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Inhaltsverzeichnis

Vorwort der Herausgeber	V
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Martyn P. Thompson

Michael Oakeshott: Konservatismus und politische Bildung . . .	1
----------------------------------------------------------------	---

Vernünftige Praxis im Denken Oakeshotts

Judith A. Swanson

Prudence and Human Conduct.

A Comparison of Aristotle and Oakeshott	21
---------------------------------------------------	----

Wendell John Coats, Jr.

Practical Implications of Oakeshott's Poetic Conception

of Human Experience	39
-------------------------------	----

Josiah Lee Auspitz

Deciding versus Choosing	49
------------------------------------	----

Rainer Schmidt

Schildkröten und Heublumen.

Michael Oakeshotts Rationalismuskritik im Vergleich

mit Hannah Arendt	59
-----------------------------	----

Silviya Lechner

Morality and History in Oakeshott's System of Ideas	77
---------------------------------------------------------------	----

Oakeshott und die praktische Philosophie in Deutschland

Ezraim Podoksik

From Difference to Fragmentation.

Oakeshott, Simmel and Worlds of Experience	97
------------------------------------------------------	----

Prudence and Human Conduct

A Comparison of Aristotle and Oakeshott

Judith A. Swanson

I. Theorizing Human Conduct: Metaphysics Foresworn or Implied?

Both Aristotle and Oakeshott theorize human conduct in terms of its postulates and Aristotle would agree with Oakeshott that:

Understood in terms of its postulates «human conduct» is «free» (that is, intelligent) agents disclosing and enacting themselves by responding to their understood contingent situations in chosen actions and utterances related to imagined and wished-for satisfactions sought in the responses of other such agents, while subscribing to the conditions and compunctions of a multitude of practices and in particular to those of a language of moral understanding and intercourse.¹

Aristotle points out, however, that human conduct reveals more about human beings than that. How human beings function reveals the function of man. Just as musicians and dancers reveal that the function of playing music and of dancing is to play and dance well, so human beings reveal that their function is to live well. Although, according to Oakeshott, individuals demonstrate more or less facility with moral and other conditional practices, and thus, morally and practically speaking, live comparatively better or worse lives, the historical contingency of those practices denies any timeless standards of human conduct.² By contrast, according to Aristotle, historical practices reveal such standards; human beings fare best when their dialogue becomes informed by an ability to sort out opinions from knowledge. For knowledge contains incontrovertible practical and moral truths about the human condition indicative of its possibilities and limitations. With such knowledge, neither individuals nor states are entirely embedded in conven-

¹ Oakeshott 1975, p. 112.

² That is, in his view: «A man's culture is an historic contingency, but since it is all he has he would be foolish to ignore it because it is not composed of eternal verities». Oakeshott 1989, p. 29.

tion or tradition. Perception of, or belief in, universal truths helps us not only to navigate our social inheritance but to correct and improve it.

According to Aristotle, prudence perceives such truths in circumstances and brings about what is good for a man and for men in general through deliberated actions, decrees, and law. Indeed prudence is the defining virtue of a ruler.³ By contrast, according to Oakeshott, the authority to make law »cannot be identified with any natural quality (virtue, prudence, wisdom, charisma and so on)«, it must be an endowment of an office in »recognition of political deliberation as an engagement concerned with the desirability or otherwise of the authoritative prescriptions of *respublica* and with nothing else«.⁴

A civil prescription, then, cannot be shown to be desirable [...] by purporting to connect it inferentially with a superior norm of unquestionable or acknowledged desirability, a moral rule, a prescriptive Law of Reason or of Nature, a principle of utility, a categorical imperative, or the like.⁵

And that it cannot be so established is not a »prudential limitation« due to difficulty of discerning subscription and ensuring enforcement, rather: »The counterpart of civil authority is civil obligation, and there cannot be an obligation to acknowledge the truth or falsity of a theorem or a doctrine«.⁶

In summation of this contrast: whereas Oakeshott believes that »the engagement of a moral philosopher [is] distinct from that of a moralist«, that, in other words, »we may ignore the actual obligatory conditions prescribed in a morality and reflect upon the character of moral relationship as a mode of association; that is, formulate various propositions about moral authority and obligation«⁷, according to Aristotle we cannot formulate those propositions apart from recognition of normative prescriptions implied in human conduct. By describing prudence as he does, Aristotle engages in ethical thought, »an indeterminate arrest in experience«, and thus in »philosophical

³ Aristotle 1984, 1277a14–23, b25–26.

⁴ Oakeshott 1983, p. 139; Oakeshott 1975, p. 170.

⁵ Oakeshott 1975, p. 174. Likewise, »a proposal to prescribe as a rule that a certain opinion, theorem, purported statement of fact, doctrine, creed, dogma, or the like be believed to be true or false, or that certain conduct be believed to be morally right or wrong or be believed to be organically beneficial or harmful to human beings, cannot be a political proposal« (p. 170).

