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Title: George Orwell: Socialist or Liberal?. Big Brother and the Abuse of Power.

Abstract: For although he was too strongly independent in his thinking to accept the Marxist or socialist dogmas of his associates, because they did not seem to square with experience, and though he admired the tough resistance of English character and legal institutions to tyranny, Orwell never did tumble to the understanding of man and government which had shaped each over the centuries. Failing to see the constants in human nature as the key to the political problem, he looked around the world both as he perceived it and his literary fellows portrayed it, and concluded that power lust was the strongest social force, and that as "men are infinitely malleable,"¹ it would lead power hungry men to shape their fellow creatures to suit their will.

This paper explores Orwell's writings from the perspective of western legal theory and social science understandings of the individual and society to contrast Orwell's conflicted positions with the educated thought of his own times.

Key Words: George Orwell, rule of law, social science explanation, holism and individualism, liberalism, socialism, 1984, power lust,

¹1984, 272.

GEORGE ORWELL: SOCIALIST OR LIBERAL: BIG BROTHER AND THE ABUSE OF POWER

"Power is not a means; it is an end. One does not establish a dictatorship in order to safeguard a revolution; one makes a revolution in order to establish the dictatorship. The object of persecution is persecution. The object of power is power."²

O'Brien

The writings of George Orwell provide a surprisingly good basis for the discussion of power and the abuse of power in contemporary political theory. Although Orwell was not well enough informed to elucidate or add much to our understanding of these concepts, he was a perceptive observer of the political thought of his times. Due in part to his own philosophical naivete, he managed to embrace personally the great contradictions that characterize the major competing political ideas of our century. He insisted to the end that he was a socialist. But from all perspectives he was a renegade. Though he had indeed absorbed the Marxist account of society and class exploitation, his own fuzzy solutions were usually stated minimally in the language of English liberalism. And it was clearly a continuing instinctual attachment to liberal modes of thought that precipitated his violent reaction to Soviet atrocities and the corruption of the socialist movement generally. It may well have been his lack of understanding of the

²George Orwell, 1984, N.Y., Harcourt Brace Jovanovich, 1949, pp. 266-67.

structure of Anglo-American equality and freedom that kept his socialist allegiance alive.

Orwell did not claim to have made significant contributions to political theory. He was a popular writer with a strong political point of view. Though a contemporary of the great analytic philosophers in England, he rarely felt the need to think theoretical issues through clearly. Rather, he had great confidence in his own moral intuitions of justice and equality, which he played out in theoretically unselfconscious novels. He was fascinated by discussions of theoretical concepts such as power, but his use of them in novels was not designed so much to explore and develop the concepts as to buttress his own perceptions of the world and visions of the future.

Our discussion of abuse of power would be greatly facilitated if there were substantial agreement among political theorists on the significance of the basic concept. But within the last two decades some have given up using the concept of power altogether,³ while others have declared it to be "the most important single idea in political theory."⁴ While some theorists have found most power relationships to be sufficiently voluntarist in character as to attract no moral concern,⁵ others believe every exercise of power is exploitative and, therefore,

³Cf. Raymond Wolfinger, "Nondecisions and the Study of Local Politics," American Political Science Review (Dec. 1971), 1063-80, and Eugene Meehan, Contemporary Political Thought: A Critical Study, Homewood, Ill., Dorsey Press, 1967, p. 102.

⁴Jon Elster, "Some Conceptual Problems in Political Theory," in Brian Barry (ed.), Power and Political Theory: Some European Perspectives, London, John Wiley, 1976, p. 249.

⁵Cf. Peter M. Blau, Exchange and Power in Social Life, N.Y., John Wiley, 1964.

morally offensive.⁶ There is no generally accepted view of the matter today.

The Structure of Anglo-American Freedom

In spite of the many silly assertions in the popular press to the effect that Orwell's 1984 has proven prophetic, we know too much about the world to deny that the individual freedom routinely enjoyed in the United States in particular and the western world in general is by far the most extensive in the world, and possibly in all of human history. Our pervasive inability to fully appreciate that fact is probably a bad omen for the future. George Orwell was only one of thousands of intellectuals who did not understand the structure of the freedom they enjoyed. His writings frequently reveal an acute sensitivity to tyranny and its origins in human nature. But the origins of freedom were an endless mystery.

By reasoning backward from the origins of American freedom, we may find the theoretical account which Orwell and others needed. The eighteenth century Americans were possibly the freest people in the world at the time. Preoccupied by European troubles, the English government had let the affairs of the unprofitable American colonies slide. Left to themselves, the governors appointed by the Crown found themselves forced to accommodate the real political pressures of the colonies and consequently allowed various kinds of legislative power to grow at the expense of administrative power. By 1763 the colonial legislatures quite generally enjoyed most of the classical privileges and rights of Parliament against their respective governors, in fact if not by charter. As England woke up and moved to reassert proper colonial administration in the 1760's, the Americans

⁶William E. Connolly, The Terms of Political Discourse, Lexington, D.C. Heath, 1974, pp. 97 ff.

were outraged and came to perceive themselves as slaves to a tyrannical power.

The Declaration of Independence quite deliberately justified the revolution as an act in defense of the properly constituted law of England designed to correct the illegal and unconstitutional acts of the king and Parliament. In spite of widespread assumptions today that the Revolution was based in a rhetoric of universal human rights in the French style, the historical facts will not support this. Rather, the Americans self-consciously characterized their actions as efforts to maintain the law of England, which had been corrupted in the mother country.

The American justification only makes sense if freedom is thought to be grounded in law or "the commonwealth of laws." Although religious and libertarian rhetoric abounded in those founding years, the official documents on which the American republic was based, almost totally avoided both. The Constitution mentions no universal rights as entitled to constitutional status--not even as amended with the Bill of Rights. And the Declaration of Independence only makes passing obeisance to that rhetoric before mounting a tough legal indictment of the official English conduct. The laws were clearly seen as the source of their actual freedom. And government conduct which endangered the laws endangered the freedom of the people.

Using language made popular in the next century, we would say that the Americans had inherited the English appreciation for rule of law. They saw protection for the weak from the strong in laws that restricted all alike, that gave no special legal status or privilege to any group, and that only acted in a prospective way. If the government officers were fully subject to the requirements of the law, tyranny would be difficult to create. And if law could only be enforced in accordance with an elaborate set of procedures which had evolved over

centuries to minimize arbitrary punishment, individuals could regulate themselves in the pursuit of their private ends, to avoid legal offenses. This is the freedom for which these people were willing to fight.

The Americans had also inherited the English constitutional genius, and particularly appreciated Hume's political reasoning. They saw clearly that the constitutional problem was not one of articulating some true political principles. They attempted none. Rather, they set out an intentionally complicated system for governing that would constantly require consent and agreement from many different elements of society and of the government. The system was quite self-consciously designed primarily to control the violence of faction, the source from which the destruction of law and the elevation of tyranny historically has come. The law-making function was separated from the law-enforcing one. The responsibility for government was divided between the central government and the states. The Senate and the House of Representatives checked each other and in turn were jointly checked by the executive, the courts, and the people in periodic elections.

