



# ETHICS AND ECONOMICS

Lecture Notes for Week 7

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# Self - realization

Self-realization is the process of recognizing and actualizing our personality through various actions. Conversely, it is the creative use of our personal potential in different actions.

Conflicts with others are inevitable. Society should recognize that there is a trade-off between "development with conflicts" and "harmonious stagnation." External authority or a sense of fair play can help resolve conflicts, with conscience, guilt, and shame reinforcing the sense of fair play.

In the first part of this chapter, we will discuss the link between self-realization and freedom. Even though constrained by legal and social norms and individual maxims, we have a vast unregulated space for our actions. The boundary between regulated and unregulated space is not fixed, as norms can and do change. Rigid adherence to norms stifles our creative potential. According to the great German philosopher Friedrich Nietzsche (1844–1900), human creative potential is the highest ability that humans possess.

In the second part of this chapter, we will explore the meaning of life and happiness. The actions through which we achieve self-realization must have personal significance and ideally bring us happiness.

In the third part, we will discuss the Easterlin Paradox, which suggests that an increase in the standard of living does not necessarily lead to an increase in happiness.

Appendix 1 presents points for discussing same-sex marriage and surrogate motherhood. Appendix 2 promotes Friedrich August von Hayek's *Law, Legislation and Liberty*. Appendix 3 provides additional information on readings recommended in Chapters 5 and 6.

## Freedom

We can learn to use our creative potential through games:

- Players have a designated space for play.
- Rules regulate player behavior within this space, but not everything is regulated.
- A good game requires both an adequate space and good rules.

- Within the unregulated space, players' freedom to choose cooperative or competitive actions intersects, creating and offering new opportunities.
- The exercise of a player's freedom of choice can appear to others as an exercise of power, and vice versa.

In this setup, the practice of a game evolves, and both the players and the game itself create their narratives—using the language of Alasdair MacIntyre, whose approach we discussed in Chapter 2.

**The Life Game Analogy** suggests that life, like a game, has rules, objectives, challenges, and opportunities for self-realization. Consider these points related to this analogy:

- Societal evolution accelerated when societies organized members in ways that allowed for comparison of results without self-destruction.
- A necessary condition for comparison is measurability.
- The progression from hostility through rivalry to competition has been a long one.
- The capitalist system is built on competition and cooperation, with money serving as a mean to compare results.

We should not overemphasize self-interest as the primary motivator of our actions. While we undeniably pursue self-interest, what does that entail? If our fundamental self-interest is self-realization, then we must engage in both competition and cooperation.

#### **How can society support our self-realization?**

- By providing as much space for individual life as possible, avoiding unnecessary external constraints such as prohibitive norms or material scarcity.
- By implementing rules that support freedom of choice and enjoyment of life, e.g., "do not foul" or "do not lie."
- By encouraging forgiveness. Mistakes are inevitable in the pursuit of our creative potential, and forgiveness reduces the risks associated with our actions.

Our life games can challenge society, as everyone values freedom for themselves but may seek to restrict the freedom of others if it conflicts with their interests. The primary challenge, therefore, is maintaining a dynamic balance between order and freedom.

Historically, dictators and autocrats have exploited the fear of others' freedom to gain power, leading to the loss of freedom for all. It has taken centuries to develop protective measures against such figures, such as checks and balances on state power or

declarations of fundamental rights. Ultimately, the best prevention against dictators is reducing social tension.

For some reasons, that we will discuss in later chapters, democratic societies tend toward overregulation. We will explore the reasons for this later, but it raises a fundamental philosophical question: In a free, that is minimally regulated society, does the Good or the Bad prevail? Thomas Aquinas (1225–1274) was optimistic, believing that the Good prevails.

## The Sense of Life and Happiness

Our basic feeling is that our life and actions ought to have some meaning (sense, purpose). Without this feeling, we cannot be truly happy. In the Maslow's pyramid of needs, the meaning of life is among the moral needs on the highest – the fifth - stage.