⁶ Oakeshott 1975, p. 171. Rather, »a political proposal may be specified as one about which there is something to be thought and said other than what may be thought and said in terms of fact or moral conviction« (p. 171).

⁷ Oakeshott 1983, p. 133.

error.«⁸ According to Oakeshott, to avoid that error, the »self-consciously conditional theorist [...] must forswear metaphysics«.⁹

II. Aristotle's and Oakeshott's Relative Attention to »Prudence«

The most important difference between Aristotle's and Oakeshott's respective attention to prudence is that Aristotle analyzes it and Oakeshott does not. Aristotle makes it a subject of discussion in »The Nicomachean Ethics«, where he categorizes, characterizes, and compares it, relative to other virtues. He also devotes a chapter in »The Politics« to the distinction between the good man and the good citizen that hinges on prudence. Oakeshott employs but does not analyze the terms »prudence« and »prudential« and does so chiefly only in »On Human Conduct« and »The Rule of Law«.

Out of the eighteen works by Oakeshott that I've read, thirteen make no reference to prudence. Those thirteen, all essays, and listed here in chronological order, are: »Religion and the Moral Life« (1927), »Rationalism in Politics« (1947), »The Tower of Babel« (1948), »The Political Economy of Freedom« (1949), »Rational Conduct« (1950), »The Masses in Representative Democracy« (1961), »Political Education« (1962), »The Voice of Poetry in the Conversation of Mankind« (1962), »Learning and Teaching« (1965), »Education: The Engagement and Its Frustration« (1972), »A Place of Learning« (1975), »Talking Politics« (1975), and »Political Discourse« (1991).¹⁰

The five works that I know of that do include the word prudence are: »Experience and Its Modes« (1933), »On Being Conservative« (1956), »On Human Conduct« (1975), »The Rule of Law« (1983), and »The Politics of Faith and the Politics of Scepticism« (1996). However four of those five works together mention »prudence« or »prudential« a total of only fifteen times. In »Experience and Its Modes« the word »prudence« appears only once; in »On Being Conservative«, also only once; in »The Politics of Faith and the Politics of Scepticism«, three times, and in the essay »The Rule of Law«, »prudence« and its derivative »prudential« appear altogether ten times. Only »On Human Conduct« makes regular use of the words »prudence« and

⁸ Oakeshott 1933, pp. 334–335.

⁹ Oakeshott 1975, p. 25.

¹⁰ While the absence of the specific word »prudence« from these thirteen essays does not make them irrelevant to this analysis, it does mean that their relevance has to be established by identifying and analyzing concepts and arguments apparently related to prudence. I do not try to do that here.

»prudential«, with a total of forty-five instances (in 326 pages).¹¹ Thus, the total number of instances of »prudence« and »prudential« that I counted in the eighteen works mentioned came to sixty.¹²

III. Aristotle's Prudence: The Highest Moral Virtue and the Ruler's Virtue

Although Aristotle places prudence among the intellectual rather than the moral virtues, he complicates that placement by characterizing it as a lesser intellectual virtue that functions as the highest moral virtue.

Nature ranks the faculties according to what each grasps. The faculties that concern what varies rank lower in nature than those that apprehend what does not vary because that which is constant maintains order, whereas that which comes into being and passes away merely shares in it; and what maintains order partakes more directly in the divine or supreme good (*to ariston*).¹³ Because what varies includes »both things made and actions done«¹⁴ the lower intellectual virtues are technical skill and prudence. The higher virtues are scientific knowledge, intuitive reason, and wisdom, for the objects of these do not come into being and pass away: the object of scientific knowledge is that in nature which, demonstrably, never changes (e. g., the constellations of the stars, the composition of air); intuitive reason apprehends »the first principle from which what is scientifically known follows«; and wisdom is intuitive reason and scientific knowledge combined. Prudence and wisdom therefore differ radically in that »the content of wisdom is always the same, but the content of prudence is not«.¹⁵

¹¹ I was thus puzzled to discover that the index entry »Prudence, prudential« in »On Human Conduct« lists only two page numbers, namely pages 60 and 122. Apparently, either Oakeshott didn't compile the index himself or, less likely, he didn't think the entry important.

¹² In *Oakeshott* 1933, the single appearance occurs on page 295 and in *Oakeshott* 1962a on page 173. In *Oakeshott* 1996, »prudence« appears on pages 31, 56, and 124. In *Oakeshott* 1983 »prudence« and »prudential« appear on pages 124, 126, 128, 130, 134, 139, 142, 143, 148, and 150. And in *Oakeshott* 1975, the words appear in Chapter I on pages 45, 50, 51, 55, 59, 60 (twice), 62, 63, 73, 79, 80 (twice), 82, 87, 88, 90–91 (four times); in Chapter II on pages 113, 122, 124, 130, 149, 153 (footnote), 159, 170, 175; and in Chapter III on pages 192, 193, 212, 231 (twice), 234 (twice), 237, 239, 243 (twice), 248, 249, 254, 277, 298.

¹³ *Aristotle* 1980, 1075a11–15.

¹⁴ *Aristotle* 1966, 1140a1–2.

