

# SOVEREIGNTY AND POWER RELATIONS IN THE THOUGHT OF MARSILIUS OF PADUA AND WILLIAM OF OCKHAM: A COMPARISON.

JANET COLEMAN

This paper attempts to demonstrate two theses: the more explicit thesis is that both Marsilius of Padua and William of Ockham, come to their conclusions about the reason for, the nature of, and the extent of legitimate secular power in men's lives from the same premise: that men's sensual experience of living life is the necessary first condition from which all subsequent rational conclusions about politics emerge.

Secondly, this paper attempts to compare and contrast some of the fundamental tenets of Marsilius and Ockham on sovereign power and its source, with an eye trained on the continuity of political discourse from the late middle ages until the seventeenth century and beyond. Especially in the Anglo-American world, medievalists tend to talk only to one another. Early modernists have long resisted, until quite recently, any suggestion that what medieval political theorists had to say about legitimate sovereignty, its source and extent, directly fed into those 17th and 18th century political theories which are taken to be new beginnings of our own modern ideas of the legitimate state. Hence, the second, more implicit thesis of this paper is that a knowledge of Ockham prepares a reader for Hobbes, and a knowledge of Marsilius of Padua prepares a reader for certain prominent aspects of the theories of Locke and Rousseau.

Ockham argued that the function of temporal rulers was to chastise and punish wrongdoers in society and to defend the church from them. Although the church has exclusive spiritual power it is subject to lay rulers with regard to the church's properties. Since men who comprise societies are themselves both spiritual and temporal beings there are two distinct orders, temporal and spiritual, which order human lives. Ockham's primary focus is on the nature of men as individuals and he is concerned to show how individual men have certain liberties as a consequence of God's creation so that they can never completely alienate certain naturally

possessed individual liberties to either state or church. In both the spiritual as well as the temporal spheres of human life the individual must be considered first as to his rights, capacities and liberties. From an analysis of the individual we can then proceed to collections of individuals comprising groups or societies. Hence, in Christian society, Ockham believes that the spiritual and temporal powers embrace the same individuals who are both baptised members of the church AND subjects of temporal rulers as citizens. When we speak about individual men we are dealing with individuals.

Who have already in their very natures a spiritual and temporal aspect and questions pertaining to governance derive from the prior definition of the composite individual who, *pro statu isto*, is subject both to spiritual and temporal rules while he lives out his mortal life<sup>(1)</sup>.

This focus on the individual is a consequence of what is often, perhaps misleadingly, called Ockham's nominalism. In discussing what appears to have been his final position<sup>(2)</sup> on how humans come to know what can be known in the ordinary course of lived life, it is more accurate to refer to him as a conceptualist<sup>(3)</sup>. Whatever we call his epistemology, Ockham believed that all there is in the world are contingent individuals and human beings then apply names, *nomina*, to such present and existing individuals which they know as a result of intuitive cognition. Thereafter, they construct sentences or propositions either in thought or in conventional language by which they refer to the individuality of the world<sup>(4)</sup>.

---

(1) *Octo quaestiones de potestate pape*, *Opera Politica*, I ed. H.S. Offler (Manchester, 1974), I, 4 and *passim*.

(2) His final position is made clear, (After W. Chatton's attack on his earlier position) in the *Quodlibets the Quaestiones in libros physicorum* (c. 1333). In the *Ordinatio = I Sent.* (1317-23) we find the earlier *fictum* theory (also found in the *Reportationes*, II-IV *Sent.*) side by side with the *intellectio* theory without a choice being made.

(3) His conceptualism may be expressed as follows: universals are nothing other than names, that is, naturally significant general concepts, primarily, or secondarily, the conventional (linguistic) signs corresponding to primary natural signs (concepts).

(4) *Quod. V*, q. 8 a.1. (*Opera philosophica et Theologica*, *Opera Theologica*, IX, *Quodlibeta Septem*, ed. Joseph C. Wey, C.S.B. (St Bonaventure, N.Y., 1980)



Ockham believed that humans naturally have an immediate and intuitive knowledge of the existence and presence of individual, contingent objects<sup>(5)</sup>. We cannot logically demonstrate this intuitive knowledge of things but we simply experience it as a fact of life. Normally we know singulars that exist outside the mind and in the world through sense experience of their present existence, and thereafter, we know them intellectually as more universal concepts or mental names<sup>(6)</sup>. The

---

p. 509. Circa primum dico quod sicut terminorum vocalium et scriptorum quaedam sunt nomina, quaedam verba, quaedam pronomina, quaedam participia... adverbia... coniunctiones,... praepositiones, sic conceptum mentalium quidam conceptus sunt nomina, quidam verba ...coniunctiones ...praepositiones. Quod patet ex hoc quod omni orationi vocali verae et falsae correspondet aliqua propositio mentalis composita ex conceptibus; igitur sicut partes propositionis vocalis quae imponuntur ad significandum res, propter necessitatem significationis vel expressionis, ...sunt distinctae partes, sic partes propositionis mentalis correspondentes vocibus sunt distinctae ad faciendum distinctas propositiones veras et falsas.

Quod. I q. 13 a.2 conclusio: ...dico tunc primo quod singulare praedicta modo acceptum cognitione sibi propria et simplici est primo cognitum. Quod probatur, quia res extra animam quae non est signum, tali cognitione primo intelligitur; sed omnis res extra animam est singularis ...nihil autem praecedit talem actum nisi singulare. pp. 72-3.

<sup>(5)</sup> Prologue, Sent. Q. 1, Z (Opera Theologica, I, p. 28 f): quod respectu incomplexi (=terms) potest esse duplex notitia, quarum una potest vocari abstractiva et alia intuitiva. Quod. I. q. 13 conclusio 2: Secundo, dico quod cognitio simplex propria singulari et prima tali primitate est cognitio intuitiva. Quod autem ista cognitio sit prima patet, quia cognitio singularis abstractiva praesupponit intuitiva respectu eiusdem obiecti et non e converso. Quod autem sit propria singulari patet, quia immediate causatur a re singulari vel nata est causari, et non est causari ab alia re singulari etiam eiusdem speciei. p. 73. Quod. III. q. 12 a.2: ...quod propositio mentalis non componitur ex rebus extra animam sed ex conceptibus, (citing Boethius, In librum perihennenas, 2, I. c. de signis: oratio non habet nisi triplex esse, scilicet in mente, in voce et in scripto). p. 247.

<sup>(6)</sup> ...nihil praecedit actum intelligendi nisi singulare. Exp. Phys. Lib. I, cited in Jürgen Miethke, Ockhams Weg zur Sozialphilosophie (Berlin, 1969) p. 205 n. 245.

