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**by
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Emile Durkheim opened his Latin thesis with an observation worth remembering when reflecting on how the social sciences have defined their boundaries.

A discipline may be called a science only if it has a definite field to explore. Science is concerned with things, realities. If it does not have definite material to describe and interpret, it exists in a vacuum. ... At first sight, this problem presents no difficulty: the subject matter of social science is social “things,” that is, laws, customs, religions, etc. However if we look into history, we find that until quite recent times, no philosopher ever viewed these matters in such a light. (Durkheim 1960, 3)

Durkheim’s observation is significant both for what it asserts and for what it evades. The man who laid down the rules of sociological method was emphatic that method alone does not make something a science: it also needed a field of things to study. He also saw, far more clearly than those who confidently find “anticipations” of the social sciences in the classics of political philosophy and history, that the idea that “society” could be an object of study distinct from politics, psychology, and economics was of recent vintage. Yet he was rather cavalier about what exactly made up the field of “social things”: much hangs on how to continue the open-ended list that starts with “laws, customs, religions”

What sorts of “things” do the social sciences study? Where and when did they find them? And how, in finding them, did they set themselves apart from kindred disciplines scrutinizing related “things”? When we turn to the eighteenth century in search of the ancestors of the social sciences we find that those “social things” that provided Durkheim with the objects of the social sciences had already been claimed by disciplines devoted not to the study of “society,” but rather of something called “civil society.” To see how the social sciences began to mark out their boundaries they would occupy, we must trace how analyses of “civil society” were replaced by accounts of a society that was no longer “civil.” One place to begin is by asking what it meant, in the

eighteenth century, for something to be “civil.”¹

Samuel Johnson’s definition starts out simply enough: “1. Relating to the community; political; relating to the city or government.” But it goes on to define “civil” in terms of what it is not, in the process producing a curious list:

3. Not in anarchy; not wild; not without rule or government. 4. Not foreign, intestine. 5. Not ecclesiastical 6. Not natural 7. Not military 8. Not criminal.... 9. Civilised; not barbarous. 10. Complaisant; civilized; gentle; well bred; elegant of manners; not rude; not brutal; not coarse. 11. Grave; sober; not gay or shewy. 12. Relating to the ancient consular, or imperial government” (Johnson 1755).

The entry for “*société*” in the *Dictionnaire Universel* of 1771 defines “*société civile*” by contrasting it to man’s “*etat naturel*,” which, we are told, is also a “social state,” but one without the binding force of laws that have been framed with the end of human happiness in mind. Johann Christoph Adelung’s *Grammatisch-kritisches Wörterbuch* of 1793 describes “*bürgerliche Gesellschaft*” as an order “where a multitude has subordinated itself to the will of one,” and contrasts it to “other societies, which arise out of parents and children.” To be “*bürgerliche*” is to be estranged from refined morals, and a *Bürger* may be either a resident of a city who participates in the governing of that body, a member of a particular estate, or what is denoted in Latin by the term *civis*: a citizen of a civil society, who — unlike the subject of a despotic state — owns property and enjoys freedom.² Looking over these myriad definitions one sympathizes with the jurist John Austin who, in 1832, concluded that the term “civil” had become utterly useless, since “it is applied to all manner of objects which are perfectly disparate” (Austin 1879, 780).

¹ It should be stressed that I shall pay little attention to the renewed popularity of the term in recent years. For discussions see Cohen & Arato 1992 (esp. 29-82), Seligman 1992, Tester 1992.

² The much briefer definition in Campe’s *Wörterbuch der Deutschen Sprache* likewise contrasts the “*bürgerliche Leben*” to life in domestic (*häusliche*) society.

Things, however, are not quite as haphazard as they seem. While definitions of civility and civil society may have proliferated wildly in the eighteenth century, the ways of talking about civil society clustered, for the most part, around a few basic contrasts. Under the reigning influence of modern natural law theories, civil society was defined principally by contrasting it with a pre-political state of nature. Those who spoke this way, as well as those who didn't, could refine their understanding of civil society by contrasting it with two other forms of association: the household ("domestic society") and the church ("ecclesiastical society"). Finally, civil (or "civilized") society could also be defined by contrasting it with those "rude" societies inhabited by "savages" who lived without laws, conveniences, or commerce. Pruning Dr. Johnson's list we can say that in the eighteenth century a "civil society" was a society which, having placed itself under a system of laws, had left the state of nature, was distinguished from domestic and religious communities, and had progressed beyond the state of savagery in which rude peoples dwelled. But rather than merge these definitions we might do better to keep them separate, and see how, within each of these different ways of talking about civil society, certain thinkers began formulating notions of society that did not fit easily into the distinction between what was civil and what was not. In this way "civil society" came to denote something quite different for G. W. F. Hegel, Alexis de Tocqueville, and Karl Marx than it had for their predecessors in the eighteenth century. What it came to mean for them has consequences for the sorts of social sciences we have wound up with.

Civil Society and the State of Nature

Chapter VII of John Locke's *Second Treatise* defines "political or civil society" in much the same way as Samuel Johnson: it is chiefly concerned with what civil society isn't. It is not to be confused with the "conjugal society" that unites husband and wife

(§77,78), nor should it be confused, as Locke's nemesis Sir Robert Filmer had, with the "society bewixt parents and children" (§84). The system of "absolute monarchy," which some had considered "the only government in the world," is dismissed as "inconsistent with civil society" and hence "no form of civil government at all" (§90). Finally, civil society is completely different from the "state all men are naturally in," that state of freedom and equality in which men are free "to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature" (§4). Divesting themselves of this natural liberty and putting on "the bonds of civil society," men are able to form a community and enjoy a "comfortable, safe, and peaceful" life (§95).

In the theory of the social contract, elaborated in countless variations before and after Locke, entry into civil society is predicated on a departure from a "state of nature." Certain needs, dispositions, or aversions operative in this state provide its residents with the motivation to leave it. The social contract lays out the terms of the bargain they strike upon exiting. Through a consideration of what sorts of things individuals could (or ought) to have agreed to upon leaving the state of nature, certain forms of government can be ruled out as properly "civil" societies. Thus Locke, reflecting on the claim that an unquestioning obedience to the monarch is the price that one must pay for security against one's neighbors, asked whether such a bargain didn't require supposing "that men are so foolish, that they take care to avoid what mischiefs can be done to them by *pole cats*, or *foxes*; but are content, nay think it safety, to be devoured by *lions*" (§93).