¹⁵ *Aristotle* 1966, 1139b22–32, 1140b33–34, 1141a18–25, 34–b3; *Aristotle* 1980, 1074b26–27.

Prudence is more like a moral than an intellectual virtue for at least three reasons. First, it presupposes the moral virtues, in particular temperance or moderation. Temperance preserves prudence by immunizing judgments about what should be done from pleasures and pains that might destroy or pervert those judgments.¹⁶ Aristotle notes that even the etymology of the word implies as much, in that *sophrosune* (temperance) derives from *sozein* (to preserve, maintain) and *phronesis* (prudence).¹⁷ Prudence also requires moral virtue because it effects good acts and moral virtue »makes us aim at the right mark, [whereas] prudence makes us take the right means«. ¹⁸ Second, those means – chiefly money, power, and freedom – are of human origin and require human beings as beneficiaries.¹⁹ And third, prudence serves wisdom, aiming to bring it into being as medical science aims to bring health into being.²⁰

Its service to wisdom means that prudence involves rational principles, or universals, as well as particulars. Those principles are available for apprehension through particulars:

the intuitive reason which is presupposed by demonstrations grasps the unchangeable and first terms, while the intuitive reason involved in practical reasonings grasps the last and variable fact, i. e., the minor premises. For these variable facts are the starting-points for the apprehension of the end, since the universals are reached from the particulars; of these therefore we must have perception, and this perception is intuitive reason.²¹

The prudent man, who by definition deliberates well about what conduces to the good life in general²², thereby perceives universals through particulars and thus also the concept of good. As Leo Strauss explains:

Just as the partial human goods cannot be known to be goods except with reference to the highest or the whole human good, the whole human good cannot be known to be good except with reference to the good simply, the idea of the good, which comes to sight only beyond and above all other ideas: the idea of the good, and not the human good or in particular gentlemanship, is the principle of prudence.²³

¹⁶ »A man corrupted by a love of pleasure or fear of pain, entirely fails to discern any first principle, and cannot see that he ought to choose and do everything as a means to this end, and for its sake; for vice tends to destroy the sense of principle«. Aristotle 1966, 1140b17–20.

¹⁷ Aristotle 1966, 1140b11–16.

¹⁸ Aristotle 1966, 1144a7–9.

¹⁹ Aristotle 1966, 1177a30–32, 1178a16–19, 24–b3.

²⁰ Aristotle 1966, 1145a6–11.

²¹ Aristotle 1966, 1143b2–6.

²² Aristotle 1966, 1140a25–28, 1141b14.

²³ Strauss 1964, p. 29.

The prudent man also has the capacity to put into practice what conduces to the good life in general.²⁴ He thus conducts his own life nobly and has the potential to rule, to recognize and put into practice what is good for men in general. Indeed, among the universal truths he perceives through particulars are these three: 1) ruling and being ruled are not only necessary but advantageous; 2) »immediately from birth certain things diverge, some toward being ruled, others toward ruling«; and 3) »the better rule is always that over ruled [things] that are better, for example, over a human being rather than a beast«.²⁵

Recognizing what is good for men in general, the prudent ruler puts it into practice by consulting laws. Laws embody legislative wisdom or legal principles to guide judgments about what should be done in particular cases. Prudence translates, by good deliberation, judgments into actions, thus enabling the ruler to issue (good) commands.²⁶ If a law does not stipulate what would be fair, then he rectifies that deficiency by prescribing what he deems fair rather than what is legally just.²⁷ Accordingly, prudence shapes legislative wisdom and politics.²⁸

In presupposing judgment, prudence distinguishes the ruler from the clever incontinent or evil man, who can also obtain his desired end. Both the prudent and the clever man can, by deliberating or calculating correctly, figure out the means to achieve a certain end; but only the prudent man deliberates well – that is, nobly – because the means he arrives at effect a good end (embodied in judgment).²⁹ In actualizing judgment, prudence distinguishes the ruler from the man who is only capable of rendering judgments, and thereby of holding true opinion, but cannot apparently effect judgments.³⁰

²⁴ Aristotle 1966, 1140b20–22.

²⁵ Aristotle 1984, 1254a22–27. Prudence is not only the capacity to rule but also to be ruled. Hence, in the best regime all citizens have actual prudence when ruling and latent prudence when being ruled (Aristotle 1984, 1277a13–27, 1333a11–13). Lesser regimes should make prudence a qualification for as many offices as possible and especially for the most important ones because rule is not properly speaking rule unless those ruling possess prudence. Only the prudent should rule because only they recognize that the point of view of the ruled is only one of the two points of view that should be taken into consideration when ruling (1277b15–17). The other point of view is that of the ruler – the point of view of what is best for everyone in practice (Aristotle 1966, 1141b12–14, 1140b4–6, 20–21).

²⁶ Aristotle 1966, 1143a7–10, 1140b3–16, 1141b12–21.

²⁷ Aristotle 1966, 1137b19–27, 1140b4–6, 1143a31–33.

