

**ARISTOTELIAN LIBERALISM:  
AN INQUIRY INTO THE FOUNDATIONS OF A FREE AND  
FLOURISHING SOCIETY**

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## Abstract

My dissertation builds on the recent work of Douglas Rasmussen, Douglas Den Uyl and Roderick Long in developing an Aristotelian liberalism. It is argued that a neo-Aristotelian form of liberalism has a sounder foundation than others and has the resources to answer traditional left-liberal, postmodern, communitarian and conservative challenges by avoiding certain Enlightenment pitfalls: the charges of atomism, an a-historical and a-contextual view of human nature, license, excessive normative neutrality, the impoverishment of ethics and the trivialization of rights. An Aristotelian theory of virtue ethics and natural rights is developed that allows for a robust conception of the good while fully protecting individual liberty and pluralism. It is further argued that there is an excessive focus on what the State can and should do for us; politics is reconceived as discourse and deliberation between equals in joint pursuit of *eudaimonia* (flourishing, well-being, happiness) and its focus is shifted to what we *as members of society* can and should do for ourselves and each other.

## Chapter One. Introduction

Freedom is, in truth, a *sacred* thing. There is only one thing else that better serves the name: that is virtue. But then what is virtue if not the *free* choice of what is good?

– Alexis de Tocqueville

The practical reason for freedom, then, is that freedom seems to be the only condition under which any kind of substantial moral fibre can be developed.

– Albert Jay Nock

The main purpose of this dissertation is to develop an Aristotelian form of (classical) liberalism. In doing so I will be building on a burgeoning tradition, the principal proponents of which include Douglas Rasmussen and Douglas Den Uyl, Roderick Long, Chris Matthew Sciabarra, Ayn Rand, Fred Miller, and Tibor Machan. In some areas I will be disagreeing with one or more of these thinkers and in other areas I will be extending Aristotelian liberalism beyond their work. In the process I will also present and attempt to resolve a number of related aporiai faced by liberalism, particularly an Aristotelian liberalism.

How is Aristotelian liberalism different from the dominant strains of liberalism which all have their roots in the Enlightenment? This can only really be answered fully by describing the essential features and serious flaws of Enlightenment liberalism. This will be done shortly. But a few things can be said first. Aristotelian liberals hold that man's natural end is a life of *eudaimonia* (flourishing, well-being, happiness). We argue that virtue is constitutive of one's own flourishing but must be freely chosen to count as such. We disagree with social contract theorists, particularly Hobbes, in our insistence that man is a profoundly social being. Nevertheless, we argue that individuals are ends-in-themselves and not means to the ends of others. Enlightenment liberals hold liberty to be the highest political good and defend it and free markets on various grounds, the two dominant ones being 1) natural rights or 2) consequentialist or utilitarian considerations (such as economic efficiency). While Aristotelian liberals take the natural rights approach, we differ with Enlightenment liberals on the ultimate grounding of these rights. Enlightenment liberals generally ground rights in self-ownership, some deontological or rule-consequentialist theory of ethics, or God. Aristotelian liberals ground rights in the requirements of *eudaimonia*. This difference has crucial implications that enable Aristotelian liberalism to avoid the major flaws Enlightenment liberalism's critics have identified in it as well as some they have not. Among these advantages are that Aristotelian liberalism is concerned with more than considerations of political justice, rights, and liberty. It is able to recognize and account for the broader ethical and cultural foundations and principles necessary in order to bring about and maintain a free and flourishing society.

In section three of his postscript of *The Constitution of Liberty*, "Why I Am Not a Conservative," Friedrich Hayek wrote:

When I say the conservative lacks principles, I do not mean to suggest that he lacks moral conviction. The typical conservative is indeed usually a man of very

strong moral convictions. What I mean is that he has no political principles which enable him to work with people whose moral values differ from his own for a political order in which both can obey their convictions. It is the recognition of such principles that permits the coexistence of different sets of values that makes it possible to build a peaceful society with a minimum of force.<sup>1</sup>

Rasmussen and Den Uyl have elaborated upon and emphasized this *differentia specifica* of liberalism identified by Hayek. They argue that liberalism is unique among political philosophies in having as a central concern “the problem of how to find an ethical basis for the overall political/legal structure of society,” namely one that recognizes the value of individual liberty and can accommodate moral and cultural pluralism and diversity.<sup>2</sup> Rasmussen and Den Uyl claim that this problem should be the central problem of political philosophy, but call it “liberalism’s problem” because liberalism has been the only political tradition to recognize its fundamental importance.<sup>3</sup> Liberalism’s solution to this problem is the natural right to liberty and its logical corollaries, of which more will be said later. Liberalism shows us how diverse moral value systems can be ethically compossible both within and between societies.

However, many critics and even some defenders of liberalism claim that liberalism is currently in crisis, if not already breathing its last. Rasmussen and Den Uyl have distilled three types of criticism faced by liberalism. The first type is comprised of criticisms “that see the essential character of liberalism as the political expression of principles derived from the Enlightenment. The failures of the Enlightenment are thus the failures of liberalism, so criticisms of the Enlightenment are also criticisms of liberalism.”<sup>4</sup> Criticisms of this type have been made by John Gray, Charles Taylor, and Alasdair MacIntyre, among others.

Although Rasmussen and Den Uyl do not say this explicitly, the first critique is often a component of the second, the communitarian critique, and even sometimes of the third, the conservative critique. Communitarianism and some forms of conservatism are postmodern reactions against the excesses of the Enlightenment, but it is nevertheless useful to distinguish the postmodern critique. This sort of critique also comes both from within and without liberalism, as some liberals hold that moral relativism or moral skepticism are the only safe foundations for liberalism. Characteristic of the postmodern type of critique is a distrust of metaphysics, a denial of Objective Truth, an aversion to philosophical systems, and a wariness of anything that smacks of connection to totalitarianism. A liberalism grounded in a neo-Aristotelian philosophy should be able to avoid or answer the metaphysical and epistemological aspects of the postmodern objection. Likewise, a consistent, rights-oriented Aristotelian liberalism cannot in any way be linked with totalitarianism. Liberty, diversity, and pluralism are not endangered by a rights-oriented Aristotelian liberalism.

The second type “are more directly criticisms of liberalism” and these usually come from the postliberal view (or more accurately, views) of communitarianism.<sup>5</sup> The aforementioned

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1 Hayek (1978).

2 Rasmussen and Den Uyl (2005), p. 1. Moral and cultural pluralism and diversity do not necessarily imply moral relativism, subjectivism, or skepticism.

3 Ibid., pp. 1-3, 78 n. 1.

4 Ibid., p. 6.

5 Ibid. Although some of the aforementioned and about to be mentioned thinkers are uncomfortable with the label communitarian, they do seem to fit at least partly within this category.

scholars as well as Michael Sandel, Michael Walzer, and Roberto Unger can be included in this category of criticisms.

These thinkers mainly attack the individual-rights-based orientation of liberalism in favor of community procedures. At the foundational level the autonomous rights-bearing individual is rejected and replaced with individuals more fully formed by, and integrated with, the communities in which they live and act. Indeed, liberalism is accused of directly undermining communities as well as being inadequate to their formation.<sup>6</sup>

While communitarian criticisms of liberalism sometimes hit home, they do not always do so, nor when they do hit home do they strike with equal force on every version of liberalism. Communitarians typically attack liberalism as if it were some monolithic political philosophy, but in reality there are many different kinds of liberalisms, perhaps as many as there are liberals. Not all forms of liberalism are rights-oriented, for example, as has been noted; many liberals defend liberalism solely on consequentialist or utilitarian grounds. Ultimately, however, postmodern and communitarian critiques have shown some liberals the need to find a new philosophical foundation for liberalism. This is, I think, the impetus behind Aristotelian liberalism. In the final analysis, however, I will argue in my dissertation in favor of a new form of liberalism rather than side with communitarianism or postmodernism, for reasons discussed below.

“Finally, there are a host of ‘conservative’ sources of criticism of liberalism ranging from natural law theorists, to ‘Straussians’, to so-called Southern agrarians...[A]ll three of these forms of [conservative] criticism share in the rejection of liberalism’s alleged adherence to atomism, instrumentalism, individualism, [ethical] neutralism, subjectivism, skepticism, and the like.”<sup>7</sup> Some of these criticisms have already been touched upon and will be addressed again below. However, two are worth a closer look: instrumentalism and ethical neutralism. These criticisms are shared by communitarians as well and they are linked to an almost exclusionary focus on economic, particularly mainstream economic, and rights/freedom-oriented defenses of liberalism. Ethical considerations beyond material prosperity and/or rights/freedom are all too frequently ignored by liberals, whether because they are deemed outside the purview of liberalism or because the liberal wants to avoid the appearance of playing the moralist or because the liberal honestly believes in moral subjectivism or skepticism or hedonism. Whatever the reason, the result in the eyes of liberalism’s critics and in practice is the impoverishment of ethics and the instrumentalization of non-market aspects of society.

Communitarian critics often argue that rights-oriented liberalism privileges the right over the good. Liberalism assumes, according to Michael Sandel, “that government should be neutral among competing conceptions of the good life.”<sup>8</sup> It is certainly true that liberals hold that no one, including governments, should threaten or use initiatory physical force in order impose their own particular conceptions of the good life on others. To do so would be to prevent them from pursuing the good life and to bias the structure of the political/legal order in favor of particular forms of flourishing and against others. But it is not necessarily implied by this ethical constraint on force that everyone should remain neutral on the good. It is not a necessary feature of

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6 Ibid., pp. 6-7.

7 Ibid., p. 7.

8 Sandel (2005), p. 212.

liberalism that there should be an exclusive focus on justice, liberty, or rights. It is also not a necessary feature of liberalism to privilege the right over the good. As will be discussed in greater detail below, Aristotelian liberalism does not. That there has over time been an increasingly exclusive focus on justice/rights and a privileging of the right over the good can, I think, be blamed on Enlightenment and post-Enlightenment ethical theory, the leftist-statist turn in liberalism, an excessive focus on the state and what it can and should do for us, and the popularity of Kant and Rawls.

To the above three main types or sources of criticism I would also add a fourth: contemporary left-liberals are generally critical of the politico-economic policies advocated by contemporary classical liberals (nowadays usually labeled libertarians), particularly the latter's strict stance on negative liberty and limited government that rules out social welfare policies and environmental and economic regulations. Insofar as left-liberals are still liberals, this is in comparison an internal criticism. With Hayek I take the main disagreement between left-liberals and classical liberals to be over means rather than ends, but I do not plan to attempt a *systematic* defense of classical liberalism at the level of economic theory and history. There is already a vast literature in this vein and I will be assuming in this dissertation that states and markets operate essentially in the manner described by free market economists, particularly those of the Austrian School and also to a lesser extent the Public Choice and Chicago Schools. It bears pointing out, however, that it is to left-liberalism that the lion's share of responsibility for the impoverishment of ethics belongs through its insistence on identifying all social problems as issues of political justice. The resulting proliferation and trivialization of rights has a necessarily impoverishing effect on the rest of ethics.

Although this trend of left-liberalism did not start with Rawls, he was the first to formally develop an explicitly political liberalism. In following Kant in privileging the right over the good and restricting liberalism to considerations of justice (the right) narrowly conceived, Rawls exacerbated the already existing tendency within liberalism and left-liberalism to focus on justice/rights and consequently to impoverish ethics and trivialize rights. Classical liberalism/libertarianism avoids the left-liberal trivialization of rights problem by recognizing the nature and special function of rights. However, even it has been adversely influenced by Rawls's restriction of liberalism to considerations of political justice.

Kukathas and Pettit credit Rawls with the revival of political theory in the third quarter of the twentieth century.<sup>9</sup> They cite Isaiah Berlin's harsh judgment in 1962, "No commanding work of political theory has appeared in the 20<sup>th</sup> century,"<sup>10</sup> and point to the academic institutionalization of the false fact-value dichotomy and scientism as the reason. By mid-century political theory had withered to the mere study of the history of political thought and the analytical analysis of groundless values. *A Theory of Justice*, published in 1971, was the long-awaited commanding work.<sup>11</sup> However, while the book did perhaps contribute somewhat to the revival of political theory in terms of revitalizing the discipline, although it could be argued that political theory is still marginalized in political science departments and is being driven out of them back into philosophy departments, it has already been noted that in my view it took political philosophy down a wrong turn. Fortunately, some Rawlsians are starting to correct for this detour; classical liberal John Tomasi, for example, has recently written a book titled

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9 Kukathas and Pettit (1990), pp. 5-6.

10 Quoted in *ibid.*, p. 1.

11 *Ibid.*, pp. 1-6.



*Liberalism Beyond Justice*. But these efforts are still plagued by their roots in Kantian/Rawlsian deontology. Even Aristotelian liberals Rasmussen and Den Uyl insist in Rawlsian fashion on a strict separation between politics and morality, and a number of prominent libertarians I know insist that libertarianism is merely a political philosophy in the narrow sense of being solely concerned with justice, rights, and liberty (e.g., Walter Block and Stephan Kinsella).

In light of the foregoing, my dissertation will have to perform three related tasks. It will have to develop a version of liberalism that is not vulnerable to familiar postmodern, communitarian, conservative and left-liberal challenges. It will have to make the case for the viability and superiority of an Aristotelian form of liberalism. And it will have to answer likely libertarian criticisms of this move. All three of these tasks can be carried out simultaneously in most cases.

Let me now highlight some important ways in which my account of Aristotelian liberalism differs from the afore-mentioned Aristotelian liberals, including how it synthesizes some disagreements among them or goes beyond them. Douglas Rasmussen and Douglas Den Uyl, who have done the most to systematically develop Aristotelian liberalism, have developed an account of rights that I think is correct as far as it goes but is only partly so. Roderick Long has developed an account of rights that appears to be very different. I believe that his account too is correct, but is not the whole story either. The two accounts seem like incompatible alternatives. Rasmussen and Den Uyl treat rights purely as metanormative principles, meaning that they are principles that protect the necessary conditions for the possibility of human flourishing. Long treats rights as interpersonal normative principles required by our own flourishing qua moral agents, particularly by the virtue of justice. In Chapter Two, “*Eudaimonia* and the Right to Liberty: Rights as Metanormative Principles,” I will explicate Rasmussen and Den Uyl’s account of human flourishing and their theory of rights as well as critique the latter. In Chapter Three, “*Eudaimonia*, Virtue and the Right to Liberty: Rights as Both Normative and Metanormative Principles,” I will present Roderick Long’s theory of rights and then I will show how the two theories can be synthesized to produce a more complete account of rights.

These chapters are the central chapters of my dissertation. Douglas Rasmussen and Douglas Den Uyl argue that human flourishing has six basic and interrelated features: it is 1) objective, 2) inclusive, 3) individualized, 4) agent-relative, 5) self-directed, and 6) social. Human flourishing includes but is not limited to such generic goods as virtue, liberty, health and wealth as well as virtues such as practical wisdom, courage, temperance, independence, integrity, honesty, productiveness, justice and generosity. To summarize briefly how I plan to synthesize the two different accounts of rights held by Rasmussen/Den Uyl and Long: At the structural level of analysis, the level of political and legal theory, the right to liberty is a *metanormative* ethical principle that protects the possibility of self-direction, which is central to and necessary for all forms of human flourishing, and as such does not bias the structure of the political/legal order in favor of any form of human flourishing (Rasmussen/Den Uyl). At the personal level of analysis, the level of ethical theory, the right to liberty is an interpersonal ethical principle derived from the demands of our own *eudaimonia*, particularly the virtue of justice: rights-respecting behavior is a necessary and constitutive part of our own well-being (Long). In order to live a life proper to a rational animal and to ourselves we ought not to threaten or use initiatory physical force against others but rather deal with them on a voluntary basis through reason, discourse, persuasion and

cooperation except when necessary to protect our right to liberty.<sup>12</sup> No form of *eudaimonia* truly worthy of the name will advocate the threat or use of initiatory physical force.

Chapter Three will also discuss other issues related to the right to liberty, such as its logical corollaries. One such corollary is the right to private property without which the right to liberty is meaningless. The right to liberty and the right to property are really aspects of the same thing; the former is just explanatorily more fundamental. Additionally, I will discuss such subjects as the relationship between rights and the law and whether rights trump other ethical considerations or rather define what cannot count as moral (i.e., what is absolutely immoral) in a social context.

In Chapter Four, “*Eudaimonia* and the Basic Goods and Virtues,” I will further develop the account of human nature and flourishing introduced in the previous chapter chapters. First, I will address the is-ought problem. Modern ethicists tend to take the supposed insurmountability of the is-ought gap for granted, but I aim to show how the gap can be bridged by a neo-Aristotelian philosophy. Then I will address a controversy between Aristotelian liberals and many Objectivists over what kind of standard for morality human nature provides, a flourishing standard or a survivalist one. Finally, I will discuss in more detail than the previous chapters the generic goods and virtues that are essential to ethical theory and, particularly, political philosophy. The discussion of the generic goods and virtues is one area in which I will be going beyond Rasmussen and Den Uyl, for while they briefly mention some of the generic goods and virtues they never go into much detail on them. I think a deeper analysis is necessary in order to elucidate the ethical and cultural foundations necessary for bringing about and maintaining a free and flourishing society. This discussion will sketch something of a synthesis of the ideas of Aristotle, Douglas Rasmussen and Douglas Den Uyl, Roderick Long, and Ayn Rand. There are aspects of the work of each of these individuals in this area that I find insufficient or incomplete. I will also present my own original contribution to the literature on individual autonomy. My account recognizes that there are more subtle forms of coercion than physical force, as well as other issues, with which liberals must be concerned, but nevertheless holds that these cannot be ethically or practically combated by violating the rights of others. A discussion of the generic goods and virtues essential to ethical theory and political philosophy will be a necessary and useful foundation for better understanding issues discussed in subsequent chapters.

In Chapter Five, “Liberal and Communitarian Conceptions of Society,” I will attempt to develop and clarify an Aristotelian-liberal conception of society. Here I will attempt to combine the positive social analysis of the Austrian economists (particularly Mises, Rothbard, and Hayek) with Aristotelian-liberal insights (both existing and my own). I conceive of politics, the market, and the state all as aspects of society, not external intrusions, although the state differs from the first two in being an organization. Also in this chapter I will explicitly address the criticisms of liberalism by social liberals and communitarians, particularly Hegel, Alasdair MacIntyre, and T.H. Green. And I will critique their conceptions of society and state in turn. Against the communitarian conception of society will be posited an Aristotelian-liberal conception of the Great Society (or Global Society), its major institutions, and its myriad levels of overlapping associations, communities and organizations. While some communitarian criticisms of liberalism have hit home to varying degrees, communitarians have been unable to provide alternatives that are clearly defensible and avoid the specters of paternalism and totalitarianism. This chapter is

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12 See Long (1994/95, 2000).

necessary for answering communitarian criticisms of liberalism, for much of the disagreement hinges upon a differing conception of society, and to serve as a foundation for better understanding the chapters to follow.

In Chapter Six, “The New Left and Participatory Democracy,” with the aim of re-examining the nature of politics, democracy and the state, I will sketch a brief history of liberalism to put it into historical perspective and then discuss the New Left revolt against liberal corporatism. And I will draw important lessons in the course of doing so. To show my hand early, one is that the New Left movement, although not perfect, was far more in keeping with liberalism’s radical roots than liberal corporatism. In fact, liberal corporatism is not truly liberal at all, but rather represents a continuation in modern capitalist drag of the traditional status society liberalism originally arose to combat. The history of liberalism and the New Left teaches of the evils and inefficiencies of the bureaucratic managerial state and manipulative statist democracy. It also teaches that there are non-statist alternatives to social problems. And it teaches of the dangers radical movements from co-option by the ruling elites, especially when they lack a consistent, systematic anti-statist ideology.

In Chapter Seven, “Immanent Politics and the Pursuit of *Eudaimonia*,” I will challenge the tendency of Enlightenment liberals, and even Aristotelian liberals Rasmussen and Den Uyl, to separate politics from morality. The trouble with statist conceptions of politics, which most conceptions of politics are, is that the extent to which public policy is moralized it must come at the expense of liberty. Thus, for liberals who accept a statist conception of politics, politics must be restricted to protecting the rights to life, liberty and property. Liberty, not virtue or human flourishing in general, becomes the highest end of politics. Flourishing becomes a personal and social issue, separate from politics but protected and encouraged by the fertile soil of liberty. But the highest end of politics for Aristotle is human flourishing. How then can Aristotle and liberalism be reconciled on this level? Reconciliation can begin by recognizing that Aristotle conflated state and society in a way that is untenable today. Moreover, the ancient Greek *polis* was nothing more than a small city by today’s standards, a direct democracy with largely customary laws and private enforcement of legal decisions. In Aristotle’s *polis*, politics involved discourse and deliberation between equals in joint pursuit of *eudaimonia*. Aristotelian politics is not possible in modern democratic and non-democratic states.<sup>13</sup> I will also argue that politics presupposes liberty and therefore the proper locus of politics is civil society, not the state. My account of an explicitly non-statist, eudaimonist politics is to my knowledge unique, although it does receive its inspiration from several disparate sources: Aristotle, libertarian market anarchism, and the New Left. It will aim to show how politics and morality are intimately related but nevertheless that true politics presupposes liberty and so libertarians need not worry that this opens the door for state intervention.

To reiterate and provide a slightly more extended summary of my arguments in Chapters Six and Seven – the state will be taken to task as a problematic, and indeed anti-social, institution. Here I will follow Albert Jay Nock’s distinction between government and the state.<sup>14</sup>

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13 Cf. Aristotle, *Politics* VII.4 1325b33-1326b25. While globalization of markets stemming from capital accumulation and technological advances in communication and transportation have made it possible for smaller groups to be economically self-sufficient than Aristotle probably could have imagined, I do not think these developments have made it possible for appreciably larger political communities than he envisioned to function well.

14 Nock (2001), pp. 45-48.

On this view, government is an institution or set of institutions that are truly voluntary and rights-respecting and protecting; the state, by contrast, claims a territorial monopoly on the legal use of force and ultimate decision-making. It will be argued that the right to liberty is inalienable and therefore slavery contracts are illegitimate. It will be further argued that for the same reasons so too is the state. The master/state accepts or claims the power of arbitrary dominion over the slave/subject, a power that the master/state cannot rightfully exercise and the slave/subject cannot rightfully grant.

It will then be argued that the essential characteristic and primary purpose of politics is the joint pursuit of *eudaimonia* – specifically, politics is discourse and deliberation between equals in joint pursuit of *eudaimonia*. The particular institutions within which politics is conducted vary, but there are at least two conditions necessary for politics to take place: direct participation and individual liberty. Politics ceases to be immanent, and becomes increasingly vicarious until it is nonexistent or is replaced by despotic rule, under at least three conditions: 1) the extent that it is conducted only by representatives, 2) the extent to which discourse and deliberation are separated from their culmination in direct action, and 3) the extent that rights-violating behavior (the threat or use of initiatory physical force) pervades the relationship. Much of what passes for politics in modern states takes place only among representatives and involves rights-violating behavior or policies. Thus politics, an important means of pursuing *eudaimonia*, is highly vicarious in even the freest of modern states. Moreover, the tendency among liberals to limit liberalism and politics to considerations of justice narrowly conceived, and to radically separate politics and morality, is misguided – for politics presupposes liberty, and the right to liberty precludes the threat or use of initiatory physical force. Political-democratic-civic debate over our responsibilities to ourselves and each other can only truly take place within the context of individual liberty. As Lavoie and Chamlee-Wright point out:

To do away with the principle of voluntary action, no matter how worthy the end, is to annihilate freedom and to institute slavery. When the challenge of social responsibility is made in the arena of civic debate, this is no longer a problem, as any action taken in response to those claims would be voluntary.<sup>15</sup>

Statist policies such as wealth redistribution, economic regulation and morals legislation are all unjust in this view; liberty and pluralism are not threatened by Aristotelian liberalism's more robust conceptions of ethics and politics.

From the foregoing, it will be argued that immanent politics, deliberative-participatory democracy,<sup>16</sup> and the flourishing of spontaneous voluntary associations à la Tocqueville's America are necessary for and conducive toward human flourishing, whereas a reliance on the institutions of the representative welfare-warfare state is not. My conception of immanent politics transcends the false dichotomy between ancient liberty, which consists primarily in direct political participation, and modern liberty, which consists primarily of an individual's rights over and against society.<sup>17</sup> Liberals need not give up direct political participation as an important part of liberty. Indeed, excessive division of labor and centralization in politics and security production, which is encouraged by representative government in an extended republic, will serve to undermine the conditions necessary for the safeguarding and flourishing of liberty.

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15 Lavoie and Chamlee-Wright (2000), p. 116.