Quod. v. q.5 ad instantiam 1: nam cognitio evidens importat quod ista sit in re sicut denotatur per propositionem cui fit assensus; et per consequens cum cognitio evidens huius propositionis 'res est praesens' importat rem esse praesentem, oportet quod res sit praesens aliter non erit cognitio evidens. p.

universal concept or thought is a natural sign in the mind desented as an act of thinking, which signifies something for which it substitutes. Concepts are the basic components of our thinking but they are caused by prior existent, extramental things. Universality and commonality are not, therefore, properties of extramental, particular things but of signs or terms, be they acts of thought or linguistic expressions. When a sign or term is a concept it is an act of knowing which signifies individuals known.

A sign or term may also be conventionally established, as is language, and it corresponds to the natural signs or mental concepts which signify the individual thing sensually experienced<sup>(7)</sup>. Ockham insists on the one hand that what we know of the world had first to be sensually experienced<sup>(8)</sup>, but on the other, he insists that no external

---

498. Quod. I. q. 14: Utrum intellectus noster pro statu isto cognoscat actus suos intuitive.... Item cognitio experimentalis non est sine notitia intuitiva; sed aliquos carens omnia notitia intuitiva sensitiva experitur cognitionem intellectualem. Quod. I. q. 15: Utrum intellectus noster pro statu isto cognoscat intuitive sensibilia... quod sic, quia intellectus cognoscit evidenter propositionem primam contingentem de sensibilibus; igitur habet notitiam incomplexam sufficientem ad causandum notitiam illam complexam evidenter; sed abstractiva sensibilibus non sufficit. p. 83.

Summa totius Logiae, III, ii, c. 29: ...iste est processus, quod primo homo cognoscitur aliquo sensu particulari, deinde idem homo cognoscitur ab intellectu, quo cognito habetur una notitia generalis et communis omni homini.

Ms Berlin, lat. 2041 fol. 98 va: Exp. Aur. Lib. I (as cited in Miethke, pp. 196-7, n. 208a): Universale est notius apud rationem et singulare apud sensum, hoc est: universale est notius per intellectum, non per sensum, et particulare est notum per sensum et non universale. Et universale sic est notius apud intellectum sive res sit, sive non sit: sed particulare non est notum sensui nisi quando res est, et pro tanto dicatur universale notius apud intellectum quam singulare, singulare autem est notius apud sensum vel quia tantum particulare cognoscitur a sensu, non universale, vel quia prius tempore vel natura est particulare notum sensui quam intellectui.

<sup>(7)</sup> Quod. III, q. 12, a.1: ...quia cuilibet complexioni in voce correspondet aliqua complexio in mente.

<sup>(8)</sup> Prologue, Sent. Q. 2, G (Opera Theologica, I, pp. 86 f): Sicut ponatur quod hoc sit primum principium: 'omnis herba talis speciei confert febricitanti'. Ista per nullas propositiones notiores potest syllogizari, sed eius notitia accipitur ex notitia intuitiva forte multorum. Quia enim iste vidit quod post comestionem talis herbae sequebatur sanitas in febricitante, et amovit omnes alias causas



corporeal substance can be naturally apprehended by us *in itself*. We only know particular and individual substances which exist, through mental, spoken or written propositions comprised of signs or terms which substitute for or supposit for extramental things experienced<sup>(9)</sup>. Hence we get his famous statement that our knowledge in experience derives from terms which supposit for extramental things. But the starting point of any knowledge of contingent facts is intuitive cognition of terms which comprise a mental or linguistic proposition. By this he means that in the natural course of living we have an immediate awareness or apprehension of terms which substitute for the really existing and present things we have sensed and which themselves, as individuals existing and present, are not signs<sup>(10)</sup>. From the pure apperception of individuals and the linking of such through propositions whose terms substitute for them, comes meaning. Hence our knowledge is of propositions whose terms substitute for our experiences; and propositional logic, applied to spoken, written and mental sign systems enables us to know the truth about the world as it ordinarily is for us now and as it was in the past. We are, then, as certain of our experiences as we can be of anything. Ockham is not saying that the knowledge we have, initially caused by the intuitive cognition of terms referring to our experiences, necessarily mirrors some inner

---

sanitatis illius, scivit evidenter quod ista herba fuit causa sanitas; et tunc habet experimentum de singulari. Est autem, sibi notum quod omnia individua eiusdem rationis habent effectus eiusdem rationis in passo aequaliter disposito. Et ideo evidenter accipit tanquam principium, quod omnis talis herba confert febricitanti.

<sup>(9)</sup> Scientia realis non est de rebus sed est de intentionibus supportibus pro rebus quia termini propositionum scitarum supponunt pro rebus.... solae propositiones sciuntur. See I Sent. d. 2. q. 4.

<sup>(10)</sup> Quod. IV, 19: stricte dicitur intentio prima nomen mentale praecise natum esse extremum propositionis et supponere pro re, quae non est signum. Summa Logica I, 12 (ed. Boehner, pp. 39f): Intentio est quoddam in anima, quod est signum naturaliter significans aliquid pro quo potest supponere, vel quod potest esse pars propositionis mentalis.

Quod. V. q. 5 ad instantiam 1.

Quod. V. q. 6: Utrum actus apprehendendi et actus iudicandi differant realiter. p. 500 f. a.2 conclusio l.: ...actus assentiendi utraque modo acceptus differt a prima apprehensione... actus apprehensivus causat actum iudicativum. (p. 502).

constitution of nature “out there”. Rather, he insists we simply have a confidence in what we have experienced and from here we can only assume, as we all do, that there is a hypothetical necessity confirming that our thoughts or universal concepts adequately reflect the physical world of particulars. Our theories about the world, *pro statu isto*, can only be about mental concepts thought to be commonly applicable to contingent and corruptible things in the world, such concepts suppositing for experienced things in mental and spoken discourse. From our intuitive cognition of the singular we necessarily use our natural reason to generalise to all other cases or individuals of a similar nature. Hence, we come by induction, to a mental and linguistic discourse about how the world is for us.

Scattered throughout Ockham’s various writings, on Aristotle’s *Physics*, on logic, on theology in his commentary on the *Sentences*, and in his polemical writings against papal pretensions to a plenitude of power, he repeats that there are three sources of knowledge: experience, natural reason and infallible scriptural authority<sup>(11)</sup>. The order, so far as I have been able to discover, is always the same: experience, reason and scripture. Hence, a process appears to emerge which reflects his epistemology whereby experience precedes everything to which is applied natural reason, and both together enable us to confirm some of our beliefs in the truth of scriptural authority by rationally demonstrating them to be understandable and therefore demonstrably true as well as believed<sup>(12)</sup>. This process of experience, natural reason and logical demonstration, and scriptural authority can, I think, be shown to operate similarly in Marsilius of Padua’s *Defensor Pacis*.

In the past, scholars have thought that the political writings of Ockham have very little to do with his logical and philosophical and

---

<sup>(11)</sup> This is what is known as Ockham’s razor: ‘*pluralitas non est ponenda sine necessitate*’ valet quando ad probandum talem pluralitatem non habetur experientia certa, sive ratio naturalem vel auctoritas infallibilis. See I Sent. d. 30 q. 1 E and Quaest. Phys.