The Constitution, in short, was a super-legal device designed to protect the integrity of the law (in terms of rule of law as a standard).

From the perspective of the rhetoric of the French Revolution and later socialist revolutions, it would seem that the Americans had very modest objectives. A decade of experience with themselves and the Articles of Confederation had disabused the American luminaries of any unwarranted optimism about their own abilities to stand aloof from self-interest, that might have been generated during their remarkable revolution. As they drew themselves reluctantly back into the folds of Hume's conservative philosophy, Madison's

lament that "men are not angels" became an American commonplace. That basic assumption about the nature of man lies at the very root of constitutionalist thought. For if men will not abuse authority, there is no need of a constitution. The American approach to constitutionalism explicitly rests on the Humean view that men are corruptible, that they tend to put their own interests first, even when it may cause harm to others. This implies on the one hand a necessity for a common authority that can discourage private exploitation. And it also implies the need for limitations on the power of that civil authority itself.

This assumption about man shapes constitutionalist thought at several levels. Whether articulated or not it is the insight that compels all human societies to recognize that laws are essential for human interaction. Not only are men generally incapable of coming to a full agreement on the basis of true moral principles, they are even less capable of consistently adhering to such principles even should they find them. And so, law becomes necessary to make life in society tenable. Law becomes a substitute for that moral ideal which the human imagination continually generates anew. Given the nature of men, law is the highest form of social organization to which we can in fact achieve. Law is a compromise which protects individuals and groups in the pursuit of their own moral visions, but which declines to nationalize that pursuit. And that is why socialists do not get along well with the traditional notion of law.

At a second level, law requires enforcement and enforcement agencies. These governments with coercive power create a second level on which human self-interest and even power lust can act out their course. Assuming the value of law, constitutionalist thinkers have recognized the necessity of institutional constraints on public authorities, both to protect the people from abuses of public

power and to protect the laws from degeneration or sabotage.

For a society to maintain itself over time it must have a standing agreement on the procedures and officials by which disputes will be decided under the law. The community must also have an agreement on the means by which these officials will be selected at any point in time. These are constitutional choices. But the science of constitutionalism focuses most directly on a third choice which is the particular balancing and arrangement of governmental institutions to prevent them from being diverted from their assigned functions of administering and enforcing law to the alternative function of advancing the fortunes of the officials themselves. Madison called these "auxiliary precautions."

The western tradition with its ongoing quest for rule of law, has ordinarily defined authority in terms of both power and legitimacy. Legitimacy indicates that the power is both constituted and exercised according to previously agreed upon rules, and the agreement is assumed in some strong sense not to have been forced, but to have been based on a widely shared expectation that we would be better off - individually and collectively - for submitting ourselves in this way to a human authority.

Because this kind of authority must be rule constituted, it cannot act in its own name, but only in the name of its rule constituted office. It does not speak for its own will. Acts of authority are not then properly reduced in general to acts of power. This is not to deny that people with authority can act to promote their own will. But if we characterize their actions generally in this way we will have given up the basic ideas of rule of law that underly western liberty.

It would be a mistake to consider authority as a mere subset of power. Rather, it is a separate concept defined partially in terms of power. Authority

entails some grant of (coercive) power from the group over which it is exercised. It is a rule governed exercise of the power of the group. Authority is also a human fabrication designed to alleviate or prevent the intolerable effects of the exercise of unrestrained power, either in anarchy and chaos (Hobbes' state of nature) or in a totalitarian regime (Orwell). When the concept of authority is reduced to nothing more than a form of power we have the very essence of tyranny.

People who hold positions of authority are formally expected to act for the common good. Because we understand the temptations that can present themselves to such people we provide institutional constraints to reduce to an absolute minimum the discretionary choices that authorities can make that will promote their own personal interests or those of some faction. All too often we find that our institutions are inadequate in this respect or that they work against this purpose. And we therefore observe all too frequently the corruption of authority. In such cases we might reasonably talk about abuses of power if someone is able to advance personal interests through a position of authority.

George Orwell illustrates the general intellectual confusion in these matters quite well. For although he was too strongly independent in his thinking to accept Marxist or socialist dogmas that did not seem to square with experience, and though he admired the tough resistance of English character and legal institutions to tyranny, he never did tumble to the understanding of man and government which had shaped each over the centuries. Failing to see the constants in human nature as the key to the political problem, he looked around the world both as he perceived it and his literary fellows portrayed it, and concluded that power-lust was the strongest social force, and that as "men are infinitely malleable,"⁷ it would

⁷1984, 272.

lead power hungry men to shape their fellow creatures to suit their will. Hence, 1984.

The moral assumptions underlying the eighteenth century commitment to rule of law are also important to recognize. However we might want to articulate these assumptions, they come back to one point, that it is wrong for one person to use the life of another to promote his own interests without the other's voluntary agreement. Exploitation is wrong; each individual is a moral agent. But rule of law is not a device to enforce this view or to draw it deductively into legal rules. Rather it offers practical protection to the principle. And only this principle enables us to make full sense of the rule of law. The principle implicitly prohibits the coercive pursuit of its realization in the life of every man. Rather, it requires maximum liberty for each individual to pursue his or her own utopia to the extent this can be done without exploiting others in the process.

With this understanding of our institutions of freedom, we can now examine twentieth century theories of power, including Orwell's, in two important contexts that will each help us understand better how our theories have gone wrong. The first, and more obvious context I will examine, is the history of jurisprudence as it relates to this question. The second will be the philosophy of explanation in the social science and what it says to us about the nature of men and societies, and the ways that we can talk about them.

The Idea of Law

Almost all the major developments in jurisprudence in the last century and a half have been inimical to rule of law. Legal positivism has been the dominant movement, and its central thesis is that law reduces to will, the will of the

sovereign. Sovereignty or authority in turn is defined in terms of power. Because there is no intrinsic content to the law, there can be no rules of legitimation. Early positivists paid considerable attention to the formal structure of law, but because they accept will as the source of law, they cannot solve the legitimacy issue.

Positivist theory makes the mistake of distinguishing the provinces of jurisprudence and politics too severely, leaving the law no choice but to accept any content that the political powers might provide. The Nuremburg trials provided a particularly painful example of this weakness of the positivist theory.

The essential point of rule of law is to insulate law from arbitrary will. This traditional outlook certainly recognizes the universal tendency of legal systems to be corrupted by will. But it provides endless remedies and safeguards against this insidious process. And it would never accept the legitimacy of such corruption. Rather it would see the positivist concept of law as a wholesale attack on the idea of the law as a protective umbrella under which everyone, including especially the weak, could pursue their interests without fear of arbitrary interference from the strong. If this is to be the effect of law, it cannot just be the command of the sovereign, or of any other human, including the judge.