We can identify three stages in finding meaning in life:

1. **The Basic Stage:** This is natural animality, where life's purpose is maximizing pleasure and minimizing pain. We have discussed this already, referencing thinkers like Aristippus of Cyrene (435–256 BCE) with his direct hedonism, Epicurus (341–270 BCE) with his indirect hedonism, and Jeremy Bentham (1748–1832) with his utilitarianism. The issue with focusing solely on pleasure is captured by the Paradox of Hedonism, which suggests that pursuing pleasure or happiness as an end in itself can be self-defeating. Happiness and pleasure often come as by-products of pursuing other goals, like meaningful relationships, creative endeavors, or altruistic actions, associated with the next two stages.
2. **The Human Stage:** Here, life's purpose is connected with self-realization and contributing to the community and society we are part of.
3. **The Transcendental Stage:** At this level, life's purpose is motivated by transcendental reasons, such as religious faith.

In our actions, all three stages can be interwoven and, ideally, balanced. Pursuing meaning at the second or third stage does not negate the importance of the first stage.

A fundamental problem is that death limits many perspectives. There are several ways to address this issue:

- One option is the “heroic acceptance of absurd existence,” as expressed by existentialist philosophers Jean-Paul Sartre (1905–1980) and Albert Camus (1913–1960).
- Another is the “acceptance of existence as it is” (whether absurd or not). We did not exist a hundred years ago, and we will not exist a hundred years from now, so what difference does it make?
- The final option is to transcend individual life, either by aiming for the “happiness” of others (e.g., heirs, though they too are mortal) or through faith.

**Discussion on Happiness with Aristotle and Kant:** Let us examine and compare the views of Aristotle (384–322 BCE) and Kant (1724–1804). Kant’s fundamental questions were, “What is duty?” and “What is freedom?” Aristotle’s were, “What character should I develop and how?”

**For Aristotle:**

- Happiness is the highest good.
- Happiness is the fulfillment of human capabilities, with reason being the highest capability.
- Happiness is distinct from pleasure.
- A happy life is a virtuous life, where actions are guided by reason and enjoyed; this enjoyment makes virtue a virtue.
- There are two possible paths to a happy life:
  - Seeking truth through philosophy (*bios theoretikos* in Greek or *vita contemplativa* in Latin). For Aristotle, philosophy was focused on this world, not metaphysical contemplation.
  - Seeking good in practical life within the community (*bios praktikos* in Greek or *vita activa* in Latin).

**Christian Thinkers’ Modifications:**

- *Bios theoretikos* became associated with eternal life, aiming to develop a closer relationship with God. On earth, only the beginning

of this journey can be undertaken.

- Through *vita activa*, one can find some happiness in this world, though the world primarily serves as a space to demonstrate faith and live ethically, preparing for eternal happiness.

### **Comparing Aristotle and Kant:**

- Aristotle and Kant's approaches do not contradict each other.
- For Aristotle, emotions can be shaped; for Kant, they are given.
- Aristotle believed only a virtuous person can be happy, though achieving happiness depends on worldly circumstances. Virtue is necessary for happiness.
- Kant understood the highest good as having two moments:
  - **Absolute Good:** This depends solely on us, aligning our will with moral law.
  - **Complete Good (Happiness):** This depends on circumstances. Absolute good is a prerequisite for happiness.
  - Kant believed the highest good must be possible and that only God could ensure the alignment of absolute and complete good. This belief leads to the postulation of God's existence.

## **The Easterline Paradox**

This paradox is linked to the paradox of hedonism. It is a concept in economics that suggests a counterintuitive relationship between income and happiness. Named after the economist Richard Easterlin, who first proposed it in 1974, the paradox highlights two key observations:

- **First Observation – Over Time and Across Countries:** A higher level of per capita GDP does not positively correlate with the aggregate self-reported level of happiness at the national level.

- **Second Observation – Within Countries:** Higher personal income correlates with higher self-reported happiness within a country.

To analyze this paradox, we need measurements of happiness. Today, the *World Happiness Report* is widely used. This annual publication, first launched in 2012, ranks countries based on the happiness and well-being of their citizens. Produced by the United Nations Sustainable Development Solutions Network in collaboration with experts from psychology, economics, and public policy, the report uses indicators such as GDP per capita, social support, life expectancy, freedom of choice, generosity, and perceptions of corruption. The rankings rely on data from the Gallup World Poll, which asks respondents to rate their lives on a scale from 0 to 10, with 10 being the best possible life.