16 Participatory democracy is an idea drawn from the New Left; see Long (1969) and Teodori (1969).

17 See Constant (1988).

As I will argue in Chapter Six, representative government, especially in a territorially extensive country, promotes a politically inactive and submissive citizenry, the growth of a professional political class (*state's men*) and encourages the use of statist solutions to problems that should be solved by private initiative and voluntary cooperation. And majoritarian democracy is a collectivist form of governance that leads to the tyranny of the majority over the minority despite constitutional safeguards.<sup>18</sup> Thus, by rejecting the state and shifting the locus of politics, my account of politics and democracy accommodates, without giving entirely into, communitarian concerns about civic participation and community procedures in a way that minarchist Aristotelian liberals (Rasmussen, Den Uyl, Rand, etc.) cannot and it does so without compromising liberalism's commitment to liberty, pluralism and diversity.

No defense of liberalism would be complete, insofar as any defense can be complete, without a defense of free markets and free enterprise. In Chapter Eight, "Free Markets and Free Enterprise: Their Ethical and Cultural Foundations and Principles," I will depart from most libertarian defenses of free markets, which are usually restricted to considerations of rights/freedom or economic efficiency, by also elucidating the moral principles expressed in various market activities, exploring the ethical and cultural foundations necessary for free markets, and making a case for the educative function of free markets in encouraging certain virtues and discouraging certain vices. Little has been done in any of these three areas, especially systematically, even by Aristotelian liberals. One possible exception of the latter is Ayn Rand, but Rand tends to focus too much on an idealized picture of the capitalist-entrepreneur and does not sufficiently consider how truly free markets might be different from state-regulated capitalism.<sup>19</sup> Early in the chapter I will highlight the fundamental difference between mainstream neoclassical economics and Austrian economics in terms of philosophical foundations and methodology. The common criticisms of economics and free markets discussed above are valid when applied to mainstream economics but completely miss their mark if applied to Austrian economics. In the chapter I will briefly go over just enough positive economic theory to undertake the abovementioned normative tasks. I will discuss production, consumption and exchange; property, contracts and credit; savings and investment vs. consumption; the business firm (in which I will critique the stakeholder literature in the field of business ethics); and the negative effects of the state and state intervention in the market on morality and culture. A sharp distinction will of course be made between state-regulated capitalism and the free market.

Finally, Chapter Eight, the Conclusion, will revisit the aporiai discussed here in the introduction and summarize how they have been resolved. Additionally, the conclusion will address the possible objections by critics that the account of Aristotelian liberalism presented is utopian and, by Voegelinians in particular, that it is Gnostic. Then, in the final section, I will discuss future avenues of research from the groundwork laid by my dissertation.

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18 On the problems of excessive division of labor in politics and security production, see Ferguson (1995), pp. 32, 58-59, 146, 149, 173, 207.

19 Also, Ayn Rand would not appreciate being labeled a liberal or libertarian, primarily due to the popular movement in her eyes eschewing a full and fully rational philosophical foundation for liberty. She developed her own philosophy, which she called Objectivism (Existentialism already being taken). But nevertheless, I think it would be appropriate to include her within the ranks of Aristotelian liberals, broadly conceived.

## **A Brief Note on Metaphysics, Epistemology and Methodology**

The account of Aristotelian liberalism presented here makes no reference to a supernatural being. I leave it to the reader to adapt this account to his conception of God, if he so desires. It might be wondered how in the absence of such a reference one could still plausibly make any claim to having identified lasting, universal and general truths. To this objection at least two related responses can be given: 1) Natural law philosophers have recognized that reason is capable of grasping first principles even if God does not exist. 2) One might make recourse to the 19<sup>th</sup> Century Scottish common sense philosophers to provide some sort of coherentist “foundation,” but this is not really necessary. The natural law theorists can trace their roots back to Aristotle who also happens to be the common sense philosopher *par excellence*.

One can posit a systematic order of natural laws discoverable by reason without thereby being committed to any particular explanation for its origin. Catholic natural law theorists such as St. Thomas Aquinas and the late Scholastics, and even the Protestant jurist Hugo Grotius, have upheld this position. The Jesuit Francisco Suarez, one of the Spanish Scholastics of the late sixteenth century, argued that “even though God did not exist, or did not make use of His reason, or did not judge rightly of things, if there is in man such a dictate of reason to guide him, it would have had the same nature of law as it now has” and noted that many Scholastics “seem therefore logically to admit that natural law does not proceed from God as a lawgiver, for it is not dependent on God’s will.”<sup>20</sup> Grotius says in his *De Iure Belli ac Pacis* (1625): “What we have been saying would have a degree of validity even if we should concede that which cannot be conceded without the utmost wickedness, that there is no God.” He adds: “Measureless as is the power of God, nevertheless it can be said that there are certain things over which that power does not extend. . . . Just as even God cannot cause that two times two should not make four, so He cannot cause that which is intrinsically evil be not evil.”<sup>21</sup>

The Aristotelian liberal account presented in this dissertation is a species of natural law ethics in the sense that it is grounded in the nature of reality, particularly the nature of man. The modern Thomist philosopher Thomas E. Davitt, S.J., agrees with this general approach:

If the word “natural” means anything at all, it refers to the nature of a man, and when used with “law,” “natural must refer to an ordering that is manifested in the inclinations of a man’s nature and to nothing else. Hence, taken in itself, there is nothing religious or theological in the “Natural Law” of Aquinas.<sup>22</sup>

D’Entrèves concludes from this that:

[Grotius’s] definition of natural law has nothing revolutionary. When he maintains that natural law is that body of rules which Man is able to discover by the use of his reason, he does nothing but restate the Scholastic notion of a rational foundation of ethics. Indeed, his aim is rather to restore that notion which had been shaken by the extreme Augustinianism of certain Protestant currents of thought. When he declares that these rules are valid in themselves, independent of

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20 Francisco Suarez, *De Legibus ac Deo Legislatore* (1619), lib. II, Cap. vi. Quoted in A. P. d’Entrèves, *Natural Law* (London: Hutchinson University Library, 1951), p. 71.

21 Quoted in d’Entreves, pp. 98-99.

22 Thomas E. Davitt, S.J., “St. Thomas Aquinas and the Natural Law,” in Arthur L. Harding, ed., *Origins of the Natural Law Tradition* (Dallas, TX: Southern Methodist University Press, 1954), p. 39.

the fact God willed them, he repeats an assertion which had already been made by some of the schoolmen.<sup>23</sup>

And through Aquinas this approach traces back to Aristotle who placed great importance on the nature of man as a rational and political animal.

Aristotelian and Thomist philosopher Henry Veatch has argued that Aristotle is the common sense philosopher *par excellence*.<sup>24</sup> Aristotle would have no patience with certain fashions of modernity such as Cartesian radical doubt and questions of whether we, others and the world exist or not. The default common sense position on these issues is that, absent good reasons and evidence to the contrary, of course we, others and the world exist. Of course we are not merely “a complicated series of occurrences, bound together by causal laws.”<sup>25</sup> Though of course there are arguments that can be and have been made against such counterintuitive positions as these. With regard to the counterintuitive views held by others in his own time, Aristotle provided detailed arguments “to show precisely how and where they had gone astray,” for example:

in showing what was wrong with the Parmenidean arguments that all change was impossible; or with Plato’s arguments that there could be no such things as men except as they participated in that perfect and immutable form of Man himself; or with Heraclitus’ contention that since all things were changing, it was impossible for anything ever to be anything, or to have any determinate nature and character at all. In all such cases, Aristotle recognized the need to meet his philosophical opponents more or less on their own grounds, to weigh their arguments as carefully as possible in preparation for trying to answer and refute them. Still, his initial suspicions in regard to any and all scientific or philosophical views were most likely to be prompted if it seemed that such views could not in the long run stand the test of the sound common sense of mankind in general.<sup>26</sup>

Perhaps more to the point, Aristotle does not begin his philosophizing with first principles. Rather, he begins with “appearances” (*phainomena*; the empirical data of sense-perception) and reputable beliefs (*endoxa*). Reputable beliefs are those opinions “which are accepted by everyone or by the majority or by the wise – i.e., by all, or by the majority, or by the most notable and reputable of them.”<sup>27</sup>

Although Aristotle starts with *phainomena* and *endoxa*, he does not always end with them. We can interpret the data of sense-perception incorrectly. Reputable beliefs can be wrong. Aristotle proceeds by a process of induction (in the classical, not the modern, sense) from these starting points up to first principles and from first principles proceeds by deduction to more rigorous conclusions. Aristotle gives a brief account of induction and deduction in *Nicomachean Ethics* 1139b25-31:

And all teaching starts from what is already known, as we maintain in the *Analytics*<sup>28</sup> also; for it proceeds sometimes through induction and sometimes by

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23 D’Entrèves, pp. 51-52.

24 Veatch (1974), p. 12.

25 Bertrand Russell, *Selected Papers of Bertrand Russell* (New York: The Modern Library, n.d.), p. 352-253.

26 Veatch (1974), pp. 17-18.

27 Aristotle, *Topics* I.1 100b20-22.

28 *Posterior Analytics* I.1.

deduction. Now induction is of first principles and of the universal and deduction proceeds *from* universals. There are therefore principles from which deduction proceeds, which are not reached by deduction; it is therefore by induction that they are acquired.<sup>29</sup>

The dialectic process, through questioning and answering, traces the implications and resolves the conflicts between our beliefs. For Aristotle, our reputable beliefs count as knowledge (*gnôsis*) as long as they can withstand dialectical scrutiny and cohere in the manner just described. But the justificatory process ultimately proceeds through dialectical ascent up from reputable beliefs to first principles. Deduction from first principles results in more rigorous and well-founded conclusions, representing a higher standard of knowledge called scientific explanation or understanding (*epistêmê*).

Clearly Aristotle is not a Cartesian-style foundationalist, for he denies that we should start with first principles. He does seem to be something of a foundationalist, however, for scientific understanding is derived from foundational beliefs. On the other hand, the dialectical process brings to mind not foundationalism but coherentism, usually posited as an alternative to foundationalist theories of knowledge and justification. Aristotelian philosopher Roderick Long argues that Aristotle is actually “a coherentist about knowledge and justification, but a foundationalist about (scientific) explanation.” But there are different kinds of foundationalism and coherentism. He briefly defines them thusly:

*Foundationalism*: Beliefs are epistemically justified either by belonging to or by being derived (finitely, noncircularly) from a class or self-justifying beliefs.

*Classical foundationalism*: Foundationalism is true, and all foundational beliefs are indefeasible.

*Neoclassical foundationalism*: Foundationalism is true, and some foundational beliefs are defeasible.

*Narrow foundationalism*: Foundationalism is true, and only a privileged subset of our beliefs are foundational.

*Broad foundationalism*: Foundationalism is true, and all, or nearly all, our beliefs are foundational.

*Coherentism*: Beliefs are epistemically justified so long as, and to the extent that, they cohere with one another.

*Negative coherentism*: Coherentism is true, and beliefs cohere as long as they do not conflict with one another.

*Positive coherentism*: Coherentism is true, and beliefs cohere only if, in addition to not conflicting with one another, they positively support one another.

Long points out that “negative coherentism and neoclassical broad foundationalism are essentially equivalent. And it is this view that [he] attributes to Aristotle.”<sup>30</sup> A coherentism

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29 See also *Posterior Analytics* II.19. Emphasis in original.

30 Long (2000), pp. 23-24. Emphasis in original.



without non-arbitrary first principles to ascend to would seem to become mired in infinite regress or vicious circularity, and these are possibilities that Aristotle firmly rejects as insufficient.<sup>31</sup>

Some postmodernists try to do without foundations altogether, while others recognize the need for them and proceed to go in search of elusive “foundations without foundationalism.” I would think that the foregoing account of Aristotle’s negative coherentism on knowledge and justification and neoclassical broad foundationalism on scientific understanding would be attractive, or at least plausible, to at least the latter sort of postmodernist. In order to avoid an extreme skepticism that undermines the validity of all knowledge we have need of at least some infeasible foundations. The account of Aristotelian liberalism presented in this dissertation depends upon a minimalist metaphysics ultimately grounded in a handful of axiomatic concepts and laws. At the very foundational core I follow Rand’s identification of three axiomatic concepts: Existence, Consciousness and Identity.

Existence exists – and the act of grasping that statement implies two corollary axioms: that something exists which one perceives and that one exists possessing consciousness, consciousness being the faculty of perceiving that which exists.

If nothing exists, there can be no consciousness: a consciousness with nothing to be conscious of is a contradiction in terms. A consciousness conscious of nothing but itself is a contradiction in terms: before it could identify itself as consciousness, it had to be conscious of something. If that which you claim to perceive does not exist, what you possess is not consciousness.

To exist is to be something, as distinguished from the nothing of non-existence, it is to be an entity of a specific nature made of specific attributes. . . . *A is A*. A thing is itself. . . . Existence is Identity, Consciousness is Identification.<sup>32</sup>

Consciousness, as a state of awareness, is not a passive state, but an active process[.]<sup>33</sup>

[M]an is an indivisible entity, an integrated unit of two attributes: of matter and consciousness[.]<sup>34</sup>

Identity is also the first law of thought: the Law of Identity. Its logical corollaries are the Law of Non-Contradiction and the Law of Excluded Middle.

Each of these axiomatic concepts and laws is irrefutable – for in the very act of denying them one implicitly accepts their truth, thereby engaging in a practical or performative contradiction. These are first principles and so they cannot be arrived at by deductive proof but rather are arrived at by induction. Though they cannot be proven or demonstrated in that strict deductive sense, Aristotle shows how they can nevertheless be defended by way of negative demonstration, which was just described two sentences previous. Aristotle defines the Law of Non-Contradiction as stating “that the same attribute cannot at the same time belong and not

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31 See *Posterior Analytics* I.3.

32 Rand, “Galt’s Speech,” *For the New Intellectual* (New York: Penguin Books, 1961), pp. 124-125. Emphasis in original.

33 Rand (1990), p. 5.

34 Rand (1961), p. 129. Here Rand follows Aristotle’s hylomorphism.

belong to the same subject in the same respect.”<sup>35</sup> If this law were not true, and if one denies this law, then it is impossible to say anything intelligible and the very basis of all knowledge is undercut. Aristotle’s negative demonstration of the law is rather long and detailed, but this excerpt I think captures the gist of it:

Again, is he in error who judges either that the thing is so or that it is not so, and is he right who judges both? If he is not right, what can they mean by saying that the nature of existing things is not of this kind? And if he is not right, but more right than he who judges in the other way, being will already be of a definite nature, and this will be true, and not at the same time also not true. But if all are alike both right and wrong, one who believes this can neither speak nor say anything intelligible; for he says at the same time both ‘yes’ and ‘no’. And if he makes no judgement but thinks and does not think, indifferently, what difference will there be between him and the plants? – Thus, then, it is in the highest degree evident that neither any one of those who maintain this view nor anyone else is really in this position. For why does a man walk to Megara and not stay at home thinking he ought to walk? Why does he not walk early some morning into a well or over a precipice, if one happens to be in his way? Why do we observe him guarding against this, evidently not thinking that falling in is alike good and not good? Evidently he judges one thing to be better and another worse. And if this is so, he must judge one thing to be man and another to be not-man, one thing to be sweet and another to be not-sweet. For he does not aim at and judge all things alike, when, thinking it desirable to drink water or to see a man, he proceeds to aim at these things; yet he ought, if the same thing were alike man and not-man. But, as was said, there is no one who does not obviously avoid some things and not others. Therefore, it seems, all men make unqualified judgements, if not about all things, still about what is better and worse. And if this is not knowledge but opinion, they should be all the more anxious about the truth, as a sick man should be more anxious about his health than one who is healthy; for he who has opinions is, in comparison with the man who knows, not in a healthy state as far as the truth is concerned.<sup>36</sup>

Avicenna seems a tad less patient than Aristotle with those who would deny the Law of Non-Contradiction: “Anyone who denies the law of non-contradiction should be beaten and burned until he admits that to be beaten is not the same as not to be beaten, and to be burned is not the same as not to be burned.”<sup>37</sup>

My account of Aristotelian liberalism is distinguished by its combined praxeological and dialectical analysis. Praxeology is the general science of human action, the distinctive method of the Austrian school of economics. It is an ontological discipline that undertakes “the formal [or conceptual] analysis of human action in all of its aspects.”<sup>38</sup> It is, I think, the proper foundation for economics (its most developed branch) as well as ethics and epistemology.<sup>39</sup> Praxeology’s

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35 Aristotle, *Metaphysics* IV.3 1005b19-20. This precise wording signifies that context is important in applying the law, a fact often overlooked by modern logicians and philosophers.

36 Ibid., IV.4 1008b3-31.

37 Avicenna, *Metaphysics*, I; commenting on Aristotle, *Topics* I.11.105a4–5.

38 Rothbard (2004), p. 299.

39 See <http://www.praxeology.net/praxeo.htm>.

internally related counterpart and compliment is the thymological method of understanding (*verstehen*; or hermeneutical psychology).<sup>40</sup> Austrian economics, unlike classical and neoclassical economics, is not primarily concerned with wealth, with the fabrication of *things*, and comparison of static states. Rather, it is concerned with the meaning of human action, the pursuit of ends with scarce means, and the market as a process. In other words, its subject is *homo agens* not *homo æconomicus*.

Praxeology presupposes metaphysical and methodological individualism, both of which are features of Aristotelian philosophy. A quotation from Eduard Zeller should suffice for now as a synopsis of my metaphysical, epistemological, ethical and political claims, although I will disagree with a point or two:

In this [Aristotle's] opposition to the Platonic socialism we shall not only recognize Aristotle's practical sense, his clear insight into the laws and conditions of actual life, his aversion to all ethical onesidedness and his deep knowledge of human nature and of social life, but we shall not fail to observe that here, as in Plato, the political views are closely connected with the principles of the metaphysical system. Plato had demanded the abolition of all private possession and the suppression of all individual interests, because it is only in the Idea or Universal that he acknowledges any title to true reality. Aristotle refuses to follow him here. To him the Individual is the primary reality, and has the first claim to recognition. In his metaphysics individual things are regarded, not as the mere shadows of the idea, but as independent realities; universal conceptions not as independent substances, but as the expression for the common peculiarity of a number of individuals. Similarly in his moral philosophy he transfers the ultimate end of human action and social institutions from the State to the individual, and looks for its attainment in his free self-development. The highest aim of the State consists in the happiness of its citizens. The good of the whole rests upon the good of the citizens who compose it. In like manner must the action by which it is to be attained proceed from the individual of his own free will. It is only from within through culture and education, and not by compulsory institutions, that the unity of the State can be secured. In politics as in metaphysics the central point with Plato is the Universal, with Aristotle the Individual. The former demands that the whole should realize its ends without regard to the interests of individuals: the latter that it should be reared upon the satisfaction of all individual interests that have a true title to be regarded.<sup>41</sup>

The moderate individualism of Aristotle and praxeology cannot be construed as atomistic and does not preclude non-reductionist analysis of society, culture, markets and states, etc. Nonetheless, it is human beings who act, not society; individuals exist within society for their own sakes, not for the sake of society or the state; and they are not wholly determined by the society in which they happen to be born.

By dialectics, of course, I do not mean in the Hegelian sense but rather in the original Socratic and, primarily, Aristotelian sense of the word. Chris Matthew Sciabarra, a former

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40 Mises coined the term 'thymology' from the Greek *θυμός*, "which Homer and other authors refer to as the seat of the emotions and as the mental faculty of the living body by means of which thinking, willing, and feeling are conducted" (1957: 265-266 n. 1).

41 Zeller (1897), Vol. II, pp. 224-226.

doctoral student of the well-known dialectical Marxist Bertell Ollman, but himself a self-styled dialectical libertarian, defines dialectics as a methodological “*orientation toward contextual analysis of the systemic and dynamic relations of components within a totality*. A totality is not simply an undifferentiated or all-encompassing whole. It is a specific whole as understood from – and structured by – shifting perspectives.”<sup>42</sup> In short, dialectics is the art of context-keeping. This sense of dialectics as a *methodological orientation* is distinct from the more specific dialectical *method* of questioning and discussion employed by Socrates, Plato and Aristotle. Sciabarra sees Aristotle as a dialectical thinker in the former sense as well. This dialectical approach is exemplified in all of Aristotle’s writings and is explicitly explained in his *Topics* and *Sophistical Refutations*. Aristotle says in the *Topics* that dialectics “is a process of criticism wherein lies the path to the principles of all inquiries.”<sup>43</sup> And in the *Sophistical Refutations* he distinguishes between dialectic as a method of questioning and dialectic as “a mode of examination as well.”<sup>44</sup> In these works, Aristotle places an emphasis on context in the analysis of any problem by means of examining them from shifting points of view. See, for example, his discussion of ways to show “that the whole is not the same as the sum of its parts” in sections 13 and 14 of Book VI of the *Topics*.<sup>45</sup>

Sciabarra argues that Ayn Rand was a dialectical thinker who analyzed social phenomena on three conceptually distinct but interrelated levels of generality, which he reconstructs as: 1) the personal (psycho-epistemological, ethical), 2) the cultural (linguistic, ideological), and 3) the structural (economic, political, legal).<sup>46</sup> In analyzing social phenomena, the analyst can focus on one of these levels while shifting the other two into the background but never treating them as separate from each other and the focus level or completely ignoring them, for all three levels are necessary to fully understand the whole. The analyst can then shift focus to each of the other levels in turn to gain a more complete and contextual understanding. As one example in which I will be using such dialectical analysis, Sciabarra’s work on dialectical social analysis inspired my synthesis of the two different accounts of rights provided by Rasmussen and Den Uyl on the one hand and Long on the other. I propose that rights can be analyzed at each of these three levels as well. A conception of rights that includes only one or two of these levels is incomplete and insufficiently contextual. To analyze rights from only one or two, but not all three, levels will result in an incomplete and insufficiently contextual analysis.

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42 Sciabarra (2000), p. 173. Emphasis in original. There is an element of Aristotelian dialectics in Hegel but it is unfortunately distorted by Hegel’s extreme organicism and dualism. Sciabarra argues that an Aristotelian and properly context-sensitive dialectic avoids Hegelian holism as well as the pitfalls of both strict organicism and strict atomism and both monism and dualism. What counts as the appropriate ‘totality’ for analysis of a particular phenomenon is context-dependent.

43 *Topics* 1.2.101b3-4.

44 *SR* 11.172a22.

45 *Topics* 6.13-14.150a1-151b25

46 Sciabarra (2000), pp. 379-383. Although I focus on these three levels of social analysis, I want to avoid giving the impression that they exhaust the limits of dialectics as a methodological orientation; rather, they should be seen as one manifestation of it.

## Chapter Two.

### ***Eudaimonia* and the Right to Liberty: Rights as Metanormative Principles**

However much we love reconciliation, there are two principles that cannot be reconciled: liberty and coercion.

- Frederic Bastiat, *Economic Harmonies*

Simplicity and truth of character are not produced by the constraint of laws, nor by the authority of the state, and absolutely no one can be forced or legislated into a state of blessedness; the means required are faithful and brotherly admonition, sound education, and, above all, free use of the individual judgment.

- Benedict de Spinoza, *Tractatus Theologico-Politicus*

Now human law is framed for a number of human beings, the majority of whom are not perfect in virtue. Wherefore human laws do not forbid all vices, from which the virtuous abstain, but only the more grievous vices, from which it is possible for the majority to abstain; and chiefly those that are to the hurt of others, without the prohibition of which human society could not be maintained: thus human law prohibits murder, theft and such like.

- Aquinas, *Summa Theologica*, I-II, Question 96, Second Article

### **Introduction**

An Aristotelian liberalism promises to offer a radically different foundation for rights than has heretofore prevailed in the liberal tradition. This is because Aristotelian virtue ethics entails a radically different approach to the right and the good than do modern ethical theories. Modern ethical theories tend to focus on moral properties, on rules or consequences, on the moral recipient or patient<sup>47</sup> (be it an individual, society-as-a-whole or certain classes of it). In contrast to typically modern *demand-side* approaches to morality and rights, Aristotelian-liberal virtue ethics, like the virtue ethics of Aristotle, offers a *supply-side* approach: it focuses on the moral agent – his character and his actions. As Roderick Long explains: “According to a demand-side ethics, the way that A should treat B is determined primarily by facts about B, the *patient* of moral activity; but for a supply-side approach like Virtue Ethics, the way that A should treat B is determined primarily by facts about A, the *agent* of moral activity.”<sup>48,49</sup> The central

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47 ‘Patient’ is the commonly used term but I prefer ‘recipient’ as a more neutral term. The term ‘patient’ is a rather loaded one. The implication is that we are supposed to care for patients, for the sick, as doctors do, but not all of ethics is about caring for patients. Thanks to my advisor, Dr. Eubanks, for pointing out the implications of sickness.