<sup>(12)</sup> There are, of course, scriptural truths (*credibilia*) which cannot be confirmed by demonstration and must be believed; these, *per rationem puram naturalem probari non potest*. *Opus nonaginta dierum, Opera Politica*. II (ed. Offler) c. 65, p. 575.



even theological writings of the first period in his life at Oxford<sup>(13)</sup>. This is not true. In fact, as an excellent logician who wrote commentaries on many of Aristotle's logical writings, Ockham developed not only an epistemology but related to this, a theory about how we interpret language in ordinary cases as we live life and communicate with other men. He then applied this to how we can interpret the texts of Scripture. This had enormous consequences for the way he interprets the rightful role of the papacy and if we understand how he thinks human beings interpret any texts, be they holy scripture or political pamphlets, we can see that he has an explosive theory which would take away from the papacy and the ecclesiastical hierarchy the sole right to interpret the words of God. He thinks that anyone who experiences the world and draws conclusions from that experiences so long as he is sane and literate, can also interpret God's words in scripture. In his political writings he spends virtually all his time showing how the papacy has misinterpreted scripture illegitimately and illogically to suit its own case<sup>(14)</sup>. We can know God's intention as well as, if not better than, the papacy and hence, scripture tells us, if we read it properly as we read any text, just what kinds of jurisdictional power Christ gave to Peter in the spiritual governance of the world.

Ockham say<sup>(15)</sup> that Scripture tells us, and St. Francis, the founder

---

<sup>(13)</sup> John Morrall, 'Some notes on a recent interpretation of William of Ockham's political philosophy', *Franciscan Studies* 9 (1949) pp. 335-69; Ph. Boehner, 'Ockham's political ideas', in *Collected Articles on Ockham*, ed. E. M. Buytaert (N.Y and Louvain, 1958) pp. 442-68; Gordon Leff, *William of Ockham, the metamorphosis of scholastic discourse*, (Manchester, 1975) ch.10, pp. 614-16. But see Jürgen Miethke, *Vorwort*, pp. xi-xvi, in *Ockhams Weg*, for a thorough corrective to this view. Also *Die objektivierende Methode*, pp. 430 f.

The break in Ockham's career was contingent. He was a Franciscan involved in the poverty debate of his Order both at Oxford and after he left. His method of analysing texts was developed and endured throughout his life. Ockham did not deal with political issues only as a commentator on Aristotle's *Politics* and *Ethics*, but primarily as a Franciscan involved in his Order's poverty dispute with the papacy. See Miethke, pp. 443 f. Also see Janet Coleman, 'The relation between Ockham's intuitive cognition and his political science' in *Théologie et droit dans la science politique de l'Etat moderne*, ed. F. C. Uginet, *École Française de Rome*, (forthcoming).

<sup>(14)</sup> See Miethke, p. 430, citing from the *Opus nonaginta dierum*.

<sup>(15)</sup> In what is probably the first work written in the second part of his life



of his Order understood this perfectly, that Christ and his apostles only used what was necessary to sustain life. Christ and the apostles did not own things, they simply used the world to live. Hence, men have a natural right of use of things in the world, rather than ownership or possession of necessities — a right of use given us by God to stay alive. This natural right of use came before all subsequent legal or positive rights of possession which men, in communities, then established. Ownership and possession in societies of men is a result of the Fall. We come up with positive laws or rules which determine who owns what because we are now fallen creatures, and we express these rights of ownership in man-made positive laws. But the ideal of spiritual perfection, before the fall, is expressed by the natural law in us which lets us know as the result of experience and intuition of what there is to be experienced and known, that we have a God — given right to survive in the world and to use the world for that survival without saying that we own the world or any part of it. Only God has rightful ownership or dominium of the world. Since fallen men, for utilitarian purposes, established positive laws of possession and ownership, it is clear that the body in society that has rightful jurisdiction over properties and property relations must be the temporal ruler. The church owns nothing and has no rights to ownership. Possession as ownership, is a secular and logical conclusion that men agree to as fallen creatures so that they add to their natural right of use the specifications of

---

as a polemist (c. 1329), *Opus nonaginta dierum*, in OP I; chapters 2 and 3 define terms used in various papal bulls against the Franciscan understanding of *usus*, *possessio*, *dominium* etc. according to positive law, ordinary language and scripture (c. 4).

Chapter 2 — on divine dominium and legal dominium, pp. 305-6 ff. On the *potestas gubernandi et disponendi*, and the *potestas utendi* of the first parents, see OND, c. 14, OP II, pp. 430-40; especially pp. 433-5 and 439 on the *potestas appropriandi sibi et dividendi res inter se*. *Quia ex dictamine rationis naturalis convincitur quod expedit posse peccantibus quod etiam habeant potestatem appropriandi sibi... Et ex isto sequitur quod licet dominium ex iure positivo introductum sit idem quod proprietas, dominium tamen, si debet vocari dominium quod competit absque omni iure positivo, divino et humano, non est idem quod proprietas.* p. 435. Unlike Miethke, I do not think this is supported by Aristotle's *Politics* II, 2-5 (1260b-1264b) where it is discussed whether or not men should share wives and children and property. The expediency discovered by natural reason as a result of experience is, rather, a Ciceronian insight made plain in both the *De republica* and the *De Officiis*.



property ownership. Priests and popes are men. So that when they have any relation to property they do so under the rules of temporal arrangements. The scope of papal power is circumscribed by what anyone can read of in scripture, when one reads the gospel law: there it is said that Christ conferred on Peter not unlimited plenitude of power over things spiritual and temporal, but rather, a limited jurisdiction to administer sacraments, ordain the priestly hierarchy and instruct the faithful<sup>(16)</sup>. Christ did not give Peter or his followers jurisdiction over men's material survival in the world. Men have a natural right to arrange this for themselves prior to the church's institution, and they do this first, by knowing from experience that they must stay alive and have a right of use to things of the world in order to survive and thereafter, that it is logically more useful to set up positive laws which build on the natural right to survive by using the world. Hence, more distinct property boundaries are established. The church has nothing to do with this. Right reason, that is, men's experiences and then their rational capacity to come to more general conclusions about how best to survive on the basis of experience, leads them to establish private property so that the resultant state, which has jurisdiction over property disputes amongst individual men in the state, is an autonomous and even pre-Christian sphere of activity. Within the temporal or material sphere of survival and utility for the community, made up of individuals, legitimacy is assured without

---

<sup>(16)</sup> De imperatore et pontificum potestate, ed. C.K. Brampton (Oxford, 1927): Rursum 'in temporalibus potestates plenitudo' potestatem et dominationem regum gentium comprehendit. Potestatem... Christus beato Petro ceterisque apostolis interdixit ut patet Lucae 22, Marci 10 et Matthaei 20. (p. 5); also see pp. 9-10.