It is of considerable interest to see how mid-twentieth century positivists came to share some of these same reservations. Hart very effectively rejected the simple positivist view of law as "the gunman writ large." But his own searching for a better criterion of legitimacy comes up short. And we have nothing better than the practices of a people to guide us.

The Marxists also see law as a function of power and will, but in a much different way. Marx' early studies were in historical jurisprudence. He became an historicist, and denied that law consisted of rules or norms, arguing rather that it is

the general development of history. And power is all there is. Jurisprudence is just the history of power. Law serves as an instrument of the ruling class in the struggle for power. Because only the rule of the proletariat is legitimate, all law as we know it today is suspect and is instrumental in the oppression of the masses. Marxists could never see that formal rules could function to restore legitimacy and constrain power.

It is ironic that the native homeland of modern rule of law should also spawn the great theories of anti-law. Perhaps the nineteenth century marks the corruption of England's self understanding of its great legal tradition. Certainly, by the mid-twentieth century few there or elsewhere could explain these traditions without wrongly invoking socialist notions of democracy, social classes, and the public good. And corresponding to the rather ordinary confusion of law with will, we can see the conflation the concepts of authority and power.

Characteristically, it is thinkers on the left who are most interested in power as an issue in political theory. Rather than analyzing the agreement that underlies authority relationships and recognizing the human gains they can represent for both order and freedom, these thinkers tend to start with generalizations about such relationships and a presumption that they are essentially evil. Of course, this is a very dangerous approach for a socialist to take, particularly if he is honest. In fact, Orwell's greatest mistake as a socialist was to think too much about power. For he discovered that its socialist manifestations were unavoidably malignant and resistant to the tempering institutions of constitutional government. For as Kolakowski has also concluded, ". . . modern totalitarianism is inseparably linked

with the history of socialist ideas and movements."⁸

Contemporary radicals see the exercise of power as iniquitous in every instance because of a definition that recognizes neither the voluntariness of exchange nor the legitimacy of coercion based on rules. The enlightened Marxist claims to see what is invisible to everyone else, a hidden social structure which, once understood, reveals that our voluntary exchanges and rule based authority are really forms of illegitimate coercion, and that we are self-deceived if we fail to see the wickedness inherent in all such exercises of power.

An American radical, William E. Connolly, provides a convenient example of this approach.⁹ The radical view separates out simple rational persuasion as the only morally permissible exercise of influence because it is not an exercise of power. All the other kinds of influence, i.e., exercises of power of A over B are at some "moral distance" from persuasion and are therefore "presumptively wrong acts."¹⁰ These exercises of power could include threats, manipulation, impediments, behavioral conditioning, coercion, or even cases of self-deception. It is quite possible for the recipient of the power exercise not to recognize it as

⁸Leszek Kolakowski, "Totalitarianism and the Virtue of the Lie," in Irving Howe, ed., 1984 Revisited, New York, Harper and Row, 1983, p.123.

⁹See Connolly, pp. 86ff. I use Connolly as my radical example, not because his work is the strongest representative of that view, but because it is one of the more revealing. Lest I be accused of building a straw man argument, I should point out that Connolly is widely published and listened to in professional political science circles in the United States, and is regarded as a prominent exponent of the radical persuasion. Roderick Martin, an Oxford sociologist, has written a book on power from the Marxist point of view that is more carefully reasoned. The Sociology of Power, London, Routledge and Kegan Paul, 1977.

¹⁰Connolly, pp. 94-5.

such because he has deceived himself about his own interests and desires. And it is just as possible that the power exerciser may deceive himself that he is not exercising power and that he does not even care to influence the other person's behavior.¹¹ In this latter case we can see that the repressive use of power will be quite invisible to both the oppressor and the oppressed. No doubt there will be enlightened liberators at hand who can point out these evils which we cannot see and help us to overturn the society which fosters them.

In addition to power as "ability to", Connolly wishes to define it as an exercise which impairs another's choice for which someone can be held responsible. With the definition thus enriched, he is prepared to talk about collectivities exercising power, limiting the choice of other collectivities, and thus generating some collective responsibilities. Thus "to attribute power to another (whether an individual or group). . . is more like accusing him of something, which is then to be denied or justified."¹² And consequently power elites will always prefer to exercise power through more subtle means than force and coercion.

The combination of this notion of collective responsibility and the elimination of intentions from the definition of an exercise of power, exposes the radical analysis to some counter-intuitive criticisms from the standpoint of non-Marxist economic theory. Intentions, are of course quite troublesome for the radical analysis which sees oppressive power exercise in all kinds of individual actions and social structures which no one could be construed to have intended to

¹¹Connolly, p. 91.

¹²Connolly, 97.

be repressive. But once unintentional effects of actions are allowed into the analysis, two very surprising conclusions emerge.

1. The upper and middle classes by their enterprise have benefitted the underclasses more than they have benefitted themselves. By far the greatest economic benefits of capitalism have gone to the many, to workers, and even the unemployed or poor. No one is likely to argue that this result was produced by the intentions of those classes.
2. And furthermore, many of the most damaging policies and actions for the welfare of the poor are results of their own private and public choices. Are the poor then their own greatest oppressors? Should they rise in revolt and throw themselves out of this elite power position that so threatens their own welfare? If I agreed with Connolly's radical analysis, I would have to say "yes." (And the same analysis would hold for the middle and upper classes.) But of course the poor never understand these matters anyway. They need the guidance and protection of an elite intelligentsia to show them these things. And of course that is just what the socialist nations have done; i.e., they have taken away from the poor and the workers the ability to harm (or benefit) themselves through intelligent individual action.

The standard leftist solution to instances of power abuse is to give more power to the abused, and, in the Marxist version, all power to the proletariat. This approach fails to recognize the corruptibility of human nature, the recognition of which has always led constitutional thinkers to seek a solution in the institutional limitation of power. And history continues to confirm their view that when

repressed classes gain power they are at least as likely to abuse it as were their predecessors, if they do not subject themselves to adequate constitutional restraints. The constitutional view that human nature is corruptible falls far short of the view of Hans Morgenthau and others, including even Orwell himself, that an inborn lust for power is common to many or all men. Rather it is simply the observation that the universal tendency of men to seek their own self-interest, even at some cost to others, takes on more malevolent proportions as their power in the world increases and as increased opportunities to exploit others present themselves. For constitutionalists, laws and constitutions punishing such exploitation and limiting the opportunities for such comprise the safest strategy. For leftists or utopians who do not fear unrestrained power in the hands of the proletariat or enlightened elites, the solution is simply to transfer or centralize power, even if necessary through violent revolution.