²⁸ Aristotle 1966, 1141b24–28.

²⁹ Aristotle 1966, 1142b18–33, 1143a14–15, 26–35.

³⁰ Aristotle 1966, 1143a8; Aristotle 1984, 1277b28–29.

While prudence shapes laws, laws also shape prudence, inasmuch as they cultivate the moral virtue that disposes the prudent man to good action, or makes him aim at the right mark. »Legislators make the citizens good by forming habits in them, and this is the wish of every legislator, and those who do not effect it miss their mark, and it is in this that a good constitution differs from a bad one.«³¹

In summation, then, good laws cultivate a disposition to good action, deliberation arrives at the best means, and prudence carries out deliberative decisions³² by effecting good action, which contributes, if the prudent man holds political office, to political wisdom. In Aristotle's words:

Of the wisdom concerned with the city, the practical wisdom which plays a controlling part is legislative wisdom, while that which is related to this as particulars to their universal is known by the general name »political wisdom«; this has to do with action and deliberation, for a decree is a thing to be carried out in the form of an individual act. This is why exponents of this art are alone said to »take part in politics«; for these alone »do things« as manual labourers »do things«.³³

IV. Oakeshott's Two Connotations of Prudence

Oakeshott uses »prudence« and »prudential« in two ways: a third of the time, he uses the words to characterize agency and to mean reflection, deliberation, or diagnosis. In this first sense, the prudential man reflects on, deliberates about, or diagnoses the moral intimations of a situation. In the other two-thirds of the cases, Oakeshott uses »prudence« and »prudential« to connote instrumental, helpful, utilitarian, or strategic. In this second sense, the prudential man makes use of resources to obtain substantive satisfactions. Seventy-five percent of the total number of instances, forty-five out of the sixty, appear in »On Human Conduct« alone, wherein many passages couple »prudential« with »moral« in ways that both link and distinguish them, morality subsuming but never reducing to prudence.

Although the two different connotations of prudence are not opposites then, they are in tension: reflection, deliberation, and diagnosis tend to complicate and thereby check or slow self-enactment and self-disclosure, whereas instrumental, helpful, or utilitarian means or lore tend to simplify and thereby facilitate or quicken self-enactment and self-disclosure. In other words, prudence in the first sense induces caution, whereas prudence in the

³¹ Aristotle 1984, 1103b3–7.

³² Aristotle 1966, 1140b20–28.

³³ Aristotle 1966, 1141b24–30.

second sense encourages. Both sorts of prudence, however, generate confidence or conviction, or at least lessen apprehensiveness in human conduct.³⁴

Prudence thus copes with our inescapable and unsought freedom by transforming it from a postulate into an experience yielding a satisfaction of its own, independent of the achievement of sought-after substantive satisfactions. It thus presupposes and springs from what Oakeshott believes to be an »historic disposition«, characteristic of those brought and held together in a modern European state: »the disposition to recognize imagining, deliberating, wanting, choosing, and acting not as costs incurred in seeking enjoyments but as themselves enjoyments, the exercise of a gratifying self-determination or personal autonomy«.³⁵

1. *First Sense: Deliberation, Reflection, Diagnosis*

The first instance of the word »prudence« in Oakeshott's works that I'm aware of appears in »Experience and Its Modes« (1933), where he uses it only once in 356 pages – on page 295 in his Conclusion – to connote »cautious deliberation«. There he writes: »It is a rare and peculiar genius which enables a man to see clearly what belongs to his life and to follow it without reserve, unhindered by the restraint of prudence or the impediment of doubt.« Twenty years later in »The Politics of Faith and the Politics of Scepticism« (1996) the word shows up only three times, twice qualifying »diffidence«: it's more accurate, Oakeshott says, »to find the roots of sceptical politics in [...] prudent diffidence rather than in some more radical doubt« (about the pursuit of perfection in one direction only)³⁶; and observes at the end of the book that older people tend more than younger ones to have »an affinity with the prudent diffidence of scepticism«.³⁷ Oakeshott attributes even to Francis Bacon a »native prudence« that induced Bacon to deprecate premature formulation of general scientific theories and to advocate cautious experiment before any great new project was undertaken.³⁸ The cautiousness inherent to prudence apparently always checks the self-disclosure of the man of conservative temperament, whom Oakeshott describes in »On Being Conservative« (1956) as follows: »What others plausibly identify as timidity, he recognizes in himself as rational prudence. [...] He is cautious, and he is

³⁴ In this respect prudence contributes to autonomy, »the *form* of moral personality and action«. Oakeshott 1927, p. 10.

³⁵ Oakeshott 1975, p. 236.

³⁶ Oakeshott 1996, p. 31.

³⁷ Oakeshott 1996, p. 124.

³⁸ Oakeshott 1996, p. 56.

disposed to indicate his assent or dissent, not in absolute, but in graduated terms.³⁹ Seeming timidity then, or cautious self-disclosure, may not only accompany but also serve a gift for self-enactment.

Of the forty-five instances of »prudence« or »prudential« in »On Human Conduct«, only twelve, about a quarter of them, connote the first sense.