Prologue, De imperatore et pontificum potestate, pp. 3-4: verumtamen hoc certum habeant universi, quod in his quae fidei sunt et scientiae plus me monebit una ratio evidens vel una auctoritas scripturae sacra sane intelligenda, quam assertio totius universitatis mortalium propter quos intellectum omnino debeo in eorum obsequium captivare... Tenendum est igitur in primis, quod Christus beatum Petrum constituens caput et principem universorum fidelium non dedit ei talem in temporalibus et spiritualibus plenitudinem potestatis, ut omnia de iure posset regulariter, quae neque legi divinae neque legi naturae refragant sed potestati quae certos fines, quos non deberet transgredi, assignavit. Quod enim ei temporalibus talem non dedit plenitudinem potestatis auctoritate et ratione probatur.

reference to the church, legitimacy is assumed when the consent of the governed is obtained so that the common good may be pursued.

How is this consent of the governed obtained for Ockham? He sees collective opinion as a summation of every individual's opinion. He does not believe that a collection of men into a corporation or general council somehow takes on, as in contemporary corporation theory, a separate personality which represents the members. Rather, the whole, any whole is a summation of its parts ordered to a collective end. No created legal entity, like a state, can perform real acts. Rather, the acts of the regnum are the summation of the acts of all the individual members working together<sup>(17)</sup>. The state then, has no separate and real rights of its own under law. Only real, autonomous, rational individuals are capable of renouncing or holding legal rights. For Ockham, a corporation and even a religious order is not a legally created fictitious person with a separate personality. Rather, a collection of men is the summation of the wills of each and every member when ordered to an objective common good. So when a regnum or a religious order has established rules, these rules are general propositions or statements which need to be understood so that each individual who is covered by the rules remains an autonomous and responsible person. The communal and political life is, therefore, made up of interactions between individual persons of the community. And the universal church is made up of all the individual believers, priests, lay men and women<sup>(18)</sup>.

---

<sup>(17)</sup> *Tractatus contra Benedictum*, OP III, pp. 165-322; esp. pp. 190-1. *Facta quidem, quae singulorem sunt, personarum veram exigunt et requirunt: ordo autem vera persona non est sed repraesentata et imaginaria; quare quae facti sunt, sibi convenire nequeunt, licet ei possint congruere quae sunt iuris. (PP. 189-91)... Ex quibus aliisque locus liquido constat quod communitas et multitudo potest habere actum realem, et per consequence non est persona imaginaria et repraesentata...Nec ordo est persona misticum quod est verae personae. (. 191)... et per consequens fideles sunt una ecclesia, et ita ecclesia est verae personae et non est persona imaginaria et repraesentata.*

<sup>(18)</sup> *Tractatus contra Ioannem*, c. 14, OP III, pp. 29-156; p 65: *...auctoritas ecclesiae universalis, quae etiam fideles non solum in hac vita simul digentes, sed sibimet succedentes praelatos et populos catholicos comprehendit, valet ad fidem et certitudinem catholicae veritatis... Ita veritates catholicae ab universali ecclesia approbantur, quando praelati communiter et populi, comprehendentes viros et mulieres catholicas, easdem veritates sub verbis apertis expressas tamquam catholicas expresse vel tacite confitenter, licet nequaquam simul*



How do collections of individuals come to agree to rules in the state or in the church? Simply by experiencing the world they live in and then constructing sentences according to language's logic to express that experience. If all men use language correctly they will find that they come to the same conclusions about their experiences. Each individual then, is responsible for alienating property when he lives in a society that has set up private property as a determination of the larger natural law notion known by all that we all have a right of use in the world<sup>(19)</sup>. Each individual is responsible in the exercise of his rights, his liberties, his resistance to breakers of trust, be they pope or king.

Sovereignty in states derives from the people as individual rational members of any community ordered to a collective end, and they have a natural power to make laws and institute rulers. How do individuals know they have such powers? Ockham says we have this knowledge simply by experiencing that we need a governor whom we create as a result of living as fallen creatures in a world where we have needs that must be satisfied if we are to survive. We have a natural right to survive and then we conclude from survival experiences that it is best to institute a regulator who will establish rules which each of us must follow if we are to live successfully in a community of individuals. But the temporal sphere which establishes positive laws, is imperfect; indeed, we would not need the state as it exists now had Adam and Eve not fallen, in the sense that we would not need the kinds of positive laws that constrain or coerce us when we act irrationally<sup>(20)</sup>. Because the temporal sphere is imperfect, secular sovereignty may be legitimate even when tyrannical.

This sounds odd at first, given that Ockham is so keen to establish the responsibility and autonomous nature of individuals in society. But he argues that once the individual members of the community have consented, voluntarily, to create a legitimate positive authority, this public authority can only be retracted in very extreme circumstances, as when the ruler commits egregious sins or crimes<sup>(21)</sup>. Ockham thinks that most

---

convenient, neque pro tribunali sedentes aliquam veritatem catholicam definiant esse credendam. P. 67.

<sup>(19)</sup> De imperatorum et pontificum potestate, pp. 21-2.

<sup>(20)</sup> Compare Marsilius, *Defensor Pacis*, I, vi, 1 cited below.

<sup>(21)</sup> For example, *Octo Quaestiones de potestate papae*, OP I, ed. Offler, II, c. 4 p. 74; II, c. 5 pp. 75-6; II, c. 6, p. 76, p. 78 et passim.

rulers throughout history, not all but most, organised society sufficiently in a utilitarian manner so that whatever crimes they might have committed were of lesser consequence to the well being of the whole than would be their removal. Ockham sees the political realm as largely incapable of achieving its ideals. Like Marsilius, however, it can and must achieve the sufficient life. But Ockham is willing, because he thinks most rational men are willing, to grant legitimate power to a sovereign secular ruler or government, even when thereafter, the government deprives men of certain powers or wrongly interferes against the laws with men's property, or involves men in wars where they have not been consulted. Once established, by human law which is itself established by individuals consenting to specific proposed ordinances to rule their individual and collective behaviour, Ockham says the state must be accepted by those over whom it exercises its power. So we begin with an immense initial power of a collection of responsible individuals to consent to the creation of a public authority but, thereafter, Ockham believes that once installed, the ruler assumes all authority so long as his jurisdiction remains useful and advantageous to the survival of the common good. The state is not an environment for the perfection of individuals' lives. It is, as with Marsilius, a utilitarian creation of rational men who have experienced survival and who recognise a need to establish more general laws of behaviour, in order to achieve a utilitarian common good. There is no social contract for Ockham between state and citizens (although there is an implied contract between individuals to set up a third party, the sovereign, legitimate and coercive authority). For Marsilius, there is something like a contract between the government and the sovereign people, in the sense that government is a revocable grant of the people, the multitude.