In the twentieth century it was totalitarian governments that made the acquisition and aggrandizement of power their foremost end. And the collapse of democratic European regimes before the totalitarian threat appeared to some theorists to be linked to their neglect of power. Democrats like Charles Merriam, George Catlin, Harold Lasswell, Hans Morgenthau and Bertrand Russell all began to emphasize power in their theories. Many twentieth century theorists have followed their lead by treating power or control as the basic unit of political and social analysis. While Morgenthau applied his insights primarily to international relations, the other four concentrated on the dominant role which the lust for power and the actual possession of power play in domestic politics. Just two years before Orwell wrote 1984, Morgenthau concluded that power politics is "rooted in this lust for power which is common to all men," and which, therefore, is

"inseparable from social life itself."¹³ Like Morgenthau, Orwell was concerned about the collapse of the democracies in the face of totalitarian aggression. But whereas Morgenthau, Catlin, and others hoped to provide the democracies with the spine to use power deliberately in international politics and with the wisdom to entrust their own political power to "the right type of person," Orwell was exploring the thesis that the universal lust for power would lift the worst type of person to the top, even in the democracies. With the aid of future technology, Orwell feared this power lust could eventually produce stable, worldwide totalitarianism.

The sociologist, Dennis H. Wrong, has produced the most thorough recent work on power.¹⁴ But he also misses the essential point about authority. His first error is to see authority as the subdivision of power which includes all instances where one person obeys the commands or directions of another. This includes everything from a bank teller handing over the cash to a gunman to a patient taking the medicine prescribed by a physician. Within this range of cases he does identify those which are "legitimate authority." But even here, he focuses on the sociological rather than the essential political character of the authority relationship when he indicates that such authority is essentially constituted by shared norms.¹⁵ He misses the point that authority rests more on an agreement in the face of an unavoidable need for certain kinds of authoritative decisions where shared norms are inadequate to produce spontaneous agreement. As Lucas points

¹³Hans J. Morgenthau, Scientific Man vs. Power Politics, Chicago University Press, 1946.

¹⁴Power: Its Forms, Bases and Uses, Oxford, Basil Blackwell, 1979.

¹⁵Wrong, 50.

out, this does include some shared norms, i.e., that submission to some specified community decision process is preferable to anarchy or some inferior process.¹⁶ And as Michael Oakeshott has written, ". . . civil association is an intelligent engagement and not a so-called 'pattern of behavior'. . . ." ¹⁷ Oakeshott would not want to push back to some actual primitive agreement, nor to a mythical contract. He is merely referring to the actual moral rules to which we appeal in making decisions in a society.

Theorists have defined power both broadly and narrowly. The broad definitions of the exchange theorists include every exercise of influence, including those instances in which people voluntarily modify their behavior in exchange for attractive inducements. The more narrow definitions identify power with the ability to initiate coercion, choosing to leave aside voluntary exchanges in which each party improves its position. On this view, the problem of abuse of power is the problem of controlling armies, governments and gangsters. And rule of law is the solution. On this view there can be legitimate uses of power in accordance with the rules under which the government is authorized to act. But any other exercise of power outside those rules is a form of tyranny or anarchy that rule of law is designed to avoid.

Few contemporary writers fully appreciate Madison's insight that the essence of constitutionalism is this concern with "auxiliary precautions" or the "contrivances which not only describe but confine government, at least in its

¹⁶See J. R. Lucas, The Principles of Politics, Oxford, Oxford University Press, 1965, pp.1-13.

¹⁷On Human Conduct, Oxford, Clarendon Press, 1975, p. 150.

everyday activities."¹⁸ Hayek expressed a similar insight when he defined constitutional law as "a superstructure erected to secure the maintenance of the law, rather than the source of all other law."¹⁹ And certainly, Orwell and the left in his generation never did see this as the key to the structure of Anglo-American freedom. Norman Podhoretz recently created a furor by claiming Orwell as a nascent neoconservative.²⁰ But this persistent blindness to the nature of man, the law and constitutions would certainly have made him look even more out of place in that camp than he already appeared among socialists.

The Moralistic Error

On the other extreme from those who see law as will are the contemporary legal philosophers who propose to derive law and constitutional principles from abstract dissertations on rights. But this is not the best answer to positivism and socialism. In fact, in some cases it may even provide a new tack for the old socialist objectives, using the judiciary to usher in the moral egalitarian state instead of revolution. On this view a good constitution would provide a statement of such true principles or human rights as a basis against which legislation could be evaluated. Unfortunately, twentieth century political thought has concentrated much more on this approach, ignoring the crying need for new and stronger institutional checks thrust on us by the growth of power in central governments.

¹⁸Francis D. Wormuth, *The Origins of Modern Constitutionalism*, New York, Harper and Row, 1949, p. 3.

¹⁹F. A. Hayek, *Law, Liberty, and Legislation*, vol.3, Chicago, University of Chicago Press, 1979, p. 38.

²⁰"If Orwell Were Alive Today," *Harper's*, January, 1983, 32.

Theories of rights can only function as political or social facts and do not play any higher role in legal or political theory--under rule of law. For if law is based on consensus or agreement, it cannot be derived from a theory of rights unless all parties needed for the consensus perform the same derivation.

The true function of theories of rights is to provide models of justification or criticism to be held up against one or another political or legal system, real or imagined, to measure moral standing. The measure only carries weight with those who share the particular theory used. But within such circles the measurement can be a strong influence on practical decisions about support for the actual laws.

In a system of law the theories of rights can never be invoked by judges without converting themselves ipso facto into a super legislature. The distinction I want to draw between a legislature and a court rests on my theory of separation of powers, which in turn rests on the theory of rule of law. If one does not accept these, as Dworkin for example obviously does not, the argument does not engage.

This problem has been thrust on the world because of our modern discovery, i.e., that laws are made by men. Before that notion took root, the judge was not so obviously in a position of judging the law itself. However, it is likely that in the process of construing law, judges in ancient and medieval times did perform some analogous function.

But now that we recognize men as the source of law, the question arises as to the criteria that the judge will use. And it would seem self-evident that if the judge is not sovereign, he cannot act in a way that renders him an author of law. He can only construe or apply. Dworkin's attempt to make him into a legislator responsible to a true theory of rights simply ignores the problem of human nature. For if men are in fact capable of regularly and reliably drawing correct logical

inferences from a true and comprehensive theory of rights without being affected either by interests or idiosyncratic perspective, then giving judges such a responsibility would not destabilize the legal system. But stability of legal expectations is one of the essential products of a good legal system. And if one's judgment of men precludes in any way the above described possibility, a different approach to judging needs to be found. And one key to that approach has been the development of legislatures as bodies which are not expected to deduce laws from a single true theory of rights, but to forge legal rules which are mutually acceptable given the range of theories of rights held by the citizenry. Because of this very fact that there are a range of theories being served by the laws as negotiated through legislatures, it is a prima facie error to instruct a judge to construe a law in terms of a single true theory of rights which he must divine behind the political and legal system he serves. To so instruct a judge is to reject the basic political constitution which recognizes fundamental lack of agreement on theories of rights and implements the desire of individual citizens as a body to establish a political and legal community which can serve them well in the absence of such an authoritative true theory.

