

Rémi Brague

Are Non-Theocratic Regimes Possible?

In both the struggles that constitute the contemporary American “culture wars,” and even more so in the current conflict with Islamic terrorism, we often encounter the claim that the two contending sides represent *democracy* on the one hand and *theocracy* on the other. Etymologically, that is to say, the power of the people versus the power of God. I believe that to think in this way about the conflict with Islamism is to misconceive the situation. Rather, the real matter at issue concerns the nature of *law*, and as it happens, the two conceptions of law that face each other both rest on a *common* basis, which is the idea of a divine law.¹ This is no doubt a shocking contention for modern secular sensibilities, but I want to argue that Western democracy—at least as we have known it—turns out, itself, to be a kind of theocracy, too.

In common parlance, “theocracy” has taken on a derogatory connotation. Calling a regime “theocratic” amounts to calling it names. “Theocracy” is commonly understood as a political regime in which power is wielded by some sort of priestly caste recruited on the basis of the orthodoxy of its members with respect to a religious creed. In post-Khomeini Iran, for instance, the so-called *wilaya-e faqih* is described as a theocracy. There, Shiite clerics hold power, either directly or indirectly,

through the “Council of the Revolution,” which checks the conformity to Islam of every law enacted by parliament and vets the orthodoxy of all candidates for higher offices.

Originally, however, “theocracy” was not an epithet. On the contrary, when it was first coined in the first century, A.D., it was meant to be a term of praise. The originator of the term was the Jewish historian Flavius Josephus. Born as Joseph ben Mattathias, he fought the Romans, was captured, changed allegiances, and was later adopted by the family of the Emperor Vespasian. Apart from historical works on the war in which he had taken part and about Jewish history more generally, Josephus wrote a defense of Judaism in response to the polemical writings of an Egyptian by the name of Apion. In that treatise, Josephus praises Moses’ legislative work by observing that, alone among the nations, the Jewish people who abide by the Law of Moses do not live

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under any of the political regimes that had been defined by the Greek philosophers. Instead, they are ruled directly by God's commands. Hence, the polity founded by Moses is neither a monarchy, an aristocracy, nor a democracy, but what he calls *theokratia*, the power of God.² The only sovereign of Israel is God—or, to be precise, God's Law. This is a meaning of "theocracy" that would be accepted by currently existing Islamic regimes, and it is the theocracy dreamt of by those who wish to enforce the so-called *sharia*.

**Western Theocracy:
The Idea of a Divine Law**

Although we modern Westerners commonly look down on "theocracies," our systems of legislation are, or were, in some sense theocratic too. They are, or were, founded in the last instance on assumptions that are theological in origin. And certainly, the idea of a divine law is not absent from our own Western tradition. On the contrary, it is emphatically present in both its sources—in Athens no less than Jerusalem, in Sophocles, Plato, Cicero, and many others, no less than in the Old Testament.

Or at least, this idea was not absent until a relatively recent date. The last important thinker who mentions a divine law among the different types of laws that he distinguishes was John Austin, a disciple of Bentham, in his 1832 lectures on jurisprudence.³ What is exceptional in Western intellectual history are rather the last two centuries, during which the idea of a divine law has been swept out of sight. Nevertheless, while this idea was present over a vast portion of our own tradition, it evolved along lines that have hardly anything to do with the Islamic understanding of what a divine law (*sharia*) is or should be. Because there are both similarities and differences, a comparison of the idea of divine law in the Christian West and in Islam is particularly fruitful.

The evolution of the Western idea of a divine law came to a head in the work of Thomas Aquinas. In the "Treatise on the Laws" in his *Summa Theologica*, Aquinas distinguishes four kinds of law: eternal, natural, divine, and human.⁴ Eternal law is the law by which God himself lives and to which he is, in a sense, subjected: Love. Divine law is, roughly speaking, the legal content of the Old and New Covenants. That much is clear. But what Aquinas means by the third kind of law, "natural law," is *not* what that term came to designate in modernity, i.e., the fiction of a pre-political state of affairs in which human beings were governed by their desire for self-preservation alone.

