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ADAM SMITH AND THE NEED OF THE POOR: A REJOINDER

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I. INTRODUCTION

In a contribution to this journal, Salter (2012) argues the case for what he considers as the standard interpretation of Smith whereby the concern for the poor is a matter for public policy and has nothing to do with Smith's theory of justice. The latter, he claims, is very much in line with Grotius with the exception that Smith did not allow for someone in need to encroach on another's right to a property. Thus, there are no distributive considerations in Smith's theory. On the other side are people like Fleischacker, Young, and myself, whom he calls the 'revisionists', who claim that distributive considerations are very much part of Smith's conception of justice, and, in his paper, Salter sets out to prove us wrong.

As far as I am concerned, I have set out my argument in a series of papers and I do not wish to repeat them here. The purpose of this note is merely to argue that there is a fundamental gap between the way Salter reads Smith and the way I do (and, I suspect, quite a lot of others too). More to the point, as far as my own argument is concerned—and I believe that holds true for the others—Salter fails to address the real question behind these debates: Smith's *theory* of ethics and justice.

II. PRELIMINARIES

Before getting into the details of the issue, I would like to make some general comments: one on style and one on method. Salter argues that in his paper he will 'examine and reject' our 'revisionist' account. I find this quite baffling. Since when is the plaintiff in a case (and he is the plaintiff, as he argues against us) both judge and jury? From where does Salter draw the authority to be the final arbitrator who can 'reject' our claims? More to the point, on what ground can one reject our claims? It is not that there is a clear, logical proof either way, so, at best, Salter may contest our view

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and disagree with our conclusions, but to 'examine and reject' is somewhat inappropriate.

The second comment is on the question of method. Throughout his essay, Salter offers quotes to support his argument, and when he disagrees with our interpretation of a quote, it is because we do not seem to understand Smith's real intention. This is a problem with much of the debate surrounding Smith. As I said in my initial paper on this topic (1997), it is easy to find quotes in Smith to support opposite views. While Salter may not agree with this, there is much evidence to support this concern. First, the fact that we are still debating the question of what was Smith's conception of justice is a case in point. Second, Salter's own example, which he brings to demonstrate the agreements among scholars about Smith's concern for the poor, is another case in point. Rothschild (1992) not only showed that Smith's ideas were used in support of the poor in the early years after his death but also how they have been turned against the poor within a period of less than ten years.

Salter suggests that we, the revisionists, are simply bringing into our reading of Smith modern ideas where justice is conceived as a social concept. He, on the other hand, insists that Smith could not have been an original thinker and all that he had said must sit well with what people were saying at the time. But the truth is that it is not that we, the revisionists, find what we look for in Smith; what I, and I can only speak for myself, am doing is trying to explore whether Smith offers us a logical structure within which all these apparently conflicting quotes can be reconciled. The importance of this cannot be better demonstrated than in the case in which Slater wishes to rebuke it.

In Salter's discussion of perfect and imperfect rights, he critically examines the passage in *The Theory of Moral Sentiments* (*TMS)* in which Smith refers to the possibility that a sovereign might oblige people to perform a benevolent act towards the other (like parental care for their children). He claims that the 'revisionists' who see in this a departure from the notion of 'perfect rights' as expressed in the *Lectures on Jurisprudence (LJ)* are wrong. Why? Because we all misunderstand what Grotius meant. Apart from the question that in this particular case it is more important to understand what Smith says, even the connection to Grotius is seriously flawed. To argue his case, Salter provides what he considers to be a parallel example from Grotius, according to which the sovereign is entitled to force property owners to provide a common store in time of famine. Salter claims that this has nothing to do with the theory of justice as individuals are not compelled to act benevolently towards each other. Instead, the sovereign "is exercising his own superior *right* over the property of his subjects" (Salter 2012, p. 562; emphasis added). There are two separate issues here. First, Salter seems to attribute to Smith the view according to which the sovereign has *superior* rights. However, the passage in the *TMS* does not refer to any such superior rights. Instead, the sovereign "may, indeed, sometimes, with *universal approbation*, oblige …" (*TMS*, p. 81; emphasis added). This does not sound like any superior right to me. Instead, it sounds more like the sovereign who may be able to oblige people only if the act can gain 'general approval'. The problem with Salter's argument is that he simply looks for things that are listed and never to the theory itself. What is the role of 'approbation' in Smith's theory of justice? Perhaps the answer to all these debates lies in understating the theory rather than by looking for quotes. But the truth is that even Salter himself does not believe his own claim that a sovereign can do what he wants. In the end, the