Should Dworkin ever choose to respond to such a criticism, he might try to argue that in spite of our perceived disagreements, there must at some level of abstraction actually be agreement on a true theory which minimally sets out the rights we do all expect. The error of this is that he moves in the wrong direction to find the agreement. And it is not really the case that he can admit that the strength of his theory of rights rests on agreement anyway. He wants it to be simply true. The correct direction to move is to a discussion of principles of rule of law which do not provide a thick theory of rights, but which do set up norms by which judges

and others can criticize and elaborate legislation in a regime built on the recognition of disagreement about some fundamental matters.

One's views about human nature should then determine how one proceeds in this matter. For if one accepts a conservative or Humean view of man, the theory of rights cannot have legal status that is binding on judges. And conversely, if one believes that a theory of rights is binding on judges, he implicitly endorses a much more positive view of man. The disturbing thing about moralistic theorists such as Dworkin is that they do not see this connection. They ignore the most crucial practical judgment that must be made in a political system. For much of their actual language uses the assumptions of legal realism and economics that men are self-interested actors, even in their official roles as judges and legislators. Yet the assumption that the implementation of their moralistic theories of law would produce superior results in terms of the values of their theory either overlooks the practical implications of human self-serving behavior, or it assumes it away with an implicit theory that men are naturally moral and cooperative. Neither will do. And that realization is what has given priority to constitutionalist thinking in the Anglo-American tradition.

The other side of this matter is that when moralistic theorists (liberals) see interests and factions making their impact at every level of the political and legal process, they can easily be disillusioned and conclude with the positivists that only power relationships matter. In this sense they are actually more pessimistic than the conservative who accepted the reality of this process as a given and moved less ambitiously to constitutionalism and rule of law as a means of mitigating or even removing the worst effects of a system that gives reign to free pursuit of interests.

Methodological Individualism and Holism

Another way of analyzing Orwell's troubles with his fellow socialists and his frequent sympathies with conservative outlooks would be to compare methodologies of social explanation. Socialists have almost always relied on holistic analysis in sociology and economics. Class and social forces explain group behavior. But conservatives and classical liberals have usually followed the opposite approach, which explains group phenomena entirely in terms of individual choices. There may indeed be universal tendencies in those choices, but they really are made by individuals. Though most of the technical literature on this topic ignores the political implications, the ideological issue has never been far below the surface.²¹

I was consequently quite perplexed when I first noticed that Orwell often aligned himself with the individualists in his intellectual methodology. For in his novelistic treatment of leading characters, he relies exclusively on an individualist analysis to explain behavior. But in his social analysis as well as his treatment of secondary characters in his novels, he blames social and economic structure for the evils he sees in society. Furthermore, even his main characters have very defective relationships with other people, reflecting directly the same analytical lapses as the author. They perceive others very insensitively and egocentrically, never understanding others in the kind of terms in which they so desperately want

²¹This was clear in the most influential early discussion. See Karl R. Popper, The Poverty of Historicism, N.Y., 1964, Harper and Row, p. 136. First published in 1957, London, Routledge and Kegan Paul. Serialized in 1944 in Economica. George Homans could not resist characterizing methodological holism as "methodological socialism." See his critique of that view in "The Relevance of Psychology to the Explanation of Social Phenomena," in Robert Borger and Frank Cioffi, eds., Explanation in the Behavioural Sciences, Cambridge, Cambridge University Press, 1970, pp. 313-28.

to be understood themselves.

Orwell, however, persists in invoking moralistic stereotypes in his explanations--thus robbing himself of the insights that could be gained from the individualist methodology. His stereotype of the businessman prevents appreciation of the amazing efficiency of a market. By stereotyping the parents of poor private school children as seekers after the appearances of education only, he concludes that benevolent government regulation is necessary for quality public education.²²

Orwell, like the Marxists and other structuralists, sees a power structure in societies that defeats the efforts of both participants and victims to ameliorate its effects. In Burmese Days²³ the hero both sees the problem and can do nothing about it, even in his personal life, except to commit suicide. British imperialism is an evil and counterproductive system, but has a power of its own that resists intelligent reform. Capitalism is likewise guilty of systems effects. Both give to a few great power over many, and in Orwell's rather simple minded analysis, permanently frustrate justice and equality.

Methodological holism has characterized the work of historicists, organicists and structuralists in the social sciences. Emile Durkheim gave the approach its classic formulation by insisting that sociology deals only with "social facts" and not at all with individuals.²⁴ Durkheim begins his exposition by noting

²²See A Clergyman's Daughter, New York, Harcourt Brace Jovanovich, first published in 1935, pp. 258-61.

²³George Orwell, Burmese Days, London, Heineman, 1967, pp. 39ff. First published in 1949.

²⁴Emile Durkheim, The Rules of Sociological Method, 8th edition, translated by Sarah A. Solovay and John H. Mueller, edited by George E. G. Catlin, Glencoe, Free Press, 1938, p. 2. First published in French in 1895.

types of conduct or thought which "are not only external to the individual but are, moreover, endowed with coercive power, by virtue of which they impose themselves upon him, independent of his individual will."²⁵ Examples of such "ways of acting, thinking, and feeling" which exist "outside the individual consciousness" would include: the beliefs and practices of religious life, which one finds ready-made at birth, language, the monetary system, the commercial system, professional practices, etc.

Durkheim makes the mistake of concluding from the fact that these things are real and influential independent of and prior to any particular individual consciousness, that they are independent of every individual. This of course cannot be right as these realities would disappear if every person who was aware of them disappeared. They are maintained in human minds and depend on acceptance there for their continuation. People change languages. Languages disappear. People lose faith in monetary or credit systems. These systems collapse and are replaced by others. People lose their faith or change their belief systems in ways that reflect an accumulation of individual actions, and not some external, independent causal reality.

But he is determined to maintain that social facts are essentially "external to the individual" and that they are "endowed with a power of coercion, by reason of which they control him." He is also anxious to insist that these external "ways of acting, thinking, and feeling" are not biological. Nor are they "psychological phenomena, which exist only in the individual consciousness and through it

²⁵Durkheim, p. 2.

Since their source is not the individual, their substratum can be no other than society"²⁶

Durkheim explicitly recognizes that his view will shock "the zealous partisans of absolute individualism".²⁷ But our sense of being autonomous individuals is an illusion. He defends this view by referring to the rearing of children, the socialization of the human being, and the process of education.²⁸ Through "unremitting pressure" the child is fashioned in the image of the social milieu, and parents and teachers are its representatives and intermediaries.

Social facts are not the particular versions of social ways of thinking that are reincarnated in the individual. Rather they are "the collective aspects of the beliefs, tendencies, and practices of a group that characterize truly social phenomena." Through repetition, these social manners "acquire a body, a tangible form, and constitute a reality in their own right, quite distinct from the individual facts which produce it."²⁹

It is not clear how Durkheim makes the jump from this characterization of social facts to the view that they are measurable and describable through statistics. Averages such as rates of births, marriages, and suicides, express "a certain state of the group mind (l'âme collective)."³⁰ "A social fact is every way of

²⁶Durkheim, p. 3.

²⁷Durkheim, p. 4.

²⁸Durkheim, p. 6.

