, it seems impossible to doubt that a man as super-predator also preyed on his own kind [Alexander, 1975; Harris, 1977], particularly in times of resource stress. Warfare as an economic activity is characterized by an overwhelming economy of scale leading to larger group size: "God is on the side of the bigger battalions." Against this, however, has to be balanced diminishing returns to scale in exploiting game or crops or other localized resources. Warfare has undoubtedly

had complex and multi-directional effects upon the human makeup itself. On the one hand, it selects for selfless loyalty and dedication -- Golden-Rule properties within the group. It also selects for the strong charismatic leadership typical of dominance structures. And yet the more individualistic virtues associated with private rights may also play an important role in war, for a variety of reasons: private men are more likely to have developed habits of ingenuity and enterprise, they may fight more strongly for what they regard as their own, and the commercial societies organized on the principle of private rights will have become richer and more innovative. Thus, while Adam Smith along with other philosophers [Banfield, 1976] deplored the loss of heroic qualities due to the spread of affluence and commerce, the outcome of the contest between Athens and Sparta is not in general predictable. (It was "a nation of shopkeepers" that defeated Napoleon.) And finally, reinforcing the fact that each separate individual represents a mixture of motivations, the large scale of modern societies makes it possible to combine many <u>different human types</u> into a mutually supportive alliance.

V. Some Concluding Points

I will finish by setting down, not in any very systematic order, some points that may reinforce the key ideas and perhaps provide hints as to where they might lead.

1. It is common to distinguish between "selfish" and "unselfish" behavior, between private goals and public goals, etc. This is a very serious oversimplification. Man does have egoistic, purely selfish, drives. But his social instincts are more complex, involving (at least) the three distinguishable principles of <u>dominance</u>, <u>sharing</u> and <u>private rights</u>. Each of these is not a simple one-sided urge, but a two-sided ethic.

2. These ethics have evolved and have become ingrained in the human makeup in association with various forms of social organization over the history of mankind. Each ethic and associated social structure has been adaptive to certain of the ecological contexts and constraints in which humanity has lived.

3. The "taste for privacy" is a misleading term. It may represent nothing more than a selfish claim, of which we may appropriately be suspicious. But insistence on one's own rights is also part of a two-sided ethic involving willingness to concede corresponding rights to others, and even willingness to participate as a disinterested third-party enforcer against violators.

4. Like the privacy ethic, each of the other two-sided ethics has a "selfish" aspect: this is obvious for the dominance drive, but even sharing involves the supportive emotions of envy (and fear of envy).

5. Economic study of market interactions may yield satisfactory results while postulating purely egoistic men, acting within an unexplained social environment of regulatory law. But as the power of economic analysis comes to be employed outside the traditional market context, for example in the area of public choice, the egoistic model of man (as in "social contract" theories) will not suffice.[14]

6. The privacy ethic is an enormously powerful device for creating wealth, but beyond a certain point affluence creates great social dangers in permitting or perhaps even promoting a relaxation of social discipline together with the spread of disruptive ideologies [Schumpeter, 1942]. Pursuit of affluence may be self-defeating, not only on the individual level as moralists have always contended, but in terms of social survival

as well. This ought to raise doubts in our minds about too-ready use of "efficiency" (which is essentially maximization of aggregate wealth) as the criterion of social policy.[15]

7. The conflict between the privacy ethic and its competitors (alternative social ethics on the one hand, and sheer egoism on the other) takes place partly within social groups, partly between them. Man has ingrained within him elements favoring each of these social tendencies, "soft-wired" so as to leave a range of ideological choice. So the future of the privacy ethic rests in part upon its ability to capture "the hearts and minds" of men. At least equally important is the competition between groups, primarily military competition. While it is conventional to deplore merely "commercial" ethics, societies organized on this principle have given a good account of themselves historically -- not only militarily, but in terms of the values we consider civilized. I will not attempt here to forecast the future prospects of privacy, as a social structure balancing individual autonomy with communal responsibility, except to say they don't look very good!

[1]I should not imply that there is unanimity on this point among biologists; various strands of opinion have their supporters. For example, some detect a deep cooperative or sympathetic urge in the life principle [Thomas, 1974]. Others question the saliency of the acting-gene metaphor, as genes do not act alone nor are they entirely distinct particles.

[2]"When two tribes of primeval man, living in the same country, came into competition, the tribe including the greater number of courageous, sympathetic and faithful members would succeed better and would conquer the other." Darwin, The Descent of Man.

[3]In another context [Hirshleifer, 1978] I distinguished behaviors in accordance with the golden, the silver, and the brass rules. The last of these represented "economic man," free of implanted constraints. I shall not need the brass metaphor here.

[4]An instructive instance of a two-sided dominance ethic, implanted not by natural but by artificial selection over many generations, is the relation between the dog and his human master. This example shows that a "society" may cut across the species barrier.

[5]A wolf-pack will even respect a human being's territorial claims, if asserted in proper wolf-language. (If you're interested, correct wolf etiquette requires urinary marking of the boundary of your claim [Mowat, 1963].)

[6]A contradiction leaps to the eye here: suppression of "indiscriminate sexuality" sounds rather like a move from group sharing to private rights, which Sahlins ought (in the interests of consistency) to deplore rather than approve.

[7]A fascinating strand to this argument, which unfortunately cannot be pursued here, is the claim that even in material terms -- leisure, health, protein consumption, etc. -- the tiller of soil was far worse off than had been the cooperative hunters of the earlier era [see also Harris, 1977]. This argument undoubtedly reverses cause and effect; it was the declining yield of hunting that forced a transition to agriculture.

[8]See Morris [1967, 1969]. Wilson [1975, p. 569] is somewhat unusual in the degree of lability he assigns to genetic traits; he would be inclined therefore to minimize their possible current maladaptedness.

[9]See Beaglehole [1968], Nash [1968].

[10]The exchange of interpersonal cooperative services (sex, grooming, mutual aid) long anteceded this, of course.

[11]As to sexual rights among baboons, see Willhoite [1976]. An economic analysis of rights in meat, maintained even against dominant animals among chimpanzees, appears in Fredlund [1976]. For "the propensity to truck, barter, and exchange" as an exclusively human trait, see Adam Smith [The Wealth of Nations, Book 1, Ch. 2].

[12]The "norm of reciprocity" seems to be universal in the human species. And, so far as we can tell, it is uniquely human (see Adam Smith citation in previous footnote). The need to form and to manage reciprocal ties is likely to have played a critical role in the evolution of man's individual intelligence as well as his social repertory [Willhoite, 1980].

[13]Still, although what appears to be sharing may often represent disguised egoistic or private-right motivations, economists ought not be too hasty in excluding the possibility that Golden-Rule sharing is actually taking place.

[14]Note Stigler's [1979] inability to satisfactorily explain privacy (secrecy) legislation without bringing in an element he calls "social altruism." See also Margolis [1979].

[15]At this point my analysis diverges from that of Demsetz [1979], with which it otherwise has many points of agreement. I will note here one other significant divergence. Demsetz, concerned to counter certain naive ethical views held by ideological defenders of private property as a "natural" right of man, strongly emphasizes the socially conventional (not to say arbitrary) aspects of how rights are actually defined. In contrast, it seems to follow from my approach that there is, indeed, some "natural" element in property rights, that there are intrinsic limits constraining what is merely contingent and artificial. I cannot develop this idea further here, however.

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