48 Long (1994/95). Online version: no page numbers available, but it is a short essay.

49 Note that this is not an absolute distinction. A supply-side ethics is not based solely on the moral agent, nor is a demand-side ethics based solely on the moral recipient. It is a matter of emphasis and fundamentality.

question of a eudaimonistic virtue ethics is not “What consequences should I promote?” or “What rules should I follow?” but rather “What kind of person should I be?”<sup>50</sup>

Modern natural rights theories – from Locke (classical liberal) to Robert Nozick and Murray Rothbard (contemporary liberals or libertarians) – tend to be demand-side accounts of rights. They tend to focus on facts about the moral recipient in explaining their derivation, function and justification. On such an account, rights identify the freedoms men require in order to be able to take the actions they judge they must if they are to survive and even prosper, without infringing on other persons’ equal freedom to do likewise. Rights, if respected and protected, minimize that most anti-social form of conflict, violence, by prohibiting the threat or use of initiatory physical force. A society in which rights are respected and protected promotes long-range planning and mutual trust, enables complex commercial transactions and partnerships between relative strangers, and makes possible friendships that are truly deep and meaningful precisely because they are chosen. A truly free market society is not a zero-sum game, operating according to the laws of a Hobbesian jungle, in which people compete over shares of a fixed pie such that in order for some to win, others must lose. Rather, a truly free market society is a positive-sum game, really no game at all, in which individual achievements make the pie larger and richer.

Nozick adds an additional explanation, which is in his view the primary foundation of rights, viz., that rights are a recognition of the fact that we are all separate persons.

There are only individual people [and no social entity apart from them], different individual people, with their own individual lives. Using one of these people for the benefit of others, uses him and benefits others. Nothing more. What happens is that something is done to him for the sake of others. Talk of an overall social good covers this up. (Intentionally?) To use a person in this way does not sufficiently respect and take account of the fact that he is a separate person, that his is the only life he has. *He* does not get some overbalancing good from his sacrifice, and no one is entitled to force this upon him – least of all a state or government that claims his allegiance (as other individuals do not) and that therefore scrupulously must be *neutral* between its citizens.<sup>51</sup>

Thus, if I were to treat you as a mere means, rather than as an end-in-yourself, I would not be respecting you as a person. And we all need and deserve such respect. However, as Rasmussen and Den Uyl point out, a major flaw in Nozick’s theory is that “the inviolability of the individual cannot be based on simply the ontological difference of individuals or the separateness of their lives.”<sup>52</sup>

It is not that these accounts of rights are fundamentally wrong. Rather, they are very much right as far as they go. It is just that they are incomplete. These are accounts of rights that treat of the individual qua moral recipient, not qua moral agent. They deal with what is necessary

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50 This last also points to virtue ethics as an alternative to consequentialism and deontology. As Douglas Rasmussen and Douglas Den Uyl (2005: 266 n. 1) point out, “if . . . human flourishing is both the ultimate good (a way of being) and how one ought to conduct oneself (a type of activity), then a natural end or virtue ethics in general, and an individualistic perfectionism specifically, transcend the traditional deontological/consequentialist approach to how we determine moral obligations. Moral obligation is determined neither apart from a consideration of human flourishing nor as a mere means to it.”

51 Nozick (1974), p. 33. Emphasis in original.

52 Rasmussen and Den Uyl (2005), p. 209.

to protect the conditions of human flourishing. From this position, an individual's rights qua moral recipient entail moral obligations in others, rather than the other way around, i.e., of an individual's moral obligations qua moral agent entailing that others have rights against him. These accounts fail to sufficiently link rights-respecting behavior to human flourishing and, in particular, to virtue. As we shall see in the sections that follow and in the subsequent chapter, even Douglas Rasmussen and Douglas Den Uyl, two prominent Aristotelian liberals seem to fall prey to this mistake.<sup>53</sup> We turn now, however, to a discussion on the nature of human flourishing. The section that follows is heavily indebted to the work of Rasmussen and Den Uyl.

## **Human Flourishing**

Douglas Rasmussen and Douglas Den Uyl argue that *eudaimonia* or human flourishing has six basic and interrelated features: it is 1) objective, 2) inclusive, 3) individualized, 4) agent-relative, 5) self-directed, and 6) social.<sup>54</sup> Arguably, Aristotle's conception of *eudaimonia* incorporates all of these features. The differences in the neo-Aristotelian account herein described lie in the greater emphasis on the individualized nature of flourishing, the open-ended and potentially cosmopolitan nature of human sociality, and the greater recognition of the importance of liberty to human flourishing.

According to the Aristotelian-liberal account presented here, human flourishing is objective. Desire plays an important role in *eudaimonia* and virtue. However, flourishing is “an object of desire because it is desirable and choice-worthy, not simply because it is desired or chosen.”<sup>55</sup> Flourishing as the ultimate good must be understood in a biocentric context. It is both a way of *living* and, because flourishing is more than mere survival, a *way* of living.<sup>56</sup> As Philippa Foot points out: “The structure of the derivation is the same whether we derive an evaluation of the roots of a particular tree or the action of a particular human being. The meaning of the words 'good' and 'bad' is not different when used in features of plants on the one hand and humans on the other, but is rather the same applied, in judgments of natural goodness and defect, in the case of all living things.”<sup>57</sup>

Flourishing is activity expressive and productive of the actualization of potentialities specific to the being's natural kind, including both its universal and its unique particular aspects. A human being is a rational animal, but he is also a rational animal with a particular set of physical and mental abilities and talents peculiar to himself as well as a unique social and historical context and his own personal choices. All of these are factors in an individual's own *eudaimonia*; more on this will be said in the discussion of the individualized nature of human flourishing, however.

Rasmussen and Den Uyl observe: “Ontologically considered, human flourishing is an activity, an actuality, and an end (or function) that is realized (or performed) through choice. Human flourishing is not the mere possession of needed goods and virtues.”<sup>58</sup> It is a self-directed

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53 Regarding Rasmussen and Den Uyl, see, for example, pages 81-82 of their (2005).

54 See, e.g., Rasmussen and Den Uyl (2005), pp. 127-152. The essential characteristic of man that best explains and makes possible these features is his faculty of reason.

55 Rasmussen and Den Uyl (2005), p. 127.

56 On this formulation, see Rasmussen and Den Uyl (2005), p. 128.

57 Foot (2001), p. 47.

58 Rasmussen and Den Uyl (2005), p. 129.

activity: flourishing, and all of the goods and virtues that constitute it, exist as such only through a person's own efforts. Finally, in a teleological theory, flourishing, as the ultimate end, “is thus ultimately the standard by which human desires, wishes, and choices, are evaluated.”<sup>59</sup>

Human flourishing is an inclusive end, not a dominant or exclusive one. As Rasmussen and Den Uyl argue, human flourishing “is the ultimate end of human conduct, but it is not the only activity of inherent worth. It is not a 'dominant' end that reduces the value of everything else to that of a mere means to it.”<sup>60</sup> It is plural and complex, not monistic and simple. To quote J. L. Ackrill, it is “the most final end and is never sought for the sake of anything else, because it includes all final ends.”<sup>61</sup> Human flourishing is inclusive in that it consists of basic or, to use Rasmussen and Den Uyl's term, “generic” goods and virtues. Goods such as those listed by Aristotle in *Rhetoric* 1362b10-28: for example, justice, knowledge, friendship, health, wealth, and honor. Virtues such as justice, courage, temperance, and generosity. These goods and virtues are final ends and intrinsically valuable; and they are expressions or constitutive of flourishing as well as partial realizations of it.<sup>62</sup> This is possible because flourishing is a “continuous process of living well,” not a future good received at the end of one's life or a good that, once achieved, is never lost;<sup>63</sup> hence, in part, Aristotle's pointed addendum, “in a complete life.”<sup>64</sup>

Human flourishing is highly individualized. Aristotle recognized this to some extent as evidenced by his recognition of the importance of both the universal and the particular, in philosophy in general and in ethics and politics in particular. For Aristotle, the good is “that at which all things aim.”<sup>65</sup> This is a universal conceptual truth. But he also recognized that the good is different for different things. The natural end of one species is different from that of another. The natural end or good for a particular profession or pursuit will be different from that of another.<sup>66</sup> Even at the individual level Aristotle recognizes important differences from one person to another. One specific manifestation of this lies in his discussion of his doctrine of the mean as it pertains to virtue. Virtue is right action, the mean between the two extremes of excess and deficiency (vices), relative to us. The inclusion of ‘relative to us’ is key. Aristotle’s ethical theory is also sensitive to the particular contexts in which action takes place. Aristotle says of our emotions: it is a mark of excellence to feel them “at the right time, toward the right object, toward the right people, for the right reason, and in the right manner.” He then adds that this is true of actions as well.<sup>67</sup> Virtue involves both right emotion and right action.<sup>68</sup> On the other hand, Aristotle seems to endorse just one way of life as the best – depending on interpretations either the contemplative life or some combination of the contemplative life and the political life.

Just as Aristotle recognized to some degree the individualized nature of human flourishing and of virtue but did not take this far enough, so too did the Roman orator and statesman Cicero. Some passages in Book I of his *De Officiis (On Duties)* provide some useful categories for conceiving of the highly individualized nature of human flourishing. I interpret

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59 Ibid.

60 Ibid.

61 Ackrill (1980), p. 23.

62 Rasmussen and Den Uyl (2005), p. 130. Cf. Aristotle, *Nicomachean Ethics* (hereafter *NE*) I.7 1097b1-7.

63 Ibid., p. 131.

64 *NE* I.7 1098a17-20 and I.9 1100a4-6.

65 *NE* I.1 1094a3.

66 *NE* I.7 1097a15-24.

67 *NE* II 1106b15-24.

68 *NE* II 1106b36-1107a7.



Cicero here as elaborating upon the role of both the universal and the particular in Aristotle's ethical theory. It will thus be useful to reproduce the passages below. In the passages that follow, Cicero discusses the four *personae*, or roles, the requirements of which all men must fulfill in order to live the Good Life: universal human nature (i.e., reason) and the individual's inborn talents, social context, and personal choices.

Furthermore, one must understand that we have been dressed, as it were, by nature for two roles: one is common, arising from the fact that we all have a share in reason and in the superiority by which we surpass the brute creatures. Everything honourable and seemly is derived from this, and from it we discover a method of finding out our duty. The other, however, is that assigned specifically to individuals. For just as there are enormous bodily differences (for some, as we see, their strength is the speed that they can run, for others the might with which they wrestle; again, some have figures that are dignified, others that are graceful), similarly there are still greater differences in men's spirits. (I.108)

Each person should hold on to what is his as far as it is not vicious, but is peculiar to him, so that the seemliness that we are seeking might more easily be maintained. For we must act in such a way that we attempt nothing contrary to universal nature; but while conserving that, let us follow our own nature, so that even if other pursuits may be weightier and better, we should measure our own by the rule of our own nature. For it is appropriate neither to fight against nature nor to pursue anything that you cannot attain. Consequently, it becomes clearer what that seemliness is like, precisely because nothing is seemly 'against Minerva's will', as they say, that is, when your nature opposes and fights against it. (I.110)

If anything at all is seemly, nothing, surely is more so than an evenness both of one's whole life and of one's individual actions. You cannot preserve that if you copy someone else's nature and ignore your own. (I.111)

To the two roles of which I spoke above, a third is added: this is imposed by some chance or circumstance. There is also a fourth, which we assume for ourselves by our own decision. Kingdoms, military powers, nobility, political honours, wealth and influence, as well as the opposites of these, are in the gift of chance and governed by circumstances. In addition, assuming a role that we want ourselves is something that proceeds from our own will; as a consequence, some people apply themselves to philosophy, others to civil law, and others again to oratory, while even in the case of the virtues, different men prefer to excel in different of them. (I.115)<sup>69</sup>

These passages suggest that we must strike the right balance, the mean between excessive universalism and excessive pluralism. Cicero, unfortunately from the liberal point of view, means one's social context as imposing a wide range of obligations beyond the realm of personal choice, as long as they are not contrary to nature or beyond one's ability. Thus, the mere accident of birth into a noble family with a long lineage of public service imposes the obligation of maintaining and furthering the family's heritage and position in society with one's own deeds. Thus, also, was a Roman obligated to serve the Roman Republic to the best of his ability so long as nothing he did or was called upon to do was contrary to nature. The crux of the issue, of

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69 Cicero (1991), pp. 42-45.

course, lies in how one defines the relationship between personal choice and the particular social contexts into which we are born. Is it beyond the scope of personal choice to change one's social context? Also of fundamental importance is whether particular social contexts conflict with what is required by our universal human nature.

The scope of personal choice seems rather limited in the Roman context. We have as an example of the dominant role of social context Cicero's admonition to his son in *De Officiis*:

Anyone who is thinking about embarking upon an honourable life ought to do so [learn about duties from the Stoics], but perhaps no one more than you. For you carry this burden: many expect you to emulate my diligence, most my honours, and some, perhaps, even my renown. Besides, you have incurred a weighty responsibility from Athens and from Cratippus; since you went to them as if going to purchase arts of good quality, it would be most dishonourable to return empty-handed, thus disgracing the authority of both city and master. Therefore, strive with as much spirit and struggle with as much effort as you can (if learning is an effort, and not a pleasure) in order that you may succeed, and not, instead, allow yourself to seem to have let yourself down, even though we have provided everything for you. (III.6)<sup>70</sup>

In this one passage we see the chain of unchosen obligations imposed on Cicero's son, i.e., an obligation to educate himself in such a way that he can follow in his father's footsteps and therefore an obligation to his teachers and even the city of Athens itself. This is not to say that all of our obligations are chosen in a radically free, atomistic sense; rather, it is merely to criticize Cicero and Aristotle for their inadequate recognition of the diversity of human flourishing and the value of flourishing diversity.

As Cicero's four *personae* imply, but as he and Aristotle arguably do not fully appreciate, human flourishing is highly

individualized and diverse. It depends on *who* as well as *what* one is. Abstractly considered, we can speak of human flourishing and of basic or generic goods and virtues that help to define it. Yet, this does not make human flourishing in reality either abstract or universal. Concretely speaking, no two cases of human flourishing are the same, and they are not interchangeable. . . . There are individuating as well as generic potentialities and this makes human fulfillment always something unique.<sup>71</sup>

An examination of human nature cannot reveal the proper weighting, balance, or proportion of the generic goods and virtues for each individual. Indeed, these goods and virtues do not exist as such except as concrete goods and virtues *for* particular individuals as they achieve and enjoy them through their own efforts in specific contexts. Human beings are not mere loci in which these goods and virtues qua universals are instantiated. These generic goods and virtues are "generalized abstractions of common needs and capacities and not independent realities in their own right."<sup>72</sup> Thus, human flourishing is not a one-size-fits-all standard, nor is its diversity limited to the level of particular communities or practices, yet it is nevertheless the objective and ultimate standard of what is good and right on an individual level. "This account of human

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70 Ibid., p. 103.

71 Rasmussen and Den Uyl (2005), p. 132. Emphasis in original.

72 Ibid., p. 150.

flourishing is, then, a version of moral pluralism. There are many *summa bona*, because each individual's flourishing is the *summum bonum* for him- or herself and because there is no single *summum bonum* without unique form or apart from the lives of individual human beings.”<sup>73</sup>

“Human flourishing is agent-relative; it is always and necessarily the good *for* some person or other.”<sup>74</sup> Agent-relative value is contrasted with its opposite: agent-neutral value, and the ethical impersonalism based on it. Rasmussen and Den Uyl say “that an ethical theory is impersonal when all ultimately morally salient values, reasons, and rankings are 'agent-neutral'; and they are agent-neutral when they do *not* involve as part of their description an essential reference to the person for whom the value or reason exists or the ranking is correct. One person can be substituted for any other.”<sup>75</sup> Agent-neutrality and ethical impersonalism are exceedingly common in modern ethical theories, particularly of Kantian and utilitarian varieties. Aristotelian-liberals, however, reject as wrongheaded the notion that particular and contingent facts such as individual, social and cultural differences are ethically irrelevant; quite the opposite, such factors are vitally important.

Rasmussen and Den Uyl observe that there are three possible confusions regarding agent-relativity: 1) Agent-neutrality is often confused with objectivity, and agent-relativity with subjectivity; but agent-relativity is compatible with objectivity due to the fact that the good in Aristotelian and neo-Aristotelian philosophy is objective because of “real potentialities, needs, and circumstances that characterize both what and who a person is” and not merely because it is desired.<sup>76</sup> 2) It might be thought that because something is of value only to and for someone it must be of merely instrumental value, but this has already been shown not to be the case.<sup>77</sup> 3) It might be thought that agent-relativity is merely a form of self-only-regarding egoism, but agent-relativity is not incompatible with other-regarding concern. Indeed, other-regarding concern in the form of the good of friendship and virtues such as justice and generosity are constitutive parts of human flourishing.

Human flourishing is self-directed. Self-direction is the exercise of rational agency. It is not full-blown autonomy and it is not the full exercise of intellectual and moral virtue, although it is a necessary constitutive element of these things. Human flourishing requires knowledge of its constituent goods and virtues and the practical wisdom necessary to choose the proper course of action in a given context. This depends on the individual agent to initiate and sustain over the course of his life the exercise of his rational capacities in order to achieve the intellectual insights and traits of character and to make the correct choices and the right actions that are necessary for his flourishing. This no one can do for him, for although the conclusions of thought “can be shared, the act of reasoning that is the exercise of self-direction cannot.”<sup>78</sup> Self-direction is thus “the central necessary constituent or ingredient of human flourishing. It is that feature of human flourishing without which no other feature could be a constituent.”<sup>79</sup>

Finally, we come to the sixth feature of human flourishing identified by Rasmussen and Den Uyl. Human flourishing is profoundly social. Rasmussen and Den Uyl identify four ways in

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73 Ibid., p. 134. Emphasis in original.

74 Ibid. Emphasis in original.

75 Ibid., p. 135.

76 Ibid., pp. 136-137.

77 See the earlier discussion of human flourishing as an inclusive end.

78 Ibid., p. 140.

79 Ibid.

which human beings are naturally social animals: 1) “Our maturation or flourishing requires a life with others.” 2) “[H]aving other-concern is crucial to our maturation.” 3) “Our origins are almost always social.” 4) And here Aristotelian liberals go beyond Aristotle: “Human sociality can, if need be, extend beyond the polis and be cosmopolitan. . . . [H]uman sociality is open-ended.”<sup>80</sup> This fourth point is particularly important because it marks a major difference between Aristotelian liberals and Aristotle, and, to an even greater extent, between Aristotelian liberals and communitarians. An Aristotelian liberal will recognize not only that in order to flourish one can only do so “in some community or other,” but also that “this does not mean that a given community's values will always be appropriate for an individual. Thus, one is not morally required simply to accept – indeed, one might be required to reject – the status quo. In such circumstances, one might need to [attempt to] refashion a community's values [by example and persuasion] or find a new community.”<sup>81</sup>

Rasmussen and Den Uyl argue that “the open-ended character of human sociality discloses the need for a perspective that is wide-ranging enough to explain how the possible relationships among persons who *as yet* share no common values and are strangers to each other can, nonetheless, be ethically compossible.”<sup>82</sup> In this vein, one may look upon humanity as a whole insofar as its members do not engage in fundamentally anti-social behavior (i.e., the threat or use of initiatory physical force) as comprising a *cosmopolis* or Great Society within which are an uncountable number of different kinds and levels of overlapping communities: some of which we will belong to for life, some we will join, some we will leave, and all of which we will affect in often unintended ways to some degree with our dreams, choices, and actions.

*Phronēsis* (φρόνησις), the virtue of prudence or practical wisdom, is defined by Aristotle as “a state [of the soul] involving truth and reason concerned with action regarding things that are good and bad for a human being.”<sup>83</sup> It plays a central integrating role in human flourishing. This is so not only because there are many goods and virtues that constitute it and not only because there is no *a priori* weighting, ranking, or balancing of these goods and virtues but also because each person's flourishing is unique – given their unique talents, social context, interests, choices, and so forth.

It is fundamentally erroneous to assume that abstract ethical principles *alone* can determine the proper course of conduct for any particular individual. Such ethical rationalism fails to grasp that ethics is practical and concerned with particular and contingent facts – facts that abstract ethical principles cannot explicitly capture. Such facts are crucial to determining what ought to be done. Thus, contrary to much modern and contemporary ethics, not all morally proper conduct need be something everybody should do.<sup>84</sup>

It might be thought, however, that this account of human flourishing is vitiated by serious underdetermination, meaning that the theory does not give us enough specific guidance and so is not useful for determining what ought to be done, and irresolvable conflicts between the goods that constitute it. Rasmussen and Den Uyl point out in anticipatory reply that underdetermination

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80 Ibid., pp. 141-142.

81 Ibid., p. 142.

82 Ibid., p. 143. Emphasis mine.

83 *NE* VI.5 1140b4-6; Miller's (1995: 10) translation.

84 Ibid., p. 144. Emphasis in original.

is a flaw only if one assumes that the aim of moral theory is to dictate a set of specific and equally suited rules of conduct for every person regardless of his or her nexus.<sup>85</sup> But this is not necessary given that the human good is neither abstract nor agent-neutral. Practical wisdom deals with the contingent and the particular and can provide guidance regarding substantial matters, if we do not confuse it with theoretical reason or its features.<sup>86</sup>

Quite the contrary to being a flaw, this “underdetermination” is actually a significant advantage “because it represents a theoretical openness to diversity.”<sup>87</sup>

Furthermore, not only does much of modern and contemporary ethics confuse agent-neutrality with objectivity. It also neglects the importance of the individual and of practical wisdom to morality and flourishing, and forgets that by its nature ethics is open-ended. It is thus no accident that so much of modern and contemporary ethical theory confuses ethics with law. “Law must be concerned with rules that are universal and necessary, because it is concerned with the question of establishing social conditions that must apply to everyone equally. Ethics, on the other hand, need not be so construed. Ethical principles need to be open to the particular and contingent circumstances of the lives of different individuals.”<sup>88</sup>

Rasmussen and Den Uyl also have an anticipatory reply for the alleged problem of irresolvable conflict between a significant plurality of goods: “A plurality of inherent goods does not necessarily make them incompatible, if we do not confuse concrete with abstract considerations and if we recognize that it is by using practical wisdom, not rules, that potential conflicts are reconciled.”<sup>89</sup> Considered abstractly, there is no logical incompatibility between the various goods and virtues of which flourishing is constituted. “Concretely considered, keeping them from becoming incompatible by discovering their proper weighting or balancing is an individual's central task. Yet, this is only an insuperable difficulty if we assume that the goods and virtues that compose human flourishing are equal among themselves and identical across individuals.”<sup>90</sup>

“We need abstract [theoretical] knowledge of generic goods and virtues as well as practical wisdom's insight into the contingent and the particular” in order to live an ethical and hence a flourishing life.<sup>91</sup> The generic goods and virtues serve to delimit what counts as flourishing, but within this range what counts as a particular good or virtue for a given individual will depend not only upon his universal human nature but also on objective and particular value-laden facts about him such as his talents, his historical/social context, his personal choices, and the specific circumstances he finds himself in at the moment of action. “[P]ractical reason properly used, which is the virtue of practical wisdom, is the intelligent management of one's life so that all the necessary goods and virtues are coherently achieved, maintained, and enjoyed in a manner that is appropriate for the individual human being.”<sup>92</sup> The individual's task is not merely

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85 I.e., “the circumstances, talents, endowments, interests, beliefs, and histories that descriptively characterize [him or her as an] individual” (Ibid., p. 133).

86 Ibid., p. 145.

87 Ibid., pp. 145-146.

88 Ibid., p. 146 n. 79.

89 Ibid., p. 145.

90 Ibid., p. 150.

91 Ibid., p. 149.

92 Ibid., p. 147. Emphasis removed.

one of conflict avoidance, however, but also of integration: One must make the goods and virtues one's own, so to speak, “by an act of reason or insight, not by mere mechanical application of universal principles to concrete cases. It is not just that an individualistic perfectionism points to a wider variety of 'relevant differences' among agents. . . . *It is rather that agenthood itself is the 'relevant difference'.*”<sup>93</sup>

We are now, finally, in a better position to examine with greater precision the Aristotelian-liberal conception of liberty. Here I will focus on an essential aspect of the political dimension of autonomy: liberty. In chapter four I will discuss political autonomy in general and two other important dimensions of autonomy: social and personal. According to the traditional (classical) liberal conception, liberty consists of being free from aggression; more precisely, liberty is freedom from the threat or use of initiatory physical force. Although some people are never at a loss for seeming justifications (new and old) for violating individual liberty, it is arguably almost universally and commonsensically understood that the act of coercing someone with the threat or use of physical force – such as by violence, murder, fraud and naked theft – imposes the aggressor's desires, interests, preferences, choices, actions, on the victim without his consent. To the extent that this occurs the victim exists not for his own sake but for another's: his desires, interests, preferences, choices, actions, are no longer truly his but are alien to him. More to the point, to the extent that this occurs his actions are not self-directed. A person being physically coerced by another is not able to make the choices and take the actions he judges necessary for the maintenance and furtherance of his life, i.e., for his survival and, more importantly, his flourishing. Also, as Nozick has pointed out, he who threatens or employs initiatory physical force against another rational being, for whatever reason, is not respecting his victim as a person.