²⁹Durkheim, p. 7.

³⁰Durkheim, p. 8.

acting, fixed or not, capable of exercising on the individual an external constraint; or again, every way of acting which is general throughout a given society, while at the same time existing in its own right independent of its individual manifestations."³¹

The radical realism of this approach is reflected in Durkheim's insistence that "the first and most fundamental rule is: Consider social facts as things."³² But their roots in minds cannot be ignored.

"Indeed, social things are actualized only through men; they are a product of human activity. They appear to be nothing but the overt manifestation of ideas perhaps innate, contained in the mind; they are nothing but the application of these ideas to the diverse circumstances involving the relations of men. The organization of the family, of contracts, of punishment, of the state, and of society appears thus to be simply the embodiment of the ideas we hold concerning society, the state, justice, etc."³³

Durkheim is also very anxious to reject the practices of sociologists who want to explain social phenomena or tendencies in terms of human nature or psychological generalizations, citing Comte and Spencer specifically.³⁴

". . . society is not a mere sum of individuals."

"When the individual has been eliminated, society alone remains. We must, then, seek the explanation of social life in the nature of society itself A whole is not identical with the sum of its parts. It is something different, and its properties differ from those of its component parts."

³¹Durkheim, p. 13.

³²Durkheim, p. 14.

³³Durkheim, p. 17.

³⁴Durkheim, pp. 98ff.

"every time that a social phenomenon is directly explained by a psychological phenomenon, we may be sure that the explanation is false."³⁵

These views led Durkheim to state as a basic principle the following: "The determining cause of a social fact should be sought among the social facts preceding it and not among the states of the individual consciousness."³⁶

Perhaps the most influential response to the holistic view was a paper read by Karl Popper in 1936 in which he argued that "...the task of social theory is to construct and to analyse our sociological models carefully in descriptive or nominalist terms, that is to say, in terms of individuals, of their attitudes, expectations, relations, etc.--a postulate which may be called 'methodological individualism'."³⁷ The debate over this issue has not died. Joseph Agassi³⁸ and others have developed the individualist view and defended it quite successfully. In turn John Wisdom and others have tried to argue more recently that one need not take the extreme view of a Marx or a Durkheim in order to recognize that there are social facts which interact with individual choices and therefore play some role in the explanation of social phenomena.³⁹

Recent developments in political theory vindicate the insight that this

³⁵Durkheim, pp. 102-104.

³⁶Durkheim, p. 110.

³⁷Popper, p. 136. Cf. Karl R. Popper, The Open Society and its Enemies, ch. 14, New York, Harper and Row, 1962.

³⁸"Methodological Individualism," British Journal of Sociology, II, 1960, 224-270.

³⁹J. O. Wisdom, "Situational Individualism and the emergent Group-properties," in Borger and Cioffi, pp. 271-296.

methodological dispute has significant bearing on the way one conceptualizes power and the abuse of power. In 1974 Brian Barry convened a conference of European political theorists to explore the concept of power in the furtherance of political theory generally.⁴⁰ Their primary objective seemed to be to refute the catallactic theories which derive social and political power from voluntary individual exchanges on a market model. However, their inspiration does not seem to be a radical one. Rather they are welfare state liberals operating at the theoretical level trying to salvage a position abandoned by empirical American theorists of the same ideological persuasion. They are impressed with the malignancy of power structures, thanks to Marxist analyses, and insist on using these to bludgeon Hayek, Blau, and other theorists of voluntarism and individualism. The collection demonstrates the centrality and persistence of the power question --particularly for those who want to increase the centralized power of the state to solve social problems.

Jack Lively attacked Peter Blau's exchange theory of social power⁴¹ in particular and the catallactic approach in general, i.e., "the notion of a spontaneous and self-adjusting order which emerges from the mutual exchange of benefits between self-interested individuals."⁴² Pierre Birnbaum argues that Blau gets his ideas from the sociologist George Homan's works on elementary individual

⁴⁰Brian Barry, Power and Political Theory, London, John Wiley, 1976.

⁴¹Peter M. Blau, Exchange and Power in Social Life, New York, John Wiley and Sons, 1964.

⁴²Jack Lively, "The Limits of Exchange Theory," in Barry, ed., p. 2. Perhaps the best contemporary explanation of the catallactic model of society is to be found in F. A. Hayek, Law, Legislation, and Liberty, vols. I and II, Chicago, University of Chicago Press, 1973 and 1976.

behavior, and that both are linked to the utilitarianism of Bentham. Like Bentham they maintain that it is "impossible to take account of the situation prior to exchange based on utilitarian calculation, from either an empirical or a moral point of view." Furthermore, "the principle of utility rests on an individualistic and nominalistic concept of society. . . ," and does not recognize Durkheim's social facts.⁴³

Birnbaum finds Weber and Simmel guilty of nominalism as well, as intermediate sources for Blau's and Homans' individualistic sociology. He quotes Weber: "If I have become a sociologist. . . it is mainly in order to exorcize the spectre of collective conceptions which still lingers among us. In other words, sociology itself can only proceed from the actions of one or more separate individuals and must therefore adopt strictly individualistic methods."⁴⁴ This methodological individualism that is hostile to the Marxist analysis of power is often the sociology of Orwell. He seems to bridge the two points of view--but unsuccessfully.

But how are social scientists to accomplish this project laid out for them by the methodological individualists? Surprisingly, it would appear that modern economic theory may offer one of the best models. Gary Becker has probably done more than any other economist to develop the economic approach to the explanation of social phenomena generally. Becker is not fully sensitive to the

⁴³Pierre Birnbaum, "Power Divorced from its Sources: a Critique of the Exchange Theory of Power," in Barry, ed., p. 16.

⁴⁴Birnbaum, 17.

philosophical issues I have been discussing above. But he does describe his approach in such a way that we can see its relevance as a model.

"Prices and other market instruments allocate the scarce resources within a society and thereby constrain the desires of participants and coordinate their actions. In the economic approach, these market instruments perform most, if not all, of the functions assigned to 'structure' in sociological theories."⁴⁵

"The heart of my argument is that human behavior is not compartmentalized, sometimes based on maximizing, sometimes not, sometimes motivated by stable preferences, sometimes by volatile ones, sometimes resulting in an optimal accumulation of information, sometimes not. Rather, all human behavior can be viewed as involving participants who maximize their utility from a stable set of preferences and accumulate an optimal amount of information and other inputs in a variety of markets."⁴⁶

He concludes that the economic approach provides the unified framework "for understanding all human behavior" which eluded Bentham, Comte, Marx, and others.⁴⁷ Historically, microeconomic theory had difficulty coming to grips with aggregate phenomena, and could not do so until it introduced "expectations" as an explanatory factor. We may soon see many social scientists taking Becker's lead and using the economic approach to explain such diverse social phenomena as discrimination, crime, and family structure.

The approach clearly meets the requirements of the methodological individualists

⁴⁵Gary S. Becker, The Economic Approach to Human Behavior, Chicago, University of Chicago Press, 1976, p. 5.