The ideas of *nature* that underlie classical and modern political thought are at odds. This is what Leibniz observed against his older contemporary Hobbes: "According to Aristotle, we call 'natural' what is most in keeping with the perfection of the nature of a definite thing; but Mr. Hobbes calls 'natural state' the one in which the least amount of art is to be found, perhaps because he did not consider that human nature in its perfection carries art within itself."⁵ For Aquinas, following in a certain sense Aristotle, natural law is the law that springs, not from nature in general, but from the nature of man in particular. This nature does not mean the raw or (allegedly) purely biological dimension of human beings. Rather, it is expressed by the classical definition: man is a rational animal. In this definition, what most defines man's nature is not his animal side, which he shares with other living beings, but what Aquinas calls *ratio*, a word that had been chosen as the standard rendering of the Greek *logos*. Moreover, this "reason" is not merely an instrumental rationality that can calculate the best means for survival. Rather, it is a power that can choose as well the means for fostering the moral fullness

or perfection of human nature.

As a consequence, natural law has two dimensions for Aquinas. Concerning whatever is animal in man and in other living beings, it means very much the same as for Hobbes or, for that matter, Epicurus: care for self-preservation. But in the case of man as such, natural law is located in *ratio*, i.e., in reason and freedom. Natural law is rational law.

Now, Aquinas defines natural law as “a share of eternal law in rational creatures.” Since it mirrors or participates in eternal law, natural law is, as such, *divine*.⁶ It does not partake any less in divinity than the writings of the Old and New Testaments. The legislative import of the former aims at *reminding* mankind of the natural law that it should not have forgotten. The New Covenant adds something that unaided human reason could not have known, and which is therefore commonly called “supernatural,” but this new element is not a law. Rather, it is a new regime of salvation: God’s mercy forgives our sins; God’s grace endows us with the means to choose life and to act accordingly.

Finally, Aquinas mentions a fourth kind of law, human law, which designates the endeavors of mankind to apply to various peoples in various circumstances the natural law of reason that mirrors God’s eternal law.

Western Theocracy: The Idea of Conscience

To be sure, we no longer ground our attempts at making laws that meet the requirements of justice on the idea of God’s law. We prefer to speak of the dignity of human moral conscience. This is the result of a long and complicated story that I cannot possibly retell here. But we should nevertheless recall that conscience was long understood as the trace in man of something divine. In a famous passage, for ex-

ample, Rousseau has his curate from Savoy exclaim: “Conscience, conscience! Divine instinct, immortal and celestial voice....”⁷ But this idea of a link between conscience and the divine is not new and has, in particular, nothing to do with the Enlightenment. The idea is to be found in antiquity as well as in the Middle Ages, among pagan philosophers as well as among Church Fathers or Scholastic theologians.

The first to recognize conscience as something divine was probably the Stoic philosopher Seneca, who wrote, “God [or a god] is near of you, with you, in you. A sacred spirit has its seat in us. It is the observer and keeper of our good deeds and of our wrongdoings.”⁸ The first words of that passage strangely resemble a famous verse of the Pentateuch, according to which the Law is “very nigh unto thee, in thy mouth, and in thy heart” (Deuteronomy, 30:14).

The shift from paganism to Christianity did not affect this idea dramatically. On the contrary, Paul took over the Stoic idea of conscience (*suneidêsis*) as playing the same part for pagans as Moses’ Law had for the Jews (Romans, 2:15). Since Moses’ Law is from God, it is to be surmised, by analogy, that human conscience has the same origin. And Augustine would later explicitly identify the voice of conscience with the voice of God. “There is no soul, albeit corrupted, as long as it can reason, in whose conscience God does not speak. For who wrote natural law in the hearts of men, if not God?”⁹

To be sure, the idea of the divine that underlies those different statements about conscience and its origin is not one and the same. Seneca’s god is the Stoic Zeus, who is not radically different from the world that emanates from him. For Seneca, we possess this divine spark of conscience in our hearts because we are, literally, sparks from the primitive creator Fire that is identical with god. It is a far cry from this god to Paul’s,

Augustine's, and Aquinas's God. The latter is very much the biblical God who not only addresses human conscience through a silent inner voice but steps into the course of history, first in Israel under the Old Covenant, and at the fullness of time in Jesus' incarnation. He is the God who calls the law of nature and/or reason back to human consciousness, when it has been obliterated or forgotten, by giving the Ten Commands to Moses.