The government, for Ockham, once established, can only be removed in cases of the most extreme scandal or criminality. Ockham's belief in each man's individual responsibility and reason seems to carry over into his understanding of the character of most governors who also,

---

Octo Quaestiones, III,c. 1, p. 97; III, c. 3, p. 101, III, c. 5 on the principatus as one, few, many but unified. III, c. 11, p. 113: Si tamen optimus principatus, sive cunctorum mortalium sive aliquorum, fuerit institutus, non est postea sine causa urgentissima destruendus, unde ex multis causis interrumpi posset, ex quibus tamen destrui non valeret.



by and large, are rational in the utilitarian sense, and responsible enough to ensure the survival of the common good as it is perceived by members or citizens of the state.

But there is also a negative aspect of Ockham's understanding of sovereignty in the world. Theologically, Ockham argues that human sovereignty over men and things is a result of the Fall. Lordship or dominium in its coercive sense was not granted eternally to all men according to reason<sup>(22)</sup>. We were granted use not proprietary dominium. But the power to own and rule by coercive force was due to Adam's sin and once he sinned and human nature was corrupted, men experienced the horrors of surviving in the world and developed a power to use their logical reason to ameliorate this situation. Before the fall, Adam and Eve had a perfect, even miraculous but nonproprietary power over all things and they ruled things with reason rather than by coercion. But we are no longer like that. We cannot simply live peaceably with other fallen men whereby we only use the world rather than set up fences around what we claim is our own. After the fall then, men acquired the power to appropriate and divide things, a power they acquired from experience with other men who did not act rationally all the time as Adam and Eve did before the fall. Ockham says that scripture shows us that there was no natural common ownership before the fall, and no such natural common ownership after the fall<sup>(23)</sup>. After the fall, all there was men's experience of survival and their development of the power to appropriate and divide things. God does not implant in fallen nature a right of ownership. It is, rather, man's conclusion of how best to survive and this conclusion then establishes positive laws to regulate appropriation and division, ownership and possession. Ownership and possession is an expression of human institution, a conclusion of fallen man's reasoning from experience which God simply allows but does not institute himself. Temporal authority, which accompanied property ownership, was a consequence of the fall and therefore, temporal authority is regulated by positive law rather than

---

<sup>(22)</sup> For a thorough discussion of the modification to man's powers after the fall, see Miethke, pp. 472-3: Man has, naturally, a potestas acquirendi dominium and not dominium itself, p. 475.

<sup>(23)</sup> *Opus nonaginta dierum*, p. 435. Also W. Kölmel, 'Das Naturrecht bei Wilhelm Ockham', *Franziskanische Studien*, 35 (1953) pp. 39-85.

by natural law. God just lets us get on with it, and observes men using their reason to draw conclusions that are expedient according to reason for survival in the now fallen world. Hence, temporal authority, created by rational and utilitarian men, is independent of any ecclesiastical sanction. The development of the legitimacy of temporal power, whatever the constitution may look like, was a development common to all men infidel and Christian, which God sanctions. It has nothing to do with the institutional church nor with a supernatural gift of grace from God that enables men to establish the good society.

What we have is an extremely utilitarian and natural development of governments as a consequence of men, now fallen, experiencing survival in the world and reasoning that positive laws would make it a lot easier for all of us to continue staying alive. We have here a conclusion, reached in a slightly different manner, that is similar to that of Marsilius of Padua<sup>(24)</sup>.

Marsilius says that in the very earliest of communities of men, men naturally knew that they had to come up with standards of justice and equity that were rational to govern the whole in a manner different from the way households were established<sup>(25)</sup>. For Ockham and for Marsilius, these rational standards are the conclusions of individual, rational men coming together and experiencing the benefits of communal life, benefits that are judged in terms of more expedient and peaceful survival and not in terms of man's fulfilment of any higher nature, intellectual or spiritual<sup>(26)</sup>. We need laws and rules if we are to live with one another. It is easier to survive collectively in a community that is functionally differentiated so that different people perform different tasks in and for the whole

---

<sup>(24)</sup> There are several earlier discussions on the relationship between Marsilius and Ockham: G. de Lagarde, 'Marsile de Padoue et Guillaume d'Ockham'; *Revue de sciences religieuses* 17 (1937) pp. 167-85, 428-454; J. Sullivan, 'Marsiglio of Padua and William of Ockham', *AHR* 2 (1896-7), pp. 409-26; 593-610; J. G. Sikes, 'A possible Marsilian Source in Ockham' *EHR* 51 (1936) pp. 496-504; C. Pincin, *Marsilio* (Torino, 1967); J. Miethke, *Ockhams Weg zur Sozialphilosophie* (Berlin, 1969) pp. 98-106 f.

<sup>(25)</sup> Marsilius of Padua, *The Defensor Pacis*, ed. C.W. Previt  — Orton (Cambridge, 1928).

DP I, iii, 3-4.

<sup>(26)</sup> DP I, iii, 5: *Demum vero quae necessaria sunt ad vivere et bene vivere, per hominum rationem et experientiam perducta sunt ad complementum, et*



community. No expert teaches us that we need general rules of justice or equity to govern the community of individual men. We simply experience survival and draw logical conclusions from experience to the effect that general rules, applicable to all, need to be established<sup>(27)</sup>. We know what is morally right, what it means to be responsible for our actions, simply by knowing that we have been created as free, rational experiencers of the world of survival. We create public authorities, the multitude of rational men knows what it is to experience something and then draw more general, rational conclusions which serve peace and the sufficient life.

Ockham comes to this conclusion by arguing that we know through experience that we are naturally free to make choices, good or bad, now that we are fallen, and the better choices lead to better survival<sup>(28)</sup>. We express the more general conclusions of our experience in language and enshrine the more general conclusions in positive laws of a society. Marsilius, not arguing specifically from our use of language but rather from our experience of the better quality of living possible in communities also says that men naturally know intuitively that dictate of reason that we need rational rules to govern ourselves collectively for peace and

---

instituta est perfecta communitas vocata civitas cum suarum partium distinctione...

<sup>(27)</sup> DP I, v, 3: Et quoniam ea quibus haec temperamenta complentur, non accipimus a natura omniquaque perfecte, necessarium fuit homini ultra causas naturales per rationem aliqua formare, quibus compleatur efficientia et conservatio suarum actionum et passionum secundum corpus et animam. DP I, v, 4: Actionum autem humanarum et suarum passionum quaedam proveniunt a causis naturalibus praeter cognitionem, quales fiunt per elementorum contrarietatem nostra componentium corpora propter ipsorum permixtionem .