»Prudential maxims« are »opinions about things that could happen otherwise« [that is, otherwise to one's expectations] »which have to be deliberately brought to bear upon the agent's situation.« They recommend deliberation, caution. Yet in the context of this first appearance of »prudential« in »On Human Conduct«, Oakeshott implicitly distances himself from Aristotle's view when he says that these maxims »may be more or [...] may be less reliable, but they are not flickering shadows of necessary truths or premises from which conclusions can be deduced«. ⁴⁰

To characterize conduct »in terms of the postulates [of] reflective consciousness« is to recognize it »as the prudential self-disclosure of agents« – conduct characterized by »prudential deliberation«⁴¹ – where »prudential« emphasizes rather than modifies »deliberation« as a »specific activity [...] recognized as a counterpoise to the inherent uncertainty of doing«⁴², not because deliberation ensures certain outcomes but because it engenders conviction, confidence, and equanimity.

The two most important practices [...] are a common tongue and a language of moral converse. [...] the first [...] is the condition both of that prudential deliberative reflection in which situations are diagnosed and responses chosen and of any significant degree of intelligibility and exactness in self-disclosure.⁴³

Children, in coming to understand the conditions of a moral practice and to understand them as conditions to which they ought to subscribe in making their choices, »acquire the prudential aptitudes of agency«. ⁴⁴ That is, in learning to recognize a moral practice as normative, children learn to stop and think. Such agency does not presuppose a good regime or good laws: the conditions which compose a moral practice do not constitute »anything so specific as a ›shared system of values‹; they compose a vernacular language of colloquial intercourse« and »every such vernacular of moral converse is a historic achievement of human beings«. ⁴⁵

³⁹ Oakeshott 1962a, p. 173.

⁴⁰ Oakeshott 1975, p. 45.

⁴¹ Oakeshott 1975, pp. 50–51.

⁴² Oakeshott 1975, p. 45.

⁴³ Oakeshott 1975, p. 59.

⁴⁴ Oakeshott 1975, p. 63.

⁴⁵ Oakeshott 1975, p. 63.

Human beings learn that their world of achieved satisfactions and desired wants becomes habitable »only when the energy of pursuit is prudentially mixed with *nonchaloir* in respect of the outcome«⁴⁶, when reflection about possible outcomes stops short of hope for the best.

Nonetheless, Oakeshott says, using »prudential« in an ironic but consistent juxtaposition, »[the miseries of life] are hardly less keenly felt or less deeply resented when they are recognized to be, in part, the consequences of the prudential folly of the sufferer than when they are taken to be totally unmerited misfortunes«.⁴⁷

Also in this first sense as reflective, diagnostic, or deliberative, »prudential« shows up as a qualifier of »relationships and manners of being associated in conduct«.⁴⁸ Likewise, the rules of civil association invite recognition »in terms of prudential theorems about the consequences or likely consequences of subscription or non-subscription« to them.⁴⁹ Those theorems and not any superior norm constitute the only »prudential limitation« of those rules⁵⁰, contrary to »modern European reflection about the authority of governments [... which] has not flattered the ›civil prudence‹ of European peoples«.⁵¹ Nonetheless, the recognition that many of the emergent states of modern Europe were not, due to their historic conditions, »manifestly the stuff of which *universitates* are easily composed« was a »prudential conclusion«.⁵² Government of a civil association is neither, on the one hand, »a managerial and a tutorial undertaking« nor on the other an authority »identified with any natural quality (virtue, prudence, wisdom, charisma and so on)«⁵³ but is indeed rather »an engagement of civil prudence«.⁵⁴

⁴⁶ Oakeshott 1975, p. 73.

⁴⁷ Oakeshott 1975, pp. 81–82.

⁴⁸ Oakeshott 1975, p. 88.

⁴⁹ Oakeshott 1975, p. 149.

⁵⁰ Oakeshott 1975, p. 171.

⁵¹ Oakeshott 1975, p. 193.

⁵² Oakeshott 1975, p. 234.

⁵³ Oakeshott 1983, p. 139.

⁵⁴ Oakeshott 1975, p. 298. In Oakeshott 1983, this instance alone, out of ten of »prudence« or »prudential«, connotes the first sense. In Oakeshott 1975, this is the final appearance of »prudence«. In Oakeshott 1962a, p. 187, he claims »it is beyond human experience to suppose that those who rule are endowed with a superior wisdom which discloses to them a better range of beliefs and activities and which gives them authority to impose upon their subjects a quite different manner of life«.