Democracy and Its Theocratic Underpinnings

Whether the underlying idea of democracy is law or conscience, therefore, both ideas have theological underpinnings. Hence, our democratic ideals both of a rule of law and of a moral awareness that is expected to serve as a final authority in the mind and soul of every human being are theologically grounded. In fact, while journalists commonly denounce the aspirations of Islamic militants as "medieval" (a term which itself carries derogatory connotations not unlike the term "theocratic"), it must be noted that many aspects of modern Western democracy have clearly medieval origins. For instance, historians observe that our modern procedures of election were first elaborated within cloisters. In the Rule of Saint Benedict, the monks elected their abbot, and this principle was taken up especially by the later mendicant orders, the Dominicans and Franciscans, in which elections became quite frequent. In the midst of a feudal society characterized by hierarchy, deference, and the hereditary principle, whatever could have been the ultimate ground of this trust in the vote? This tradition of the religious orders becomes understandable only when we appreciate how the principle of moral choice in man, i.e. conscience, was so long considered to partake in a divine quality.

Similarly, in Western political regimes

law is understood to arise from the will of "the people." The people is constituted of free human beings who are able to know what they should do because they listen to their conscience. Here again, law is based in the last resort on human moral conscience. *Vox populi, vox Dei* is what underlies the idea of "one man, one vote." The Latin formula, in fact, first appears under the pen of Alcuin, the English monk whom Charlemagne, in the first years of the ninth century, invited to his court and put in charge of organizing the educational system.

This was not mere idealistic theorizing. In the fifteenth century, the philosopher and Roman Catholic cardinal Nicholas of Cusa defended the emphasis laid on ecumenical councils (more so than on papal edicts) as the principle of infallibility in the Church by saying that the very criterion of the divine character of a decision is the fact that it has been agreed upon by the people: "All legitimate authority arises from elective concordance and free submission. There is in the people a divine seed by virtue of their common birth and the equal natural right of all men so that all authority—which comes from God as does man himself—is recognized as divine when it arises from the common consent of the subjects."¹⁰

The Islamic Idea of a Divine Law

Within Islam, the idea of a divine law has very different characteristics. According to Islam, laying down the law or legislating means that one ascribes to actions a value (*hukm*) that is at once legal and moral. The legal and the moral cannot be separated. In principle, each and every human action can be placed into one of five categories: permitted, laudable but not obligatory, strictly obligatory, blamable but not forbidden, and strictly forbidden.

Now, the only power that can ascribe a value to human actions is God. Hence, the only legislator (*hâkim*) that can possibly

exist is God. So says al-Ghazali in his treatise about the principles of Islamic law, thereby expressing no more than the common opinion.

In some cases, not very numerous, God has explicitly pronounced legal decisions in the Koran. This is the case with marriage, inheritance, and penal law. In the overwhelming majority of instances, however, legal rulings have to be deduced either from the Book, or from the corpus of the Traditions about Muhammad, or from the interplay of both together with some other sources of law that differ according to the various received schools of law. The system of rules that is ultimately grounded on those divine and human sources is the Islamic law, the *sharia*. In any case, unaided human conscience is *never* sufficient for us to distinguish adequately between right and wrong. And this argument of the supporters of the *sharia* does not lack cogency. It boils down to Peter's formula before the Sanhedrin: "It is better to obey God than men" (Acts, 5:29).

In Christendom, Hobbes secured a foundation for modern political philosophy by taking as the implicit target of his critique the very utterance of Peter that I have just quoted and that he seldom quotes and tries to explain away.¹¹ According to Hobbes, as long as we can claim that there is an authority higher than the secular state (e.g., the Church), and as long as we can fear sanctions worse than death (i.e., Hell), political life lacks a reliable ground. Hobbes endeavored to show that there is no other way for us to obey God than by obeying the worldly authority under which we live. He could do so, in a Christian context, because we are never sure that our private inspirations stem from God and because the Bible can admit of various interpretations.