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reason he gives in the quote above is very different indeed. The reason why the sovereign can act in the case of famine is because he owns the property rights to all the properties of his subjects. As the ultimate property owner, he can do what he wants with the produce of that which belongs to him. But this, too, creates a problem. While this may sound plausible for the example that Grotius brings, this is definitely not applicable to the one Smith provides. In Smith, the sovereign is said to be entitled to force the benevolence of parents towards their children. As Salter insists that the right to a property does not produce a right to benevolence, according to his own logic, the enforcement of child care could not be derived from the right that the sovereign may have over his subjects or their land. Indeed, in Smith's case, there is no shred of Grotius's story mainly because the point he was making was profoundly different. Thus, the historical context to which Salter aspires leaves us no better than any other war of quotes. It is for this reason that the need for logical reconstruction may be more pressing.

III. THE KEY ISSUE: SMITH'S MORAL THEORY

Salter writes: "An important part of the standard interpretation is Smith's distinction between perfect and imperfect rights in the *Lectures on Jurisprudence* and the corresponding discussion of justice and benevolence in *The Theory of Moral Sentiments* (TMS) where Smith provides the theoretical basis for the distinction" (Salter 2012, p. 561). While it is true that Smith draws such a distinction, this in itself would not be something one would call: a theory. It is, again, a war of quotes. Smith's discussion of justice and benevolence is, as a matter of fact, only a subsection of the broader issue of merit and de-merit or the objects of reward and punishments (which is a follow-up on the propriety of actions), and even this subsection is further divided into comparison of the virtues, the way in which their sense is being formed and the utility of it. For anyone to claim that a short passage in the comparison between justice and benevolence is Smith's theory of justice is, of course, misleading. Smith was far more sophisticated than that. To understand his theory of justice, one must deal with Smith's entire ethical theory. The problem with Salter's view is not that anyone disagrees with the argument that the domain of justice and the domain of benevolence are very different indeed and that the former is the only one that requires positive and enforced actions. It is that he insists that which comes under the heading of justice are only those things listed in the *LJ* as perfect rights. By implication, for Salter, the demand people may have for their due share is necessarily a question of benevolence. This is where the heart of the debate lies.

It is important to remember that the *LJ* is a collection of lecture notes. Smith the teacher is not necessarily the same as Smith the researcher. We all teach mainstream economics core subjects but this does not mean that we uphold those ideas in our research. We have a duty, as teachers, to pass on the received view but we do not have a duty to adopt it. When Smith lists the perfect and imperfect rights, he is reporting to students the received view. Grotius is mentioned about seventeen times in the *LJ* but only about six in the *TMS* (almost all of them in the section dealing with other moral systems). The list itself, it should be stated, does not appear in the *TMS*. There is a good reason for this. The *TMS* provides a theory of how people form moral opinions

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and, among other things, how they form ideas about what it is that is the object of justice.

The main point of my argument is that Smith has produced an extremely sophisticated and well-developed analytical system that provides an insight into how people form moral opinions in general and how they form their ideas of what becomes the object of commutative justice. This is a process that includes sympathy, the impartial spectator, and the human character. According to Smith, there is no real difference between the process that makes us approve or resent an action and the process that obligates us to respond by force. The difference that does exist is the *degree* to which the taking of an action offends the impartial spectator. This, however, is not independent of how familiar is the harm generated by such an action. Consequently, Smith produces a relative theory of morality and justice that is nothing like anything proposed by Grotius. It is for this reason that Smith clearly states that *theft* has not always been considered a violation of justice (*LJ,* p. 16*).* This was the main point of my argument in my first paper on the subject (1997), to which Salter failed to respond both in his 2000 and current papers. The argument is further developed within the complete framework of Smith's analysis of actions in my paper from 2008.