<sup>(28)</sup> Quod. I, q. 16, p. 87: Utrum possit probabri sufficienter quod voluntas libere causet actus suos effective... In ista quaestione primo exponam quid voco libertatem. a.1: Circa primum sciendum quod voco libertatem potestatem qua possum indifferenter et contingenter diversa ponere, ita quod possum eundem effectum causare et non causare, nulla diversitate existente alibi extra illam potentiam.... Utrum possit probari sufficienter quod voluntas est libera... Circa primum dico quod non potest probari per aliquam rationem, quia omnia ratio hoc probans accipiet aequae ignotum cum conclusione vel ignotius. Potest tamen evidenter cognosci per experientiam per hoc quod homo experitur quod quantum cumque ratio dictet aliquid, potest tamen voluntas hoc velle vel non velle vel nolle, p. 88.

stability<sup>(29)</sup>. Both men focus on men's experience, on the individual, rational capacities that fallen men have, to reflect on their sensual survival experiences and thereby conclude more general rules of collective behaviour. Both men see men as creators of the structures in which they are governed; both men see fallen man in need of coercion through positive law, especially when each of us, at some time or other, contradicts rationality and endangers the wellbeing of others. The source of sovereignty then is the people; sovereignty is a creation of the people, but for Marsilius it is more easily revocable from those who have been elected to represent us when they do so to favour their own interest rather than ours. For Ockham, this revocation of public authority is possible only in the rarest situations.

There is something happier, more content in Marsilius' regnum, whatever its constitution, where the sufficient life is the condition of civilisation. For the Franciscan Ockham, who as a religious man looked to a higher fulfilment of the human spirit, government is a rational necessary evil because were men not fallen, they would not be thinking about acting on their ability to acquire dominium and they would not consider owning the world and dividing up possessions to exclude others. They would live by the natural law of use of things of the world, live in harmony with the natural order and, like the most spiritual Franciscans, care nothing for private dominium in the world. But these are ideals well beyond the political for Ockham. Politics is a rational conclusion of men to govern in an orderly manner their mode of surviving. It simply happens to be a conclusion of reason that survival in the world is made easier by a rightful and stable division of possessions. This is too bad, says Ockham. But that is how it now is. Government is sanctioned by God who normally watches us draw conclusions rationally from our experiences. How good it would be had we never fallen and therefore never concluded that survival requires private property. Government would be rational rather than expedient and coercive. But that is not how it is, and how it is, is acknowledged by God but not instituted by him. Every reader of scripture

---

<sup>(29)</sup> DP I, Iii, 4. Compare Cicero, *De Officiis*, I, iv, ii, as cited by Marsilius, DP I, iv, 2. 'Principio generi animantium omnia natura tributum est, ut se, corpus, vitamque tueaturm declinet ea quae nocitura videantur, omnia quae necessaria sunt ad vivendum acquirat et paret? Quod etiam ex inductione sensata palam quilibet accipere potest.



know this, says Ockham. It is none of the business of the church either to sanction temporal government or to involve itself in private property relations. The church's property, as for Marsilius, is owned by the state and the ecclesiastical hierarchy is merely an administrator of wealth for charitable purposes in human society. The church is there to help men noncoercively to attain heaven. For Ockham it has no purpose other than the service of individuals. It is not there for itself nor for its own survival as an institution.

It says in scripture that the pope, that is Peter, was to provide only those things necessary for the Christian quest for eternal salvation. The determination of what is necessary to this end is not to be judged by the pope. Rather, it is a decision of clergy and lay men and women, whether poor, rich, subjects or rulers, a decision they come to when they read and interpret scripture logically, grammatically and rationally. The message is there. Papal power is not unlimited, and the pope does not have a plenitude of power in the world. We know this by reading scripture and what we also know from experience is confirmed in scripture: that Christ's law is a law of liberty. There we see that men have a liberty to make choices, that they have a natural right to survive by using God's world and that after the fall men concluded rationally to establish positive laws to survive collectively. The pope cannot take away such liberties from any man, Christian or non Christian. Holy Scripture, says Ockham, describes men's customs, which they established from their experience, and he insists that these customs may be daily verified<sup>(30)</sup> by any person's experience of what it means to survive and how best to survive collectively. The pope's arguments are therefore not accurate, logical, rational readings of scripture but based interpretations to flavour his own survival rather than that of the community of Christians<sup>(31)</sup>.

---

<sup>(30)</sup> Epistola ad Fratres minores, OP III p. 17. Nam sanctarum regulas scripturarum mores hominum describentes, dum quotidie per experientiam verificari conspicio, magis intelligo.

<sup>(31)</sup> Ibid., OP III, p. 6. *quamplura haereticalia, stulta, ridiculosa, fantastica, insana et diffamatoria, fidei orthodoxae, bonis moribus, rationi naturali, experientiae certae et caritati fraternae contraria pariter et adversa patenter inveni. Hence questions of the faith are to be decided ...non solum ad generale concilium aut prelatos vel etiam clericos, verum etiam ad laicos et ad omnes omnino pertinent christianos* (citing Decretum C. 4 d. 96 "Ubinam": quod omnes

Ockham is not saying that any of our experiences of the world would lead us to discover the doctrine of the trinity or other mysteries of the faith<sup>(32)</sup>. These doctrines the church must teach so that men might have faith in that which is beyond their experience. But we do not need the church, says Ockham, to teach us that we are moral and rational beings. Morality and rules of equity in society are rational conclusions of all humans based on their experiences of relations between individuals<sup>(33)</sup>. We know, as Marsilius also says we know, certain basic moral precepts about survival and what is required if we conclude, as we do, that it is more peaceful and utilitarian to survive in common and collectively. States are therefore, for both thinkers, ethical structure that we create because we conclude that they are the most rational ways of surviving.

What is fundamental to Marsilius, Ockham and indeed to all of the political doctrines influenced by Aristotle and Cicero from the later 13th century onwards, is that men are rational and moral individuals whether they also happen to be Christians or not. The state, whatever its constitution may look like, is neither a consequence of Christianity nor is it in need of Christianity's sanction. With these doctrines, proving the autonomy of the state and its creation by fallen but rational men for utilitarian purposes, we effectively enter the early modern period.

Ockham's theory of how government comes to be implemented is a somewhat more general theory of sovereignty than that of Marsilius. This is partly because Ockham does not confirm his theory by taking as his model any particular, *de facto* government in the world as Marsilius does when he appeals to the examples of the *regnum Italicum* made up

---

tangit ab omnibus tractari debet... Ex quibus colligetur evidenter quod questio fidei etiam ad mulieres spectat catholicae et fideles. p. 10.

<sup>(32)</sup> Quod. II, q. 3, pp. 117-18, and 120-22.