In her essay, “Aristotle's Function Argument: A Defense,” Jennifer Whiting makes an apropos analogy to a malfunctioning heart controlled by a pacemaker:

A heart which, owing to some deficiency in its natural capacities, cannot beat on its own but is made to beat by means of a pacemaker is not a healthy heart. For *it*, the heart, is not strictly performing its function. Similarly, a man who, owing to some deficiency in his natural capacities, cannot manage his own life but is managed by means of another's deliberating and ordering him is not *eudaimōn* – not even if he possesses the same goods and engages in the same first order activities as does a *eudaimōn* man. For *he*, the man, is not strictly speaking performing his function. . . . Aristotle's claim that *eudaimonia* is an activity of the soul in accordance with virtue shows that he thinks that *eudaimonia consists in exercising rational agency.*<sup>94</sup>

Similarly, an otherwise normally functioning human being who is physically coerced is to that extent strictly speaking not performing his function; indeed, so much the worse compared to Whiting's example because he is otherwise healthy! Thus, from the standpoint of a supply-side ethical theory, it is not enough simply to possess the goods (and it is impossible to possess the virtues) one needs in life without self-directed action. To the extent that one's liberty is infringed, one is unable to flourish.

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93 Ibid., p. 151. Emphasis in original.

94 Whiting (1988), p. 43. Emphasis in original.

We understand the foregoing on a more intuitive or commonsensical level too. It is revealed in our reactions to Nozick's experience machine.<sup>95</sup> If we were given the chance to experience whatever kind of life we most desired simply by hooking up to a virtual reality machine – it being stipulated that the virtual reality life would take the place of the one we otherwise would have lived, i.e., we'd be hooked up until we died – would any of us choose to do so? Most of us understand that being hooked up to the hypothetical experience machine is not truly living. Most of us want and need to do and to be, in connection with actual reality, not merely to experience. A recent illustration of this in film is exemplified by the *Matrix* trilogy, in which the human race is enslaved as living batteries by intelligent robots, their minds trapped in a virtual reality, blissfully ignorant of their situation; of the individuals who discover the truth and escape, only one desires to return to a virtual life. This insight is equally applicable to real world scenarios as to hypothetical thought experiments.

### **The Right to Liberty as a Metanormative Ethical Principle** **(Rasmussen/Den Uyl)**

Drawing on the foregoing analysis of human flourishing, it is possible to clarify further the nature and importance of liberty. On the most fundamental level it is self-direction that is compromised by the threat<sup>96</sup> or use of physical force. As we have seen, self-direction is *a* necessary and *the* central condition and constitutive element of flourishing. Whatever a desire, an interest, a preference, a choice, an action, an entire life that is directed by another may be called it is not good, virtuous or flourishing. It is the very nature of *eudaimonia* and virtue that they must be desired and freely chosen for the right reasons.<sup>97</sup> The pursuit of a flourishing life, the practice of virtue, must be self-directed. Coercive interference, or the threat or use of physical force, compromises self-direction and therefore moral agency. An act of mine does not count as virtuous and therefore contributory toward my *eudaimonia* if you force it upon me, even if it otherwise would have been had I desired and freely chosen it for the right reasons.

Recall from the previous section, it was said that “the open-ended character of human sociality discloses the need for a perspective that is wide-ranging enough to explain how the possible relationships among persons who as yet share no common values and are strangers to each other can, nonetheless, be ethically compossible.”<sup>98</sup> This alludes to what Rasmussen and Den Uyl call “liberalism's problem,” i.e., “the problem of how to find an ethical basis for the overall political/legal structure of society.”<sup>99</sup> What is needed is an ordering principle for the structure of society that protects the possibility of human flourishing in all its forms. It follows that such a principle, when put into practice, will not hinder or prohibit some forms of flourishing, thereby privileging others; nor will it bias structurally the political/legal order in favor of or against one or more forms of flourishing. This follows from the fact that it is simply a principle that protects the *possibility* of all forms of human flourishing, nothing more. But does such a principle exist? Indeed, it does. That principle is the right to liberty.

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95 Nozick (1974), pp. 42-45.

96 I have in mind primarily clear and present threats, whether spoken or implied.

97 *NE* II.4 (1105a18-1105b17) and III.1-5 (1109b30-1115a6).

98 Rasmussen and Den Uyl (2005), p. 143.

99 *Ibid.*, p. 1.

The right to liberty proscribes legally the threat or use of *initiatory* physical force in all its forms. Recall that the single greatest and most basic encroachment on an individual's self-direction is the threat or use of physical force and that self-direction is necessary and central to human flourishing. By banning legally the threat or use of initiatory physical force, the right to liberty, as the basis of a legal system, protects the possibility of self-direction and therefore the possibility of all forms of human flourishing. Rasmussen and Den Uyl point out that the "individual right to liberty allows each person a sphere of freedom – a 'moral space' or 'moral territory' – whereby self-directed activities can be exercised without being invaded by others. This translates into a principle of compossible *and* equal freedom for all."<sup>100</sup> A society based on the right to liberty is one of complete and total liberty, for, to invoke the Spencer-Rothbard Law of Total Liberty in summary, "if *every* man has freedom to do all that he wills, it follows from this very premise that *no man's* freedom has been infringed or invaded."<sup>101,102</sup>

Rasmussen and Den Uyl call the right to liberty a *metanormative* principle, because "it is concerned with the creation, interpretation, and justification of a political/legal context in which the possibility of the pursuit of flourishing is secured."<sup>103</sup> Rasmussen and Den Uyl identify several requirements for metanormativity. One of them has already been discussed, viz., that such a principle neither bias structurally the political/legal order in favor of one or more forms of flourishing, nor hinder or prohibit any form of human flourishing. Secondly, such a principle must be equally or universally applicable to all individuals and must therefore be centered on "that characteristic present in all forms of human flourishing (or its pursuit)." They argue that generic goods cannot serve as that characteristic because while "they are universal in the sense of helping to define human flourishing for all individuals, their particular form or weighting varies from individual to individual." Finally, a "metanormative principle must apply to both the particular and general in the same way and in the same respect[.]"<sup>104</sup> As has already been shown, self-direction is the central and fundamental feature common to all forms of human flourishing. The right to liberty, since it protects the possibility of self-direction, does not bias the structure of the political/legal order in favor of or against any form of human flourishing. Rather, it secures the central, but not the only, necessary condition that makes human flourishing in all its forms possible.

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100 Ibid., p. 90. Emphasis in original.

101 Rothbard (2004), p. 1312. Emphasis in original. Herbert Spencer's original formulation was his Law of Equal Freedom: "Every man has freedom to do all he wills, provided he infringes not the equal freedom of any other man" (Spencer 1897: 121). Murray Rothbard was correct, however, in pointing out that Spencer's Law is redundant; the first proviso implies the second. "For if every man has freedom to do all that he wills, it follows from this very premise that no man's freedom has been infringed or invaded. [...] The concept "equality" has no rightful place in the "Law of Equal Freedom," being replaceable by the logical qualifier "every." The "Law of Equal Freedom" could well be renamed "The Law of Total Freedom"" (Rothbard 2004: 1312). The phrase 'The Spencer-Rothbard Law of Total Liberty' is my coinage.

102 It may be objected that liberty and equality are not compatible. While it is true that liberty precludes aggressive attempts to impose egalitarian values, thorough-going egalitarianism is contrary to nature and simply impossible to achieve by any means. But equality and liberty are not necessarily incompatible. Indeed, the argument here is that equality of liberty is an unknown ideal and liberty is a kind of equality. See Roderick Long, "Equality: The Unknown Ideal," *Mises.org Daily Article* (October 16, 2001) and "Liberty: The Other Equality," *The Freeman: Ideas on Liberty* Vol. 55, No. 8 (October 2005): 17-19. See, also, Locke's equality of authority, which is only possible with total liberty; Locke (2003), Second Treatise II.4, 6 and 7, pp. 263-264.

103 Rasmussen and Den Uyl (2005), p. 78.

104 Ibid., p. 84.



While I think this account of the right to liberty as a metanormative principle that protects the possibility of all forms of human flourishing is essentially correct and certainly important, it is not the whole story, and certainly not the most fundamental part, from the point of view of virtue ethics. David Gordon points out one deficiency of a primarily demand-side defense of rights, like Rasmussen and Den Uyl's seems to be:<sup>105</sup> "[I]t does not follow from the fact that others must respect your rights, if you are to flourish, that you have an obligation to respect their rights. You may well have such an obligation, but more than an appeal to the conditions of your own flourishing is needed to show this."<sup>106</sup> In other words, it is not enough to demonstrate that I must respect your rights in order for it to be possible for you to flourish. Why should I allow you to flourish? Or to "flourish" as you see fit? Arguing, as Rasmussen and Den Uyl do, that the right to liberty is necessary for protecting the possibility of *everyone's* flourishing goes some distance in shoring up this deficiency. It appeals to even unenlightened self-interest, provided the listener is not overly short-sighted and rash, but it still seems too consequentialist, not quite Aristotelian enough.

Actually, Rasmussen and Den Uyl's theory appears to contain both consequentialist and deontological elements. While an analytical philosopher might mine such elements out of a virtue-ethical theory, without being able to reduce virtue ethics to one or the other, Rasmussen and Den Uyl explicitly avoid grounding the moral obligation to respect rights in virtue. Ultimately, I think they see rights as being a sort of deontic constraint. However, rule-consequentialism and deontology are not really so very far apart. Roderick Long has argued that rule-consequentialism is praxeologically unstable and that it must collapse into either act-consequentialism or deontology. The rule-consequentialist either values the rules as ends-in-themselves, in which case he becomes a deontologist, or he values them as mere instrumental means to other ends that he holds, in which case he is committed to acting counter to the rules when the consequences dictate and his rule-consequentialism collapses into act-consequentialism.<sup>107</sup>

In somewhat consequentialist vein, Rasmussen and Den Uyl argue that rights-respecting behavior does not directly contribute to human flourishing:

Individual rights are a unique ethical concept that cannot be reduced to other ethical concepts; hence the basic character of individual rights cannot be grasped if ethics is understood in an equinormative manner, that is, if all ethical norms are understood as being of the same type or having the same function. Individual rights are an ethical concept different from those concepts generally found in normative ethics. They are not needed in order know the nature of human flourishing or virtue, or our obligations to others, or even the requirements of justice. Nor are they more heavily weighted versions of these other norms. Rather,

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105 This is rather ironic given that, from personal conversation with Roderick Long, to my knowledge Douglas Den Uyl (1993) is the originator of the supply-side/demand-side distinction and the observation that Aristotelian ethics is a supply-side ethics. David Kelley (2001b) has also, much later and presumably familiar with Den Uyl's argument, made the same distinction and claim about Rand's theory of ethics.

106 Gordon (2003), p. 2.

107 This is not the familiar psychological instability objection to indirect or rule-consequentialism. See section three of Roderick Long's Alabama Philosophical Society 2002 Presidential Address, "Why Does Justice Have Good Consequences?" for a more detailed explanation.

individual rights are needed to solve a problem that is uniquely social, political, and legal [i.e., the problem of ethical compossibility].<sup>108</sup>

It might seem paradoxical that they argue that rights are not concerned with the consequences of actions but “rather with setting the appropriate foundation for the taking of any action in the first place.”<sup>109</sup> But this statement would seem to be compatible with rejecting act-consequentialism in favor of rule-consequentialism. Rasmussen and Den Uyl continue:

Individual rights are therefore not norms in the sense of guiding us toward the achievement of moral excellence or human flourishing. And contrary to appearances, they are not ordinary interpersonal normative principles either. Individual rights express a type of moral principle that must obtain if we are to reconcile our natural sociality with diverse forms of flourishing.<sup>110</sup>

They conclude that “individual rights are politically primary” but are not “primary ethical principles.”<sup>111</sup> Rasmussen and Den Uyl further point out, and rightly so, that individual rights are a necessary but not sufficient condition for human flourishing: “The connection between individual rights and human flourishing is neither direct nor isomorphic.”<sup>112</sup> And finally, they do not seem to find anything especially morally noteworthy in rights-respecting behavior. They concede that “it can be said that one who respects the rights of others is a morally ‘better’ person than one who does not”; however, in a more deontological vein, “respecting metanormative rules is necessary for the moral game to be played, but it is not an instance of playing it well or even playing it much at all.”<sup>113</sup>

Strangely enough, Rasmussen and Den Uyl explicitly consider rights to be nonconsequentialistic.<sup>114</sup> And yet they give us no nonconsequentialistic reason for respecting them. Our obligation to respect rights seems to be derived only from the need “to reconcile our natural sociality with diverse forms of flourishing,”<sup>115</sup> in other words, from our “shared need to act in a peaceful and orderly social/political context.”<sup>116</sup> It is telling that in the beginning of the sentence from which the second quote is cited they put the word ‘obligations’ in scare quotes. Additionally, they have made it clear that they do not see rights-respecting behavior as being demanded by the virtue of justice, or any other virtue. For them, rights-respecting behavior is not a constitutive part of human flourishing. Rather, rights-respecting behavior appears to be merely (though still importantly) necessary but not sufficient for one’s actions to count as moral in a social context. This last might seem to allow them to avoid the charge of consequentialism, but they offer no reasons for this to be the case. It does not automatically follow from our natural sociality sans virtue or our shared need for a peaceful and orderly society that rights-respecting behavior is necessary but not sufficient for one’s actions to be considered moral in a social context. What is it about human flourishing that makes it so? They do not tell us.

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108 Rasmussen and Den Uyl (2005), p. 78.

109 Ibid., p. 91.

110 Ibid., p. 91.

111 Ibid., p. 92.

112 Ibid., p. 268.

113 Ibid., p. 288.

114 Ibid., p. 266 and 266 n. 1.

115 Ibid., p. 91.

116 Ibid., p. 289.

Moreover, their claim that respecting the rights of others is necessary but not sufficient in order to count as acting morally in a social context seems to contradict their other claim that rights do not guide us toward flourishing, for surely principles that show us what does not count as moral in a social context serve to point the way in a general manner by delimiting our range of legitimate actions.<sup>117</sup> Furthermore, if rights do serve as normative guides, if only in this less specific way, then perhaps rights are more than just *metanormative* principles; but more on this later. Another worry arises: if respecting the rights of others is only necessary for the moral game to be played, is violating the rights of others immoral? Or, as seems more likely on this view, just amoral or nonmoral? Rasmussen and Den Uyl would presumably answer that it is immoral. They do, after all, say that it can be said that a person who respects the rights of others is a morally “better” person (note the scare quotes again) than one who does not. But what does this “better” mean and why could it be said that he is morally “better”? They do not tell us.

Thus, respecting the rights of others seems to be of instrumental value only.<sup>118</sup> We respect the rights of others merely in order to live in a society in which we can reasonably expect others to respect ours.<sup>119</sup> If this is so, however, it does not seem a very compelling reason to respect everyone’s rights or to respect the rights of others all the time. Why should I not violate your liberty for my own benefit, or the benefit of others, if I think I have a reasonable chance of getting away with it (with or without doing irreparable harm to societal order)? Moreover, Rasmussen and Den Uyl’s account seems to beg the question against so-called forms of flourishing that allow as sometimes necessary, or even encourage, the threat or use of initiatory physical force. They cannot rule them out on the basis that they violate the requirements for metanormativity, for this begs the question that a society based on such a principle is desirable in the first place. Why should we as individuals want to allow other forms of human flourishing? Why should we want a society which allows all forms of human flourishing? Why should we think that anyone, much less everyone, has a right to pursue their own flourishing as they see fit? Indeed, what if we do not consider someone’s preferred way of life to be a form of human flourishing at all?

The answer to these problems lies in a deeper analysis of human flourishing and, in particular, human sociality. Recall that for Rasmussen and Den Uyl the basis of rights is self-direction. Their account of rights is based on “an analysis of the nature of human flourishing,” which, “before ever addressing questions about what one should reason about or how one should conduct oneself,” “reveals a need for the exercise of reason or the need to be self-directed.”<sup>120</sup> This is certainly true and an important consideration in determining what virtue requires of us but, as David Gordon has pointed out, it is not enough to get us to a moral obligation to respect the rights of others. And an analysis of human flourishing at this level does not yet get us full (neo-)Aristotelian sociality. To get us there a more comprehensive analysis of human flourishing is required, one that will delve into what we should reason about and how we should conduct ourselves, into the full range of the things required for the flourishing of a rational animal, in

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117 I say this despite their response to a similar objection (pp. 286-288) for a reason that is hinted at in the following sentence and will be made explicit later.

118 Ibid., pp. 90 and 91.

119 See, also, *ibid.*, p. 287. “[O]ur reasons for acting within a legitimate political/legal order are based upon the stake we each have in there being such a legitimate order, rather than the stake we have in following principles that exhibit moral perfectibility or flourishing.”

120 *Ibid.*, p. 88.

other words, into the primary goods and virtues. But Rasmussen and Den Uyl have already ruled out any of the primary goods and virtues as a basis or source for rights.

Perhaps Rasmussen and Den Uyl would argue, although they do not do so explicitly, that the basis and justification for rights (self-direction and the ethical compossibility of diverse forms of human flourishing) and the source of our obligation to respect the rights of others are two distinct issues, that rights are metanormative but that there is a normative obligation to respect them due to other requirements of human flourishing and sociality. However, Rasmussen and Den Uyl have not provided us with a virtue ethical argument for this. That such a move appears necessary also suggests that rights may be more than just metanormative principles. In conclusion then, the foregoing considerations suggest that we need an account of rights as interpersonal ethical principles the respecting of which is partly constitutive of all forms of flourishing worthy of the name. It is to this end that I turn in the next chapter, wherein I argue that rights are both metanormative and interpersonal ethical principles and that the obligation to respect them is grounded in the requirements of human flourishing, in particular the virtue of justice.

## **Chapter Three.**

### ***Eudaimonia*, Virtue, and the Right to Liberty: Rights as Both Metanormative and Interpersonal Normative Principles**

Freedom is, in truth, a *sacred* thing. There is only one thing else that better serves the name: that is virtue. But then what is virtue if not the *free* choice of what is good?

– Alexis de Tocqueville

The practical reason for freedom, then, is that freedom seems to be the only condition under which any kind of substantial moral fibre can be developed.

– Albert Jay Nock

### **Introduction**

In the previous chapter I pointed out the inadequacy of demand-side theories of rights and suggested the uniqueness of and necessity for a truly agent-centered, supply-side theory that seamlessly integrates Aristotelian virtue ethics and natural rights. I then proceeded to give an account of human flourishing, drawing heavily on the work of Rasmussen and Den Uyl, after which I discussed their own theory of natural rights. However, while I argued that the theory is largely correct as far as it goes, I found their demand-side metanormative account wanting in that it fails to ground the obligation to respect rights in the requirements of human flourishing and virtue. I argued that what is needed is an account of rights as interpersonal normative principles. In this chapter, I seek to synthesize what is correct in Rasmussen and Den Uyl's theory with philosopher Roderick Long's theory of rights. First, however, it will be helpful to discuss briefly Ayn Rand's theory of rights, by which both Rasmussen and Den Uyl and Long have been influenced, as it is something of a flawed hybrid. And then I will turn to an explication of Long's theory of rights before finally presenting my own arguments.

### **Rand's Theory of Rights**

Rasmussen and Den Uyl have clearly been influenced in important ways by Rawls and Nozick. The influence of Rawls can be seen in their focus on political structure. The influence of Nozick can be seen in their conception of rights as deontic constraints. And, although they have returned to Aristotle in many ways, they have also been heavily influenced by Ayn Rand. For this reason, for the reason that Rand's philosophy of Objectivism in its ethical and political aspects is essentially a form of Aristotelian liberalism, and for others that will become clear – it will be useful to briefly discuss Rand's theory of rights.

Rand does not make a sharp distinction between metanormative and normative principles. Indeed, to my knowledge Rasmussen and Den Uyl are the first to make such a sharp

distinction.<sup>121</sup> However, perusing the relevant essays collected in Rand’s two main books on ethics and political philosophy, it is easy to see in Rand’s theory of rights similarities to the theory espoused by Rasmussen and Den Uyl. The following passage exemplifies both similarities and the lack of the sharp distinction between the normative and the metanormative:

“Rights” are a moral concept – the concept that provides a logical transition from the principles guiding an individual’s actions to the principles guiding his relationship with others – the concept that preserves and protects individual morality in a social context – the link between the moral code of a man and the legal code of a society, between ethics and politics. *Individual rights are the means of subordinating society to moral law.*<sup>122</sup>

In this passage, we see elements that Rasmussen and Den Uyl identify as metanormative: the observations that rights protect individual morality in a social context and that they are the link between morality and the political/legal system. Also in this passage, however, Rand describes rights as guiding individual conduct toward others, a feature Rasmussen and Den Uyl reject in their conception of rights as metanormative principles.

Although Rand offers normative reasons for respecting the rights of others, which Rasmussen and Den Uyl do not do, she does tend to focus on the function of rights as protecting the conditions that make flourishing possible.

The source of man’s rights is not divine law or congressional law, but the law of identity. A is A – and Man is Man. *Rights* are conditions of existence required by man’s nature for his proper survival. If man is to live on earth, it is *right* for him to use his mind, it is *right* to act on his own free judgment, it is *right* to work for his values and to keep the product of his work. If life on earth is his purpose, he has a *right* to live as a rational being: nature forbids him the irrational.<sup>123</sup>

We see here the focus on the metanormative function of rights and the argument that rights have their source in the nature of man, specifically the requirements *qua moral recipient* for his flourishing. We have already seen, with the observation by David Gordon, that appealing to the conditions of one’s own flourishing is not enough. Normative, agent-centered, reasons for respecting the rights of others are implicit in this passage, however, and are made more explicit elsewhere.

All of Rand’s seven cardinal virtues come into play in one way or another in calling for us to respect the rights of others. Perhaps the three most directly connected, however, are productiveness, independence and justice. The virtue of productiveness calls for the fullest and most purposeful use of our minds in the production of values, both material and spiritual. In particular, because productive work is necessary for the maintenance and furthering of our lives, and forms the core of our identities, the virtue of productiveness calls us to consciously choose and pursue a productive career, according to and to the best of our ability.<sup>124</sup> The virtue of independence calls for us to accept “the responsibility of forming one’s own judgments and of

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121 Rasmussen and Den Uyl (2005) make a sharp distinction but stress that it is not a separation (p. 302).

122 Rand (1964), p. 108. Emphasis in original.

123 Ibid., p. 111. Emphasis in original. The passage is a quotation by Rand from her novel *Atlas Shrugged*. See, also, Rand’s (1966), p. 18.

124 Ibid., p. 29.

living by the work of one's own mind."<sup>125</sup> Rand describes justice as "never seek[ing] or grant[ing] the unearned and undeserved, neither in matter nor in spirit."<sup>126</sup> The converse holds as well: we should accept and grant the earned and deserved, both in matter and in spirit. Justice is the most directly related to rights but the other six are all important in that they add specificity to our understanding of how we must act in order to live a flourishing life, and therefore to what justice demands of us.

The principle of *trade* is the only rational ethical principle for all human relationships, personal and social, private and public, spiritual and material. It is the principle of *justice*.

A trader is a man who earns what he gets and does not give or take the undeserved. He does not treat men as masters or slaves, but as independent equals. He deals with men by means of a free, voluntary, unforced, uncoerced exchange – an exchange which benefits both parties by their own independent judgment. A trader does not expect to be paid for his defaults, only for his achievements. He does not switch to others the burden of his failures, and he does not mortgage his life into bondage for the failures of others.

It is only on the basis of rational selfishness – on the basis of justice – that men can be fit to live together in a free, peaceful, prosperous, benevolent, *rational* society.<sup>127</sup>

Thus, the trader principle, a principle of the virtue of justice, demands that we respect the rights of others, not merely so that it will be possible for them to flourish or to create and maintain a society in which it is possible for everyone to flourish but also and more importantly, from the ethical perspective, because respecting their rights is constitutive of our own flourishing. This last is the crucial link necessary to fill in the gap identified by David Gordon.