2. *Second Sense: Instrumental, Helpful, Utilitarian*

Moral and Prudential Practices

In »On Human Conduct«, Oakeshott also uses »prudential« to mean instrumental, helpful, utilitarian, or strategic. He makes that meaning explicit in several passages in which he differentiates prudential from moral practices. In the second essay, »On the Civil Condition«, he defines each sort of practice as follows:

[A] practice may be either a procedure composed of rules and uses instrumental (or alleged to be useful) for procuring a certain or a certain sort of substantive satisfaction or in the pursuit of a common purpose (that is, a prudential art or practice); or it may be a set of conditions to be subscribed to in all or any of an agents' actions or utterances [...] (that is, a moral practice). [...] the conditions of civil association are moral conditions in not being instrumental to the satisfaction of substantive wants.⁵⁵

Both prudential and moral practices are

authoritative adverbial qualification[s] of choices and performances [...] in which conduct is understood in terms of a procedure⁵⁶, but a moral practice is not a prudential art concerned with the success of the enterprises of its agents; it is not instrumental to the achievement of any substantive purpose or to the satisfaction of any substantive want.⁵⁷

There may be advantages to subscribing to a moral practice »but a moral practice, unlike an instrumental practice, does not stand condemned if no such advantages were to accrue«. Morality is »the practice of all practices; the practice of agency without further specification«.⁵⁸

Human conduct is not first having unconditional wants (individual or communal) and then allowing prudential reason and moral sensibility to indicate or to determine the choice of the actions in which their satisfaction is sought; it is wanting intelligently (that is, in recognition of prudential and moral considerations) and doing this successfully or not so successfully. And a moral language is a language of propriety, not of prudence. The considerations of a moral practice are not principles and rules purporting to be instrumental in promoting the achievement of an alleged desirable substantive condition of things.⁵⁹

Nor are »the rules to which a moral practice may perhaps be reduced [...] prudential directions, instructions or warnings about what to do and what not to do in relation to likely consequences: they enunciate obligations«.⁶⁰

⁵⁵ Oakeshott 1975, p. 122.

⁵⁶ Oakeshott 1975, p. 55.

⁵⁷ Oakeshott 1975, p. 60.

⁵⁸ Oakeshott 1975, p. 60.

⁵⁹ Oakeshott 1975, pp. 79–80.

⁶⁰ Oakeshott 1983, p. 134.

Versus Lex

Moral and prudential practices also differ from *lex*. Although »civil laws [...] are moral, not prudential, rules«⁶¹, *lex* defines its own jurisdiction by relating individuals in terms other than the various ways they may or may not already be related to one another, such as by chance and choice, by a common purpose, or by a prudential procedure.⁶² Oakeshott's conception of *lex* and conjunctural conceptions of civility and civil association illuminates his disagreement with Aristotle, for although they agree that civil association and the polis are not alliances for transactional relationships⁶³, Oakeshott argues that

what is civilly desirable cannot be inferred or otherwise derived from general moral desirabilities, that it is not necessarily a sign of something amiss if they are not found to be pulling in the same direction or even to conflict with such desirabilities, and that political deliberation and utterance (concerned with civil desirabilities) is concerned with moral considerabilities of its own.⁶⁴

At the same time, Aristotle does not characterize the polis as a *universitas* in which law consists of »a set of prudential managerial conclusions specifying a common purpose and the manner in which this purpose shall be contingently pursued«.⁶⁵ According to Aristotle, the rule of men must complement the rule of law to prevent the polis from becoming too much a one in the manner of Plato's republic. *Dike* is »a moral not a prudential consideration«⁶⁶ if »prudential« designates considerations of utility or consequences; Aristotle and Oakeshott agree that determination of *jus* of a law should be »undistracted by [...] consequential considerations«⁶⁷, though consideration of penalties should not.⁶⁸

⁶¹ Oakeshott 1975, p. 254; see also p. 153 n.

⁶² Oakeshott 1975, pp. 129–130.

⁶³ »Civility [...] denotes an order of moral (not instrumental) considerations [...] civil association [is] itself a moral and not a prudential condition« (Oakeshott 1975, p. 175). Aristotle 1984, 1280b30–32, concurs: »It is evident [...] that the city is not a partnership in a location and for the sake of not committing injustice against each other and of transacting business«.

⁶⁴ Oakeshott 1975, p. 175.

⁶⁵ Oakeshott 1975, p. 231; see also pp. 243, 248–249.

⁶⁶ Oakeshott 1983, p. 142.

⁶⁷ Oakeshott 1983, p. 143.

⁶⁸ Oakeshott 1983, p. 148.

Prudential Practices as Proverbial Lore

»[Our] so-called »social inheritance« is an accumulation of human understandings and is composed of the moral and prudential achievements of numberless individuals expressed in terms of the rules and conditions which specify a multiplicity of particular practices». ⁶⁹ »These practices are [...] (so to say) languages [...] and] these formal or linguistic relationships are utilities [...] adverbial conditions«⁷⁰ that may take the form of proverbial lore. »Indeed«, Oakeshott observes, »self-disclosure in actions is difficult to imagine in the absence of what may be called moral and prudential lore; that is, general moral principles and general propositions about the likely meanings and outcomes of actions in terms of which situations may be specified as »cases« and expectations entertained, although the greater the generality of these principles or maxims the less valuable they will be in conduct. [...] Nevertheless, what is certain is that the understanding exercised by the agent in conduct cannot be an *ad hoc* mobilization of his knowledge of these theorems of moral and prudential lore enlisted to tell him what to do, because they are incapable of any such utterance. [...] Perhaps, in notably novel circumstances or in a situation of unusual obscurity, when persistent doubt about what to want or what to do has lost an agent his way, he may decide to fix his position by taking his bearings upon a general principle of conduct or a theorem of prudential lore, but he cannot engage in this operation until he has chosen his principle and there is no principle to tell him how to do this⁷¹; and since all such principles are equivocal, it will provide him neither with a reason for acting nor with a response to his situation. Moral and prudential principles may indirectly illuminate the theatre of conduct, but they can neither direct nor justify an adventure of doing.«⁷²