<sup>(33)</sup> Quod II, q. 14, p. 176: *scientia non positiva est illa quae sine omni praecepto superioris dirigit actus humanos: sicut principia per se nota vel nota per experientia sic dirigunt, sicut quod omne honestum est faciendum... disciplina moralis non positiva est scientia demonstrativa, (where conclusions are deduced syllogistically from principles that are either per se nota vel per experientiam scitis.)* p. 178. *Et ultra dico quod ista scientia est certior multis aliis, pro quanto quilibet potest habere maiorem experientiam de actibus suis quam de aliis. Ex quo patet quod ista scientia est multum subtilis, utilis et evidens.*



of northern Italian self-governing cities under the general regulating watch of the Holy Roman Emperor. Ockham's theory issues from a more philosophical concern for the nature of the individual's capacities over the world wherever and whenever he may be living. But both men place an enormous emphasis on the human capacity to reason from experience to more general conclusions<sup>(34)</sup>. In other words, both men are influenced by the Aristotelian argument that men come to more general conclusions by means of induction. What is very important in these fourteenth-century texts is the role they give to men's experience of the world and, indeed, the confidence they have in men being able to create rational structures based on the certainty of their sensual experiences of living. Marsilius is more specifically Aristotelian when he says that he wants to define the state or *regnum* as that kind of *temporate regime*, whether ruled over by one, several or many, that has something specific to it: and that something is the people, the multitude, which is common to all legitimate states because the multitude is the source of sovereignty<sup>(35)</sup>. Laws, rules of behaviour, are the logical and rational consequences not of imposition from on high; they derive from what the multitude thinks best for the community<sup>(36)</sup>.

---

<sup>(34)</sup> DP I, v, 3.

<sup>(36)</sup> DP I, ix, 2: In this book we are considering the causes and actions by which the ruling part must, in most cases, be established. First however, we wish to indicate the method and cause by which this part has been established in the past, although rarely (*licet raro*) in order to distinguish this method and action and its immediate cause, from those by which the government must regularly and in most cases (*regulariter et in pluribus creari debet*) be established and which we can prove by human demonstration. For of the former method no certain comprehension can be had through demonstration (*prioris enim modi per demonstrationem certa comprehensio nequit haberi*). This method or action with its immediate cause... was the divine will... with respect to this cause and its free action... we can say nothing through demonstration, but we hold it by simple belief apart from reason. (*nec sic esse aut fuisse factum, per demonstrationem nec quicquam dicere possumus, sed simplici credulitate absque ratione tenemus*). There is, however, another method of establishing governments which proceeds immediately from the human mind although perhaps remotely from God as remote cause... However, God does not always act immediately, indeed in most cases (*quod tamen non est immediate semper, quinimo ut in pluribus et ubique quasi hos statuit per hominum mentes, quibus talis institutionis concessit arbitrium*) nearly everywhere, he establishes governments



Marsilius, like other contemporary commentators on Aristotle, is concerned to demonstrate just why Aristotle is correct in saying that the multitude, and not experts, should rule and be involved in office as citizen with judicial functions<sup>(37)</sup>. Even where those representatives who are the

---

by means of human minds to which he has granted the discretionary will for such establishment. This ...can be indicated with human certainty (*per humanam certitudinem assignari*) from what is better or worse for the polity.

<sup>(37)</sup> DP I, v, 1: *dicamus quod partes sue officia civitatis sunt sex generum* (following Aristotle Pol. VII, 7): *agricultura, artificium, militaris, pecuniativa, sacerdotium et iudicialis seu consiliativa. Quorum tria, videlicet sacerdotium, propugnativa et iudicialis, simpliciter sunt partes civitatis quas etiam in communitatibus civilibus honorabilitatem dicere solent. Reliqua vero dicuntur partes large, ut quia sunt officia necessaria civitati... et solet horum multitudo dici vulgaris.*

LP I, xi, 3: The making of laws requires prudence... and prudence requires long experience. (Citing Aristotle, Politics II, 2 and Rhetoric I and Ethics)... The cause is that prudence is of singular things which become known through experience. Consequently what one man alone can discover or know by himself both in the science of civil justice and benefit and other sciences, is little or nothing... But when a collection (of men) is made from among all who have achieved some comprehension what is collected will be of considerable quality... *Cum igitur lex sit oculus ex multis oculis id est comprehension examinata ex multis comprehensoribus.* Also DPI, xii, 2. It can pertain to any citizen to discover the law taken materially in its third sense as the science of civil justice and benefit. Such inquiry however can be carried out more appropriately and be completed better by those men who are able to have leisure... (*scientiam iustorum... invenire potest ad quemlibet civem pertinere, licet inquisitio haec convenientius fieri possit et compleri melius ex observatione potentium vacare, seniorum et expertorum*)... *verum quia cognitio seu inventio vera iustorum et conferentium ac suorum oppositorum non est lex secundum ultimam significatione et propriam, qua sit mensura humanorum actum civilium, nisi dum de ipsius observatione praeceptum coactivum datum fuerit, and experts and prudent men alone do not have the authority to issue coercive commands.*

DP I, xii, 5: *Quoniam illius tantummodo est legum humanarum lationis seu institutionis auctoritas humana prima simpliciter, a quo solum optimae leges possunt provenire. Hoc etim est civium universitas aut eius pars valentior, quae totam universitatem repraesentat... Secundam vero propositionem probo, videlicet quod ex universae multitudinis auditu et precepto tantummodo feratur lex optima. Hoc autem fieri optime per civium universitatem tantummodo, aut eius valentiolem partem quod pro eodem de cetero supponatur.* He bases his proof on the premise that every corporeal who is greater in mass and in virtue than any part of it taken separately. Hence, the common utility of a law is better noted by the entire multitude.



weightier part of the community participate more explicitly in office holding, they do so as representatives of the rational multitude's will. The multitude comprises, he says, all men who are not deformed naturally and who therefore desire the sufficient life. He demonstrates through induction that men free what is harmful and seek what is beneficial<sup>(38)</sup>. All men conclude this from the experience of their five senses. It is not a conclusion of abstract reason. This can also be demonstrated logically, he says. From sense experience and from logical demonstration the same conclusion emerges. Ockham believed this too. The rational multitude, wishing to live the good life, concludes that this requires the civil community. Hence the regnum is established by the human legislator and he defines this as the minds and wills of men through their thoughts and desires, individually and collectively.

Where Marsilius differs from Ockham is that Marsilius is convinced by corporation theory. He seriously believes that a collected group of people can be represented by the voice of one man or several, that a representative can accurately mirror the collective will of a community<sup>(39)</sup>. Marsilius' organically constituted community can, therefore, be hierarchically arranged where the maior et sanior pars or the valentior pars can represent the collective will of the people or citizen body on majoritarian principles, and efficiently make or change the laws. His human legislator can be the whole body of the people, or more narrowly the citizens or even more narrowly the valentior pars who constitute the efficient cause of the community's law. The human legislator, whether all people or their delegated representatives to whom is entrusted law making, through its election or will expressed by words in the general assembly of citizens, commands or determines that something be done or omitted regarding human civil acts under temporal pain or punishment<sup>(40)</sup>. Delegated representatives do not legislate as they think best but rather, they voice the will of the whole to which the whole consents. To

---

<sup>(38)</sup> Citing Cicero *De Officiis*. DP. I, iv, 2.