### **Roderick Long's Account: Rights as Interpersonal Normative Principles**

Like Rasmussen and Den Uyl, Roderick Long was heavily influenced by Ayn Rand but has returned to Aristotle in many ways. Among his reasons are certain ambiguities, inconsistencies and, arguably, even some errors in Rand's theories of epistemology and ethics. Long sides with Aristotle against Rand on some key epistemological issues. Regarding Rand's ethical theory, there are some notable controversies over proper interpretation. There is debate over whether 'the choice to live' is a pre-moral one or not. There are two camps on the status of Rand's claim that life is the proper standard of value in ethics. One group holds that the standard

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125 Ibid., p. 28.

126 Ibid.

127 Ibid., pp. 34-35. It must be noted, to avoid unnecessary misinterpretation, that Rand means nothing so crass by the trader principle as putting a monetary price on everything or keeping a meticulous account of the balance of values exchanged between persons. Moreover, on the subject of desert, as philosopher David Schmidtz argues, desert is not merely backwards-looking, given only as a compensatory reward; it can also be forward-looking, promissory: we can come to deserve something on the basis of what we do after receiving it. Deserving and earning are not interchangeable, however; hence, Rand uses both terms. Something can only be earned after the work is done. Nevertheless, it is possible to do justice to unearned opportunities. See Schmidtz (2006), part 2, chapters 6-12, pp. 31-70.

is one of bare survival. The other holds that it is a flourishing standard, like Aristotle's, and questions whether the survivalist standard can support a robust and meaningful conception of the good life, i.e., one that is not Hobbesian but Aristotelian, one that can account for the protagonists in Rand's novels. A number of the survivalists seem to think of Rand's ethical theory as a form of rule-consequentialism rather than a foundationalist form of virtue ethics. Long ultimately concludes that Rand's epistemological and ethical *theories*, unlike Rand's practice (e.g., her novels), are flawed and inadequate to support the flourishing interpretation.<sup>128</sup> Nevertheless, I think that in light of the full context of Rand's work a flourishing standard is the only correct interpretation of Rand's moral vision. This view can be maintained while still admitting that her formal philosophical arguments for it are sometimes flawed. In any event, Long has provided a sketch of a more explicitly Aristotelian account of rights.

Like Rand, Long recognizes the important metanormative function of rights without restricting the status of rights to metanormativity but, unlike Rasmussen and Den Uyl and to a lesser extent Rand, he provides a truly agent-centered (or supply-side) account of the source of rights and our obligation to respect them. Long starts by discussing two essential aspects of human nature qua moral agent, viz., that man is a *logikon* and a *politikon* animal. He points out that while the best translation for these terms in English are 'rational' and 'political', respectively, the close links between the two are somewhat lost in translation.

The core meaning of *logos* is speech or language or anything spoken. . . . By extension, it has two derivative meanings: a) that which is expressed or explained in speech, which is to say, the intelligible nature of something. . . ; and b) the capacity or faculty of speech, that is, reason. But even when *logos* does not mean "reason," it still retains a strong connotation of "language" and "discourse," and thus a social dimension that the English word lacks. To be a rational animal is to be a language-using animal, a conversing animal, a discursive animal. And to live a human life is thus to live a life centered around discourse.

Our nature as *logikon* is thus closely allied to our nature as *politikon*. To be a *politikon* animal is not simply to be an animal that lives in groups or sets up governments; it is to cooperate with others on the basis of discourse about shared ends.

Being *politikon* is for Aristotle an expression of being *logikon*; just as *logikon* animals naturally conduct their private affairs through reason rather than through unreflective passion, so they naturally conduct their common affairs through public discourse and rational persuasion, rather than through violence[.]<sup>129</sup>

Contra the Hobbesian conception, reason is not merely an instrumental means to achieving one's ends. It is, more importantly, of value "as an intrinsic and constitutive part of a fully human life," of a flourishing life.<sup>130</sup> The same is true of cooperation and human communities: "participation in a human community, together with a shared pursuit of the human good, is a constitutive part of a truly human life."<sup>131</sup>

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128 Long (2000).

129 Ibid., pp. 49-50. Emphasis in original. See, also, Aristotle's *Politics* 1253a7-18 & 1280b6-35 and his *NE* 1097b7-11, cf. 1169b17-19.

130 Ibid., p. 50.

131 Ibid.



Long continues:

Human life comes in degrees, and a life is more human to the extent that it is characterized by rationality and intelligent cooperation, and less human to the extent that it is characterized by blind emotion and violent predation. Both the cooperative and the predatory person may use reason instrumentally to advance their ends, but only for the former is reason also constitutive of his relations with others. Hence if one chooses to subordinate others forcibly to one's own ends rather than deal with them through rational persuasion, one chooses violent predation over intelligent cooperation in that particular instance – and ipso facto chooses a life that is less human overall than it would have been if one had made the opposite choice. To violate the rights of others, then, is to lesson one's own humanity.<sup>132</sup>

Elsewhere, Long links the obligation to respect the rights of others to a specific virtue:

[J]ust as courage, generosity, and temperance are the virtues that define the appropriately human attitudes toward danger, giving, and bodily pleasures respectively, so the virtue of justice defines the appropriately human attitude toward violence. A maximally human life will give central place to the distinctively human faculty of *reason*; and one's life more fully expresses this faculty to the extent that one deals with others through *reason* and persuasion, rather than through violence and force. To choose cooperation over violence is to choose a human mode of existence over a bestial one. Hence the virtuous person will refrain from initiating coercion against others.<sup>133</sup>

We are called upon by our own *eudaimonia* and, more specifically, the virtue of justice, to deal with others “as conversation partners rather than as slaves, cattle, or dupes.”<sup>134</sup> In order to live a fully flourishing life, we must refrain from threatening or using initiatory physical force against others. Others therefore have a claim against us to refrain from threatening or using initiatory physical force against them. This claim is what is called the natural right to liberty (and its corollaries and consequences). Since they are free from initiatory coercion when their rights are respected, free to exercise self-direction, they are able to take the actions they judge to be necessary to maintain and further their lives. Thus, violating the rights of others is harmful of the agent's flourishing as well as the victim's. Those “who rob and use force” cannot live a truly flourishing life.<sup>135</sup>

### **A Dialectical Synthesis (Plauché)**

We have thus far considered two Aristotelian approaches to rights (as metanormative and interpersonal-normative principles) that at first glance, and perhaps even second and third, appear to be incompatible. It is true that the theory of Rasmussen and Den Uyl, taken in its

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132 Ibid., pp. 50-51. Why not do evil that good may come? See the rest of Long's argument and Aristotle's *Politics* 1325a34-b7.

133 Long (1994/95). Emphasis in original.

134 Long (2000), p. 51.

135 Aristotle, *Politics* 1325a40-b2. Quoted from Long (2000), pp. 52 & 63-64 n. 103; his own translation. Other major translations essentially agree. See, also, *Politics* 1324b22-36.

entirety, is incompatible with the theories offered by Rand and Long. Rasmussen and Den Uyl explicitly rule out the possibility that rights are normative principles rather than or as well as metanormative principles. I have argued that this position is mistaken, however, and is the main flaw in their theory. In this I side with Rand and Long. On the other hand, I do think that they are right to distinguish clearly and conceptually the metanormativity of principles from the normativity of principles. In this I go beyond Rand and Long, if only just a little. Furthermore, I think that a truly agent-centered approach to the derivation of rights is more sound and truer to Aristotelian virtue ethics. An agent-centered approach is able to fill in the missing link, identified by David Gordon, in explaining our obligation to respect the rights of others. In this I side with Long. And finally, while I remain indebted to Rand's moral vision, both in general and still in many of the particulars, like Long, Rasmussen and Den Uyl, I find a more explicitly Aristotelian approach to liberal ethics and rights to be more consistent, compelling, rich and flexible. My task in this section will be to offer a conceptual framework that synthesizes these different elements into a coherent and consistent whole, and to attempt to answer likely worries and objections from Rasmussen and Den Uyl.

I owe the inspiration for this synthesizing conceptual framework indirectly to Rand, directly to Chris Matthew Sciabarra's reconstruction of Rand's dialectical method. By dialectics, of course, I do not mean in the Hegelian sense but rather in the original Socratic and, primarily, Aristotelian sense of the word. Chris Matthew Sciabarra, a former doctoral student of the well-known dialectical Marxist Bertell Ollman, but himself a self-styled dialectical libertarian, defines dialectics as a methodological "*orientation toward contextual analysis of the systemic and dynamic relations of components within a totality*. A totality is not simply an undifferentiated or all-encompassing whole. It is a specific whole as understood from – and structured by – shifting perspectives."<sup>136</sup> In short, dialectics is the art of context-keeping. This sense of dialectics as a *methodological orientation* is distinct from the more specific dialectical *method* of questioning and discussion employed by Socrates, Plato and Aristotle. Sciabarra sees Aristotle as a dialectical thinker in both senses. This dialectical approach is exemplified in all of Aristotle's writings and is explicitly explained in his *Topics* and *Sophistical Refutations*. Aristotle says in the *Topics* that dialectics "is a process of criticism wherein lies the path to the principles of all inquiries."<sup>137</sup> And in the *Sophistical Refutations* he distinguishes between dialectic as a method of questioning and dialectic as "a mode of examination as well."<sup>138</sup> In these works, Aristotle places an emphasis on context in the analysis of any problem by means of examining them from shifting points of view. See, for example, his discussion of ways to show "that the whole is not the same as the sum of its parts" in sections 13 and 14 of Book VI of the *Topics*.<sup>139</sup>

Sciabarra argues that Ayn Rand was a dialectical thinker who analyzed social phenomena on three conceptually distinct but interrelated levels of generality, which he reconstructs as: 1) the personal (psycho-epistemological, ethical), 2) the cultural (linguistic, ideological), and 3) the

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136 Sciabarra (2000), p. 173. Emphasis in original. There is an element of Aristotelian dialectics in Hegel but it is unfortunately distorted by Hegel's extreme organicism and dualism. Sciabarra argues that an Aristotelian and properly context-sensitive dialectic avoids Hegelian holism as well as the pitfalls of both strict organicism and strict atomism and both monism and dualism. What counts as the appropriate 'totality' for analysis of a particular phenomenon is context-dependent.

137 *Topics* 1.2.101b3-4.

138 *SR* 11.172a22.

139 *Topics* 6.13-14.150a1-151b25

structural (economic, political, legal).<sup>140</sup> In analyzing social phenomena, the analyst can focus on one of these levels while shifting the other two into the background but never treating them as separate from each other and the focus level or completely ignoring them, for all three levels are necessary to fully understand the whole. The analyst can then shift focus to each of the other levels in turn to gain a more complete and contextual understanding. I propose that rights can be analyzed at each of these three levels as well. A conception of rights that includes only one or two of these levels is incomplete and insufficiently contextual. To analyze rights from only one or two, but not all three, levels will result in an incomplete and insufficiently contextual analysis. Levels one and three, the personal and the structural, are most relevant to the purpose of this paper so I will focus on them.

When we conceive of or analyze the function of rights as metanormative principles we are doing so at the structural level. When we conceive of or analyze the function of rights as interpersonal normative principles we are doing so at the personal level. At the structural level of analysis, the level of political and legal theory, the right to liberty is a *metanormative* principle that protects the possibility of self-direction, which is central to and necessary for all forms of human flourishing, and as such does not bias the structure of the political/legal order in favor of or against any form of human flourishing (Rasmussen/Den Uyl). At the personal level of analysis, the level of ethical theory, the right to liberty is an interpersonal normative principle derived from the demands of our own *eudaimonia*, particularly the virtue of justice: rights-respecting behavior is a necessary and constitutive part of our own well-being (Long).<sup>141</sup> In order to live a life proper to a *logikon* and *politikon* animal, and to ourselves, we ought not to threaten or use initiatory physical force against others but rather deal with them on a voluntary basis through reason, discourse, persuasion and cooperation except when necessary to protect our own right to liberty (or the rights of others).<sup>142</sup> No form of *eudaimonia* truly worthy of the name will advocate the threat or use of initiatory physical force.

Whether one conceives of rights as metanormative principles for which we have normative obligations to respect or interpersonal normative principles that also serve a unique metanormative function, thus depends on one's point of view. Both views are essentially correct, but only if understood contextually. Rights are both normative and metanormative principles. They are a bridge with feet coming down on both sides – both the side of ethics and the political/legal side. Rand and Long conceive of and analyze rights at all three levels, albeit not explicitly, while Rasmussen and Den Uyl restrict their conception and analysis to the structural and cultural levels. Rasmussen and Den Uyl, however, have benefited us by clearly and conceptually distinguishing the metanormative function of rights from the normative. Long, too, has benefited us by grounding rights in the moral agent's own flourishing and in the virtue of justice. Recall that for a supply-side ethics like Aristotelian virtue ethics, how A (the moral agent) should treat B (the moral recipient) is determined primarily by facts about A. The key word here is 'primarily', for 'the good and the right' for A is not determined *exclusively* by facts about A. The conditions necessary for the flourishing of the individual qua moral recipient, or anyone and everyone qua moral recipient, are also relevant; and we have seen that a certain condition (liberty, which preserves the possibility of self-direction) is of central importance at the

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140 Sciabarra (2000), pp. 379-383. Although I focus on these three levels of social analysis, I want to avoid giving the impression that they exhaust the limits of dialectics as a methodological orientation; rather, they should be seen as one manifestation of it.

141 Thus, it turns out the metanormative function of rights is not primarily ethical but rather political and legal.

142 See Long (1994/95, 2000).

structural level of political and legal theory. A full and contextual understanding of rights requires understanding them as both normative and metanormative principles, at both the personal (ethical) and structural (political, legal, economic) levels, indeed, at all three levels, the cultural included.

Now I want to briefly consider several worries or objections to my account of rights that Rasmussen and Den Uyl are likely to have. Indeed, these worries/objections are present already in their recent book, *Norms of Liberty*, as part of their argument in favor of their own position. One objection they will likely make is that we have not one but two primary sources of obligation not to threaten or use initiatory physical force. Earlier I suggested that Rasmussen and Den Uyl might salvage their theory by arguing that we have a normative obligation to respect metanormative principles. But in fact they explicitly rule out the possibility that we have a normative obligation to respect the rights of others. They argue, using theft and murder as examples, that we actually have two overlapping obligations not to steal or commit murder: a normative obligation derived from the demands of self-perfection, particularly the virtue of justice, and a metanormative obligation derived from the demands of rights. The other worries or objections, which I will deal with next, have to do with why they reject a normative justification of and source for rights.

There are several problems with this ‘two overlapping sources of obligation’ objection. The first that comes to mind is that the metanormative obligation (whatever that means) to respect rights is not Aristotelian enough. On this view respecting rights is not a constitutive part of our *eudaimonia*. It would then seem to be merely a necessary instrumental means external to our flourishing and this seems more Hobbesian than expressive of full-blown Aristotelian sociality. Rights, on this view, are simply Nozickian moral side-constraints with a different justification. Also, to whom do we have this obligation – to “society” as an abstract entity? Surely not; but if instead it is an obligation to ourselves and to others, this suggests regular normativity. Another problem is that it seems to run afoul of Occam’s Razor. Why multiply entities unnecessarily when one source of obligation will do? Now, the answer to this question may depend in whole or in part on Rasmussen and Den Uyl’s reasons for rejecting any normative obligation to respect rights, so a full answer will have to wait.

The answer to the above question regarding Occam’s Razor also seems to depend on a third apparent problem with their position. If there are two primary sources of social obligation, one determined by virtue and the other determined by rights, then the possibility arises that we may at times have conflicting obligations to these two sources. If and when such a conflict arises, which do we choose and on what basis do we do so? The typical answer, which is far from unique to Rasmussen and Den Uyl, is that rights trump, i.e., that is, rights necessarily override or outweigh any other conflicting obligations.<sup>143</sup> (If what is demanded by virtue could never conflict with what is demanded by rights, then it would seem to be unnecessary to argue that rights trump. Moreover, if virtue and rights never conflict, then are there really two sources of obligation?) Presumably then, it might be virtuous for me to try to force you to stop acting immorally but the demands of your rights forbids me such action. In this example, the importance of rights overrides the demands of virtue. But how can something that is only of instrumental and external value to my flourishing override what is required by virtue, a

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143 Rasmussen and Den Uyl (2005), p. 77.

constitutive part of my flourishing? Finally, the claim that rights trump in this way seems to violate the spirit, if not the letter, of the unity-of-virtue principle.

Rasmussen and Den Uyl's argument summarized in the previous paragraph is made in the beginning of their *Norms of Liberty*. They might respond to my objections with a different argument made later in *Norms of Liberty* (also discussed several sections previously) that rights are moral side constraints; they determine what can count as moral in a social context.<sup>144</sup> Therefore, any action that violates someone's rights cannot count as being virtuous. But again, I fail to see how this can be so without appealing to the demands of self-perfection. From the fact that rights are necessary to protect the social conditions that make human flourishing possible, it does not automatically follow that rights are moral side constraints. Why is it (always) wrong to threaten or use initiatory physical force? Simply because we are better off living in a free society? As we have seen, there is far more to it than this. Finally, what we have here appear to be two different and incompatible accounts of how and why rights trump.

It also seems difficult to reconcile the claim that rights do not serve as guides to self-perfection with the way that rights-language has (to my knowledge) always been used. To steal from or murder someone is, in the liberal tradition, to violate someone's rights and such an act is usually considered to be wrong because of this. In contrast, Rasmussen and Den Uyl would seem to be advocating a truly new conception of rights when they write:

In the case of basic, natural rights, by contrast, the obligations are not so much to individuals per se because such rights are fashioned independently of particular practices, circumstances, and agents. Basic rights are ethical principles that apply to no one in particular and to everyone equally.

Rather, our obligations derived from rights are to take certain actions necessary "to achieving an appropriate [social] context for ourselves and others."<sup>145</sup> Rights qua metanormative principles serve purely as a guide, a standard, in evaluating, creating and reforming our laws and legal system. This is not entirely new, however, as this metanormative function of rights serving as the proper standard for laws and legal systems has always been part of the concept of rights. What is new is the attempt to divorce rights from their normative roots. And it is not clear just who or what our rights-derived obligations are to if they "are not so much to individuals per se" and "apply to no one in particular."

Rasmussen and Den Uyl seem to blame state-of-nature theorizing for facilitating our confusing metanormative principles with normative principles, or rights with what is right. They point out quite rightly that in the absence of society, and all its norms and institutions, "securing the setting (noninterference), in other words, appears to be the same as undertaking appropriate conduct itself."<sup>146</sup> I do not see why state-of-nature theorizing is necessary for identifying metanormative principles, i.e., rights; Rasmussen and Den Uyl only say it may be helpful; but they are quite correct that it is virtually useless for generating the full range of normative principles necessary for human flourishing in society. However, I also do not see how considering man in society changes anything with regard to "securing the setting" being part of "undertaking appropriate conduct itself." Of course, the two are not identical; but the former *is* a species of the latter.

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144 Ibid., p. 288; cf. p. 214.

145 Ibid., p. 290.

146 Ibid.

It is both right by nature (that is, by appeal to human nature) that a certain context for human action be secured and *a right* (in the sense of a claim about a certain sort of treatment due one) that one not be treated in certain ways *in light of what is necessary to secure that context.*<sup>147</sup>

Certainly the latter is an important reason to respect the rights of others (or rather, why others have rights), but it is not the only one. If both virtue and rights demand the same thing here, then it is difficult to see why two separate primary sources of obligation should be maintained. Indeed, it seems more natural to see the obligation to secure a proper social context simply as part of the broader obligation we have to ourselves and to others sketched above in this and in the previous sections. In other words, my obligation to secure the proper social setting for human flourishing is a part of my obligations to myself and others. I respect rights both for myself and them, partly because it is the right way to behave towards others and partly in order to secure the proper social context for all of us.

We can now profitably turn to the reasons why Rasmussen and Den Uyl reject the conception of rights as interpersonal normative principles. One of these reasons has already been foreshadowed in the previous paragraph and is exemplified in their critique of another Aristotelian liberal account of rights as interpersonal normative principles. This is the account offered by Henry Veatch.<sup>148</sup>

In his account, natural rights are not derivative of natural duties we owe to others, nor are they the results either of social contracts or of interests manifested through either calculations of personal or social advantage. Instead, natural rights are derived from duties one naturally owes to oneself. The argument runs something like this: since we all by nature have an obligation or duty of self-perfection (given by an Aristotelian ethic), each of us is bound by nature to fulfill that obligation. To prevent or interfere with a person's efforts to fulfill his natural obligation deprives the person of what he and others recognize he ought to do (and so for each of us). Therefore, our duty to self-perfection generates the right not to have the pursuit of our end impeded.<sup>149</sup>

Although Rasmussen and Den Uyl do not point this out, note that Veatch's account of rights is essentially a demand-side account, albeit of a more vulnerable kind than theirs. Rasmussen and Den Uyl think Veatch commits what they call the moralist fallacy, which they define as "the failure to distinguish clearly having a right from doing what is right."<sup>150</sup> They argue that it is evident in Veatch's theory "that one possesses the right to freedom from interference only so long as one is pursuing one's self-perfection,"<sup>151</sup> for Veatch writes of the person "who engages in nonperfecting conduct": "The actions that he takes and the conduct that he pursues are then no longer right at all; nor can his natural rights to life, liberty, and property be said to entitle him so to live in the way he has foolishly and unwisely chosen to do. In other words, that one should abuse one's rights must not itself be taken to be right, or even one's right in any strict sense."<sup>152</sup>

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147 Ibid., p. 291. Emphasis in original.

148 I am not aware of any published critique by Rasmussen and Den Uyl of Rand's or Long's accounts.

149 Rasmussen and Den Uyl (2005), p. 65.

150 Ibid., p. 66.

151 Ibid.

152 Quoted in *ibid.*, pp. 67-68.

Rasmussen and Den Uyl are indeed correct that Veatch's theory is confused. However, neither Rand's theory (arguably), nor Long's, nor mine suffer from this problem. In our theories a person's rights do not depend upon whether he pursues excellence; they depend in part on the conditions necessary for his flourishing but more importantly they depend on how others should treat him in light of the requirements of their own flourishing. Nor are our theories in danger of conflating rights with what is right. A right is clearly conceived as a moral claim and a claim to legitimate legal enforcement of another's prior obligation not to threaten or use initiatory physical force. A right is clearly distinct from but intimately related to the obligation from which it is derived. Certainly it is right to respect the rights of others and wrong to violate their rights, but rights-respecting and rights-violating behavior do not exhaust the limits of what is right or wrong.<sup>153</sup>

Rasmussen and Den Uyl have two related worries: that a conception of rights as interpersonal normative principles leaves rights with no special work to do and that such a conception endangers pluralism and individualism.

But if one goes further, as Veatch does, and conflates rights with what is right, not only does one leave the concept of rights with no work to do that cannot be done by duty or obligation, but, more important, pluralism and individualism are thereby threatened. The more closely that rights are identified with what is right, the more likely it is that a particular form of self-perfection will be structurally incorporated into the principles of rights to the prejudice of other forms. Furthermore, if one does not want one's principles of rights to be vacuous, some answer to the question of what is right must be given. Yet in a social context where all individuals must be addressed, this answer must always be put in universal form – and it is precisely this universal form that is so problematic, even contradictory,<sup>154</sup> to the individualized nature of any positive account of self-perfection.

It is clear how Veatch's theory exemplifies a very real problem that gives rise to both worries. However, I do not think that the theories offered by Rand, Long and myself succumb to them. To answer the first worry first: There is a sense in which rights *are* convenient shorthand for certain obligations we have to others.<sup>155</sup> They serve as ready guides for how other persons should be treated by us. In this sense, they do perform a useful function. Unlike Veatch's account, however, they have these rights primarily in virtue of what is required for our own flourishing, not theirs. Furthermore, as a moral claim rights are distinct but not separate from the obligation itself. But not all moral claims are rights. Rights do serve two unique purposes that serve in part to distinguish them from other moral claims, viz., as a claim to legitimate legal enforcement of said obligation and as a standard for evaluating, creating and reforming our laws and legal system.

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153 Rights-respecting behavior is merely a small subset, albeit an important one, of right action. Moreover, I could be more precise here by distinguishing between rights-respecting behavior and merely refraining from violating the rights of others, i.e., between not violating rights for the right reasons and not violating rights for the wrong reasons, and also between violating rights intentionally and violating them unintentionally.

154 Rasmussen and Den Uyl (2005), p. 68.

155 On the problem of rights just being shorthand for an obligation, see *ibid.*, the top of page 68. Notice how this is a problem only for a demand-side theory of rights like Veatch's.