#### **Explanation of the Easterlin Paradox:**

- **Of The First Observation:**
  - **Social Comparison:** Happiness depends on one’s relative position in the social hierarchy, with consumption serving as an indicator of this position. When a country's GDP per capita increases, individual positions in the social hierarchy may remain in the medium and long-time horizon unchanged, providing no reason for personal happiness to increase.
  - **Adaptation:** The short run initial happiness boost from increased consumption fades, and individuals return to a baseline level of happiness. This is called the “hedonic treadmill”.
- **Of the Second Observation:**
  - **Consumption Flexibility:** Wealthier individuals can re-satisfy their needs at various levels of Maslow’s hierarchy with higher frequency. These repeated “shots of happiness” aggregate into higher happiness.



- **Relative Deprivation:** Poorer individuals are more likely to experience relative deprivation if they cannot afford goods their reference group consumes. This leads to “shots of dissatisfaction,” which can be intensified by envy and feelings of shame. These repeated “shots of dissatisfaction” aggregate into lower happiness.

The Easterlin Paradox challenges the assumption that economic growth and higher incomes automatically lead to greater societal well-being. It suggests that policymakers should consider factors beyond income, such as social connections, health, and environmental quality, to enhance overall happiness and life satisfaction.

Some countries have begun to explore alternative measures to GDP, focusing on happiness and well-being as indicators of national progress. Well-being and happiness are interdependent, with each supporting the other and contributing to a fulfilling and healthy life. Notable examples include:

- **Bhutan:** Since the 1970s, Bhutan has implemented Gross National Happiness (GNH), a measure of collective well-being that considers environmental conservation, cultural preservation, and good governance alongside economic indicators.
- **New Zealand:** In 2019, New Zealand introduced the “Wellbeing Budget,” which prioritizes social and environmental outcomes along with economic performance to enhance citizens' well-being.
- **Iceland:** Iceland joined the Wellbeing Economy Governments (WEGo) initiative in 2019, which includes New Zealand, Scotland, and Wales. These countries aim to shift focus from economic growth to sustainable and inclusive well-being.
- **Scotland:** Scotland is also a WEGo member and uses the National Performance Framework, which includes well-being indicators to measure success beyond GDP.
- **Finland:** Known for high rankings in global happiness indices, Finland emphasizes social welfare, education, and equality, which contribute to its citizens' happiness and well-being.

These countries represent a growing trend of valuing well-being and happiness as key components of national success rather than focusing solely on economic output.

## Summary

The first subchapter uses a game analogy to explore self-realization and societal dynamics. It suggests that self-realization, like a game, requires both space and rules, allowing individuals freedom to act creatively while respecting others. Society supports self-realization by offering broad freedoms, fair rules, and forgiveness for mistakes.

Maintaining a balance between order and freedom is essential, as history shows that dictators exploit fears of others' freedom to gain power. Democratic societies tend toward overregulation, raising the question of whether the spread of Good or Bad prevails in a free, that is minimally regulated society. Thomas Aquinas answered this question optimistically, believing in the prevalence of Good.

The second subchapter explores different stages and philosophies around finding meaning in life and happiness:

### **Stages of Meaning:**

- **Basic Stage:** Pursuit of pleasure and avoidance of pain, with thinkers like Aristippus, Epicurus, and Bentham highlighting hedonism and utilitarianism. The Paradox of Hedonism warns that focusing solely on pleasure can be self-defeating.
- **Human Stage:** Meaning is found in self-realization and contributing to society.
- **Transcendental Stage:** Meaning is rooted in transcendental motivations, like religious faith.

### **Responses to Mortality:**

- Existential acceptance (e.g., Sartre and Camus).
- Viewing life's impermanence with acceptance.
- Transcending through legacy or faith.

## **Happiness:**

- **Aristotle:** Happiness is the highest good, achieved through reason, virtue, and either philosophical contemplation or practical life in the community.
- **Christian View:** Shifts focus to eternal life with *vita activa* as preparation for eternity.
- **Kant:** Defines happiness as a balance of “absolute good” (moral duty) and “complete good” (circumstantial happiness). Only God, Kant believed, can ensure this balance, implying God’s existence.
- Aristotle and Kant’s philosophies complement each other, blending virtue, duty, and the pursuit of meaning as key to a fulfilling life.

The third subchapter discusses Easterlin Paradox, proposed by Richard Easterlin in 1974. This paradox suggests a complex relationship between income and happiness:

### **Key Observations:**

- **Across Countries:** Higher GDP per capita does not necessarily correlate with higher national happiness levels.
- **Within Countries:** Higher personal income generally correlates with higher individual happiness.