»Thus, to be told to keep a straight bat is not to be directed to one of the »rules of cricket« but to be made aware of a valuable prudential consideration related to a successful batsman«. ⁷³ Likewise, the »advice to the poor: in all the emergencies of life act as if you were rich«, and the advice to »let sleeping dogs lie«, are instrumental utterances that differ from rules in two respects:

First, their idiom is prudential. They may urge those to whom they are addressed to do this rather than that, to do something rather than nothing or to do nothing rather than something, but always on consequential grounds. [...] Secondly, the validity of a recommendation contained in a maxim or precept and its desirability or worth as a piece of advice are indistinguishable; both lie in its sagacity or utility – that is, in the outcome of following it being (or being likely to be) the substantive satisfaction sought.⁷⁴

⁶⁹ Oakeshott 1975, pp. 86–87.

⁷⁰ Oakeshott 1975, p. 113.

⁷¹ For example, when one has lost one's way one may consult one's daily horoscope for directives, but that in itself is a choice. I think Oakeshott understates reliance, and the felt need for reliance on prudential lore.

⁷² Oakeshott 1975, pp. 90–91.

⁷³ Oakeshott 1983, p. 126.

⁷⁴ Oakeshott 1983, p. 128.

By contrast the validity of a rule lies in its authenticity and is addressed to an unknown audience.⁷⁵

Whereas Aristotle argues that traditional lore conceals natural truths (»all men really seek what is good, not what was customary with their forefathers«⁷⁶), Oakeshott regards prudential prescriptions as contingent »human inventions« whose »desirability or otherwise is merely their propensity to favour or to obstruct the achievement of wished-for satisfactions«.⁷⁷ Nonetheless, such prescriptions or proverbial lore manifests, he says, the »large ingredient of conservatism in human preferences«:

Primitive peoples are said to cling to what is familiar and to be averse from change; ancient myth is full of warnings against innovation; [and] our folklore and proverbial wisdom about the conduct of life abounds in conservative precepts.⁷⁸

V. Similarities between Aristotle and Oakeshott (and the Difference)

1. Means to an Integral Self

Both Aristotle and Oakeshott characterize prudence as the means to an integral, maximally moral, self. Inasmuch as prudence takes into account moral considerations, it differs from mere cleverness, which Aristotle criticizes, and from mere creativity or personal insight, which Oakeshott criticizes. Both the merely clever human being and the merely creative human being fall short of self-understanding. The clever one because he fails to recognize his common humanity, or what is universal about his experience; the merely creative one because he fails to recognize his tradition, or what is historical about his experience.⁷⁹

⁷⁵ Oakeshott 1983, p. 129.

⁷⁶ Aristotle 1984, 1269a4–5.

⁷⁷ Oakeshott 1975, pp. 159–160.

⁷⁸ Oakeshott 1962a, p. 173.

⁷⁹ In other words, according to Aristotle, a prudent man, unlike a merely clever one, aims at good ends in addition to choosing effective means: »There is a faculty which is called cleverness; and this is such as to be able to do the things that tend towards the mark we have set before ourselves, and to hit it. Now if the mark be noble, the cleverness is laudable, but if the mark be bad, the cleverness is mere smartness; hence we call even men of practical wisdom clever or smart. Practical wisdom is not the faculty, but it does not exist without this faculty« (Aristotle 1966, 1144a24–29). In Oakeshott 1927, pp. 11–13, he says, »we have other standards of truth and falsehood than those of mere personal insight. [...] A concrete moral action is the autonomous, free and adequate reaction of a personality to a situation. [...] Morality is [...] a progress towards a finer sensibility for social life and a deeper knowledge of its necessities. [...] I am unable to recognize the

2. Composure

Aristotle's and Oakeshott's first sense of prudence are also alike inasmuch as both induce composure or equanimity. Aristotle states: »For everyone ceases to inquire how he is to act when he has brought the moving principle back to himself and to the ruling part of himself; for this is what chooses«. ⁸⁰ That is, only reason can vanquish doubt. Similarly, Oakeshott states: »deliberating as a specific activity [...] may be recognized as a counterpoise to the inherent uncertainty of doing«. ⁸¹