Social contract theory thus provided a way of thinking about civil society which, beginning from a situation in which men had no laws, considered what sort of political order men might design for themselves were they given the chance to start afresh. While there was a considerable range of opinion about what sorts of arrangements one might

adopt upon leaving the state of nature, the terms used to refer to the order one entered display a certain family resemblance. It is a “political or civil society” (Locke), a “civil society,” “*civitas*,” or “commonwealth” (Hobbes, *De Cive* I:2, V:9, VI:1, X:1; *Leviathan* II:17), a “city,” “republic,” or “body politic” (Rousseau, *Social Contract* I:vi), a “civil condition (*status civilis*)” or “state (*civitas*)” (Kant, *Rechtslehre* §43). The paradigm for these terms was laid down in a translation of Aristotle’s *Politics* completed in 1438 by the great Florentine humanist Leonardo Bruni. At the start of the *Politics*, Aristotle stated that the “most sovereign and inclusive” of all communities “is what we call a *polis* or political community [*koinonia politike*]” (*Pol.* 1252a), a phrase Bruni rendered as “*civitas appellator & civilis societas*,” establishing a pattern that was followed by subsequent translators and taken up by those who constructed theories about the origin, nature, and limits of public life (Schmidt 1986).

That social contract theorists should conform so faithfully to a terminology rooted in Aristotle is not without its ironies. While Aristotle had given passing attention to forms of association such as the household or the village which preceded the *polis* temporally, he stressed that the *polis* was prior to them “by nature.” Man, the famous definition goes, is by nature “a *polis* dwelling animal,” equipped with speech and reason, and disposed to spend his time arguing about what is just and what is not (*Pol.* 1253a; *Nic. Eth.* I:vii). In social contract theories, in contrast, man may be naturally gregarious and perhaps even naturally disposed to form political associations. Nevertheless, the state which men are in “by nature” is not a civil state. Thus, while Thomas Hobbes did not deny “that men (even nature compelling) desire to come together” into various sorts of societies, he did insist that “civil societies are not mere meetings, but bonds, to the making whereof faith and compacts are necessary.” Thus, “man is made fit for society not by nature, but by education” (*De Cive* I:2).

Because of this insistence that the establishment of civil society rested on an act of will, rather than on “actual things, like all other things in nature,” Durkheim maintained that the social contract tradition had failed to isolate a domain of objects on which to establish a science of society (Durkheim 1960, 3-4). By arguing this way, he foreclosed the possibility, explored by Ferdinand Tönnies (who, not accidentally, began his career as a Hobbes scholar) of basing sociology on the study of different forms of social willing and the different forms of association that arose from them. Durkheim further argued that the concerns of social contract theorists differed from those of the social sciences in that they contrasted differing “types of states” rather than different “kinds of societies” since they “thought it impossible to compare human societies in any respect other than the form of state” (Durkheim 1960, 9). This criticism has its merit. The equation of state and civil society (or, as Locke would have it, of political society and civil society) accepted by social contract theorists when they took up the terminology of Aristotle’s *Politics* made it difficult to talk about a “society” that is not immediately understood to be a “civil” or “political” society. To be sure, one can find examples that seem to suggest otherwise.

Locke, once again, provides the clearest example. Chapter XIX of the *Second Treatise* — “Of the Dissolution of Government” — distinguishes between the “dissolution of society” and the “dissolution of government,” arguing that while the former entails the latter, it is possible to “dissolve” government while leaving “society” intact. The argument hangs on a rather specific understanding of how societies “dissolve.”

The usual, and almost only way whereby *this union is dissolved*, is the inroad of foreign force making a conquest upon them: for in that case, (not being able to maintain and support themselves, as *one intire and independent body*) the union belonging to that body must necessarily cease, and so every one return to the state he was in before, with a liberty to shift for himself, and provide for his own safety, as he thinks fit, in some other society (§211).

In the case of external invasions, conquerors swords “cut up governments by the roots, and mangle societies to pieces” — one need only recall what the Normans wrought to see Locke’s point. But, it is also possible for governments to be “dissolved from within” (§212) and the bulk of Chapter XIX is devoted to documenting the different ways in which this could be done — most of which had been attempted by either Charles II or James II. In such cases Locke insisted that while the government may have passed away, society is *not* dissolved and hence retains its native right to establish a new government. It is important, however, not to overestimate what is going on here. Locke was less concerned with distinguishing society from civil society than he was with working out the implications of his insistence that the act through which a government is established is not to be equated with the act that first creates a civil society. Citizens may, with good enough cause, end the trusteeship arrangement on which government rests. But in doing so, they have not dissolved the bonds that unite them into a civil society.

The contrast Locke invoked had a long-standing precedent in the distinction between “pacts of association” (*pactum societas*) whereby individuals form a political association and “pacts of subjection” (*pactum subjectionis*) in which individuals so associated alienate their political agency to a ruler, with certain stated provisions and limits (Gierke 1939, 91-112, Gierke 1934, 107-108, 299-300). It was possible for social contract theorists to see, instead of *one* social contract, a series of separate pacts. Fichte’s *Grundlage des Naturrechts* carried this the furthest, arguing that the exit from the state of nature involved (1) a “Property or Civil Contract” (*Eigentums oder Civilvertrag*) which, tacitly or explicitly, establishes claims to hold property, (2) a “Contract of Protection” (*Schutzvertrag*) in which individuals pledge to protect each others rights, and (3) a “Contract of Association” (*Vereinigungsvertrag*) which secures and protects the first two

compacts and takes the form of a pledge by each individual to protect the whole community. Taken together these three contracts constitute what Fichte called the *Staatsbürgervertrag* (Fichte, *Grundlage des Naturrechts* § 17B). But it was also possible to simplify matters by arguing (like Hobbes) that there could be no *pactum societatis* without a *pactum subjectionis* or insisting (like Locke and Rousseau) that the delegation of ministerial responsibilities did not involve a “contract” at all.