Factors explaining this paradox are social comparison, adaptation, consumption flexibility and relative deprivation.

This paradox challenges the assumption that economic growth alone improves societal well-being, suggesting that policymakers should focus on social and environmental factors.

**Examples of Alternative Approaches:** Countries like Bhutan, New Zealand, Iceland, Scotland, and Finland prioritize well-being over GDP, using measures such as Gross National Happiness and Wellbeing Budgets. This approach reflects a trend toward valuing well-being and happiness as critical components of national success.

# Appendix 1: Same Sex Marriage and Surrogate Motherhood

Let us start with clarifying the concepts of family, marriage and household:

**What is a family and what is its purpose?** A family is a social unit typically composed of individuals related by blood, marriage, or legal ties, such as adoption. Families can take various forms, including nuclear families (parents and their children), extended families (including relatives beyond the immediate family), single-parent families, and blended families (formed by merging previous family units).

The primary purpose of a family encompasses several key functions:

- **Socialization:** Families are fundamental in teaching social norms, values, and cultural practices to children. This process helps individuals integrate into society and develop their social identity.
- **Emotional Support:** Families provide emotional security and support, offering a sense of belonging and love. This support is crucial for psychological well-being and development.
- **Economic Support:** Families often function as economic units, providing financial support and sharing resources among members. This can include basic necessities such as food, shelter, and clothing.
- **Reproduction and Caregiving:** Families are responsible for procreation and the nurturing and upbringing of children. This includes ensuring the physical, emotional, and educational needs of children are met.
- **Social Stability:** By forming bonds and connections, families contribute to social stability and community continuity. They foster a network of support that extends beyond the immediate household. They are important for the domestication of males.

- **Identity and Heritage:** Families help preserve cultural and familial heritage, passing down traditions, language, and history from one generation to the next.

Overall, the family is a foundational institution in society, playing a critical role in the development and well-being of individuals and the maintenance of social order.

**What is a marriage?** According to the Western civilization commonsense traditional opinion, marriage is an act with following characteristics:

- It depends on the consent of the parties,
- The parties are not children,
- The number of parties is two,
- One is a man and the other a woman.

**What is the purpose of a marriage?** The purpose can vary widely across cultures, religions, and legal systems, but some common purposes of marriage include:

- **Formation of Families:** Marriage is traditionally viewed as the primary institution through which families are formed.
- **Legal and Social Recognition:** Marriage provides a legal and social framework that supports the structure and functioning of a family. This includes legal rights and responsibilities such as inheritance, taxation, and custody, which help to stabilize family life and protect the interests of family members.
- **Commitment and Love:** Marriage is a formal expression of commitment and love between partners, symbolizing their intention to build a life together. It often involves promises of fidelity and mutual support.
- **Cultural and Religious Significance:** Marriage holds significant cultural and religious importance, often seen as a rite of passage or a sacred covenant. It helps preserve cultural traditions and values.

**What is a household and what is its purpose?** A household and a family often overlap but are not synonymous. A household is defined as a social unit consisting of one or more individuals who live together in a single dwelling, sharing living space and often economic resources. The composition of a household can vary widely, including nuclear families, extended families, single-parent families, couples without children, and individuals living alone or with non-relatives. Households are used as basic statistical units.

The primary purpose of a household is:

- **To be an Economic Unit:** Households function as basic economic units, pooling resources for the mutual benefit of members. They share expenses related to housing, utilities, food, and other necessities, and may also manage income and savings together.
- **Social Support:** Households provide emotional and social support to their members. This support network is crucial for well-being, offering companionship, care during illness, and help during times of stress or need.
- **Child Rearing:** In households with children, the home serves as the primary environment for raising and educating children. It provides a safe space for their development, encompassing physical care, emotional nurturing, and the transmission of cultural and social values.
- **Division of Labor:** Households often organize the division of labor among members, sharing household chores and responsibilities such as cooking, cleaning, maintenance, and childcare. This organization helps manage daily life efficiently.
- **Shelter and Security:** Fundamentally, a household provides shelter and a sense of security for its members. It is a place where individuals can feel safe and protected from external threats.
- **Socialization:** Households play a critical role in the socialization process, helping members, particularly children, learn social norms, values, and behaviors appropriate to their culture and society.