The same operation would be very difficult in Islam. For, if God has spoken; more precisely, if He has dictated a Book to a Messenger; if, further, He has chosen and "purified" this Messenger so that his whole life has the value of an example for human behavior—then why should we ever trust our own powers?

As a consequence, the West and Islam have (or had) no quarrel about the final origin of legislation. Both ground (or grounded) it in the last resort on things divine. Nevertheless, the underlying ideas of law and of the part God plays in it are, and always were, miles apart. This is reflected in the way the two religions conceive of God's "speech": in Christianity, God speaks through history, through the voice of conscience, and in the life of Jesus, the Word made flesh (1 John 1:14); in Islam, God speaks in the written words of the Book.

It is worth repeating that those ideas of God's speech and hence of the divine law were different *from the outset*. The West and Islam *never* agreed on those basic issues, not even in the Middle Ages: in fact, they perhaps never differed so acutely as in the Middle Ages. One could even venture to say that certain aspects of *modern* political ideas are more in keeping with Islam than were medieval Western theories.¹² As a consequence, we must reject the lazy assumption that Islam is nothing more than something "medieval" that simply could not negotiate the turn that the West has taken in modernity.

Democracy As a Side-Issue

We can come back now to the conflict that I mentioned at the beginning. Is the political regime that opposes theocracy really democracy? Is democracy, or the lack



Alcuin

thereof, the real problem in the Middle East today? Lack of democracy is a fact in all Islamic countries—and, for that matter, in many other countries around the globe that are not Islamic at all, too. Moreover, we all must acknowledge that our own so-called democracies are far from being ideal regimes; Churchill's quip, albeit hackneyed, still holds true.

My thesis, however, is this: the question of democracy as a political regime is a side-issue. Seen through ancient and medieval eyes—more precisely, on the basis of the philosophy of Plato and Aristotle—democracy is no more than one among six possible regimes. It is the rule, for the common good, of the whole “people” (*demos*)—in contradistinction to the rule of a minority group, which is called aristocracy, and to the rule of one person only, which is called monarchy. Each of these regimes receives, according to the ancient outlook, a moral qualification: democracy is the positive version of the rule of the whole people, whereas its corruption, the rule of the mob, is called ochlocracy. In the same way, aristocracy, the rule of the most virtuous, can degenerate into oligarchy, the rule of the few (more often than not, the rule of the rich, i.e., plutocracy). And monarchy, which could be the best regime, can degenerate into the worst of all, tyranny.¹³

Democracy, along with the other five regimes, belongs to the realm of political science. But political science is itself only a part of practical philosophy, conceived as the art of government. Medieval thinkers divided this practical philosophy into three parts. Government can be the self-government of the individual, which we call “ethics.” It can be the government of the household (*oikos*), which the ancients called “economy.” This consisted of the right management of three basic relations: husband and wife, father and children, and master and slaves.¹⁴ Finally, government

can be the government of the city (*polis*), and this is what we still call “politics.”

In any case, practical philosophy sets out to answer the question of good rulership or good governance: What should I do in order properly to rule in the three realms? In ethics: How should I govern myself? In “economics”—in slightly modernized terms: How should I get on with my wife? How should I raise my children? How should I behave toward people for whom I am responsible in my enterprise? In politics: How should I behave as a citizen, or as a magistrate? Placed in this context, we can see that democracy is a regime among other ones, in a realm, the political one, that is itself a part of a larger whole, practical philosophy. From a classical point of view, it is difficult to see democracy as the “main issue.”

The Islamic Claim

Now, the Islamic understanding of law does not concern only political matters. It does not even concern such matters very much at all. Its claim extends to the whole realm of what we might call “normativity,” to all rules of right behavior. Islam as such, Islam as an idea, has no quarrel with the idea of democracy—insofar as democracy is a definite system of government, to be distinguished from aristocracy, monarchy, etc.

To be sure, the early experience of Islam, which is repeatedly held up as the paradigm of an ideal past, was that of a monarchy: Muhammad ruled alone. Or, to be precise, God ruled through him. And so too did God rule through the Caliphs who followed him. Moreover, the present-day Islamic world consists mainly in monarchic regimes, whatever name those regimes may otherwise give to themselves. Nevertheless, many Islamic thinkers—not only the so-called “modernists” or “reformers”—point out that the Koran does not contain any clear position on the kind of regime that has

God's favor. Some among them underline the fact that some Caliphs were elected by a committee (*shura*), and furthermore, that even Muhammad asked for advice in some cases, facts from which they boldly deduce a preference of Islam for representative, parliamentary democracy.