The point to keep mind, however, is that those who distinguished the act which created government from the act which created civil society never seemed to think that doing so necessitated a distinction between state and society or between political society and civil society. Locke and Rousseau could insist that government did not rest on a contract, while continuing to speak as if political society and the “state” or “city” were one and the same. Locke certainly recognized that there were societies in the state of nature, and the discussion of property in Chapter V of the *Second Treatise* attempted to lay out the general rules by which property could arise (and, indeed, in which monetary exchange could be instituted) without the establishment of political relations, thus reconnoitering the terrain which would be explored by classical political economy (Dumont 1977, 53-54). Likewise, Rousseau was sensitive enough to the role played by religion and custom in the creation of the “general will” that it is possible to see him as laying a foundation on which Tocqueville would later build. But in both Locke and Rousseau these analyses of “society” are always in the service of an account of political society. Neither appeared to be terribly interested in providing an account of a society that was anything other than civil.

Civil Society and Domestic Society

While social contract theorists dutifully invoked the Aristotlean identification of

state and civil society, the contrast between civil society and domestic society on which it rested was becoming less and less coherent. Aristotle had simply stipulated that “what we call the *polis*” was what he was proposing to call a “political community [*koinonia politike*].” His explication of what it meant for the *polis* to be political community was accomplished largely by juxtaposing the *polis* to a community of a rather different sort: the household. In the process any number of questions were left begging (Schmidt 1986, 296-298). Were there forms of political community other than the Greek *polis*? Aristotle was certainly aware of the different forms of political organization in the ancient world. Greek cities regularly formed military and political alliances, outside the Greek world there were cities like Babylon that had occupied territories that dwarfed the *polis*, and Aristotle lived to see Athens reduced to a Macedonian protectorate. But he refused to characterize an alliance as a *koinonia* (*Politics* 1261a, 1274b, 1328a), he had difficulty calling something the size of Babylon a *polis* (*Politics* 1276a) and he ignored Macedonia. One could also ask whether there might not be forms of association worth scrutinizing other than the *oikos* and the *polis*. By way of example Aristotle mentioned that sailors on a ship constitute a *koinonia* (*Nic. Eth.* VIII: 9). Couldn’t individuals engaged in long distance trade be said to form a community that reached beyond the *polis*? On this point, Aristotle was silent. While he was capable of talking quite sensibly about the rules of economic exchange, in his classification of the sciences “economics,” was restricted to the household (Polanyi 1968, Finley 1970).

The Aristotelean division of practical philosophy into the disciplines of “ethics,” “politics,” and “economics” had a remarkable staying power (Brunner 1968, Maier 1969, Habermas 1973). As late as 1728, Christian Wolff’s *Preliminary Discourse on Philosophy in General* defined ethics as the science dealing with man “in his natural state,” politics as the discipline concerned with life “in a civil society or state,” and

economics as the science of “smaller societies ... for example, conjugal, paternal, and domestic societies” (§§64-67). Until well into the eighteenth century, whenever economics was discussed, references to householding were never far away. Thus, in the *Georgica Curiosa* (1682), a manual for a noble head of a household, “economics” consisted of such matters as bee-keeping, pedagogy, legal and religious duties, wine-making, glass-blowing, and something called “*Aquarum Delitiis*” — the study of how to travel on water, drink it, and fish in it (von Hohberg 1682). Even James Steuart’s *Inquiry into the Principles of Political Economy* (1767) opened with a nod to the older tradition.

Oeconomy, in general, is the art of providing for all the wants of a family, with prudence and frugality What economy is in a family, political oeconomy is in a state: with these essential differences, however that in a state there are no servants, all are children; that a family may be when and how a man pleases, and he may establish what plan of oeconomy he thinks fit; but states are found formed, and the oeconomy of these depend on a thousand circumstances (Steuart 1966, 15-16).

Echoes of this understanding of the place of political economy can still be found in Adam Smith. Even though the *Wealth of Nations* analysed exchange relations as something distinct from the affective bonds of family life or the explicitly publicly oriented actions that make up the domain of politics, the Introduction to Book IV still characterized political economy as a contribution to the “science of the statesman.” While Smith’s understanding of how the public household should be run differed markedly from Steuart, he was no more concerned than Steuart had been to argue that political economy was concerned with a domain that was fundamentally distinct from the state and the household (Winch 1978, 184-185).

In retrospect it is obvious that Smith was grappling with a domain that could not easily be reconciled with an understanding of forms of association that spoke only of households and polities. *The Wealth of Nations* investigated the rules by which a “natural order” was governed, an order which — in contrast to the “civil society” of the social

contract theorists — came into being without the conscious intention of any of the actors who constituted it. Bernard Mandeville had provided perhaps the most striking account of the way this domain was ordered. While Aristotle had argued that every *koinonia* was marked by ties of fellowship [*philia*] and a sense of justice, and had stressed that since “*philia* seems to hold the *polis* together” lawmakers were justified in devoting more attention to it than to justice (*Nic. Eth.* VIII:1), Mandeville earned his notoriety by describing how a society that possessed neither fellowship nor virtue could prosper and flourish (Hundert 1994).³ When Smith asked, in *The Theory of Moral Sentiments*, what society needed to survive, he granted Mandeville’s argument about affection, and — reversing Aristotle’s priorities — pinned everything on justice.

Though among the different members of the society there should be no mutual love and affection, the society, though less happy and agreeable, will not necessarily be dissolved. Society may subsist among different men, as among different merchants, from a sense of its utility, without any mutual love or affection ... (*Theory of Moral Sentiments* II:ii:3).

All society required was justice, “the main pillar which upholds the whole edifice.”