# Same Sex Marriage

**What is the difference between a marriage and a civil union?** The differences between marriage and civil union can be substantial, depending on the jurisdiction. Here are some key distinctions:

## Legal Recognition and Rights

- **Marriage:**
  - **Universal Recognition:** Marriages are universally recognized across countries and states, carrying full legal status in most jurisdictions worldwide.
  - **Legal Rights:** Married couples typically enjoy a comprehensive array of legal rights, including tax benefits, inheritance rights, spousal support, medical decision-making power, and adoption rights.
  - **Federal Benefits:** In countries like the United States, married couples receive federal benefits, including Social Security benefits, immigration rights, and federal tax advantages.
  
- **Civil Union:**
  - **Limited Recognition:** Civil unions are not universally recognized and may only be valid within the jurisdiction where they were established or in a few others that acknowledge them.
  - **Limited Rights:** Civil unions generally provide limited legal rights compared to marriage. They may offer similar state-level benefits as marriage but often lack federal recognition and associated benefits.
  - **Variability:** The rights and benefits of civil unions can vary widely depending on the specific laws of the jurisdiction.

## Social and Cultural Aspects

- **Marriage:**
  - **Cultural Significance:** Marriage often carries significant cultural, religious, and social importance, with long-standing traditions and ceremonies.
  - **Terminology and Status:** Being married is widely recognized and understood, carrying a certain social status and acceptance.
  
- **Civil Union:**
  - **Social Perception:** Civil unions may not carry the same cultural and social weight as marriage and can be seen as a secondary option.
  - **Terminology:** The term "civil union" may not be as universally understood or respected as "marriage," potentially leading to social and legal complications.

## Accessibility and Purpose

- **Marriage:**
  - **Accessibility:** Traditionally accessible to heterosexual couples, although many countries now allow same-sex marriages.
  - **Purpose:** Marriage is often pursued for a combination of personal, legal, social, and economic reasons.
  
- **Civil Union:**
  - **Accessibility:** Often created as an alternative for same-sex couples in jurisdictions where same-sex marriage is not legal. Some places allow both same-sex and opposite-sex couples to enter into civil unions.
  - **Purpose:** Civil unions are typically pursued to gain legal recognition and rights for couples who either cannot or choose not to marry.



## Examples by Jurisdiction

- **United States:**
  - **Marriage:** Federally recognized with extensive rights and benefits.
  - **Civil Union:** Provides state-level benefits but lacks federal recognition and associated rights.
  
- **United Kingdom:**
  - **Marriage:** Recognized with full legal rights.
  - **Civil Partnership:** Initially introduced for same-sex couples, now available to opposite-sex couples as well, offering similar rights to marriage but without the same historical and cultural context.
  
- **Czech Republic:**
  - **Marriage:**
    - **Legal Recognition:** Marriage is fully recognized and grants extensive legal rights and protections, including inheritance rights, tax benefits, and social security.
    - **Social and Cultural Significance:** Marriage holds significant cultural and social importance and is widely accepted and understood within society.
    - **Rights and Benefits:** Married couples have access to comprehensive legal rights and benefits, including adoption rights and joint property ownership.
  - **Civil Union:**
    - **Limited Legal Rights:** Civil unions, known locally as "registered partnerships," provide certain legal rights but are not as comprehensive as those granted by marriage. For example,

partners in a civil union do not have the same inheritance rights as married couples.

- **Specific to Same-Sex Couples:** Civil unions in the Czech Republic are available exclusively to same-sex couples, providing legal recognition and some rights in a country where same-sex marriage is not legally recognized.
- **Social and Cultural Context:** Civil unions do not carry the same cultural and social weight as marriage and are often seen as a secondary option. They were introduced as a compromise to grant some legal protections to same-sex couples without re-defining marriage.

**Ethical Question Relevant for the Czech Republic:** Marriage, that offers a more comprehensive set of rights is available to heterosexual couples. Civil unions, that offer limited rights compared to marriage, are designed specifically for same-sex couples. Is this legal arrangement just?

Possible answer: Whether it is just to have different legal treatments for same-sex couples and heterosexual couples depends on the balance between upholding principles of equality and non-discrimination and respecting cultural and religious values. However, from a human rights and ethical perspective, equal legal treatment is generally advocated to ensure fairness, dignity, and social inclusion.