The same thinkers also strongly emphasize some features of the Islamic worldview that can be described as egalitarian. They take these as starting-points for further developments of the democratic idea within Islam. We may forgive some slight anachronisms in this developing line of argument; we may regret that Islamic egalitarianism is set against caricatures of Christianity concerning, say, the meaning of monastic life and the role of clerics in the Church. Nevertheless, such features are well and truly present in Islam: each human being is responsible before God without the mediation of any ruler or priest. That much is certainly true.

Democracy, Laocracy, Ummacracy

I have tried to show that, in a certain way, we Westerners live (or perhaps, used to live) under a theocracy. Yet that is certainly not how we understand the contours and meaning of our contemporary political life. On the contrary, we understand ourselves to be living "democratically." We need to take a closer look at "democracy" and ask whether that really is the correct name for the kind of society we favor. Modern "democracies" are making use of a term that is Greek in origin. Yet it may be that the identity of the word conceals a gap between ancient and modern experience. For one thing, what we now recognize as "democracies" are not exactly democracies, in the Greek sense, any longer. In ancient Greece, after all, the *demos* was hardly more than a club of free adult males. Furthermore, the magistrates were not always elected, but often drawn by lot. Election was felt to be a

feature of aristocracy, whereas lot was democratic.¹⁵

Our modern democracies may not be aware of what they are in their innermost core. Perhaps they don't even want to acknowledge their own foundations. What is *the subject* of modern democracies? I would like to take up an intuition of the French philosopher Henri Bergson (d. 1941), for whom democracy is "evangelical in essence."¹⁶ My speculation is this: the real subject of modern democracies is the people *as constituted by God's election*. There is a Greek word for this idea of a people. It was the word chosen by the authors of the Greek translation of the Bible, the Septuagint. In order to render the Hebrew *'am*, they chose the epic term *laos*, which was rather archaic or provincial by that point in time. The Greek adjective *laikos* ("belonging to the *laos*") gave us the Latin *laicus*, still extant in English as "lay" or "laity," and in other languages too. If I were allowed to coin an ugly term of art, I would say that our modern so-called "democracies" are in the last analysis "*laocracies*": their subjects are human beings who are "free." To be sure, Greek democracies also understood themselves as being constituted by the rule of "free" men, but for the Greeks that adjective meant merely: not slaves. *Our* freedom means something quite different, i.e., that we need not obey any authority other than the promptings of our conscience, which are ultimately expressions of God's concern for the Good of His creation.

On the other hand, what is required of an Islamic people is expressed by the concept of *umma*: "the nation [of Islam]." Such a people is constituted by God's call (*da'wa*) and by the response to this call, which consists in taking upon oneself the yoke of the law (*sharia*). If I could venture to coin another and still less felicitous neologism, I would say that an Islamic democracy, supposing it could exist, would be an

ummacracy. In such a regime, each of the individual citizens would be governed in the last resort not by his or her conscience, but by God's positive, written law. With regard to the technical procedures of voting, such a regime would hardly be distinguishable from a "laocracy" in the Western style. But its content would be widely different. For example, elected parliamentarians and judges would issue and enforce rulings whose origin would not be human legislation guided by conscience, but God's own utterances in His Book. Magistrates would be inwardly compelled to comply with the laws on inheritance, marriage, and punishments—not to mention eating and clothing—clearly dictated by God. Conscience could not be an incentive to *search for* the right way; it would merely serve as a reminder of a straight and narrow path *already* quite clearly defined.

The Secularization of Conscience

Our contemporary democracies, especially in Europe, still understand themselves as founded in the last instance on the idea of the human conscience. But they have severed the link that united conscience to divinity, so that the power of conscience is no longer held as being divine. The rule of conscience has lost even the last flavorings of theocracy. This was the result of a long process, which I can only sketch here. For the sake of brevity, I will mention only the most extreme cases, since many thinkers stood for more qualified conceptions along the way.