It was not, however, until G.W. F. Hegel’s *Philosophy of Right* (1820) that the domain Smith had explored was finally termed “civil society” [*bürgerliche Gesellschaft*] and explicitly juxtaposed to the state (Schmidt 1981, Riedel 1984, 129-156). Hegel had read Smith as early as 1803, but it was not until lectures in Berlin in 1818 that he first employed a tripartite division between “family,” “civil society,” and “state” (Hegel 1974, I:189). As articulated in the *Philosophy of Right*, “civil society” encompasses not only

³ At the risk of being tedious, it should be noted that Mandeville’s use of the *term* “society” remains quite conventional. “I hope the reader knows,” he writes in “A Search into the Nature of Society,” “that by Society I understand a Body Politick” (Mandeville 1924, I:347). Note also the confounding of “society” and “politik” in Mandeville’s indexing of his comparison of “the Body Politick” with a “Bowl of Punch” (I:105, 378).

the “system of needs” that had been the particular concern of political economists but also the system of civil law that makes exchange relationships possible and the public and private agencies (the “police” and the “corporations”) that carry out the supervisory and welfare functions a market society requires. Civil society is, for Hegel, a creature of the modern world, presenting a “spectacle of extravagance and want” that is historically unprecedented (§185). It was the world of the “*Bürger* as *bourgeois*” (§ 190), the individual who, driven onward in a relentless pursuit of self-interest, brings into existence a social order that transcends the intentions of any given individual (§187).

Civil society, as Hegel understood it, is thus a curious mixture. It is rooted in the market, but cannot be reduced to it. It includes political and legal functions that were, for reasons that baffled Hegel’s first readers (Riedel 1975, 70, 130-131, 134-135), split off from the subsequent discussion of the state. Hegel stated that civil society represents the state “as understanding [*Verstand*] envisions it” (§ 183), it is an account of the state that grasped only the “external” attributes of political life and hence reduced the state to a set of contractual relations between individuals who view their own ends as absolute and see interactions with others — and with the state itself — as a way of achieving these ends (Steinberger 1988, 202-205, 234-235). It is a theoretically impoverished, albeit historically important, account of the state, and it is an account that Hegel seeks to incorporate and overcome with his own conception of the state as the “actuality of ethical life” (§257). For him the state is not a means to individual ends, but rather the foundation which gives substance to individual freedom.

When removed from the particular place it occupied within Hegel’s system, what Hegel had denoted as “civil society” is changed in both its function and its contents. No longer a part of a broader philosophical argument about the possibilities for the realization of freedom in the modern world, it is viewed instead as a sphere of activities,

distinct from political society or the state. From here it was a short step to dispensing with the now-antiquated term “civil” altogether and speaking simply of “society.”

In the account of “The Concept of Society and its Dynamic Laws” that opened Lorenz von Stein’s *History of the Social Movement in France* (1850), “society” is hailed as one of those things that had “formerly remained unrecorded in everyday life” but which now, as a result of “powerful events,” stands revealed as “a force permeating the life of nations and of individuals” (Stein 1964, 43). After centuries in which men had sought “to formulate the principle of the state,” the idea had finally dawned that it might be possible to do the same for the “principle of society” (54).

The community of men whose organic unity of will is expressed through the personality of the state achieves in that social order an equally stable, equally great, and equally powerful organic unity of its life; this organic unity, conditioned by the distribution of possessions, regulated by the organization of labor, set in motion through human needs, and bound to the family, is *human society* (50).

For Stein, the state is “the personal organism of the general will” that integrates individuals into an order that allows for the “full and harmonious development” of each. In contrast, society is the “general and stable order” established “on the basis of the natural components of life” in which certain classes are subordinated to other classes. These two different forms of community are locked in a permanent struggle in which the state attempts to maintain general interests against the particularism of society (51, 54).

Stein constructed his dichotomy of state and society by splitting apart what Hegel’s notion of civil society had joined together. He merged the domain of production and exchange that constituted Hegel’s “System of Needs” with the family to form what he now termed simply “society.” He assigned the system of civil law, which Hegel had placed within civil society, to the state, along with those police and regulatory functions that Hegel had also regarded as functions of civil society. Where Hegel’s civil society

included factors that work to integrate society as well as ones that fragment it (Cohen and Arato 1992, 95-102, 106-116), Stein's dichotomy of state and society assigned the task of unifying the community to the state alone (57). Stein dedicated the rest of his life to the development of a science of the state that could provide practical insight to the civil servants assigned the daunting task of articulating the general good against a society riven with class divisions. Hence, he never studied those "powers and elements" with "neither a name nor a law" (43) that he had christened "society." Leaving that task to others, he argued

It is only through the concept of society that the concepts and sciences of economics, of labor, of householding economy and of national economy, of the family and of law, gain their highest common perspective. Only here do they attain the highest point of this worldly life, i.e. the individual and the fulfillment of his destiny (50).

Economics, labor, the family, and law — here is one way of defining society, one set of "social things" for the social sciences to explore. But it was only one possible definition, only one potential set of objects. To some find others, we need to see how else the notion of civil society was employed.

Civil Society and Ecclesiastical Society

A different understanding of society emerged from the opposition of civil society to ecclesiastical society. As in the distinction between civil society and domestic society, "civil society" here denoted a political order defined by contrasting it to an order that pursued ends viewed as not properly political. Thus Locke, in his 1689 *Letter Concerning Toleration* distinguished "civil government" (*res civitatis*) — a "Society of Men constituted only for preserving and advancing their civil goods" — from the "church" — a "voluntary Society of Men, joining themselves together" for "the publick worshipping of God" and "the Salvation of their Souls" (Locke 1983, 26, 28). Kant, in a

more complex formulation, described the state as a “juridical-civil society [*rechtliche bürgerliche Gesellschaft*]” and contrasted it to the “ethical-civil society [*ethische bürgerliche Gesellschaft*]” of the church, though he quickly suggested that perhaps a more apt description of the ecclesiastical order would be “a household (family) under a common, though invisible, moral Father” (Kant 1960, 86-88, 90-91, 93). For both Locke and Kant, as well as for the countless other eighteenth century thinkers who distinguished between the claims of the church and the state, political society is governed by coercive laws that restrict individuals’ external relations with one another in the interest of preserving life and property. The church, in contrast, is a purely voluntary order lacking the coercive power of the state but pursuing a loftier goal: the salvation of souls.