As to the second worry: The drive to universalize ethics into a detailed system of rules to be applied the same way by and to everyone is indeed something to be worried about. However, I do not think our accounts are guilty of this. To paraphrase Roderick Long, on the Aristotelian conceptions of human nature and ethics sketched in this essay, it is possible to be both a generic universalist and a specific pluralist. Moreover, we can make a distinction analogous to Aristotle's general and particular (or special) justice.<sup>156</sup> The virtue of justice qua special justice is concerned at a very basic, universal level with how human beings should treat each other qua human beings and with how society should be organized. Indeed, these are two aspects of the same thing; for the proper context for social life is not simply a certain political/legal structure (i.e., laws and a legal system that respect and protect rights) but also a matter of how rational beings treat one another (i.e., by dealing with one another through reason, persuasion and cooperation rather than violence). This does not exhaust the limits of justice, of course. Justice is also, qua general justice, concerned with far more complex and particular issues; it is concerned with the whole of interpersonal moral claims in general, with all those claims deriving from the particular, contingent, highly context-dependent obligations called for by the other virtues, or, as Aristotle would say, it is the whole of virtue in relation to others. But, to return to special justice, at a very basic level we as human beings all have the same requirements for our flourishing both as moral agents and as moral recipients, owing to our universal human nature: peaceful, cooperative, productive, discursive co-existence with other human beings. Rights are a recognition of that fact. Unlike other moral claims, the essential differences are that they apply to *everyone* in particular and to everyone equally, in that each of us must not initiate coercion against anyone else, and that they are legitimately enforceable. Even so, the proper application of rights can be dependent on the full range of the virtues and on context. For example, if one person is trespassing on another's property without his consent, what does the property-owner have a right to do? The trespasser is violating his rights, perhaps unintentionally, perhaps not. The property-owner has a right to exclude him from his property (under normal conditions), but in what manner can he legitimately exercise this right? Can the property-owner simply blast away at the intruder with his 12 gauge shotgun? Well, that depends. It depends on a whole complex host of issues: the type of neighborhood, where on the property the intruder is, the time of day or night, the physical capabilities of the property-owner for self-defense, whether the intruder looks threatening or makes a threat, whether the intruder refuses to leave after being told to do so (provided the context allows for a reasonably safe attempt at rational discussion first), whether it is possible to call law enforcement agents and safely await their arrival, and more. Rights cannot be applied blindly in a contextless manner.

Thus, given the foregoing considerations, it would seem that Rasmussen and Den Uyl would consider my theory and Long's to be equinormative. Our theories are not, however, vulnerable to the worries or objections they have about equinormative theories. Rights are derived from moral obligation but are nonetheless distinct from other moral claims. The distinction between rights and what is right is maintained. Rights perform both normative and metanormative functions. And, finally, it appears possible to derive rights from *eudaimonia* and virtue without endangering pluralism and individualism or biasing the political/legal order in favor of or against any legitimate form of human flourishing.

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<sup>156</sup> NE V.1-2. We, of course, disagree with Aristotle by holding that only matters of special justice are legitimately enforceable.



I have tried to sketch a theory synthesizing elements of Rasmussen and Den Uyl's theory with that of Long's and Rand's. In the process I have also attempted to anticipate some worries or objections they are likely to have for Long's approach and my own. A counter-worry for their own position may be offered, however: human flourishing is highly individualized, granted, but is it so individualized that there are no universal obligations that are common to all forms of flourishing? If so, this would seem to contradict their own appeal to a universal human nature. Moreover, it would seem to require the recognition as legitimate forms of flourishing ways of life that hold the threat or use of initiatory physical force to be (at least sometimes) acceptable, even admirable. If rights-respecting behavior is not a constitutive part of all legitimate forms of flourishing, derived from the demands of our own *eudaimonia* and virtue, but is rather only a metanormative, instrumental and external means to achieving a social context in which all forms of flourishing are possible, then such ways of life cannot be ruled out as legitimate forms of flourishing and it is difficult to see how, according to them, rights as Rasmussen and Den Uyl conceive them could be recognized as universally obligatory. Moreover, with two sources of obligation and the possibility of conflict between virtue and rights, and if it is indeed possible for virtue and one's own flourishing to require we aggress against others, to violate their rights (even though this obligation is trumped by rights), it would appear that the right to liberty does bias the political/legal order in favor of some forms of flourishing (the non-aggressive ones) and against others (the aggressive ones), but this would mean that the right to liberty violates one of their criteria for metanormative principles and thus is unable to solve liberalism's problem. Indeed, this would suggest liberalism's problem is unsolvable.

In maintaining that rights are not normative principles, Rasmussen and Den Uyl follow the Rawlsian tradition of sharply separating politics from morality. It is true they do not want a complete separation, for they do try to link political philosophy to an Aristotelian ethical framework. This tension has led them to proposing that there are two primary sources of obligation, normative and metanormative, and that metanormative principles are a different kind of ethical principle but are ethical principles nonetheless.<sup>157</sup> It is my view, however, that rights considered solely as metanormative principles, separate from a constitutive role in self-perfection, are not ethical principles at all but rather just descriptive ordering principles of the structure of a free society. But rights are not just metanormative principles in the above sense, they are also normative principles and as such they play a direct role in ethical theory in explaining in part what sort of behavior is required in order to live a flourishing life. In other words, if rights were only metanormative principles as Rasmussen and Den Uyl argue then they do no more than *describe* the conditions necessary for preserving the possibility of flourishing for all in society. A reason to respect them would still be needed and I do not think that Rasmussen and Den Uyl have provided an adequate one. The apparent plausibility of their theory rests upon prior acceptance of the values of pluralism and individualism and of a political/legal order that is not structurally biased for or against any form of flourishing.

### **The Right to Life**

The astute reader will have noticed that thus far I have discussed only rights abstractly in the plural and, when in the singular, the right to liberty. What of the rights to life and property as well as other rights? Objectivists in particular will no doubt wonder why I have been discussing

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<sup>157</sup> Rasmussen and Den Uyl (2005), p. 44.

the right to liberty but not the right to life, which Rand held to be the “*one* fundamental right” of which “all the others are its consequences and corollaries.”<sup>158</sup> On the other hand, many libertarians following Rothbard insist that the right to property is fundamental and that all rights are essentially property rights. There is some truth to the latter claim, but the former is mistaken. The reason I have focused on the right to liberty is that like Rasmussen and Den Uyl I hold that it is actually this right that is the fundamental right of which all the others are its corollaries or consequences.

It has not to my knowledge been noted before that Rand conflates the right to life and the right to liberty. That she does so is clearly evident in the following passage from her essay “Man’s Rights”:

A “right” is a moral principle defining and sanctioning a man’s freedom of action in a social context. There is only *one* fundamental right (all the others are its consequences and corollaries): a man’s right to his own life. Life is a process of self-sustaining and self-generated action; the right to life means the right to engage in self-sustaining and self-generated action – which means: the freedom to take all the actions required by the nature of a rational being for the support, the furtherance, the fulfillment and the enjoyment of his own life. (Such is the meaning of the right to life, liberty and the pursuit of happiness.)

The concept of a “right” pertains only to action – specifically, to freedom of action. It means freedom from physical compulsion, coercion or interference by other men.

Thus, for every individual, a right is the moral sanction of a *positive* – of his freedom to act on his own judgment, for his own goals, by his own *voluntary, uncoerced* choice. As to his neighbors, his rights impose no obligations on them except of a *negative* kind: to abstain from violating his rights.<sup>159</sup>

Notice that Rand defines rights as freedom of action, i.e., liberty. The right to life is elaborated to ‘the right to one’s own life’, which incorporates the language of ownership. Rand does go on to say immediately after the last quoted passage above that “the right to property is their [other rights] only implementation.”<sup>160</sup> I fully agree, and the right to property will be discussed in more detail in the next section. Notice also that Rand uses the singular in her parenthetical remark about “the *right* to life, liberty and the pursuit of happiness.”<sup>161</sup> The *Declaration of Independence* discusses these rights in the plural. Finally, notice that the argument Rand gives for rights in the passages quoted above are essentially demand-side arguments. This is illustrative of the fact that while her theory does provide normative reasons for respecting rights, unlike Rasmussen and Den Uyl’s, it is still like theirs primarily a demand-side theory. Rand tends to focus on the individual qua moral recipient while also recognizing that rights create the proper social context within which all men can flourish, while Rasmussen and Den Uyl place almost exclusive emphasis on the role of rights in creating this social context; the difference is largely a matter of emphasis, with Rand focusing more on the personal (ethical) level of analysis and Rasmussen and Den Uyl focusing more on the structural (political, metanormative) level of analysis.

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158 Rand (1964), p. 110. Emphasis in original.

159 Ibid. I do not know why Rand puts ‘rights’ in scare quotes here.

160 Ibid.

161 Ibid. Emphasis added.

Although, as I have argued, the overemphasis Rasmussen and Den Uyl place on the structural level of analysis is what prevents them from giving normative reasons for respecting rights as Rand does.

What the foregoing is meant to suggest is that the right to liberty is the definitive and fundamental right. Just because life is the standard of value in Rand's ethical theory, in any Aristotelian ethical theory, does not mean that in neatly symmetrical fashion the right to life will be the most fundamental right. Rand believed that the right to life was the fundamental right because her theory is essentially a demand-side one that focuses on the individual qua moral recipient, i.e., on the conditions necessary for him to live a life proper to man. We have seen why this is inadequate.

It will, I think, be instructive to look briefly at a particularly bad misinterpretation of Rand's theory of rights. In a footnote of his *Anarchy, State, and Utopia*, Nozick wrote:

We should note Rand's theory of property rights. . . , wherein these follow from the right to life, since people need physical things to live. But a right to life is not a right to whatever one needs to live; other people may have rights over these things. . . . At most, a right to life would be a right to have or strive for whatever one needs to live, provided that having it does not violate anyone else's rights. With regard to material things, the question is whether having it does violate any right of others.<sup>162</sup>

Although Rand contributes to such a misinterpretation with her focus on the right to life and her conflation of the rights to life and liberty, it is nonetheless difficult to understand how Nozick could so badly misinterpret Rand's theory. Rand is quite clear that the right to life *and* the right to property are rights to freedom of action. Of the right to property in particular, she says "it is not the right *to an object*, but to the action and the consequences of producing or earning that object. It is not a guarantee that a man *will* earn any property, but only a guarantee that he will own it if he earns it."<sup>163</sup> To the extent that the right to property and a theory of property are necessary for the proper implementation of the rights to life and liberty, Rand could agree with Nozick on the following: "Since special considerations (such as the Lockean proviso) may enter with regard to material property, one *first* needs a theory of property before one can apply any supposed right to life (as amended above)." But he is correct that "the right to life cannot provide the foundation for a theory of property rights," just not for the right reason.<sup>164</sup> Neither the right to life nor the right to property are fundamental, the right to liberty is, for the other two are defined in terms of it (even by Rand). It is the right to liberty that gives us the right to our own lives, free from coercive interference, and to the particular objects (property) that we earn through productive work and voluntary exchange.<sup>165</sup> And the right to liberty is itself derived from the virtue of justice which obligates A not to threaten or use initiatory physical force against B, i.e., to keep B free from aggression by A himself. The virtue of justice, of course, takes into consideration the conditions necessary for human flourishing, both the individual's qua moral agent and that of others qua moral recipients.

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162 Nozick (1974), p. 179 n. \*.

163 Rand (1964), p. 110. Emphasis in original.

164 Nozick (1974), p. 179 n. \*. Emphasis in original.

165 In this, I follow Rasmussen and Den Uyl and Long.

## The Right to Property

The core rights in the liberal tradition are the rights to life, liberty and property.<sup>166</sup> All the others are merely their corollaries and consequences just as the rights to life and property are the corollaries and consequences of the right to liberty. The previous section has already indicated what I take to be the correct approach to property rights. It has also indicated the central importance of property rights to liberalism. More needs to be said about these two issues, however.

I follow Rand, Rasmussen and Den Uyl, and Long in rejecting Locke's claim that "God or nature has given mankind a stock of objects (in common or otherwise) from which we must devise a set of rules for just distribution (or even . . . for original ownership)."<sup>167</sup> What the natural world offers is the potential opportunity to transform its natural resources through human action, i.e., productive work, into economic goods and wealth (property). These things do not come ready-made in nature for us; rather, they are created. Even an apple in an uncharted forest is not an economic good or anyone's property, until someone plucks it from the tree. Therefore, "a theory of property rights will . . . concern itself with legitimate exploitation of opportunities, not with things or objects, and 'ownership' will be the legal expression of the legitimate exploitation of opportunities."<sup>168</sup> Now, this is not to say that a theory of property rights cannot establish our right to own things or objects. It is just to say that the focus of such a theory should be liberty, i.e., freedom of action or the legitimate exploitation of opportunities.

Human beings are not beings of pure reason or disembodied souls. We live, we *act*, in the world.

Our position is that human beings are material beings, not disembodied ghosts, and that being self-directed is not merely some psychic state. Self-directedness pertains to actions in the world, actions employing or involving material things at some place and at some time. For such actions by individuals to be self-directed, they need to have the use and control of what they have created and produced protected from being used without their consent. Thus, it is not objects per se that individuals need to have property rights to, as if any random distribution were acceptable. A human being needs to have property rights to things that are the result of his or her own judgments and productive efforts. A person's choices and judgments cannot be said to have been respected if the material expression of those judgments is divested from the individual.<sup>169</sup>

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166 Jefferson did not, to my knowledge, explain why he changed the well-known Lockean triad from 'life, liberty and property' to 'life, liberty and the pursuit of happiness'. In a letter about his drafting of the *Declaration*, Jefferson approvingly references both Locke and Aristotle, among others (1825: 118). One theory is that 'the pursuit of happiness' is a more comprehensive term, meant to have more rhetorical power and convey a timeless statement of the goal of human flourishing. Jefferson was clearly a Lockean natural rights theorist, so if he opposed Locke on the crucial issue of the natural right to property why wouldn't he have made this unequivocally known? And why would he praise the *Second Treatise* as "perfect as far as it goes" (1790: 449)? Moreover, his contemporaries did not take him to be rejecting the natural right to property or its importance in the *Declaration*. No, liberty, property and the pursuit of happiness were all three widely thought at the time to be inextricably intertwined. And Jefferson links liberty with property in his writings throughout his life. For more on this, see Bassani (2004).

167 Rasmussen and Den Uyl (2005), p. 98.

168 Ibid.

169 Ibid.

Furthermore, the things or objects themselves are not merely the ends of actions but, as productions or creations, are features of the actions themselves.<sup>170</sup> The individual has invested part of his life into his material possessions, i.e., through devoting the effort of his own judgment, actions and time to their production (or acquisition through trade). From these considerations, Rasmussen and Den Uyl derive two points: “(1) the objects or possessions one has must be considered an extension of what one is (assuming no dichotomy between oneself and one’s actions) and not as items contingently attached to oneself; and (2) the concept of ‘opportunity’ must be a function of the general right to action [liberty] . . . if there is to be a natural right to property.”<sup>171</sup> Thus, considerations of how we should treat others are not limited to their persons but extends also to their alienable property.

Earlier we saw that Nozick argued that considerations like the Lockean proviso – that there be “enough and as good left in common for others”<sup>172</sup> – might be necessary for determining the proper application of the rights to life and property. Locke adds the additional qualification on how much property people may own: “As much as anyone can make use of to any advantage of life before it spoils.”<sup>173</sup> A number of scholars have observed that even on Locke’s own terms, and as he himself argues, the famous ‘enough and as good’ proviso as well as the spoilage proviso are essentially made moot by the advent of money and free markets.<sup>174</sup> Money does not spoil. Well, hard money – historically, that “little piece of yellow metal” – at any rate, does not;<sup>175</sup> fiat paper money, on the other hand, does lose value with inevitable government-induced monetary and credit inflation. A hard money, free market economy will normally leave enough and as good for anyone willing to exert the requisite responsibility and effort (although there will always be room and need for charity); indeed, such a social system serves, in Locke’s view, “to increase the common stock of mankind” rather than lessen it.<sup>176</sup> It is possible to go even further than this, however. David Schmidtz has argued that because collective ownership and common use wastes resources, generally resulting in a tragedy of the commons, “leaving resources *in the commons* does not leave enough and as good for others. The Lockean proviso, far from forbidding the appropriation of resources from the commons, actually requires appropriation under conditions of scarcity.”<sup>177</sup>

We have already rejected, however, the notion that mankind has been given a stock of objects or even natural resources in common for which a just distribution must be determined. To assume common property at the outset in formulating a theory of property rights, whether to establish limits on private property or to argue against private property, is begging the question: it assumes that which a theory of property rights is meant to establish, i.e, what constitutes legitimate property. In light of this, Locke’s proviso and the spoilage proviso cannot get off the ground. Rasmussen and Den Uyl suggest yet another reason that the Lockean proviso is moot:

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170 Ibid., p. 99.

171 Ibid., p. 100.

172 Locke (1993), 5.27, p. 274.

173 Ibid., 5.31, p. 276.

174 Ibid., 5.36-51, pp. 279-286.

175 Ibid., 5.37, p. 279.

176 Ibid.

177 Schmidtz (1998), p. 35. Emphasis in original. David Gordon (2001) has pointed out that strictly speaking the Lockean proviso does not so require appropriation because it is formulated by Locke specifically as a restriction on appropriation but the spirit of the proviso does provide grounds for this argument in favor of private property rights.

[S]ince property is created or produced through an act of transformation, the Lockean proviso that there must be “enough and as good” left for others in the case of original appropriation is moot. For there can never be “enough and as good” left for others if every action issues in a unique transformation. If an action transforms the material order, there can be no identical forms of property until a similar action accomplishes the same result. Picking an apple from a tree should not be judged in terms of the number of apples left, but in terms of the action that transformed the tree into a useful commodity.<sup>178</sup>

They then head off the likely objection that equivalent opportunities ought to be left for others.

[A]part from questions of scarcity, it is not clear why one has this obligation. This is because one’s act of transformation in no way deprives another of what he has transformed. Nor is it the case that opportunities are as similar to each other as the apples on the tree, since they are highly dependent on an individual’s circumstances, interests, and abilities. Finally, opportunities are essentially matters of judgment and thus in no way common.<sup>179</sup>

They point out that to “suppose that opportunities are themselves subject to prior obligations (e.g., to others or the community) is equivalent to saying that one’s own judgments are so obligated. This, however, is clearly slavery or the absence of any individual rights.”<sup>180</sup> However, one “may . . . have prior obligations that could affect what one does in exploiting an opportunity,” such as respecting “existing rights that may exist around it” or the obligation of a husband and father to support and take care of his family.<sup>181</sup> Of course, only the obligation not to violate the rights of others is legitimately enforceable.

### **Self-Ownership**

The self-ownership thesis, the idea of owning oneself, was first explicitly used as the starting point for a theory of property rights by Locke<sup>182</sup> and still commonly serves this function in contemporary libertarian thought (e.g., Rothbard and Hoppe). Self-ownership cannot serve this function, however. It is essentially a cluster concept invoking individual sovereignty and autonomy and the inviolability of the individual. To use it as a starting point, rather than as a conclusion, is essentially to conflate “individuality, possession, and control”<sup>183</sup> with ownership. From the fact of the former,<sup>184</sup> the latter does not automatically follow. Nevertheless, self-ownership is true; it follows from the rights to life, liberty and property that one’s life is one’s own – that each of us is an end in himself.

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178 Rasmussen and Den Uyl (2005), p. 101.

179 Ibid., pp. 101-102.

180 Ibid, p. 102.

181 Ibid., pp. 102-103 and 103 n. 13, respectively.

182 Locke (1993), 5.27, p. 274: “yet every man has a property in his own person.”

183 Rasmussen and Den Uyl (2005), p. 109.

184 Or even from the fact that such a state of affairs is necessary for one’s flourishing or for rational argumentation.

## **Other Rights**

I do not wish the reader to leave this essay with the impression that the rights to life, liberty and property are the only rights we have. We can distinguish between basic natural rights on the one hand and, on the other, constitutional, legal and contractual rights. “Basic” here means that natural rights are “not founded on any other right and [are] the source of other, derivative rights.”<sup>185</sup> In this sense, the rights to life and property (and other natural rights) are not derivative of the right to liberty; rather, they are expressions and further specifications of it. The rights to freedom of speech, to freedom of religion, to keep and bear arms, and to privacy are of great historical, theoretical and practical importance but they are just the application of the rights to life, liberty and property to more specific issues. The basic natural right to liberty and its corollaries and consequences are natural in the sense that they are founded in the nature of human flourishing and are not, by contrast, the inventions (however useful) of positive law.

Constitutional, legal and contractual rights, then, fall into one or the other of two categories: either they are positive law expressions of basic natural rights or they are derivative rights – either way their legitimacy depends on whether they agree with or conflict with basic natural rights. For example, so-called economic rights – alleged rights to adequate housing, a job, a minimum or living wage, adequate health care, equal opportunities and fair competition, and so forth – are not rights at all, for their fulfillment necessarily involves the threat or use of initiatory physical force against those whose property must be expropriated to support the have-nots (and often, as is inevitable, politically connected haves as well). In short, the effect of the doctrine of economic “rights” is to enslave some for the material benefit of others. A rejection of the doctrine of economic “rights” should not be taken to preclude any obligation to be generous or charitable, however. Quite the opposite, in fact: as Aristotle wisely observed, one can only truly be generous or charitable with one’s own property and there is every reason to expect that people in a free society generally will be.<sup>186</sup> With regard to the right to keep and bear arms, the NRA and many gun enthusiasts champion victories of employees over employers in which the formers’ right to keep and bear arms is allegedly upheld by forcing their employers to allow them to keep firearms in their cars in the company parking lot, but the right to keep and bear arms cannot conflict with and does not trump the right to property – employers have a right to prohibit firearms on their property if they so desire. Likewise with the rights to freedom of speech and religion, one has the right to say anything one wants or practice any religion one wants (or none at all) on one’s own property or with permission on someone else’s, but one does not have the right to say anything one wants on someone else’s property without their consent or to practice their religion on someone else’s property against their wishes. Finally, the right to privacy exists only to the extent that the privacy violations it protects against are in fact property violations such that one has the right not to have one’s property broken into or stolen.

## **Conclusion**

In this chapter I have attempted to show how Aristotelian liberalism promises a radically new conception of natural rights. I have attempted to fulfill that promise by synthesizing several apparently incompatible accounts of rights by Aristotelian liberals. This synthesized account

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185 Ibid., p. 77.

186 *Politics* II.V 1263a40-1263b28.

envisions rights as special, legally enforceable moral claims to freedom of action within a delimited sphere – a “moral territory” – with the basic natural right to liberty being the central and most fundamental right of which all the others are its corollaries and consequences. Liberalism’s three core rights were reaffirmed as the rights to life, liberty and property. The right to liberty itself, I have argued, derives from the demands of our own *eudaimonia*, specifically the virtue of justice, to deal with other rational and political beings through reason, persuasion, and cooperation rather than through the use of force in its many forms. Such a supply-side account of the derivation of rights and our obligation to respect them fully integrates liberal natural rights into an Aristotelian virtue ethics. But rights also serve an important metanormative function, one that should be clearly and conceptually distinguished from their role as interpersonal normative principles; as metanormative principles rights protect the possibility of self-direction and thus the possibility of all forms of human flourishing. Finally, I have sketched the implications of the Aristotelian-liberal account of rights for the rights to life and property, other rights, and the concept of self-ownership in order to better distinguish this approach from that of others. In the next chapter I explore in more depth and detail the nature of human flourishing. More yet needs to be said about its objectivity and obligatoriness as well as about the basic goods and virtues of which it is comprised.



## **Chapter Four.**

### ***Eudaimonia and the Basic Goods and Virtues***

My philosophy, in essence, is the concept of man as a heroic being, with his own happiness as the moral purpose of his life, with productive achievement as his noblest activity, and reason as his only absolute.

– Ayn Rand

The basis for our disagreement [with Aristotle] is simply the unshakeable conviction that living is not for the sake of knowing, but rather that it is toward intelligent living that all our powers and capacities are ultimately directed, including our powers of knowledge, and that it is the man himself who counts more than all his knowledge, no matter how great the latter may be.

– Henry B. Veatch, *Rational Man*

Basic goods, like knowledge, are for the sake of the fulfillment of individual human beings; individuals are not for the sake of achieving basic goods. It is the perfection of the individual human being, not disembodied reasoning, that ultimately matters. Our true end or good consists, as Veatch emphasized, “in living intelligently.”

– Douglas Rasmussen, Forward to *Rational Man*

"No one chooses to possess the whole world if he has first to become someone else." Aristotle's words epitomize a radical disparity between the moral sensibilities of his time and our own. For surely the motto of our time runs, "Show me how to possess the whole world and I will become whomever you please."

– David Norton, *Personal Destinies*, p. 216

### **Introduction**

The previous chapters were primarily concerned with sketching a new theory of natural rights. Consequently, a number of important issues were either taken for granted or not examined in detail. Some formal and substantive features of human flourishing were examined but it was taken for granted that flourishing is man's ultimate end and the proper standard of value in ethics. This issue will be addressed in the first part of this chapter. Furthermore, the previous two chapters only scratched the surface of the nature and content of flourishing. For example, some of the basic goods and virtues that constitute flourishing were mentioned only in passing or explained only briefly in their connection with rights. Rasmussen and Den Uyl do not discuss these goods and virtues in any detail either and so the remainder of this chapter will be devoted to remedying this lack. Examining the basic goods and virtues will also serve to set the stage for the chapters that follow.