⁴⁶Becker, p. 14.

⁴⁷Becker, p. 14.

in that all social explanations can be reduced to concrete choices made by individual actors.

There is one important way in which all social phenomena can ultimately be reduced to individual phenomena without eliminating completely the causal role of "social facts," although I have not found it mentioned in the literature. Each man acts on the basis of his beliefs about the world. But each individual's world view is comprised of imagined and culturally derived ideas and generalizations from direct experience. Therefore, the hypostatized ideas and reifications about society and social class and power that we each must develop as part of our world views (a type of "social facts"), enter directly into the social process as we think and make the most mundane choices. As individuals we cannot think nominalistically. Our minds cannot deal directly with the multiplicity of concrete and specific perceptions they have received. Rather, we can more easily use the holistic ideas which we have formed in our minds as a result of those perceptions. Yet our actions can still be analyzed in terms of the specific individual ideas and choices that determined them and are therefore best described nominalistically from the point of view of an external observer.

On this analysis, there is a causal role for intellectual aggregations in social science explanation, though it is not the same one described by Durkheim or Marx. Furthermore, the actual mental entities populating the world views of different individuals are not likely to be identical. So even at this level, methodological individualism seems to hold.

But there is little doubt that there are groups of people who share very similar outlooks, especially with respect to narrow aspects of the world. It is because of this that E. C. Banfield can write about class differences as differences

of views about the world and the individual's relationship to and sense of control over that world.⁴⁸

It is also probably the case that Marxist class analysis reflects these differences that Banfield points out to us. The Marxist analysis intellectualizes the paranoid defeatist outlook of the lower classes and explains how it is that all those people who never thought for a minute about the lower classes are really in a conspiracy to exploit them, and why the structure of power permanently excludes the oppressed classes from opportunities to work within the system to improve their situation.

In fairness, it should be pointed out that Marx' theory was not consistently holistic in the sense I have criticized above. Marx often argues for his theory in a utilitarian fashion assuming that individuals rationally pursue their own individual interests. When the class-oriented behavior Marx predicted does not materialize, it does not indicate that the economic motivation is not predominant, as some of his critics have implied, but rather that there are no individual incentives for class action.⁴⁹ To develop a consistent holistic theory Marx would have been logically obliged to emphasize the sincere, selfless sublimation of individual interests in favor of class-oriented behavior. But instead he emphasized selfish, individual, bourgeois calculation in a Benthamite fashion, ignoring the sociological and psychological processes by which an irrational or emotional class consciousness might develop.⁵⁰ Of course, Marx simply failed to grasp the fact that class interest

⁴⁸E. C. Banfield, The Unheavenly City Revisited, Boston, Little, Brown and Company, 1974, ch. 3.

⁴⁹Mancur Olson, Jr., The Logic of Collective Action, Harvard University Press, 1965, p. 108.

⁵⁰Olson, 109.

and individual interest were not just two sides of the same coin.

This failure characterizes most holistic approaches to social explanation and explains the persistent inability of Orwell and other socialists particularly to perceive the many important implications of the fact that most if not all social phenomena can be reduced to individual motivation and choices. The difficulty in seeing these implications usually revolves around the problem of unintended consequences. Radicals like Connolly have tried to force their way through this by assuming class-wide phenomena of self-deception. But the analytically elegant solution is Adam Smith's invisible hand. It is the one that takes all the facts at face value and has no problem with the reality of individual intention in all action, even when social results do not reflect those intentions.

One obvious illustration of this analytical problem is Orwell's account of British imperialism in Burmese Days. Orwell implies that the effects of British imperialism are evil because of the petty, selfish, racist attitudes and motives of the individual participants. The ability of evil men to shape the world in accordance with their intentions is exemplified by the completely corrupt native official, U Po Kyam, who, like the British empire, is always successful in his evil schemes. And he is the most deliberate of Orwell's characters--choosing and scheming the very consequences he produces. Only death cheats him, coming early, before he can build the pagodas that will ransom him from a Buddhist hell--small loss, we might expect, in Orwell's eyes. But it is the only punishment the author can muster. Like other writers of the same persuasion, Orwell fails to take into account the very important unintended consequences of most human activity as part of the measure by which social and economic systems should be

judged. The real blessings of economic growth and development and higher civilization are invisible to Orwell, hidden by his almost adolescent inability to distinguish the morality of intentions and the value of social results.

So while Orwell distinguishes himself from the socialist intelligentsia of his day by using almost exclusively individualist explanations for human behavior, he fails to take the additional step taken by methodological individualists and recognizes nothing resembling Adam Smith's invisible hand working systematically beyond those intentions and producing social effects which must be evaluated on their own merits.

Robert Nozick has helped us understand the distinctiveness and value of invisible hand explanations. "They show how some overall pattern or design, which one would have thought had to be produced by an individual's or group's successful attempt to realize the pattern, instead was produced and maintained by a process that in no way had the overall pattern or design 'in mind.'"⁵¹

Nozick notes that most examples of invisible hand explanations seem to be of the equilibrium process variety in which "each component part responds or adjusts to 'local' conditions, with each adjustment changing the local environment of others close by, so that the sum of the ripples of the local adjustments constitutes or realizes P."⁵² This would include market explanations for particular patterns of distribution, prices, etc. And this kind of invisible hand explanation

⁵¹Robert Nozick, Anarchy, State, and Utopia, New York, Basic Books, 1968, p. 18.

⁵²Nozick, p. 21.

would be consistent with methodological individualism.⁵³

Big Brother Forever?

These analyses come full circle to help us with our analysis of power. To the extent that power is defined in terms of intentions and success in changing the world, power is a short range phenomenon. For in the long run no one successfully changes the world through coercion to fit his intentions. Almost universally, unintended consequences drown out the intended ones. Human individuality, creativity, and self-interest work day and night to frustrate the tyrant's plan. Totalitarianism of Orwell's variety may be possible in the short run with a charismatic dictator such as Hitler, Stalin, or Mao. But it cannot maintain itself in an institutionalized form over time as Big Brother. China in the Cultural Revolution in many ways exemplified 1984.⁵⁴ But it could not maintain itself over

⁵³However, Nozick senses a difficulty for methodological individualism when applied to the filter variety of invisible hand explanations. In these, the pattern P is produced because of filtering processes, like social structures or Durkheimian "social facts", which only allow contributors to P to pass through. Among his examples are listed the usual explanation for the intellectual preeminence of the Jews based on reproductive patterns of high IQ Jews and Catholics in the middle ages and later. Nozick, pp. 21-22. See also, Armen Alchian, "Uncertainty, Evolution, and Economic Theory," Journal of Political Economy, 1950, 211-221.

Considered abstractly, the notion of a filtering process might seem problematic. But given at least the first example, there would not seem to be any problem for a methodological individualist to explain why intelligent Catholics were not reproducing themselves at they rate of Jewish rabbis. The resulting statistics would seem to reflect cumulative individual choices as influenced by different social norms. The externality of these norms would not seem to pose any more problem than individual choices made in light of laws, economic considerations, or other external factors.