<sup>(39)</sup> DP I, xii, passim; I xiii, 2: With these manifest truths I again assume that common conception of the mind that 'every whole is greater than its parts'. See the discussion in Jeannine Quillet, 'Community, counsel and representation', in J. H. Burns, ed. *The Cambridge History of Medieval Political Thought* (Cambridge, 1988) especially pp. 558 f, for a slightly different account.

<sup>(40)</sup> DP I, xii, 3.

representatives law-making is entrusted, but in the absolute sense, Marsilius says, such representatives are not the primary human legislator. Their authority comes from the people constituting the civil community of a temporate regime. The notables of weightier rank speak the same will as the vulgus. Honorabilitas can bring civic office but their rank does not mean they express a communal will that is different from the will of those who do not hold office.

Ockham has no such theory of representation. Ockham believes that groups of men do not have a single voice; groups of men speak through the voices of the individuals of which they are comprised. The common good, for Ockham, is the sum of individual conceptions of the common good of each and every member of the community. Marsilius comes to the common good through majority opinion. For Ockham, the opinion of the community must be unanimous, every one agreeing with the conclusions of everyone else. This, of course, sound unrealistic if not ridiculous. But the reason Ockham believes that a community of men will comprise lots of individual men all agreeing to the same thing, all concluding the same thing from their experiences about what is in their collective interest, is that he thinks that there is a single, rational way of arguing about anything. When people disagree with one another it is simply that they either employ differing *modi loquendi* or that some have argued more logically than others and the more logical conclusion is the correct one. Ideally the most rational community, for Ockham, is one where everyone is logically meticulous as to how he concludes more generally from his individual experiences about the common good for the whole. Certainly for him, the pope is not any more careful logically than anyone else; indeed, he shows the fourteenth-century papacy to have misused texts and argued illogically to what are fundamentally irrational and illogical conclusions.

Both Marsilius and Ockham agree that no matter how simple some men may be, in so far as they are rational they can draw the same unchanging logical conclusion from their lived experiences in order to come up with the virtually unanimous agreement that it is best for men to live in law-governed society, where men institute regulators of that law over themselves. Marsilius says this explicitly when he notes that it says in Ecclesiastes that the number of the stupid is infinite<sup>(41)</sup>. On the

---

<sup>(41)</sup> DP I, xii, 4 and 5. DP, xiii, 6: For the assembled multitude of all of these



contrary, he says, men are not that stupid since all citizens which that law which conduces to the survival and common benefit of the community be established. Those who do not wish the regnum to endure are slaves not citizen<sup>(42)</sup>. And, he says, it is impossible for there to be so many persons in the regnum not caring to live a civil life that they would be a majority. Otherwise nature would have erred. Hence all or most men, not simply the valentior pars, are of sound mind and reason and have a right desire for the polity and for the things necessary for it to endure, like laws, statutes and customs<sup>(43)</sup>. While not everyone is a discoverer of the law, yet everyone is a judge of what has been discovered and proposed and should be numbered among good men.

Both Marsilius and Ockham, then, agree with Cicero who argued that men do not need to be taught except by their own experiences that they are not born self-interested alone. Men are born to survive and after living with others they conclude that it is rational to set up equitable systems so that the common utility will be served and you and your friends will survive more easily and safely. Where Ockham is more ready to accept the arbitrary authority of a rational sovereign, once instituted by the consent of individuals, Marsilius disagrees because he seems to think that power corrupts even rational and men so that they come to serve private interest rather than the common good<sup>(44)</sup>.

Marsilius says that even in early societies a single ruler of a primitive village community would know that he ruled this community by means of an almost instinctive appeal to a common dictate of reason possessed

---

can discern and desire the common justice and benefit to a greater extent than can any part of that multitude taken separately, however prudent that part may be... 7...Nor should the latter (multitude) be called undiscerning because they cannot discover such principles (of the sciences, the arts, etc.) by themselves: on the contrary, they should be numbered among good men.

<sup>(42)</sup> DP I, xiii, 2.

<sup>(43)</sup> DP I, xiii, 3: For most of the citizens are neither vicious nor undiscerning most of the time: all or most of them are of sound mind and reason... Hence... if what is meant (in the objection) is that because most of the citizens cannot discover the law by themselves therefore they ought not to establish the law, this must be denied as manifestly false, as is borne out by sense induction and by Aristotle's Politics.

<sup>(44)</sup> DP I, xi, 1-3.

by all men<sup>(45)</sup>. According to Marsilius one is not the head of a community in order to decide on communal difficulties according to private whim and pleasure but rather, according to a certain equity owed to human society. Early communities no less than present ones were not ruled arbitrarily because, as a result of experience of living more easily in groups of men concluded naturally that a standard of equity must be established for all men in that community. Marsilius believes that it is a commonly held rational dictate that equity must be done to all for the sake of the common good. It is not only legal experts who know this. We all know this naturally and through the experience of living in communities. Nature initiated the functional, utilitarian division of labour among men of different abilities, after the fall, and men must rationally and logically complete this functional differentiation in the regnum.

Both for Ockham and Marsilius, all men who are sane, but fallen<sup>(46)</sup>, desire the sufficient life and they come to conclusions as to how to establish this sufficiency by experiencing survival and concluding that civil communities need to be created by them to achieve this sufficiency. Of course, both men are polemicists and in the pay of the Holy Roman Emperor. Of course they want to find ways to argue that the church has no role to play in the secular governance of men. But they do so not by citing secular authorities but by appealing to the lived experience of rational men who create the world that they deem to be most suitable for living in.

This tradition of argument, shared by Marsilius and Ockham, was wholly opposed to another extremely powerful mode of argument that derived from a medieval interpretation of St. Augustine and which argued that rational societies of men must be sanctioned by a higher, transcendent spiritual power in the person of the pope. The debate between these two

---

<sup>(45)</sup> DP I, iii, 4 and 5. Compare Ockham on the *ius poli = aequitas naturalis*. *Opus nonaginta dierum*, c. 65, p, 574. *Ius autem poli vocatur aequitas naturalis, quae absque omni ordinatione humana et etiam divina pure positiva est consona rationi rectae-sive sit consona rationi rectae pure naturali, sive sit consona rationi rectae acceptae ex illis, que sunt nobis divinitus revelatae.*

<sup>(46)</sup> Marsilius notes similarly, LP I, vi, 1. If Adam had remained in this status (of original innocence or justice and also of grace) the establishment or differentiation of civil offices would not have been necessary... *In quo siquidem permansisset, nec sibi aut suae posteritati necessaria fuisset officiorum civilium instituto vel distinctio.*



traditions would continue well into the sixteenth century and beyond. It was a debate about how men know the truth about social living: either it is authoritatively revealed, or it is concluded from lived experience. Marsilius's and Ockham's emphasis on rational conclusions drawn from individual men's lived experiences was the major aspect of their legacy to the 17th century theory and practice of both popular and parliamentary sovereignty. Where Ockham's arguments would lead to those of Hobbes, Marsilius' would lead to Locke and Rousseau.