3. Conservation of Energy

Prudent deliberation, anchored by moderation, also restrains action or induces caution: Aristotle says, »We deliberate about things that are in our power and can be done« and seek out those means that are not only best but also easiest. ⁸² Similarly, Oakeshott claims, »the least possible expenditure of energy« is pre-eminently appropriate »when the desiring self encounters another self. For [...] another self is the least tractable and offers the greatest opportunity for wasted energy and the most conspicuous occasion for defeat«. ⁸³ Choosing the easiest, most conservative means preempts futile endeavors: »moderation is indispensable if passionate men are to escape being locked in an encounter of mutual frustration«. ⁸⁴

4. Maintenance of the Rule of Law

Conservation of energy applies also to maintenance of the rule of law, according to both Aristotle and Oakeshott. Prudent rulers deliberate about what is to be done in particular cases by consulting laws. If laws are biased or do not exemplify »intellect without appetite«, if, for example, they are democratic or oligarchic, then rulers should correct them, but only if a minor change would effect a major benefit, because the power of law derives from its constancy. ⁸⁵ Aristotle would therefore agree with Oakeshott that determination of the *ius* of a law requires »not a set of abstract criteria but an

gulf which many writers allege to be fixed between what we call civilization and Christian morality«.

⁸⁰ Aristotle 1966, 1113a4–8.

⁸¹ Oakeshott 1975, p. 45.

⁸² Aristotle 1966, III.3: 55–57.

⁸³ Oakeshott 1962b, pp. 208–209.

⁸⁴ Oakeshott 1962a, pp. 173, 192.

⁸⁵ Aristotle 1984, 1269a8–25.

appropriately argumentative form of discourse in which to deliberate the matter; that is, a form of moral discourse⁸⁶

Here, the similarity becomes complicated. For while Aristotle and Oakeshott agree in other words that prudential deliberation about law keeps in view the character of law (»the kind of conditional obligations a law may impose⁸⁷), and seeks to purge and insulate law from passionate interests (»from the spurious claims of conscientious objection, of minorities for exceptional treatment and, so far as may be, from current moral idiocies⁸⁸), Aristotle points out that deliberation about the conditional obligations of law cannot entirely displace considerations of human excellence and focus exclusively on freedom. Prudence deliberates about means, not about ends, because our ends are given by nature.

5. *Intimations of Ritual and Order (Aristotle versus Oakeshott)*

In other words, despite the congruencies, the chief difference between Aristotle and Oakeshott cannot be ignored. According to Aristotle, prudence, the defining virtue of a ruler, perceives universals, what Oakeshott calls »highfalutin metaphysical beliefs⁸⁹. Although Aristotle agrees that »government [...] begins in the informal adjustments of interests to one another« and aims »to release those who are apt to collide from the mutual frustration of a collision«, he does not entirely agree with Oakeshott that »the intimations of government are to be found in ritual, not in religion or philosophy; in the enjoyment of orderly and peaceable behaviour, not in the search for truth or perfection⁹⁰. Not because those intimations are not to be found in ritual and in orderly and peaceable behaviour, but rather because ritual and orderly and peaceable behaviour manifest divine and timeless truths. They are not strictly or unambiguously historical.

VI. Conclusion: Mastery of Ambiguity Requires Acknowledgment of Natural Right

In the final pages of »The Politics of Faith and the Politics of Scepticism«, Oakeshott finds virtue in our legacy of ambiguous political reasoning. Mas-

⁸⁶ Oakeshott 1983, p. 143.

⁸⁷ Oakeshott 1983, p. 143.

⁸⁸ Oakeshott 1983, p. 143.

⁸⁹ Oakeshott 1962a, p. 193.

⁹⁰ Oakeshott 1962a, p. 188.

tery of that ambiguity removes »some of the lesser confusions from our way of talking about politics«. ⁹¹ Although he traces that ambiguity back only to the fifteenth century, he acknowledges evidence of »versions of the politics of scepticism« prior to the modern world. ⁹² If our comprehensive legacy of the politics of scepticism includes Aristotle's version, then should we not embrace and master Aristotelian prudence, rather than cordon it off from practice with the rope of philosophy understood as the totality of experience or theoretical understanding? As Oakeshott himself states: »The principle of the mean in action is [...] the virtue of exploiting the middle range of our political opportunities, the faculty of not taking the words of our political vocabulary in their utmost extent«. ⁹³ But by distinguishing the prudential from the moral, doesn't he take »prudential« to an historical extreme? Granted, »the impulse to assure ourselves that our [...] authorized manners of behaviour represent not merely fact and habit, but ›justice‹ and ›truth‹, and that they have a ›certainty‹ which is out of reach of the vicissitudes of time and place« ⁹⁴ may be only an impulse or, as Leo Strauss says, a »need for natural right«. ⁹⁵ But felt need is precisely what distinguishes a doctrine of moderation from the principle of the mean in action. ⁹⁶

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⁹¹ *Oakeshott* 1996, pp. 132–133.

⁹² *Oakeshott* 1996, p. 30.

⁹³ *Oakeshott* 1996, p. 123.

⁹⁴ *Oakeshott* 1996, p. 82.

⁹⁵ *Strauss* 1953, p. 2.

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