As invoked in the eighteenth century, the distinction between civil and ecclesiastical orders typically employed the theoretical vocabulary provided by social contract theories. Kant, perhaps, went furthest in this direction, postulating both a “juridical state of nature” and an “ethical state of nature,” deriving the civil order from the former and the ecclesiastical order from the latter (Kant 1960, 87-90). The distinction, of course, predated social contract theories, but even in its earliest formulations it was permeated — like Christian theology itself⁴ — with political and juridical metaphors. Thus Augustine spoke of “two cities or societies [*duae civitates hoc est societates*],” the *civitas Dei* and the *civitas terrena* (*Civ. Dei* XII:i) and Aquinas followed suit, juxtaposing the *communitas civilis* to the *communitas divina* (*Summa Theo.* 1, 2 qu. 100, art. 2c). While there are enormous differences between Augustine and Aquinas on the one hand and social contract theories on the other, the rough outline

⁴ For a discussion of the wholesale appropriation of Roman legal terminology into Christian theology, see Ullmann 1965, 21, 24-32. See also the discussion of the ambiguity of Augustine’s use of *salus* (salvation/security) and *fides* (faith/honor) in Cumming 1969, Vol. I 311-314.

of the distinction between the civil and the ecclesiastical orders remains similar: civil society pursues those earthly goods that are necessary for man's physical survival, while the church is concerned with the care and salvation of souls.

There would, of course, have been no point in Locke's or Kant's denying that the state was concerned with the salvation of souls had there not been theories that tended to blur the boundaries between politics and religion. Hobbes is the most obvious case. Hailed by Rousseau as unique in having "dared to propose the reunification of the two heads of the eagle, the complete return to political unity, without which no state or government can ever be well constituted" (*Social Contract* IV:iii), he maintained that no distinction was possible between "the Kingdome of God" and "Civill Government" or between the "Sword of Justice" and the "Shield of Faith." "*Temporal and Spirituall Government,*" he insisted, "are but two words brought into the world to make men see double and mistake their *Lawfull Sovereign*" (*Leviathan* III:39, III:35). Since the "maintenance of Civill Society" depends on justice, and justice ultimately rests "on the Power of Life and Death," it would be impossible for civil society to survive were there another power capable "of giving greater rewards than Life, and of inflicting greater punishments, than Death" (*Leviathan* III:38). No one but the sovereign could be permitted to dispense a reward so tempting as eternal life or a punishment so potent as eternal damnation. As Hobbes presented it, the prerequisite for salvation — a simple admission that Christ is Lord — was so simple that the sovereign need not be troubled with securing anything other than the public observation of religious practices (Glover 1965). The "inward *thought* and *beleef* of men" can be safely ignored by "humane Gouvernours," since they can be known by God alone and, in any case, could not possibly be compelled by laws (*Leviathan* III:40). Posed in this way, the distinction between publicly professed and privately held beliefs becomes isomorphic with the

distinction between civil and domestic society.

The implications of this division have been elaborated in Reinhart Koselleck's provocative – albeit historically questionable (Wilson 1991) – account of the role of secret societies as “indirect powers” engaged in a “moralizing” critique of state power (Koselleck 1988). Koselleck argues that Hobbes' distinction between private and civil beliefs provided the framework for the critique of civil society undertaken by secret societies such as the Freemason and the Illuminati. Such groups recruited their members from a stratum of society that “shared the fate of being unable to find an adequate place within the Absolutist State's existing institutions.” Denied access to positions in the state, the members of this stratum met in “wholly ‘non-political’ localities” such as coffee-houses, clubs, and salons.

The outcome was an institutionalization behind the scenes, one whose political strength could not unfold openly ... From the outset, rather, the representatives of society could exert political influence only indirectly, if at all (66-67).

More careful students of secret societies, free of both Koselleck's dependence on discredited conspiracy theories and his distaste for the ideals of the Enlightenment, have examined the diversity of needs such organizations satisfied (Jacob 1991, Dülmen 1992). In an age where many individuals no longer found meaning in the rituals of orthodox religion the ceremonies associated with some of these societies may well have provided an appealing and powerful substitute. In a political system that provided few opportunities for the exercise of political agency outside of the bureaucratic structure of the monarchical state, others of these societies provided an arena in which political opinions could be debated and programs for reform articulated. And finally, in a society with a strictly defined social hierarchy, these societies provided a setting in which members of different religions, professional groups, and social classes could come into contact with one other and find a fellowship and solidarity that was not available in the

public realm. In the practices and ceremonies of the such societies, one can see the origins of a form of society, separate from both the church and the state, that rested on the free association of individuals.⁵

The thinker who played, with respect to the forms of association that emerged in the space between the church and the state, a role similar to that played by Hegel and Stein vis à vis the notion of society that arose between political society and domestic society was Alexis de Tocqueville. In a note, drafted shortly before commencing work on *Democracy in America* he distinguished between:

Political society [*société politique*] — Relations between the federal and state governments and [between] the citizen of the Union and of each state.

Civil society [*société civile*] — Relations of the citizens among themselves.

Religious society [*société religieuse*] — Relations between God and the members of society, and of the religious sects among themselves.⁶

Religious society and political society involve relations either between individuals and superior powers or between groups of associated individuals. The term “civil society” is reserved for that domain in which individuals join together, free from the control of either the state or the church.

In distinguishing civil society from political society, Tocqueville was following the lead of his teacher François Guizot and his mentor Pierre-Paul Royer-Collard. Like Hegel, they had distinguished between state and civil society, and on the basis of this distinction had argued that it would impossible for France to return to the form of

⁵ For a powerful argument on the role of the Masonic movement in institutionalizing the norms for this society, see Margaret C. Jacob, “The Enlightenment Redefined: The Formation of Modern Civil Society” *Social Research* 58:2 (1991) pp. 475-495.

⁶ Manuscript draft for *Democracy in America* cited in Schleifer 1980, 7.

government that had preceded the massive social transformation which led to the Revolution (Siedentop 1979, 153-174 and Siedentop 1994, 20-40). In his study of American democracy, Tocqueville pressed the distinction further, distinguishing political forms of association from what he termed “civil associations.” The former were established, in part, to oppose actions by the state and thus to preserve the “independence” of the citizenry. The latter, which addressed the needs of “daily life,” aimed at the preservation of “civilization” itself. Without them, the citizens of a democracy would descend into “barbarism” (Tocqueville 1969, 514-515). In the same way, Tocqueville distinguished between “political equality,” which he defined as “taking the same part in government,” and “equality in civil society,” which involved “the right to enjoy the same pleasures, to engage in the same professions, and to meet in the same places — in a word, to live in the same manner and seek wealth by the same means” (503). While Tocqueville may have begun *Democracy in America* with the idea of distinguishing “civil society” from both “political society” and “religious society,” in executing the book he focused so exclusively on the opposition between political society and civil society that when he came to discuss “religious associations” they became one example, among others, within the broader class of “civil associations” (513).