⁵⁴Fox Butterfield, China: Alive in the Bitter Sea, New York, Bantam, 1983, reports several Chinese people's view that during those years, and in some cases even now, their country exemplifies the manipulation of people through the distortion of truth described by Orwell.

time or generations. Russia has maintained itself somewhat longer, but the long run looks very unsettled. The East European states are in various stages of transition. Even without rule of law and constitutional protections, creative self-interest whittles away constantly at the structures of socialist power.

On the other hand, it is worth noting that some men have deliberately made contributions to the world that have had much of their intended effect over the long run. But their intentions have not sprung from a lust for power; nor have they been implemented coercively. Contrary to Orwell's example of U Po, these are the authors of ideas and institutions which which continue to attract that voluntary support of men seeking self-improvement. Their longevity stems from the value of their continuing contributions to others. James Madison and John Adams stand out as two great examples in the American tradition. Fortunately for the quality of our lives, history provides countless other examples.

Orwell runs right up against this problem of social explanation in 1984 as he attempts a thought experiment that will make this form of imagined totalitarianism a future reality. In order to transcend the charismatic totalitarian regimes of the first half of the twentieth century Orwell saw that two things needed to be institutionalized. The first was the charismatic individual who could keep control of the full apparatus of government and command the fate of individuals and groups at his whim.⁵⁵ Big Brother was a permanent non-dying Stalin or Hitler image, maintained by the party. Orwell could only institutionalize the dictator himself by institutionalizing his lust for power through the members of

⁵⁵This theme has been explored in some interesting directions in Robert C. Tucker, "Does Big Brother Really Exist?" Psychoanalytic Inquiry, vol. 2, no. 1 (1982), and in Michael Walzer, "On 'Failed Totalitarianism'," both of which are republished in Irving Howe, ed., 1984 Revisited: Totalitarianism in our Century, New York, Harper and Row, 1983, pp. 89 and 103 respectively.

the Inner Party. Thus Orwell portrays O'Brien fulfilling his personal lust for power by making Winston suffer, obey, and even love in return for the monstrous way he is treated. At the same time O'Brien also contemplates his own mortality. O'Brien resolves this difficulty quickly by asserting even in reference to himself and his fellows that it would not matter if the hateful activities of the Inner Party wore the members out by age thirty, for the death of the individual is not death. "The Party is immortal."⁵⁶ And the paradox of individuals motivated by group gains, which can only be felt by individuals in principle, is assumed away.

Not only is Orwell trying to imagine the institutionalization of the charismatic leader, but even more importantly, he asserts the possibility that the power lust itself can be institutionalized. He actually presents O'Brien as one who can be driven primarily by power lust and can simultaneously be satisfied with the satisfaction of that lust for the Party rather than for himself. It is of no consequence that he will age and die. The Party will live forever. And the Party's lust for power will be increasingly satisfied in the future as more and more people are made to suffer in the process of obeying its commands. But the Party's life and lustings are only metaphors. And they cannot explain O'Brien's behavior. They cannot explain why he is not driven to become Big Brother himself, to gain power over the Inner Party for himself.

Orwell has Winston respond correctly that "there is something in the universe--I don't know, some spirit, some principle--that you will never overcome."⁵⁷ But he doesn't understand that it is the principle of individual

⁵⁶1984, p. 272.

⁵⁷1984, 273.

motivation within the Party that will preclude the total institutionalization of the lust for power, and therefore preclude any state from arriving and remaining at the horror levels of Oceania. With the demise of the charismatic dictator, the Party may indeed carry on as in the Soviet Union, by banding together to maintain their privileged position against the rest of society. But such a party cannot maintain itself in the way Orwell imagines. Rather, it must engage in the fiction of doing humanity a service and in the actual balancing of interests internally on a day by day basis to maintain its power position. The nominalistic character of social reality cannot be assumed away. Tyranny is a recurring fact of human experience. But Oceania is not a permanent possibility, however much Orwell may have feared that only technological gimmicks would be necessary to usher it in.

At this point the contradiction between the holistic and individualistic elements of Orwell's writing clash head on. And it is the question of power that brings on the clash. For if it really is not possible for this highly individualistic lust for power to be satisfied vicariously through an abstraction or a whole such as the Party, then it is not possible for a party to build stable power on that form of motivation in its members. It would seem inevitable that by encouraging them to seek power, they can only satisfy their lust by seeking their own power over each other as individuals. And unlike Adam Smith's invisible hand, which promotes the general good as individuals seek their own interest, the pursuit of naked power without constitutional restraint can only produce chaos, disorder, and suffering. For the pursuit of self-interest in a market leads each actor to find the ways in which he can perform the services for others that will be most valued by them. But the pursuit of power over a society is a truly zero sum game, and there is no equilibrium position that maximizes each actor's utility. For in this game, as

Hobbes correctly saw, the differences of human strength and intelligence are insignificant. The weakest man can easily kill the strongest man. Orwell's nightmare is therefore possible only if the power lust he emphasizes can indeed be institutionalized. And given the impossibility of that, we cannot join the author in the belief that 1984 describes a society that could come into being, not even with the technological advances which he imagines to facilitate mind control.

Orwell, of course, is not the first to try to imagine how a society might be organized on principles of supra-individual forms of motivation. Plato saw that the logical extension of the state under a philosopher king, if it were to be possible, would be a community of pains and pleasures, in which every man would share in the pains and pleasures of every other.⁵⁸ Thus each would be motivated individually to promote the greatest pleasure of all, rather than of self. It would seem that Plato really saw the problem more clearly than any other, and certainly more clearly than the socialist writers of the last century and a half. For whereas they have been willing to allow themselves to solve this problem with a mystical assertion that individuals would act on the basis of class interest rather than self-interest, Plato realized that somehow the interest of the individual must be made to coincide with the interests of the group. Plato's imagined communism is then on the right level, the communism of all pains and pleasures. But as Plato knew full well, the radical separation of our bodies (and, therefore, minds) makes this community an absolute and permanent impossibility. The best polity for men will have to be one that takes full account of their individuality and recognizes that as long as they are men they can only act on the basis of choices arising out of individual understanding and motivation. Like the modern philosophers, Plato

⁵⁸Republic, Bk. 5.

saw individuality as the insuperable barrier to all utopian schemes. And like them, he sees rule of law and constitutions as the best hope for human societies.

Contrary to what I had hoped to find, Orwell, like many others who have written on these subjects, has not advanced our understanding of power or its abuse. Rather, he has perpetrated the same confused views on the subject which have helped derail the twentieth century in its discussion of tyranny. It is unfortunately the case that the theory of constitutionalism stands today in considerable disrepair. During the course of the twentieth century particularly it has been abused, neglected and perverted to the point that both academicians and laymen are likely to discuss contemporary constitutional questions in terms of misconceptions that would have been easily identified by most educated men two centuries ago.