## **Eudaimonia as Man's Ultimate End and Standard of Value**

The so-called is-ought problem stands as a major objection to any objective naturalistic ethics. It has a number of variations. Perhaps the most fundamental version of the problem is the assertion of a strict fact-value dichotomy which entails the consequent problem of how to derive an 'ought' from an 'is', a value from a fact. Many hold that there is an unbridgeable gulf between 'is' and 'ought'. Indeed, it is practically taken for granted in our time. Second, there is the question of the ultimate source of obligation: how is the ultimate prescriptive premiss justified? Third, there is Moore's open question argument which deals with the problem of defining the good. These three versions of the is-ought problem can be seen as successive fallback positions for the critic of an objective naturalistic ethics. If the first version of the problem is answered, the critic can always fall back to the second version and likewise to the third. Finally, even if all three of the aforementioned versions have been answered, the critic can fall back to criticizing the particular conception of the good being offered. The previous two chapters and the next part of the present chapter offer just such a particular conception, and anticipate some objections to it, while the remainder of this part of chapter four aims to answer the three versions of the is-ought problem. What follows is heavily indebted to part of chapter 2 of Rasmussen and Den Uyl's *Liberty and Nature* (1991).

### **How to Bridge the "Is-Ought Gap" by Transcending the Fact-Value Dichotomy**

It has been pointed out that one cannot validly deduce conclusions about what ought to be from premises about what is, assuming, of course a strict dichotomy between fact and value. In other words, one cannot validly derive evaluative conclusions from non-evaluative premises. This is just an application of a general principle of logic regarding strict syllogisms, viz., that one cannot validly deduce a conclusion including a predicate that is not contained in one of its premises. As Hume famously observed:

In every system of morality, which I have hitherto met with, I have always remark'd, that the author proceeds for some time in the ordinary way of reasoning, and establishes the being of a God or makes observations concerning human affairs; when of a sudden I am surpriz'd to find, that instead of the usual copulations of propositions, *is*, and *is not*, I meet with no proposition that is not connected with an *ought*, or an *ought not*. This change is imperceptible; but is, however, of the last consequence. For as this *ought*, or *ought not*, expresses some new relation or affirmation, 'tis necessary that it shou'd be observ'd and explain'd; and at the same time that a reason should be given, for what seems altogether inconceivable, how this new relation can be a deduction from others, which are entirely different from it.<sup>187</sup>

Such arguments invariably contain implicit evaluative premises for which no explanation or justification has been given. The remedy is not simply to make such premises explicit for they would still appear to run afoul of the fact-value dichotomy: how are they justified and what is their connection (if any) to the non-evaluative premises (i.e., facts)? We still face the problem of how to derive an 'ought' from an 'is'. This is only an apparently insurmountable problem,

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187 Hume ([1739] 1992), Book III, Part 1, Section 1, p. 469. Emphasis in original.

however, for as Rasmussen and Den Uyl observe: “if the world of facts is totally and completely separate from values, then there is no way one can move from an ‘is’ to an ‘ought’. So, the problem faced is not so much one of how one derives an ‘ought’ from an ‘is’ as it is the problem of whether there is any conception of the ‘is’ that would allow for the existence of values.”<sup>188</sup>

The answer to the question of whether there is such a conception of the ‘is’, of course, is yes. That conception was traditionally and still is a teleological one. It was only with the modern rejection of teleology in favor of an atomistic and mechanistic metaphysical world-view that values came to be divorced entirely from facts and the is-ought problem came to appear to be a serious one in ethics. We need not, however, defend the traditional versions of teleology that have been rejected by many: such as mystical vitalist accounts, mechanical “as if” accounts, and theistic accounts of teleology. We need not defend a conception of teleology that is universal, grounded in anything other than nature, or operating according to some unified and pre-ordained purpose. We need not defend a conception that postulates any particular origin of the species. As Rasmussen and Den Uyl argue, all that is necessary for the naturalistic conception described here “is that there be some facts which cannot be adequately understood without appealing to a natural end or function.”<sup>189</sup>

A teleological ontology of potentiality and actuality (or, to use strict Aristotelian terminology, of potency and act) would seem to be necessary for understanding change and can provide an ontological foundation and real definition of the good. As Henry Veatch explains:

Things as we know them in the everyday world of common-sense reality are at once universally and radically subject to change: from having been this, a thing becomes that; or being this, a thing is still able to be or become other and different; or not being this, a thing may still have a potentiality to become so. Nor could anything possibly change or become different unless it were able to do so – i.e., unless it had a potentiality for thus becoming and being other and different. . . . In other words, it is just such abilities, capacities, and potentialities that are everywhere to be found in our world and that are among the necessary and requisite principles of change.

Further, one readily recognizes that any and all of these potentialities are correlated with actualities. Indeed, “actuality” is no more than a term to designate simply what a given potentiality is a potentiality for; and since any potentiality must be a potentiality, capacity, ability, or capability for something, that something is no more and no less than the actuality of that particular potentiality. Moreover, insofar as I am not actually informed about something or other, but only able to do so; or insofar as the seed is able to sprout and grow and develop into the full-grown plant, but has not actually done so; or insofar as the coiled spring has a potential energy, although there has been no actual release of that energy – in all such cases a potentiality or mere capacity may be compared to the corresponding and correlative actuality, as the imperfect to the perfect, the incomplete to the complete, the undeveloped to the developed. It is as if a mere

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188 Rasmussen and Den Uyl (1991), pp. 41-42.

189 Ibid., p. 43.

potency just as such somehow bespeaks a certain lack, or imperfection, of which the actuality for its part is simply the fulfillment or completion.<sup>190</sup>

Value, or the good, may then be thought of in terms of the actual as compared with the potential: it being the end toward which a thing, being the kind of thing it is, naturally tends.

More specifically, it does not seem possible to reduce our understanding of living organisms in general and human beings in particular – how they grow and develop and act – to explanations that “make no mention of the end or goal of the living process but only of how the material constituents interact.”<sup>191</sup> Indeed, the evidence speaks against such reductionism. As Michael Bradie and Fred D. Miller, Jr. argue:

... the core of Aristotle’s teleology has been vindicated by modern biology. For the point is that life processes are self-regulating in virtue of inherent forms or structures. The type of movement required on Aristotle’s account for a potential for form is the type of movement exemplified by the DNA molecule. The genetic “program” contained in the manner set forth in Aristotle’s biological writings.<sup>192</sup>

There is then a natural naturalistic interpretation of Aristotle’s conception of teleology. Allan Gotthelf (as Rasmussen and Den Uyl emphasize) “has argued that for Aristotle the primary use of *for the sake of* concerns the development of living things.”<sup>193</sup>

Aristotle’s teleology is neither vitalist and mystical nor “as if” and mechanical. The notion of an irreducible potential for form supplies the proper content to the awareness that for Aristotle organic development is actually *directive*, without implying (as the “immaterial conscious agency” interpretation does) that it is *directed*; and it identifies the ontological basis of the awareness that the existence and stages of development can be understood only in terms of its end – by establishing that the *identity* of the development is its being *irreducibly* a development to that end, irreducibly the actualization of a potential for form.<sup>194</sup>

Thus, in the neo-Aristotelian conception of teleology described here, “teleology exists because the very nature of living things involves the potential that is irreducibly for development to maturity.”<sup>195</sup>

Life, Rand points out, is not automatic. Indeed, it is of a very conditional nature. “Life is a process of self-sustaining and self-generated action.”<sup>196</sup> Action is the use of scarce means, such as time and resources, to achieve a particular end. The conditional nature of life not only makes such end-oriented behavior possible (in the sense that a being must be alive to act) but actually necessitates it. Living beings face alternatives: fundamentally, life or death, but generally also between various ends and the proper means to achieve them. Good choices will tend to lead to continued life and even flourishing, bad choices to suffering, injury, illness, even death.

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190 Veatch (1971), pp. 107-108.

191 Rasmussen and Den Uyl (1991), p. 43.

192 Bradie and Miller, “Teleology and Natural Necessity in Aristotle,” *History of Philosophy Quarterly* 1 (April 1984): 133-146; p. 143.

193 Rasmussen and Den Uyl (1991), p. 44. Emphasis in original.

194 Allan Gotthelf, “Aristotle’s Conception of Final Causality,” *The Review of Metaphysics* (December 1976): 226-254; p. 253. Emphasis in original.

195 Rasmussen and Den Uyl (1991), p. 45.

196 Rand (1964), p. 16.

What is the natural end of a human being, i.e., its mature or developed state? Is it the actualization of any and all of its potentialities? Surely not, we must reply, for the critic will be only too quick to point out that human beings have the potential to lie, cheat, steal and murder. Indeed, man's natural end involves the actualization of potentialities in connection with and in light of that which is the essence of the kind of being he is: a rational animal. Man's natural end, then, is to live a rational life: the life of man qua man, not the life of a beast or a god, i.e., a life of flourishing or well-being according to the standard set by his nature. Just as we can identify the qualities that make a plant healthy and mature or unhealthy and defective, so too can we identify the qualities that make a human being healthy, mature and good or unhealthy, defective and bad. As Philippa Foot points out: "The structure of the derivation is the same whether we derive an evaluation of the roots of a particular tree or the action of a particular human being. The meaning of the words 'good' and 'bad' is not different when used in features of plants on the one hand and humans on the other, but is rather the same applied, in judgments of natural goodness and defect, in the case of all living things."<sup>197</sup> The difference between natural norms and moral norms, between values and moral values, is the element of choice. But if the moral is a matter choice, why should we follow it?

### **But Why Should I \_\_\_\_\_ ?**

This question – “if the moral is a matter of choice, why should I follow it?” – brings us to the second formulation of the is-ought problem, viz., an objection pertaining to how one can justify one's ultimate prescriptive premiss. The ultimate prescriptive premiss of Aristotelian virtue ethics is ‘One ought to live in accordance with the requirements of one's nature’. The objection poses an apparent dilemma – either our natural end is ineluctable and therefore not a matter for morality at all or we can choose to obey or disobey it, in which case we can always ask why we should follow it. Rasmussen and Den Uyl answer that our natural end is indeed ineluctable as a potentiality but that its actuality or actualization is not ineluctable; we can choose to pursue it or not. Their answer to the second half of the disjunct takes two stages. First, they point out that

the obligatory character of ‘One ought to live in accordance with the requirements of one's nature’ results from the fact that this is the good for a human being. The demand that we justify the obligatory character of this statement supposes that something else is required for there to be values that are good. It supposes that this ultimate prescriptive premiss is in fact not ultimate. This demand ignores the facts which give rise to obligation. Further it fails to realize that in ethics, as well as elsewhere, an infinite regress in justifications is not possible, and there must be something ultimate; something which is simply the case.<sup>198</sup>

Thus, the ultimate prescriptive premiss of Aristotelian ethical theory cannot be proven in the normal sense of deduction from premises.

Intellectual historian David Gordon, in a review of Rasmussen and Den Uyl's *Liberty and Nature*, in which the preceding argument is put forth, poses some minor criticisms of their

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197 Foot (2001), p. 47.

198 Rasmussen and Den Uyl (1991), p. 49.

arguments that I think are mistaken and illustrative of common post-Humean misunderstandings of the nature of Aristotelian ethics.

This reply [to this version of the is-ought problem] relies on a good Aristotelian point, but does not in intention or effect show the correctness of the “prescriptive premise.” This the reader must assess for himself. In an effort to assist the reader, the authors provide a supplementary argument.<sup>199</sup>

Gordon is correct that the first stage of Rasmussen and Den Uyl’s reply does not “in intention or effect show the correctness” of the ultimate prescriptive premiss. It is merely designed to correct an incoherent objection to it based on its ultimateness. The obligatory nature of an ultimate prescriptive premiss as such “does not require justification (nor could any be given),”<sup>200</sup> but justification can and does need to be provided for favoring one particular formulation over another. However, Gordon fails to recognize the relevance of Rasmussen and Den Uyl’s arguments in their preceding section (see also the preceding section of the present chapter) wherein they explain the teleological and biocentric basis of values.

The second stage of Rasmussen and Den Uyl’s argument proceeds by way of Aristotelian negative demonstration.<sup>201</sup> The ultimate prescriptive premiss cannot be proven (in the strict logical sense of that term) by deduction from premises because it is itself a first principle. In the same way that Aristotle shows that he who denies the Law of Noncontradiction must in fact accept its truth in order to do so, thus embroiling himself in a practical or performative contradiction, Rasmussen and Den Uyl argue that the person who challenges the ultimate prescriptive premiss of Aristotelian ethics actually accepts it.

The person who asks why he should live in accordance with the requirements of his nature has a value he is trying to attain. He wants an answer to his question; he is seeking a value. Yet wants or values are not metaphysically primary. Having an answer to a question is a value only to a being for whom knowledge is a value and for whom possessing knowledge as opposed to not possessing knowledge could make a difference in its existence or functioning. Otherwise, there would be no ultimate difference between possessing knowledge or not possessing knowledge and thus no basis for knowledge being an object of pursuit for this being.

It is, as argued in the previous section, the natural end of a living thing which necessitates and makes possible the existence of values – including the existence of the value of having an answer to the question, ‘Why should one live in accord with the requirements of one’s nature?’ Someone could not, therefore, value the answer to this question - the answer *qua* value and *qua* object of choice would not exist - if it were not true that one should live in accord with the requirements of one’s nature. The very fact that the person values an answer to his question requires the truth of the principle he is questioning. In asking his question, in seeking an answer, the person accepts the principle he is questioning. In this way, the obligatory character of ‘One ought to live in accordance with the requirements

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199 Gordon (1994), p. 131.

200 Rasmussen and Den Uyl (1991), p. 50.

201 This mode of demonstration bears some superficial similarity to Kantian-style transcendental arguments but crucially does not suffer the latter’s formal and linguistic divorce from ontological foundations in reality. See Rasmussen and Den Uyl (1991), p. 51.

of one's nature' can be defended. It should be stressed, however, that this 'negative demonstration' does not prove this ethical first-principle. Only an understanding of how values arise and what the human good is will allow one to grasp the obligatory character of this ultimate prescriptive premiss.<sup>202</sup>

David Gordon responds:

This argument goes astray at its last step. Given the authors' account of value, they say correctly that the value of a response to the question rests on the place of knowledge within the natural end of human beings. Very well, then; if I ask the question then I am in so doing acting in accordance with my natural end. But the question is not: Is it ever permissible for me to act in accordance with my natural end? It is, to reiterate, Why *must* I act in this way? The fact, if fact it be, that I cannot ask the question without acting in accord with my nature does not show that it is always wrong for me at other times to transgress my nature's requirements. The authors' response assumes the precise point that the inquirer puts in question – the step from natural end to moral ought.<sup>203</sup>

To an Aristotelian, Gordon's mistake here seems obvious. His objection to Rasmussen and Den Uyl's argument in this section is premised on an acceptance of the fact-value dichotomy that Rasmussen and Den Uyl have already dissolved. Gordon wonders how the is-ought gap is to be bridged, but Rasmussen and Den Uyl (and I) have already shown this in the previous section. Certain facts, at least, are value-laden. Indeed, values are facts too. Rasmussen and Den Uyl, and I, have already shown in the previous section that man's natural end is or ought to be desired and chosen because it is good, and is not good simply because it is desired or chosen. In the case of man's natural end, at least, an 'is' has an 'ought' embedded in it; an 'is' can imply an 'ought' by its very nature.

Gordon seems to have misconstrued the nature and purpose of the defense of the ultimate prescriptive premiss by negative demonstration. The nature and purpose of the argument was not to bridge the is-ought gap. That has already been done. Rather, the nature and purpose of the argument was to show that the ultimate prescriptive premiss of Aristotelian ethics is in fact one that everyone actually accepts. It is not simply that in seeking a value, a person is acting in accordance with his nature. It is that in seeking a value, a person (implicitly at least) actually accepts the ultimate prescriptive premiss 'One ought to live in accordance with the requirements of one's nature' else he wouldn't be seeking the value.

Before concluding this section it will be helpful to briefly discuss two things that illuminate 1) the nature of the ultimate prescriptive premiss of Aristotelian ethics and 2) how, if they cannot be arrived at by strict logical deduction, the ultimate prescriptive premiss and the nature and specific content of man's natural end are identified. With regard to (1), it might be tempting to mistake the ultimate prescriptive premiss for a typical 'if-then' hypothetical imperative, for it is surely not a categorical imperative. Categorical imperatives make no reference to human ends, particularly man's natural end: 'Regardless of what ends you pursue, you ought to do Y.' But the ultimate prescriptive premiss of Aristotelian ethics is not an 'if-then' hypothetical imperative. Philosopher Roderick Long distinguishes two different kinds of hypothetical imperative and the difference is crucial: the familiar 'if-then' he calls a problematic

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202 Rasmussen and Den Uyl (1991), p. 50.

203 Gordon (1994), pp. 131-132.

hypothetical imperative, the other type he calls an assertoric hypothetical imperative and these take the form of ‘since-then’ statements.<sup>204</sup> ‘Since you ought to act in accordance with your nature, and since your nature is X, you ought to do Y.’ Not: ‘If you desire X, then you ought to act in accordance with your nature.’ And not: ‘If you believe you ought to act in accordance with your nature, then you ought to do Y.’

Finally, with regard to (2), it bears pointing out, if an ought cannot be derived from an is or a value from a fact by strict logical deduction, just how we can identify and derive values and oughts. Part of the answer to this apparent dilemma is induction – not modern enumerative induction (which is more akin to retrodution/hypothetico-deduction), however, but classical induction, including concept-formation and classical inductive inference. The other part of the answer is to reject the false metaphysical assumption of a strict fact-value dichotomy. Recall that Hume’s is-ought problem is simply an extension of a general principle of logic to ethical theory, viz., that one cannot validly deduce a conclusion including a predicate that is not contained in one of its premises. In other words, one cannot validly derive evaluative conclusions from non-evaluative premises in strict deductive fashion. Hume’s is-ought gap applies only to strict logical deduction and even then in order to be perceived as insurmountable it depends upon the false metaphysical assumption of a strict fact-value dichotomy. The gap does not apply to classical induction. Of induction and deduction, Aristotle says, in *Nicomachean Ethics* 1139b25-31:

And all teaching starts from what is already known, as we maintain in the *Analytics*<sup>205</sup> also; for it proceeds sometimes through induction and sometimes by deduction. Now induction is of first principles and of the universal and deduction proceeds *from* universals. There are therefore principles from which deduction proceeds, which are not reached by deduction; it is therefore by induction that they are acquired.<sup>206</sup>

And Ayn Rand explains that concept-formation, “[t]he process of observing the facts of reality and of integrating them into concepts is, in essence, a process of induction.”<sup>207</sup> It is in forming

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204 Long (2000), p. 61 n.65; cf. Rasmussen and Den Uyl (2005), pp. 125-126: “Since every human being has an inherent potential for her or his mature state, which is that individual’s natural end and has been identified as human flourishing, and since this potentiality, though actualized through choice, is not itself a matter of choice but a matter of human nature that has directive power for our choices, then, if doing X is a necessary activity for achieving our natural end, then doing X is actually good for us as human beings. Doing X is either a means to or a constitutive property of the set of activities that constitute our being good human beings. But to say that doing X is actually good for us is also to say that doing X is *worthy of choice*, and noting that doing X is choice-worthy is just to say that we *ought* to choose it - everything else being equal.”

“Thus, on the one hand, the obligation to do X, where X is either a means to or constitutive activity of human flourishing, does not flow from the mere choice to pursue human flourishing; but, on the other hand, neither does the obligation to do X result merely because one categorically ought to do X. It is recognized that human choice is not simply a random act - something that just happens to come down in favor of one course of conduct over another - but is something that must involve having a reason. Yet, it is also recognized that “ought” only becomes intelligible as being something that needs to be done in a context where there is an end to be achieved, which in this case is the doing of X being actually good for us and worthy of our choice.”

205 *Posterior Analytics* I.1.

206 See also *Posterior Analytics* II.19.

207 Rand (1966 [1990]), p. 36.



concepts by integrating the facts of reality and in making inductive inferences that we identify factual values, the value-laden implications of facts and derive an ought from an is.<sup>208</sup>

Knowledge, for Aristotle, derives from experience but is also constitutive of it; and yet, such knowledge is not a matter of making hypothetical generalizations from atomistic phenomena and then repeatedly testing them but rather of grasping the universal when we perceive the particular. That man is a rational animal is a conceptual truth arrived at via induction; the question of whether a particular perceived two-legged animal is a fully-functioning human being is an empirical (or thymological) matter, but this is still not the same as retrodution which might look something like this: I've seen two dozen two-legged animals (humans) and all were rational and capable of speech, therefore all two-legged animals are rational and capable of speech (or, alternatively, therefore all humans are rational and capable of speech). Classical induction depends upon Aristotelian essentialism; modern enumerative induction (unless recognized for what it really is: retrodution) assumes an atomistic and mechanistic reality. And herein lies the root of the Humean is-ought problem: it rests upon mistaken modern metaphysical and epistemological assumptions which Aristotelians reject.

### **Moore's Open Question Argument and Defining the Good**

Even if the strict separation of fact and value is accepted to be a false dichotomy, it still might be objected that we cannot know the good. It might be that the human mind is incapable of knowing things as they are. Although G. E. Moore's open question argument, upon which he bases his 'naturalist' or 'definist' fallacy, assumes a strict fact-value dichotomy, it can be adapted as a purely epistemological and logical argument. Since the fact-value dichotomy has already been dealt with previously, I will focus on the question of whether and how one can define the good.

Moore's naturalistic fallacy is the attempt to move from the fact that something is natural to the fact that it is good, i.e., to move from the 'is' to the 'ought'. Leaving aside all that has been said in the previous sections, it is easy to see how Moore would say that Aristotelian ethics runs afoul of the naturalistic fallacy: it appears to move illegitimately from the fact that man has a natural end that he tends toward to the fact that man ought to pursue that end, i.e., that it is good. Unlike Hume, Moore does not focus on the logical fallacy of attempting to deduce an 'ought' from an 'is'. Instead, Moore focuses on what he takes to be the logical criteria of good definition.

Moore takes Bishop Butler's dictum "Everything is what it is, and not another thing" as the fundamental criterion of good definition.<sup>209</sup> Applied literally, as Moore does, this criterion results in purely tautologous definitions, in merely analytic truths. The test that Moore uses to determine whether any given definition violates this criterion is the heart of his open question argument: the conceivability of the opposite. Thus, if the opposite of the definition is conceivable then it cannot be a legitimate definition; a legitimate definition is one whose opposite is inconceivable or self-contradictory. Defining the good as man's natural end in this sense is clearly not defining it as what it is and nothing else. Its opposite is conceivable, according to Moore. No more is needed than for the question "But if a thing is natural, does that necessarily mean that it is good?" to be a meaningful question. If this criterion be a good one, then the good

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208 For a similar argument, see Tibor Machan (2008).

209 See Veatch (1962 [1980, 2003]), p. 138.

(or goodness as Moore prefers) can only be defined as the good (or goodness). Goodness cannot be equated with any other property whatever, whether natural or supernatural; it can only be equated with itself, for that is the only way it can be “what it is, and not another thing.” Goodness is goodness. Goodness is essentially an indefinable, non-natural property.

As Henry Veatch points out, Moore’s argument is self-defeating. Not only do definitions like “goodness is goodness” give us no information about the thing in question, being mere formal or analytic truths, but Moore’s argument proves too much.

If any definition of the good must commit a fallacy, then on the same principles just about any definition of anything must also commit a fallacy. If one defines A as A, this is merely a tautology, not a definition. . . . Hence, on such principles, it would seem impossible ever to define anything. And this is far more than Moore himself ever bargained for.<sup>210</sup>

The result of accepting Moore’s criterion for good definition is that there can be no good definitions of anything. Human knowledge is thereby made impossible, for there can be no meaningful definitions of anything. “Water is H<sub>2</sub>O” must be considered a bad definition according to Moore’s criterion; “Water is water” a good one.

Here’s a howdy-do. Any definition that meets Moore’s criterion must be of a form that makes it quite impossible for it to be a definition at all, at least in the sense of telling us what the thing being defined is. In short, to define anything is, on Moore’s principles, to fail to define it, and to aim at knowing what anything is, is to commit oneself to the logical impossibility of ever knowing what it is.<sup>211</sup>

Clearly, this result is absurd. Moore’s criterion is too severe. We are then compelled to re-examine the validity of Moore’s criterion.