Thus, in his use of “civil society” Tocqueville employed a term that had once been used to denote a political, as opposed to a domestic or religious society, and pressed it into service to denote, not the political constitution of a society, but rather the social interactions between its members. What he did with “civil society” was repeated, with greater ambiguity, in his use of the term that denoted the ultimate concern of the book: “democracy.” Departing from the conventional use of the term as a name for a specific form of government, Tocqueville used it to describe a type of society that can take on a number of different political forms. Despotism and representative democracy are

equally plausible political forms of “democratic societies.” In his drafts for *Democracy in America*, Tocqueville struggled to clarify what exactly he meant by “*democratie*” suggesting at one point that the term referred to the “*état social*” of the Americans — their society’s “*manière d’être*.” In contrast, their particular form of government, as expressed in the political laws that governed them, might best be denoted by the notion “sovereignty of the people.” “*Democratie*” would thus appear to be a matter of customs and mores (*moeurs*) while popular sovereignty was one possible legal form that a democratic society might take (Schleifer 263-274).

In the Introduction to *Democracy in America*, however, “*democratie*” took on an even broader set of implications, referring to something more fundamental than either *moeurs* or *lois*. Tocqueville argued that the influence of the “equality of conditions” he had observed in America “extends far beyond political mores and laws, exercising dominion over civil society as much as over the government; it creates opinions, gives birth to feelings, suggests customs, and modifies whatever it does not create” (9). Indeed, the impact of what he had observed in America went far beyond the New World. “A great democratic revolution is taking place in our midst” (9) and “there is hardly an important event in the last seven hundred years which has not turned out to be advantageous for equality” (11).

Everywhere the diverse happenings in the lives of peoples have turned to democracy’s profit; all men’s efforts have aided it, both those who intended this and those who had no such intention, those who fought for democracy and those who were the declared enemies thereof; all have been driven pell-mell along the same road, and all have worked together, some against their will and some unconsciously, blind instruments in the hand of God. (11-12)

At his most apocalyptic, Tocqueville regarded the progress of democracy as evidence of God’s will. Thus, he confessed, “This whole book has been written under the impulse of a kind of religious dread inspired by the contemplation of this irresistible revolution

advancing century by century over every obstacle and even now going forward amid the ruins it has itself created" (12). Thus, while "religious society" was folded into "civil society" when Tocqueville collapsed his initial tripartite scheme into a simple opposition between political and civil society, the revolution which transformed both political and civil society became nothing less than the work of Providence itself.

Both the ambiguities in the meaning of "*democratie*" and the prophetic fervor that marked the Introduction testify to the novelty of Tocqueville's undertaking. He was proposing a way of thinking about civil society that turned from the consideration of political forms to probe the patterns of association, the customs, manners, and mores, the "habits of the heart" that defined a new society. Here, then, was yet another cluster of "social things," different in character from those uncovered by Hegel, but no less promising as a field on which a science of society might be established.

Civil Society and Rude Society

In the final use of "civil society" considered here, the term is juxtaposed to "rude" society. This contrast was employed by Adam Smith, Adam Ferguson, and other Scottish moralists as well as by Turgot, Condorcet, and, with rather different intentions, by Rousseau (Riedel 1972, 748-753). This opposition also entered German thought, thanks to the rapid translation of key Scottish texts (Oz-Salzberger 1995) and the following Smith and Ferguson enjoyed among scholars at Göttingen and Königsberg. Yet, despite the popularity of the distinction, it remains somewhat puzzling what exactly "civil society" denotes here. Does it designate, as in the other pairings we have seen, a "political" as opposed to a non-political society or does it refer more generally to a society which is distinguished by a progress of "civilization," a "refinement" of manners and customs?

Dugald Stewart, one of the last representatives of the tradition of Scottish moral philosophy, seemed to suggest the latter in his discussions of the achievements of the school. His *Dissertation Exhibiting the Progress of Metaphysical, Ethical, and Political Philosophy Since the Revival of Letters in Europe* (1815, 1821) argued that the “particular glory of the latter half of the eighteenth century” lay in the application of the “natural or *theoretical history* of society” to such diverse concerns as the history of languages, the arts, the sciences, law, government, manners, and religion (Stewart 1854, I:170). This approach, which he described elsewhere as a “Theoretical or Conjectural History,” attempted to reconstruct the stages that led from “the first simple efforts of uncultivated nature, to a state of things so wonderfully artificial and complicated” (Stewart 1854, X:33-34). Understood in this way, the “natural history of civil society” would appear to be nothing less than a general history of refinement and civilization, encompassing a good deal more than what earlier theorists had classified under the heading “civil society.”

Stewart saw Adam Smith’s contribution to the study of politics as residing in his elaboration of this approach. As Stewart read him, Smith had not limited himself to the traditional concerns of studying forms of government or giving prudential advice to rulers, but rather focused on the way in which the social benefits of political association were distributed, thus posing the question of justice in a novel way (Stewart 1854, X:54, 56). Like Hume and Ferguson, Smith was seen as rejecting social contract theories in favor of an approach that regarded civil society, not as the consequence of a conscious act of association and subordination, but rather as the product of an evolutionary process leading from rudeness to civility. Smith himself credited Polybius as having been the first to enter “into the civil history of the nations he treats” and suggested that, even earlier, Thucydides went beyond a simple chronicle of military achievements and had

begun to explore “political and civil history” (Smith 1983, 107-108). What distinguished these ancient efforts from those of Smith and his contemporaries?

Thucydides opened his account of the Peloponnesian war with a discussion of the origins of the contestants. He described a state in which common action was impossible, where (in the words of Thomas Hobbes’ translation) “traffic was not, nor mutual intercourse but with fear ...; and every man so husbanded the ground as but barely to live upon it, without any stock or riches, and planted nothing.” This miserable state was first left by the Athenians, who “were the first that laid by their armour, and growing civil, passed into a more tender kind of life” (Thucydides I:2, 6). Both the content and the form of the argument should, by now, be familiar: the description is close to the accounts that Hobbes and others would give of departures from the state of nature. But while social contract theorists were reasonably clear that the state of nature they juxtaposed to civil society was an analytic construct intended to illuminate the central characteristics of political society, rather than an actual historical condition, the status of the condition that preceded civil life in these ancient “civil histories” remained obscure.