## Surrogate Motherhood

**What is surrogate motherhood?** It is a reproductive arrangement in which a woman, known as the surrogate mother, agrees to carry and give birth to a child for another person or couple, referred to as the intended parents. This process involves the surrogate mother becoming pregnant through artificial insemination or embryo transfer, depending on the type of surrogacy arrangement:

1. **Traditional Surrogacy:** In this arrangement, the surrogate mother is artificially inseminated with the intended father's sperm, making her the biological mother of the child. The egg used in this process is her own.
2. **Gestational Surrogacy:** This involves the implantation of an embryo created through in vitro fertilization (IVF), using the eggs and sperm of the intended parents or donors. In this case, the surrogate mother has no genetic connection to the child, as the embryo is created from the intended parents' or donors' genetic material.

The purpose of surrogate motherhood is to help individuals or couples who are unable to conceive or carry a pregnancy to term on their own. This can include situations involving infertility, medical conditions that make pregnancy risky, same-sex couples, and single individuals wishing to become parents.

Surrogacy arrangements are governed by legal agreements that outline the rights and responsibilities of the surrogate mother and the intended parents. These agreements address issues such as financial compensation, medical care, and the legal transfer of parental rights after the birth.

#### **What features does a just contract have?**

- Participants voluntarily consent, without any coercion,
- Participants have all relevant information,
- It does not dispose with any person,
- It is advantageous for all participants.

**How is surrogate motherhood legally regulated in the Czech Republic?** In the Czech Republic, surrogate motherhood exists in a largely unregulated legal environment. While surrogacy is not explicitly prohibited, there are no specific laws that provide clear guidelines or protections for surrogacy arrangements. This legal ambiguity means that any agreements made between intended parents and surrogate mothers are not legally enforceable, relying heavily on mutual trust and informal agreements. The only mention of the phrase "surrogate motherhood" can be found in § 804 of the law n. 89/2012, where the law

designates an exception to the ban of adoption by siblings for siblings carried by a surrogate mother.

Under Czech law, the surrogate mother is considered the legal mother of the child at birth. For the intended parents to gain legal parenthood, the surrogate mother must formally relinquish her parental rights, and the intended mother must go through an adoption process. This procedure can be complex and lengthy, creating potential legal and emotional challenges for all parties involved.

Commercial surrogacy is considered a criminal offense, making it illegal to compensate surrogate mothers beyond covering medical and related expenses. Despite this, there is some evidence of financial arrangements being made informally, given the lack of strict regulation and enforcement.

This regulatory vacuum has led many Czech couples to seek surrogacy services in countries with more defined legal frameworks, such as Ukraine, where the legal process is clearer and intended parents are recognized as the legal parents from the moment of birth.

**What ethical problems are linked with surrogate motherhood?** Surrogate motherhood presents several ethical challenges that spark ongoing debate:

- **Exploitation and Coercion:** Critics argue that surrogate motherhood can exploit economically disadvantaged women, especially in commercial surrogacy. Women may be coerced by financial pressures into becoming surrogates, raising concerns about consent and autonomy.
- **Commodification of Children:** Surrogacy can be seen as turning children into commodities, where the act of creating and delivering a child is treated as a service transaction, potentially undermining the inherent dignity of human life.
- **Parental Rights and Responsibilities:** The complexities of parental rights in surrogacy arrangements can lead to ethical dilemmas. Issues arise regarding the rights of the surrogate mother, especially in cases where she may form an emotional bond with the child and wish to keep the baby.

- **Psychological Impact:** There are concerns about the psychological impact on all parties involved, including the surrogate mother, the intended parents, and the child. The surrogate may experience emotional distress after giving up the baby, while the child might face identity issues in the future.
- **Legal and Ethical Boundaries:** Different countries have varying regulations on surrogacy, leading to ethical concerns about cross-border surrogacy practices. This inconsistency can result in legal conflicts and exploitation in countries with less stringent laws

# Appendix 2: Friedrich August von Hayek

## “Law, Legislation and Liberty”

Friedrich August von Hayek (1899 – 1992) was a renowned Austrian-British economist and philosopher, best known for his defense of classical liberalism and free-market capitalism. Born in Vienna in 1899, Hayek made significant contributions to economics, political theory, and social philosophy. He is particularly famous for his works "The Road to Serfdom" and "The Constitution of Liberty," where he argues against central planning and for the importance of individual liberty and decentralized decision-making. Hayek's theories on the spontaneous order and the role of prices in coordinating economic activity have had a profound influence on modern economic thought and policy, earning him the Nobel Memorial Prize in Economic Sciences in 1974, jointly with Gunnar Myrdal. His ideas continue to shape debates on economic policy, freedom, and the role of government in society.