Consequently, that which falls into the domain of commutative justice may vary over time. More importantly, it very much depends on what people might feel. Therefore, the question of whether a worker has a right to the fruits of his labor depends only on the question of whether denying him this would create sufficient resentment to create a *universal obligation* not to prevent the worker from receiving them. The problem with Salter's argument is that he sees this demand by workers as a demand for benevolence on the part of the owner of the asset that has helped the worker in producing that fruit. But this could not be furthest from the truth. To see this properly, one has to consult the entire action cycle that Smith considers in parts 1 and 2 of the *TMS*. People act and are being acted upon. Therefore, when a worker enters into an agreement with, say, a landlord, both of them act out of self-interest. There is no benevolence here but sheer self-interest. The interesting question is how does one address the outcome of such interaction when people simultaneously act and are being acted upon? Fortunately, Smith gives a very detailed answer to this question, which, as I said, is explored in full in the 2008 paper.

Salter also seems to conflate law with morality. The fact that the rights of the propertyless have not been enshrined by law is not a reason to believe that they are not the object of justice. The purpose of my paper with Young (2006) was to show how, in Smith, the relationship between that which has been legislated and that which is just is quite tenuous. The most obvious examples for this are Smith's treatment of the laws on primogeniture and slavery.

IV. ON THE WAR OF QUOTES

To a great extent, it is very difficult for me to respond to Salter's criticism. In both times in which he argued against my position, he failed to engage with my main argument: the relativity and dynamics of Smith's conception of justice. Instead, it all becomes,

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yet again, a war of quotes. I have already demonstrated the futility of this in Salter's treatment of the use of the quote from the *TMS* suggesting that parental care should become a question of justice. Salter objected to the 'revisionist' view because the origin of the sovereign's action, like in Grotius, is the property right he has over his subjects. But this, of course, was flawed, as the example used by Grotius was fundamentally different from the one used by Smith, and in the latter, it has always been the *universal approbation* that was at the heart of the argument.

There is another case where the war of quotes clearly leads nowhere. The issue is the question of whether property rights come from the actual possession or from the expectations that people may have with regard to the use of the property. In my paper from 2005, I argue that Smith's discussion of hunters (among other things) is an example of the case where property ownership is connected to expectations rather than actual possession. Salter claims that I look only at the 'brief' discussion of this issue in the second set of lectures from 1766 where Smith suggests that when, in a chase, one has wounded the animal, one may have expectations to catch it, and, therefore, interfering in such a chase would violate the property right of the original chaser. To show how wrong I was, Salter brings the quote from the earlier lectures. The problem is that so do I (see my paper from 2005); therefore, I did not avoid the issue, but the problem is that in the earlier lectures, Smith is not discussing the case of an *animal wounded in the chase*. Instead, he says that if one caught an animal and then lost it, he may not have a claim to it because the probability that he will catch it is no longer greater than that of another. But, "if another should wound the beast in its flight he is entitled to a share, as he rendered the taking it more easy upon the whole" (*LJ,* p. 460). Actually, the mere fact that the probability of catching the beast plays a role in deciding whether one has a right to the animal is a proof that property rights have nothing to do with actual possession but with the expectations to enjoy the fruit of the ownership. If I have a higher probability of catching the animal, this gives me the right to it, even though I do not actually possess it. How can possession be the origin of my right to this property?

The war continues with my other example of the cave and the grotto. Salter accepts that Smith clearly says that when one stays in a cave (which is not the fruit of anyone's labor), one's possession ends the moment he moves out. However, when a builder (and the emphasis is on a builder) lives in the house he built, his right to it remains even when he is not there! This can mean only that the right to the house comes from the fact that it was the fruit of the builder's work. Now, Salter chooses to ignore completely the fact that it is the builder whose rights are preserved. Instead, he emphasizes that all of it is due to *common consent* when we move from the age of the hunters to the more settled age of the shepherds. But this is exactly my point. Common consent is how the subject matter of justice is determined. It is because of the change in circumstances that what used to be in the domain of justice in one period is no longer in another. It is this consent or universal approbation that seems to elude Salter. Because of Smith's relative ethical system, it is the familiarity of the harm that may turn something into an issue of justice. That which is the fruit of one's labor may indeed change over time but it seems that the demand for the fruits of one's assets remains the most understood, widely spread, and common feature of what people consider to be an important part of justice.

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