In a discussion of accounts of the origins of polities offered “by Plato and other philosophers” Polybius asked, “What then are the beginnings I speak of and what is the first origin of polities?” His answer drew on mythical accounts of catastrophic events that destroyed much of the human race, along with all of its arts and its crafts, and forced the scattered survivors to join together “owing to their natural weakness” (*Histories* VI.5). Once political communities of this sort had been established, Polybius traced how forms of government replaced one another. There are thus two sequences at work in Polybius’ account: *within* civil society Polybius provides a cyclical history of forms of government, *outside* civil society he speaks of a transition from rudeness to civility. A similar dualism can be found in subsequent authors. Machiavelli, for instance, employed

a cyclical account of forms of government in the *Discourses*, while imitating Livy's account of origins at the start of the *Discourses* (I:i) and the *History of Florence* (II:i). The "poetic economy" of Book II of Vico's *New Science* makes use of mythical accounts to describe the gathering of *famuli* in cities (II:iv), while the cyclical account of the "course the nations run" in Book IV is set apart from the consideration of origins. These two sequences could become one history only if some way could be found to explain both the passage from rudeness to civility and the replacement of one form of government by another as consequences of the same process.

The "four-stage theory" attributed to eighteenth century Scottish and French writers by Andrew Skinner (1967) and Ronald Meek (1976) would appear to provide such an explanation of the origins and the transformation of political society. By focusing on "modes of subsistence" — hunting and gathering, pastoral, agricultural, commercial — such a theory offered a way of classifying societies in terms of something other than their forms of government. By arguing that these modes of subsistence uniformly follow one another, it offered a way of organizing the diversity of forms of life that could be observed among peoples scattered throughout the world into an evolutionary sequence: societies of hunters and gatherers were thus seen, not as completely alien from commercial societies, but rather as occupying a less advanced stage in the process of civilization. A history executed in this fashion saw civil society as the final stage in the development of modes of social and economic cooperation.

Smith, however, never utilized the four-stage theory in his published writings with anything approaching the simplicity with which it was presented in his *Lectures on Jurisprudence*. In the *Wealth of Nations*, for instance, the four-stage account of the *Lectures* is spread over several chapters and is not limited to a discussion of modes of subsistence. Such factors as historical antecedents, geography, and individual personality

matter as much as modes of subsistence (Winch 1978, 63-64). Nor does the four-stage theory make a clear distinction between “civil society” and “civilized society”: “civil,” “civility,” and “civilization” have virtually interchangeable political, social, and cultural connotations (Rothblatt 1976, 17-22). Nowhere is this clearer than in the first German translations of Smith’s *Wealth of Nations*. His translators faced the choice of either importing Smith’s terminology into German, a strategy adopted in J. F. Schiller’s 1776-1778 translation, or providing German equivalents for what Smith appeared to be saying, the course taken by Christian Garve in his 1794-1796 translation. Thus, in a section of the book where Schiller consistently employed “*civilisirten Gesellschaft*” and “*civilisirten Staate*,” Garve rendered Smith’s “civilized society” as “*verfeinerte Völkern*,” “*bürgerliche Gesellschaft*,” “*gesitteten und aufgeklärte Staate*,” and “*Staat in Ganzen, in Anbau, Kunstfleisse und Handel forgerückt*.”⁷ “Civilized” societies, then, have “refined” customs and mores, they have a flourishing commercial life, and they have well-developed systems of civil law. Social and political factors are so intimately intertwined in the definition of what constitutes a “civilized” or a “civil” society that it is difficult to attribute an explicit distinction between “social” and “political” factors to Smith.

While the “four-stage theory” may not provide an unambiguous distinction between economic and social evolution and the development of political and legal forms, something approximating a distinction between “civil” and “civilized” society emerges from discussions of the relationship between the development of commerce and the progress of liberty (Forbes, 1975). The conventional “Whig” assumption that commerce and liberty went hand in hand foundered on cases such as France or China, nations that

⁷ Cf. Smith, *Wealth of Nations* (V:I:iii:2), Schiller 1776-1778 462-473, Garve 1794-1796, 162-173.

were obviously “civilized,” but which, owing to their forms of government, could not unambiguously be classified as “civil” societies. The case of China was particularly troubling for Adam Ferguson, since it provided a grim image of the destiny commercial societies. Citing the example of ancient Athens, Ferguson argued that “men ceased to be good citizens, even to be good poets and orators, in proportion as they came to be distinguished by the profession of these, and other separate crafts” (Ferguson 1980, 218). As citizens devoted themselves to the pursuit of private ends, society was divided into a host of separate occupations and offices, where, as in the case of China, “conduct consists in detail, and in the observance of forms” (226). Reflecting on whether the rule of a despot over an atomized and alienated body of citizens could be properly termed a “political order,” Ferguson concluded

Our notion of order in civil society is frequently false: it is taken from the analogy of subjects inanimate and dead; we consider commotion and action as contrary to its nature; we think it consistent only with obedience, secrecy, and the silent passing of affairs through the hands of the few. The good order of stones in a wall, is their being properly fixed in the places for which they are hewn; were they to stir the building must fall: but the order of men in society, is their being placed where they are properly qualified to act. The first is a fabric made of dead and inanimate parts, the second is made of living and active members. When we seek in society for the order of mere inaction and tranquility, we forget the nature of our subject, and find the order of slaves, not that of men. (268-269)

Ferguson’s concern lay with the defense of the civic republican ideal of an active and engaged citizenry and his conception of civil society remained tied to this vision. But his vision of a “society” made up of “dead and inanimate parts” pointed to an alternative conception of society as a domain governed by impersonal forces whose development worked against the achievement of free forms of human association. It was this order that, reversing Ferguson’s terminology, Karl Marx called “civil society.”