Vienna was on the beginning of the 20th century an intellectual and cultural center. The philosopher Ludwig Wittgenstein was von Hayek's cousin.

"Law, Legislation and Liberty" is a three-volume work by Friedrich von Hayek that explores the relationship between law, individual freedom, and the structure of society. Published between 1973 and 1979, the series critiques contemporary legal and political systems, emphasizing the distinction between law (rules of just conduct) and legislation (government-imposed directives). Hayek argues that true liberty is preserved through a spontaneous order of rules that evolve naturally rather than through centralized, coercive legislative processes.

Important is his critique of legal positivism. Legal positivism is a theory of law that asserts that the validity of a law is not connected to its moral content but rather to its sources and the manner in which it was enacted. According to legal positivists, laws are rules created by human beings, typically through legislative processes or judicial decisions, and their legitimacy is determined by social facts and conventions rather than moral considerations. This perspective separates law from morality, suggesting that what the law is can be distinguished from what the law ought to be. Legal positivism emphasizes that laws

are authoritative directives backed by the threat of sanctions and that legal systems are characterized by the existence of rules that are recognized and enforced by a society's institutions.

Hayek favors a common law approach to law. The common law approach to law is a legal system where the development and application of law are largely based on judicial decisions and precedents rather than solely on written statutes or codes. Originating in England and used in many English-speaking countries, common law relies on the principle of *stare decisis*, meaning that courts should follow established precedents when making rulings on similar cases. This system allows for the law to evolve over time as judges interpret and apply legal principles to new situations, ensuring that the law remains adaptable and responsive to changing societal needs. In the common law system, judicial opinions are critical, and past decisions serve as a guide for future cases, promoting consistency and predictability in the legal process.

# Appendix 3: More about readings promoted in the 5th and 6th chapters

## **David Hume: The Treatise of Human Nature. Book 3 “Morals”, Part 2 “Justice and injustice”, from 1 to 6**

### Part 1: Virtue and vice in general

- Moral distinctions are not derived from reason but are derived from a moral sense.
- Our decisions regarding moral rightness and wrongness are evidently perceptions; all perceptions are either impressions or ideas; so ruling out ideas leaves us with impressions.
- The impression arising from virtue is agreeable, and the impression coming from vice is unpleasant.
- „The first thing I have to say is that it would be absurd to imagine that in every particular case these sentiments are produced by a basic feature of our innate constitution. There is no end to the list of our duties; so it is impossible that we should have a basic instinct corresponding to each of them.

### Part 2: Justice and injustice

- Other things being equal, a man naturally loves his children better than his nephews, his nephews better than his cousins, his cousins better than strangers. Those facts are what generate our common measures of duty—e.g. our judgment that a man has a greater duty to his son than to his nephew. Our sense of duty always follows the common and natural course of our passions.
- Though the rules of justice are artificial, they aren't simply decided on by some one or more human beings. And there's nothing wrong with calling them 'laws of nature', if we take 'nature' to include everything that is common to our species, or even if we take it more narrowly to cover only what is inseparable from our species.
- However much the circumstances of human nature may make a union necessary,



and however much the passions of lust and natural affection may seem to make it unavoidable, some other features of **(a)** our natural temperament and of **(b)** our outward circumstances are not conducive to the needed union—indeed they are even contrary to it. **(a)** The most considerable of these features of our temperament is our selfishness.

- The only possible way to manage this is by a convention entered into by all the members of the society to make the possession of external goods stable, leaving everyone in the peaceful enjoyment of whatever he has come to own through luck and hard work. This enables everyone to know what he can safely possess; and the passions are restrained in their partial and contradictory motions.
- Justice gets its origin from •the selfishness and limited generosity of men, along with •the scanty provision nature has made for men’s wants.
- The only reason why •extensive human generosity and •perfect natural abundance of everything would destroy the very idea of justice is that •they would make that idea useless.
- Men’s experience shows them that, whatever may be the upshot of any single act of justice, the whole system of ·just· actions accepted by the whole society is infinitely advantageous to society as a whole and to each individual in it.
- Although I say that in the state of nature – i.e. the imaginary state that preceded society – there is neither justice nor injustice, I do not say that in such a state it was allowable to violate the property of others. What I do say is that in that state there was no such thing as property, so that there could not be any such thing as justice or injustice.
- Justice, in her decisions, pays no attention to whether a given object is fit or suitable for this or that person. . . .
- So, we have to look for some other basis or bases for ownership after society has been established. I find four such bases: **(1)** Occupation, **(2)** Prescription, **(3)** Accession, and **(4)** Inheritance.
- There is no better rule than the obvious one saying that what a person owns will never change except when that person consents to give something he owns to someone else.