In Rousseau's lyrical outburst quoted above, "the divine" is already not a substantive any longer, but a rather vague adjective. Fichte mentions with great emphasis "the voice of conscience inside that tells me what I have to do in every situation of my life."¹⁷ But this voice is no longer directly God's. What speaks through our conscience, to be sure, is a "sublime will" that is "a law

in itself." But Fichte is careful not to name God as the origin of conscience. We are by this point already in the new outlook opened up by Kant: God is not the *source* of moral law any longer. The existence of God is merely one of the principles that we must postulate for duty to be in keeping with the good, the other ones being freedom and the immortality of the soul.

The last important philosopher in the continental tradition who articulated a theory of conscience was Heidegger. His interpretation of conscience (*Gewissen*) systematically excludes any reference to beings that exist in another way than does the human *Dasein* itself, be they God or a Law. Through the voice of "conscience," *Dasein* does not have to listen to any voice from the outside; *Dasein* does not even have to be reminded of anything like "the Good," "values," or whatever else might be named. *Dasein* simply calls itself up from dispersion in inauthentic existence.¹⁸

At present, "conscience" is often simply debunked as the result of natural selection, social pressure, prejudice, or whatnot. But when it is still mentioned, it means in everyday parlance whatever the individual decides according to his or her whim. Whether this whim is rationalized by some ideology does not make a great difference. We modern Westerners, whether we know it or not, are the conscientiously degenerate children of Fichte and Heidegger.

Is a Radically

Non-Theocratic Regime Possible?

Our contemporary regimes, in the Western world, may be laocratic in a rather Pickwickian sense, because they have undergone the process that we commonly call "secularization." This concept raises as many questions as it solves, but I will leave it at that for the present. This secularized status of our democracies is *a problem*, however, for one may well wonder whether a human

community can go on understanding itself as a *laos* in the long run without some more or less explicit theological underpinnings.

The rather unpleasant question that contemporary Western regimes face is this: Is a radically non-theocratic regime possible in the long run? If we take the word “theocracy” in its usual meaning of the frowned-upon “government by clerics,” the experience of the centuries demonstrates *ad oculos* that a non-theocratic regime is possible. It could even be doubted that there ever was such a thing as a genuinely theocratic regime, in this sense, in all of history. Not even in Islam. It is commonly assumed that Islam does not draw a sharp line between the political and the religious. This may be true on the level of principles. But as far as the historical record is concerned—and if we assume that traditional Islamic historiography is reliable—the identity between religious and political leadership lasted hardly more than the ten years of Muhammad’s personal rule over his followers in Medina. Even for a Muslim philosopher like Al-Farabi, the existence of such unitary regimes belonged to a remote past: if we are to trust the testimony of later authors, he mentioned a regime that approximated this type of government, called it by the name of “the regime of the imam” (*imâmiyya*) and said that it was extant in ancient Persia, i.e., earlier even than Islam.

The question becomes trickier if we take “theocracy” as meaning a regime in which norms are considered to rest on a divine foundation—whether it be Law in the Islamic style or conscience in the Western style. Since the advent of modern political thought, the ultimate source of *political* legitimacy has been the unspoken contract between citizens. Now, some contemporary thinkers take, implicitly or explicitly, a further step: the contract is understood to be the ultimate source of *all* norms, including moral rules. Such a moral contract

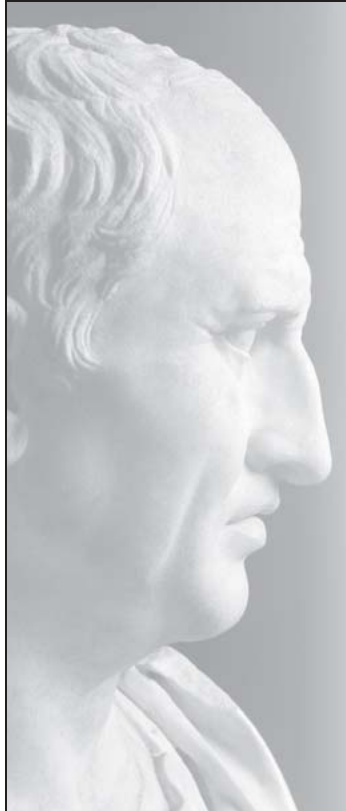
must remain within the boundaries of mankind. The idea of the contract is even meant to put out of court whatever might claim an extra-human origin. Hence, the current American culture wars, in which partisans of a “democratic”—which is to say, a radically secular—notion of morality hurl the epithet “theocratic” at those who believe that the moral law is something *given*, to be discovered, not made.