Looking back on his early critique of Hegel, Marx recalled

My investigations led to the result that legal relations as well as forms of the state are to be grasped neither from themselves nor from the so-called general development of the human mind, but rather have their roots in the material conditions of life, the sum total of which Hegel, following the example of the Englishmen and Frenchmen of the eighteenth century, combines under the name of “civil society,” that, however, the anatomy of civil society is to be sought in political economy. (Marx 1970, 20).

This passage is well known, but also somewhat perplexing. It reduces Hegel’s notion of “civil society” to the first of its three components — the “System of Needs” — and credits this usage to certain eighteenth century “Englishmen and Frenchmen.” The “Englishmen” he had in mind were presumably Smith and his fellow Scots, while the Frenchmen who used the term this way — de Tocqueville, Guizot, and Royer-Collard — were not eighteenth century thinkers. While Marx may have been mistaken about what “civil society” meant for any of these thinkers — Hegel’s notion of civil society is identical neither with Scottish nor French accounts — the fruit of Marx’s confusion was a powerful and influential way of thinking about society. It is worth untangling the steps that led him to it.

He took his point of departure from Hegel’s distinction between state and civil society, but in his 1843 *Contribution to the Critique of Hegel’s Philosophy of Right* insisted that Hegel had “inverted” their relationship by transforming “real subjects” such as civil society and the family into “unreal elements” of the “mystical” notion of the state (Marx 1975, 3:8-9). In *On the Jewish Question*, he drew on Tocqueville and Beaumont’s account of the relationship between religion and politics in America to repose the problem of the relation of “political emancipation and religion” as a relation between “political emancipation and human emancipation,” arguing that

Where the political state has attained to its true development, man ... leads a double life, a heavenly and an earthly life: life in the *political community*, in which he considers himself a *communal being*, and life in *civil society*, in which he acts as a *private individual*, regards other men as means, degrades himself into a means, and becomes the plaything of alien

powers. (Marx 1975, 3:154).

Political society provides only an imaginary solution to the antagonisms of civil society, and the ideal of political emancipation represents only the liberation of “man as bourgeois” — the creature of civil society — not “human emancipation.”

By 1845, Marx was employing “civil society” in two related, but distinguishable ways, as can be seen in a passage from *The German Ideology* that fully exploited the ambiguity of the term “*bürgerliche Gesellschaft*.”

Civil society embraces the whole material intercourse of individuals within a definite stage of the development of productive forces. It embraces the whole commercial and industrial life of a given stage and, insofar, transcends the state and the nation, though, on the other hand, it must assert itself in its external relations as nationality and internally must organize itself as a state. The term “civil society” emerged in the eighteenth century, when property relationships had already extricated themselves from the ancient and medieval communal society. Civil society as such only develops with the bourgeoisie; the social organization evolving directly out of production and commerce, which in all ages forms the basis of the state and of the rest of the idealistic superstructure, has, however, always been designated by the same name. (Marx 1975, 5:89).

As “bourgeois society,” *bürgerliche Gesellschaft* refers to a specific historical period, to a particular way of organizing the material intercourse between human beings.

Transnational in scope, it ultimately determines the particular forms in which politics is conducted. This sense of the term is contrasted with the ideal of a “*human* society, or socialized humanity” (Marx, 1975, 5:5) in which human needs are satisfied within a society that is no longer divided into antagonistic classes. But understood as “civil society,” *bürgerliche Gesellschaft* refers to a dimension of all previous societies that has been ignored by historians whose interest had been confined to “high sounding dramas of princes and states.” In this usage, civil society becomes “the true source and theater of all history” (Marx 1975, 5:50). Here, then, is a third set of “social things” — material relations of production — and another foundation on which a science of society might

arise: a science which, by studying the contradictory development of productive relations, would provide us with an insight into the “anatomy” of civil society.

Anatomy Lessons

By the middle of the nineteenth century, the notion of “civil society” had lost its traditional equivalence with the “state” or “political society.” In Hegel it came to designate the sphere of economic production and exchange and the legal and social institutions that made such activities possible. For Tocqueville, it was a sphere of voluntary associations sustained by the unique set of customs, habits, and social arrangements that he called “democracy.” For Marx, civil society was “bourgeois society,” a particular historical form of the process of material production. If we combine these differing definitions of civil society, we find most of the “social things” that have kept social scientists busy over the last century and a half. If we keep them separate, we can see some of the main lines of contention about how the science that is supposed to make sense of these things should proceed. Where is the anatomy of civil society to be sought? Should the focus fall on the institutions that shape social life, on the customs and traditions that tie society together, or on the economic structure of society?

Perhaps because it was so elegantly simple, Marx’s account of civil society exercised the most powerful attraction and drew the most energetic criticism. His vision was nothing if not audacious. The vast ideological superstructure (law, politics, religion, art, and philosophy) rested ultimately on “civil society” (the “sum total” of the “material conditions of life”) and the basic “anatomy” of civil society was provided by political economy. In a science of society constructed along these lines, society is understood as an attempt to master external nature and control fellow human beings. Social actions are seen as driven by an instrumental calculus of means and ends. Social relations are

viewed as fundamentally antagonistic, just as society itself is fundamentally divided against itself.

The subsequent development of the social sciences can be viewed, in part, as questioning the primacy Marx accorded to political economy in laying out the anatomy of civil society. Weber's classification of action orientations opened up the investigation of forms of rationality other than those associated with economic efficiency (Tester 1992, 113-118). Durkheim emphasized the importance of the relationships between religion and society that had served as Tocqueville's point of departure (Seidman 1983, 152-178). Mead and others stressed the role of communicative interaction in forming the ties that bind individuals together in society (Habermas 1989, 3-42). The history of social theory since Marx has thus been the story of contesting approaches, each with differing sense of how society is to be understood and, hence, with differing ideas about what should count as a "social thing."

The determination of what is to count as a "social thing" remains open-ended because civil society is itself multifaceted. A recent discussion sees it as encompassing families, informal groups, voluntary associations, cultural and communicative institutions, individual moral systems, laws, and individual rights (Cohen & Arato 1992, 346). This ambiguity has long made civil society a fruitful hunting ground for those searching for the things upon which a science of society might be based. The very fecundity of civil society as a source of social things has made the idea that there is one particular subset of things that can explain all the rest look rather suspect and rendered efforts to draw the boundaries of social inquiry too emphatically increasingly fruitless.

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