- If someone is forced to make a certain promise, the promise isn't binding—we'll agree about that.
- There are three fundamental laws of nature, the laws of the stability of ownership, its transference by consent, and the keeping of promises. The peace and security of human society entirely depend on strict obedience to those three laws; there is no chance of establishing good relations among men when they are neglected. Society is absolutely necessary for the well-being of men, and these laws are equally necessary for the support of society. Although they restrain the passions of men, they are the real offspring of those passions they, are just a more artful and more refined way of satisfying them.

### **Immanuel Kant: Toward Perpetual Peace**

#### Section I: Preliminary articles for perpetual peace among states

- 'No peace treaty is valid if it was made with mental reservations that could lead to a future war.'
- 'No independent states, large or small, are to come under the dominion of another state by inheritance, exchange, purchase, or gift.'
- 'For a state, unlike the ground on which it is based, is not a possession (*patrimonium*). It is a society of men, which no-one, other than itself can command or dispose of. Like a tree, it has its own roots, and to graft it on to another state as if it were a shoot is to terminate its existence as a moral personality and make it into a commodity.'
- 'Standing armies are eventually to be abolished.'
- 'The hiring of men to kill or to be killed seems to mean using them as mere machines and instruments in the hands of someone else (the state), which cannot easily be reconciled with the rights of man in one's own person.'
- 'National debts are not to be incurred as an aid to the conduct of foreign policy.'
- 'No state is to interfere by force with the constitution or government of another state.'
- 'No state during a war is to permit acts of hostility that would make mutual confidence impossible after the war is over—e.g. the use of assassins and poisoners, breach of capitulation, incitement to treason in the opposing state.'

## Section 2: Definitive articles for perpetual peace among states

- First article: 'The civil constitution of every state is to be republican.'
  - A *republican constitution* is founded upon three principles: firstly, the principle of *freedom* for all members of a society (as men); secondly, the principle of the *dependence* of everyone upon a single common legislation (as subjects); and thirdly, the principle of legal *equality* for everyone (as citizens).
  - The following remarks are necessary to prevent the republican constitution from being confused with the democratic one, as commonly happens...
- Second Article: 'The law of nations is to be founded on a federation of free states.'
  - There is only one rational way in which states coexisting with other states can emerge from the lawless condition of pure warfare. Just like individual men, they must renounce their savage and lawless freedom, adapt themselves to public
  - coercive laws, and thus form an *international state (civitas gentium)*, which would necessarily continue to grow until it embraced all the peoples of the earth.
- Third article: 'The law of world citizenship is to be united to conditions of universal hospitality.'
  - The peoples of the earth have thus entered in varying degrees into a universal community, and it has developed to the point where a violation of rights in *one* part of the world is felt *everywhere*. The idea of a cosmopolitan right is therefore not fantastic and overstrained; it is a necessary complement to the unwritten code of political and international right, transforming it into a universal right of humanity.

*First Supplement: On the Guarantee of a Perpetual Peace*

- ..nature comes to the aid of the universal and rational human will, so admirable in itself but so impotent in practice, and makes use of precisely those self-seeking inclinations in order to do so. It only remains for men to create a good organization for the state, a task which is well within their capability, and to arrange it in such a way that their self-seeking energies are opposed to one another, each thereby neutralizing or eliminating the destructive effects of the rest.

*Second Supplement: Secret Article of a Perpetual Peace*

- It is not to be expected that kings will philosophize or that philosophers will become kings; nor is it to be desired, however, since the possession of power inevitably corrupts the free judgement of reason. Kings or sovereign peoples (i.e. those governing themselves by egalitarian laws) should not, however, force the class of philosophers to disappear or to remain silent, but should allow them to speak publicly. This is essential to both in order that light may be thrown on their affairs. And since the class of philosophers is by nature incapable of forming seditious factions or clubs, they cannot incur suspicion of disseminating propaganda.