This radical exclusion of any extra-human instance has a momentous consequence. On the basis of such a contract, we probably can build a system of norms enabling human beings to live in peace with one another. They need only to look after their interest, i.e., for the self-interest of present individuals. Hence, the recurrence since Hobbes—who may have invented it—of the image of players sitting around a table and agreeing upon the rules of the game.¹⁹ But that presupposes a prior agreement: nobody should call into question the right of the players who are already there to take part in the game. The players are the image of what we call a “society.” Now, humankind constitutes itself as a society because it is first of all a species into which we are born. But even if we admit that the begotten child has a right to be born, nobody has a *right* to be begotten. Once we view the human community as a “society” only, we forget that it has constantly to decide to go on living. This brings us to the limit of the contract: such a contract, precisely because it has no external point of reference, cannot possibly decide whether the very existence on this earth of the species *homo sapiens* is a good thing, or not.

1. This essay takes up some ideas from my last book, *La Loi de Dieu: Histoire philosophique d'une alliance* (Paris: Gallimard, 2005); an English translation is due to appear, published by the University of Chicago Press.

2. See Josephus, *Against Apion* II,16 §165; ed. T. Reinach (Paris: Belles Lettres, 1930), 86.

3. See J. Austin, *The Province of Jurisprudence Determined*, ed. H. L. A. Hart (Indianapolis: Hackett, 1998).
4. Thomas Aquinas, *Summa Theologica*, IaIIae, q. 90-97.
5. Leibniz, *Essais de Théodicée*, II, §220, in *Œuvres Philosophiques*, ed. P. Janet, (Paris: Alcan, 1900), vol. 2, 234.
6. See Thomas Aquinas, *Summa Theologica*, IaIIae, q. 91, a. 2, c; ad 1m; a. 4, beginning.
7. Rousseau, *Emile* IV, trans. Allan Bloom (New York: Basic Books, 1979), 290.
8. Seneca, *Ad Lucilium epistolae*, 41, 1-2; ed. L.C. Reynolds, Oxford, t. 1, 108.
9. Augustine, *De Sermone Domini in monte*, II, ix, 32; PL, 34, 1283 [c]; see *Sermo* XII, iv, 4; PL, 38, 102.
10. Nicholas of Cusa, *De concordantia catholica*, III, 4, §331 (*Opera Omnia*, vol. 14, 348); trans. P. E. Sigmund (Cambridge: Cambridge University Press, 1991), 230.
11. Thomas Hobbes, *Leviathan*, ed. M. Oakshott (Oxford: Blackwell, 1960) III, ch. 39, 306; III, ch. 42, 378; II, ch. 31, 240.
12. See e.g. Rousseau's praise of Muhammad in his *On the Social Contract*, IV, 8, trans. Judith R. Masters (New York: St. Martin's, 1978), 126.
13. See e.g. Aristotle, *Politics*, III, 7.
14. Aristotle, *Politics*, I, 3, 1253b6-7.
15. See e.g. Aristotle, *Politics*, IV, 4, 1290b1.
16. H. Bergson, *Les deux Sources de la morale et de la religion* (1932), 300.
17. Fichte, *Die Bestimmung des Menschen* [1800], III, 4, in: *Ausgewählte Werke*, ed. F. Medicus (Darmstadt: Wissenschaftliche Buchgesellschaft, 1962), vol. 3, 394.
18. Heidegger, *Sein und Zeit* (Tübingen: Niemeyer, 1963 [1927]), §54, 269; §57, 275, 278; §59, 291.
19. See Hobbes, *Leviathan*, II, 30, 227; see further Adam Smith, *A Theory of Moral Sentiments*, ed. D. D. Raphael and A. L. Macfie (Oxford: Clarendon Press, 1976), VI, ii, 2, 17, 234.



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