Moore’s doctrine of the naturalistic fallacy, together with Hume’s is-ought problem, has been a leading source of moral skepticism in ethical theory. It has also served as a major impetus for the transcendental or linguistic turn in ethics, which has resulted in many tortured attempts at getting around Moore’s argument without challenging it directly. All of this can be avoided if we simply reject Moore’s criterion. That it leads to a *reductio ad absurdum* is one good reason for rejecting it. But other reasons can be given. One is that it is a mistake to conceive of all good definitions as being tautologies. Moore’s argument involves a non sequitur. From the fact that certain questions are always meaningful, it does not follow that the things we encounter in the world must either be indefinable or generative of definitions that are either unquestionable or not really definitions at all. Another reason for rejecting Moore’s criterion is that he has arguably misinterpreted Bishop Butler’s dictum due to a flawed epistemology. We can agree with Butler that it is a fallacy to attempt to define something in terms of what it is not. We can even agree that a definition must be such that a denial of it is self-contradictory. As Rasmussen and Den Uyl point out, the crucial issue is “how we determine whether a definition’s denial is self-contradictory.”<sup>212</sup> They make two important points: 1) Being open to questions about rightness

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210 Veatch (1962 [1980, 2003]), p. 140.

211 Ibid.

212 Rasmussen and Den Uyl (1991), p. 54.

and correctness “is the price we pay for not dealing in trivialities and for not being omniscient.”<sup>213</sup>

Yet even being open to [such questions] does not establish the possibility that *we* might be wrong or even that *this* definition might need changing. Rather, all we know is that people can be mistaken or that definitions can be revised, but we do not know that this might be the case in some specific instance. As noted before, there is a difference between something being possible and something being *always* and necessarily possible, and until and unless evidence for such alleged possibilities is forthcoming, there is no reason to regard the naturalistic definition as flawed.<sup>214</sup>

2) “The meaningfulness of the question ‘But is it good?’ cannot always be determined from the philosopher’s armchair.”<sup>215</sup> To determine whether the definition “Water is H<sub>2</sub>O” is self-contradictory or not requires knowledge of the chemical composition of water. Similarly, the natural end of man cannot be determined purely from the philosopher’s armchair by an exercise in freewheeling imagination. Finally, one more reason for rejecting Moore’s criterion bears pointing out, and it is that in the Aristotelian tradition a good definition is not a tautology but rather a real definition specifying genus and species and identifying the essential characteristics of the thing defined. “Water is H<sub>2</sub>O” is such a definition.

### **Further Defining *Eudaimonia*: The Basic Goods and Virtues**

Even if the foregoing arguments in defense of a natural end ethics should be accepted, critics may still fall back to criticizing the particular conception of man’s natural end being put forth. I cannot provide a thorough defense of my own Aristotelian-liberal conception of human flourishing here, but it is necessary to describe it in more detail and to say something in support of it. The previous two chapters have largely been about rights, although they have dealt in some detail with formal features of human flourishing as well as some of its substantive content. Despite their central importance in political philosophy, Aristotelian liberalism is not only concerned with rights. There is much more to ethics than rights. One of the gravest mistakes of contemporary liberalism has been to narrow the scope of objective ethics to rights or to expand the use of rights-language to encompass all of ethics, issues normally covered by the concepts ‘goods’ and ‘virtues’. Therefore, in the remainder of this chapter I wish to put more emphasis on the basic goods and virtue that comprise human flourishing.

### **Flourishing vs. Survival**

But first, I want to deal in more detail with a controversy between two camps of Aristotelian liberals, viz., the debate over whether the proper standard of value in ethics is flourishing or survival. The survivalist standard is held mainly by a number of Objectivists. David Kelley and William Thomas, in particular, in the working draft of their unpublished manuscript *The Logical Structure of Objectivism* spend a couple of pages critiquing the

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213 Ibid.

214 Ibid.

215 Ibid.

flourishing standard. Although I do not find their critique at all compelling, it nevertheless needs to be addressed. Doing so will also be useful in forestalling a common mistake made by critics of Aristotelian liberalism, since several critics have inexplicably misinterpreted the flourishing standard espoused by Rasmussen and Den Uyl as a survivalist one.

Ayn Rand argues that the proper standard of value in ethics – “the standard by which one judges what is good or evil – is *man’s life*, or: that which is required for man’s survival *qua* man.” And since “reason is man’s basic means of survival, that which is proper to the life of a rational being is the good; that which negates, opposes or destroys it is the evil.”<sup>216</sup> Now, Rand’s use of the word ‘survival’ might lend itself to the unsubtle reading that what she has in mind is bare survival, but this would be a mistake for then it would make no sense for Rand to qualify ‘man’s survival’ with the phrase ‘*qua* man’. This signifies that the standard is survival as the kind of being man is, a rational being, and not as anything else, e.g., a god or a beast. Beasts act for mere survival, and reproduction. Such a life is beneath man. Rather, Rand’s standard is a flourishing one, and this interpretation conforms better with the moral vision she dramatizes in her novels.

Oddly though, Kelley and Thomas interpret Rand as arguing for a bare survivalist standard premised on “the bare fundamental alternative of survival versus death that stands at the root of all values.” They argue that “survival is the literal alternative of life versus death, existence versus nonexistence.”<sup>217</sup> They explicitly exclude the potentialities and capacities of man from their conception of human life while recognizing that those who adhere to the flourishing standard include these.<sup>218</sup> But how is a standard that does not include the potentialities and capacities of man really a standard grounded in *human* life? They then proceed to construct a straw man argument and diagram it:

Premise 1 states the assumption that a flourishing life is the ultimate value.

Premise 2 adds the rich content assumed in the “flourishing” conception of life: a flourishing life consists of rationality, productiveness, benevolence, etc. The conclusion summarizes ethics in one fell swoop: rationality, productiveness, benevolence, etc., are virtues.<sup>219</sup>

Of course, those who adhere to the flourishing standard do not pretend to make so simplistic an argument as this. A full argument would require expanding both premises into a series of inductive and deductive arguments. Neither premise is or need be taken for granted, particularly the rich content of a human life.

Kelley and Thomas go on to assert on the basis of this straw man argument that the content of the flourishing standard is arbitrary. They claim that unlike the survivalist standard that they espouse, there is no clear, fundamental criterion or established procedure for determining the contents of the good life, of what is of value and what is not. Flourishing is just a grab-bag of whatever its advocate happens to deem admirable or desirable, included without proof that the thing in question really is a good or a virtue. The flourishing standard, Kelley and Thomas claim, is a rich, derivative concept whereas the survivalist standard is a clear and

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216 Rand (1964), p. 25. Emphasis in original.

217 Kelley and Thomas (unpublished manuscript), p. 73.

218 Ibid.

219 Ibid. Bolded emphasis removed.

fundamental one; the former must be based on the latter and cannot serve as the ultimate standard.

Kelley and Thomas pose the following problem: “For instance, a communitarian may think that man is by nature a political animal. He argues that man needs to be enmeshed in tradition and social rules, and that individual rights are therefore *contrary* to flourishing. How can a classical liberal advocate of life-as-flourishing objectively gainsay that?” Why, for one thing, he can agree in whole or in part with the communitarian’s premises and still disagree with the conclusion, arguing that it does not follow, that in fact individual rights are all the more necessary because man is a social and political animal enmeshed in rich cultural traditions and norms.<sup>220</sup> “The communitarian and the classical liberal would end up arguing over the meaning of flourishing, over the *standard* of their supposedly shared ethics.”<sup>221</sup> Well, this sort of disagreement is not unlikely in any case, even if one’s standard is bare survival.

Kelley and Thomas claim: “Unlike flourishing advocates, however, Objectivism clearly states what it means to base our principles in human nature.” Really? But they give no evidence for this claim that flourishing advocates do not. They simply assert it. “Properly understood, a “flourishing” life *is* a good life, but only because the capacities that are exercised in flourishing are *in fact* conducive to survival.” Yes, meeting the criteria for a flourishing life does tend to be conducive toward long-term survival, but two important issues are 1) whether the goods and virtues of a flourishing life are valuable only insofar as they are conducive toward long-term survival and 2) whether survival ought to be conceived as bare survival or as survival *qua* man, i.e., flourishing. “This is true throughout the realm of living things. When we speak of plants as flourishing, we mean that they are strong, healthy and capable of living.”<sup>222</sup> And the flourishing advocates also argue that identifying good and bad as they pertain to human beings is the same procedure as identifying good and bad as they pertain to other plants and animals. “Health and strength not only stave off death in the moment, but raise the chances of survival into the future. Every life is a span, and a human life in particular is a long span: capacities that are conducive to survival increase the likelihood that that span will be prolonged.”<sup>223</sup> Herein lies a major difference between the survivalists and the flourishers as well as a major mistake of the bare survivalist standard. Unlike a plant, a man can choose to die. And unlike other animals, a man can choose in a truly volitional way to die for moral reasons. At the end of Rand’s novel *Atlas Shrugged*, for instance, John Galt is prepared to die rather than see his lover Dagny tortured for the purpose of extracting his compliance. A bare survivalist standard cannot account for such a decision or action. For a human being, unlike for plants and other animals, flourishing is more than just highly successful survival at any cost – even though the character traits that tend to promote highly successful survival and the character traits that count as flourishing tend to be the same. Kelley and Thomas will surely object to the phrase ‘at any cost’, claiming that they do not advocate survival at any cost, but only from a flourishing standard could some costs be judged too great to be born or imposed in the name of continued survival.

Aware of the criticism that the survivalist standard is too narrow or shallow to accommodate the goods and virtues usually associated with flourishing, Kelley and Thomas

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220 Although liberals also hold that it can be necessary to reform or break with such cultural and societal traditions and norms if they run counter to the requirements of one’s own flourishing.

221 Kelley and Thomas (unpublished manuscript), p. 74. Emphasis in original.

222 Ibid., p. 74.

223 Ibid., pp. 74-75.

attempt to address it. They say that while “survival is a binary condition, success in survival is not”<sup>224</sup> and want to equate flourishing with highly successful survival. They point out that organisms ward off harm and death by developing redundant capacities such that the loss of one or more is not necessarily immediately fatal. The various goods and virtues are among these capacities, the more we can gain and keep them the more successful we will tend to be at surviving well, i.e., flourishing. They put much emphasis on something which they say critics often overlook, quoting Rand’s formulation “‘survival at any price’ . . . may not last a week or a year.”<sup>225</sup> This line of argument, and the interpretation they give to Rand’s work, suggests that the goods and virtues are to be valued merely or primarily for their contribution to man’s chances of survival. As such, the goods and virtues appear to be merely instrumental and external means to a dominant end, survival. Men should consistently follow the proper moral code, for which survival is the standard of value, even when it might mean his death, because to do so maximizes his chances of surviving well. Objectivist ethics, on this view, is a form of rule-consequentialism. And indeed, from personal conversations with Kelley and Thomas, they do conceive of Objectivist ethics as a form of rule-consequentialism.

I don’t think this response by Kelley and Thomas really answers the objection that a survivalist standard is too narrow or shallow to accommodate the goods and virtues usually associated with flourishing. By relegating the goods and virtues to the role of mere instrumental means to a dominant end, they are diminishing or downgrading the value of the goods and virtues relative to their role in an ethics based on a flourishing standard – for in a flourishing standard the goods and virtues are *part of* an inclusive ultimate end; they are both final ends, valuable in themselves, and constitutive means to an inclusive, most final end. Thus the survivalist standard has the effect of conceptually diminishing the importance of the goods and virtues, which in itself is problematic but can also potentially have psychological and praxeological effects on their pursuit. The focus on consequences, with bare survival as the standard, I should think, will tend to cheapen the goods and virtues as well as human relationships and to encourage choosing survival over flourishing.

Roderick Long has argued that indirect- or rule-consequentialism is conceptually unstable.<sup>226</sup> This is a separate argument from the familiar one that rule-consequentialism is psychologically unstable, which would be an empirical rather than a conceptual question. Act-consequentialism is generally rejected by moral philosophers. A survivalist standard in this mode would result in an ethics of bare survival over the short-term at any cost, because each action would be evaluated in light of its consequences for one’s immediate survival. With rule-consequentialism, a set of rules or moral code, is valued, adopted, and meant to be followed consistently because it will tend to lead to far greater success in producing the desired consequences. The problem is this, rule-consequentialism holds morality to be an instrumental means to an end, but it requires us to treat morality as if it were an end in itself, even though it is not one. I cannot act as if morality is an end in itself; either it really becomes so for me, or it remains a mere instrumental means. When I act I must treat morality either as an instrumental means or an end in itself. If I treat morality as an instrumental means, then morality is of no value in and of itself; it is only of value inasmuch as it produces the desired consequences. So if I treat morality as a mere instrumental means, even when I act morally in a given situation

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224 Ibid., p. 75.

225 Ibid.

226 Long (2002a).

(because it happens that this time the right thing to do will have the desired consequences) I am committed to rejecting morality in situations in which acting morally will not have the desired consequences but acting immorally will. In other words, if I treat morality as a mere instrumental means I am acting as an act-consequentialist; but rule-consequentialism already rules out act-consequentialism as untenable. If instead I treat morality as an end in itself, I am not acting as a consequentialist at all. I have then become a deontologist or a virtue ethicist, and I must reject consequentialism on pain of inconsistency. But consequentialism and the survivalist standard go hand in hand, and so the survivalist standard must be rejected as well. Rand rejected deontology too, so the Objectivists who continue to agree with her on this have nowhere to turn except virtue ethics, which is inherently based on a flourishing standard.

One more claim made by Kelley and Thomas remains to be addressed. They close their defense of the survivalist standard and criticism of the flourishing standard with a paragraph that includes the following: “Flourishing cannot substitute for the alternative of life versus death as the basis of ethics, any more than happiness can.” But why is this? Aside from their point that survival is a binary alternative, their claim that survival is more fundamental, their unsupported claim that the flourishers provide no clear, fundamental criterion or established procedure for determining the contents of the good life, and their diagrammed straw man version of the flourishing argument, they have offered no arguments to back up this claim. Happiness, as Objectivists define it, which is as an emotion, cannot be the standard of ethics for familiar reasons that both Aristotle and Rand discuss.<sup>227</sup> But flourishing, which is a decent translation of Aristotle’s *eudaimonia*, does not suffer from this flaw. Moreover, although they claim survival is the binary alternative at the base of ethics, nearly all of the choices we make involve a range of alternatives from surviving well to surviving less well. Enough bad choices can lead to death, but most choices people make are not conscious choices to embrace death, either straight away or in a drawn out process. Even those who do choose death must necessarily see a life ending in the time and manner of their choosing as being preferable to a life ending in a different time and manner. In practice then, a flourishing standard is the standard all rational beings at least implicitly employ.

### **The Basic Goods and Virtues**

So in what then does human flourishing consist? I will make no attempt here to provide an exhaustive list. Not everyone’s exhaustive list need be exactly the same. And such a task is not really appropriate for armchair philosophizing to begin with. What matters is to identify a core set of basic goods and virtues important to the flourishing of all men. Such a set of goods and virtues is no danger to pluralism and diversity. Aristotelian liberals are careful to distinguish between the goods and virtues in the abstract, at a general theoretical level, from the goods and virtues in their particular concrete manifestations, at the practical level. A general, theoretical analysis of human flourishing cannot reveal any *a priori* weighting of the goods and virtues. And at the practical level, the particular concrete manifestations of the goods and virtues can vary considerably from culture to culture, community to community, organization to organization, and person to person, while still retaining universal characteristics that identify them as manifestations of certain goods and virtues. None of this should suggest that we are merely

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227 It is noteworthy, I think, that while Rand disagrees with particular aspects of Aristotle’s concept of man’s natural end, nowhere does she criticize his general conception of flourishing as man’s natural end.

engaging in an empiricist cross-national study such that we can only identify goods and virtues universal to all cultures. An analysis of human flourishing, while it must pay attention to historical and cultural evidence, is not bound by a scientific process of enumerative induction. As such, it is quite possible to critique particular cultures, to identify elements that are contrary to the requirements of human flourishing.

A good place to start would be with goods and virtues identified by Aristotle. In *Rhetoric* 1362b0-28 Aristotle lists a number of goods and some of the virtues that he also discusses in the *Nicomachean Ethics*. Rasmussen and Den Uyl summarize the list of goods as 1) intellectual ability (including speech), 2) intellectual pursuits, 3) health (including action, pleasure and life), 4) friendship, 5) honor, 6) wealth, 7) beauty, 8) justice, and 9) artistic pursuits.<sup>228</sup> In Aristotle's own words:

Further, health, beauty, and the like, as being bodily excellences and productive of many other good things: for instance, health is productive of both pleasure and of life, and therefore is thought the greatest of goods, since these two things which it causes, pleasure and life, are two of the things most highly prized by ordinary people. Wealth, again; for it is the excellence of possession, and also productive of many other good things. Friends and friendship; for a friend is desirable in himself and also productive of many other good things. So, too, honour and reputation, as being pleasant, and productive of many other good things, and for the most part accompanied by the presence of the good things that cause them to be bestowed. The faculty of speech and action; since all such qualities are productive of what is good. Further – good parts, strong memory, receptiveness, quickness of intuition, and the like, for all such faculties are productive of what is good. Similarly, all the sciences and arts. And life; since, even if no other good were the result of life, it is desirable in itself. And justice, as the cause of good to the community.<sup>229</sup>

Of the moral virtues (and their corresponding vices of excess and deficiency), Aristotle discusses 1) courage (the mean between rashness and cowardice); 2) temperance (licentiousness and insensibility); 3) generosity or liberality (prodigality and illiberality/meanness), a minor virtue regarding getting and spending; 4) magnificence (vulgarity and pettiness/extreme stinginess), a major virtue regarding getting and spending; 5) magnanimity (vanity and pusillanimity), a major virtue regarding honor and dishonor; 6) proper ambition or pride (excessive ambition/empty vanity and unambitiousness/undue humility), a minor virtue regarding honor and dishonor; 7) patience or good temper (irascibility and lack of spirit); 8) truthfulness (boastfulness and understatement/mock modesty); 9) wittiness (buffoonery and boorishness); 10) friendliness (obsequiousness/flattery and cantankerousness); 11) righteous indignation (envy and malicious enjoyment/spitefulness); and 12) justice (injustice).<sup>230</sup> Aristotle also discusses five intellectual virtues: 1) art or technical skill/knowledge, 2) scientific/philosophical knowledge (of the

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228 Rasmussen and Den Uyl (2005), pp. 147-152.

229 *Rhetoric* 1362b12-28.

230 *NE* III.5-V.11 1115a3-1138b14. Aristotle also briefly discusses modesty (shyness and shamelessness) but says it is not truly an excellence. I do not see, however, why the disposition toward proper modesty cannot be considered a minor virtue and a disposition toward shyness or shamelessness a minor vice.



universal and necessary), 3) practical wisdom or prudence, 4) theoretical wisdom, and 5) intuitive wisdom.<sup>231</sup>

Aristotle's list of goods and virtues seems fairly uncontroversial, even commonsensical. They are not all of immediate and central importance to political philosophy, however, although one could probably show in what ways each of the goods, virtues and vices can affect and be affected by politics. Disagreements may arise over particular specifications of what counts in the concrete as an instance of a particular good or virtue. In the face of such disagreements one must make recourse to philosophical insight as well as scientific and other empirical evidence. That intellectual ability, pursuits, knowledge and wisdom should be counted as goods and virtues, as the case may be, ought to be clear. As a rational animal, man's rational capacity is central to his functioning. While the range of our raw intelligence is fairly fixed by genetics, environmental and educational factors and our personal choices do influence where we fall into that range and how well we are able to exercise our rational capacity. The different forms of knowledge, skill and wisdom have their uses in living the good life and are valuable in themselves. We can disagree with Aristotle, however, that the contemplative life is the universal and objective ideal. Practical wisdom is in some sense the master virtue, for it is the integrator of all the goods and virtues into a complete life and it guides the proper application of the other virtues. Aristotelian prudence is not pure, calculating prudence à la Hobbes, however; while the moral virtues without practical wisdom are blind, practical wisdom without the moral virtues is empty.<sup>232</sup>

Some of Aristotle's moral virtues have more immediate and central importance for political philosophy than others. Perhaps chief among these is courage. Like other Greeks, and Romans too, Aristotle put undue focus on courage in the face of physical violence, harm and death. This is a martial courage. Aristotle does briefly discuss a political form of courage that is related to what he calls true courage, but he links this perhaps too tightly to legal penalties and honor. One can, and ought to, be courageous with regard to much more than this. It takes courage to face unpleasant truths, about oneself and others, ideas and institutions, and facts. It takes courage to take the initiative to do what needs doing. It takes courage to put one's beliefs and one's reputation out into public and/or political arenas to be challenged, tested, possibly even refuted. It takes courage to stand up for what is right, particularly when no one else will. If otherwise good people systematically lack courage in these areas, a free and flourishing society is not likely to remain so for long. Temperance is also relevant, at least insofar as this: if licentiousness and self-indulgence, particularly of certain kinds, become sufficiently prevalent they can erode other goods and virtues as well as precipitate crises that incentivize aggression. Generosity is also integral to a free and flourishing society, but we need not limit it to money as does Aristotle – we can also extend the things we are generous with to time, physical labor, advice and the like. Generosity in the form of charity fills an important role in society, for there will likely always be those in need due to unforeseeable and uncontrollable unfortunate circumstances or due to forgivable mistakes. But a systematic prodigality, of giving too much, especially to the wrong people or for the wrong things, will result in capital consumption – which means a stagnating or regressing economy, worse lives materially-speaking for the givers

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231 *NE* VI.3 1139b14-18.

232 This is not to suggest that the one can exist without the other but in a blind condition or an empty condition, respectively; quite the contrary.

and less to give in the future.<sup>233</sup> I leave off a discussion of justice, as a good and as a virtue, for later.

While I do not think Aristotle intended his list of goods and virtues to be complete, to the modern liberal there are a number of important omissions that need addressing. It will be instructive now to turn to the goods and virtues identified by Aristotle-influenced liberal philosopher-novelist Ayn Rand and a couple of her followers. Rand's list too is not intended to be exhaustive but rather to identify the essential, major goods and virtues central to a flourishing life and to establish a stark contrast between her conception and the prevailing mistakes of her time. Rand identifies three cardinal values (goods) and seven cardinal virtues. The goods are reason, purpose and self-esteem. And the virtues are rationality, productiveness and pride, corresponding to the three cardinal values, as well as independence, integrity, honesty and justice. Rand argues that productive work is the central propose of a rational man's life. It is both made possible and necessitated by man's faculty of reason. Life is conditional and values do not come automatically. One must produce values in order to maintain and further one's life, and to do that well one must make rational use of one's mind. While the virtue of productiveness is not limited to the economic realm narrowly defined, as values are not, productive work is a central part of it. It provides one not only with the 'material' values needed to survive and flourish but also a core personal identity with which to integrate and determine the hierarchy of all one's other values. Knowing that we are efficacious and worthy of a flourishing life results in necessary self-esteem. And the virtue of pride is a commitment to moral perfection, to earning that self-esteem, to avoiding vice and correcting one's flaws and moral errors.

Rationality, Rand argues, is man's basic virtue, for it makes the others possible and is presupposed by them. It "means the recognition and acceptance of reason as one's only source of knowledge, one's only judge of values and one's only guide to action."<sup>234</sup> In productive work it "means the consciously chosen pursuit of a productive career, in any line of rational endeavor, great or modest, on any level of ability."<sup>235</sup> We have already seen how rationality is a part of the virtue of pride. It bears pointing out that Rand's conceptions of self-esteem and pride are much more internal than conceptions of honor and pride held by Aristotle as well as other classical Greeks and the Romans; Rand's does not center around appearances and external recognition as does theirs'. For Rand, a commitment to rationality also means:

. . . one's acceptance of the responsibility of forming one's own judgments and of living by the work of one's own mind (which is the virtue of Independence). It means that one must never sacrifice one's convictions to the opinions or wishes of others ( . . . Integrity) – that one must never attempt to fake reality in any manner ( . . . Honesty) – that one must never seek or grant the unearned and undeserved, neither in matter nor in spirit ( . . . Justice).<sup>236</sup>

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233 Aristotle (*NE* IV.1 1121a16-19, 30-32) makes a similar point with regard to a single individual.

234 Rand (1964), p. 28.

235 *Ibid.*, p. 29.

236 *Ibid.*, p. 28. For justice, the converse also hold: one should seek and grant earned and deserved.

Objectivists David Kelley and William Thomas add an eighth cardinal virtue, which they see as being consistent with and implied by Rand's philosophy: benevolence, which subsumes four minor virtues: sensitivity, tolerance, civility, and generosity.<sup>237</sup>

Rand presents three of the virtues as corresponding to the three cardinal values. She also gives each of these three virtues – rationality, productiveness and pride – its own paragraph. The four other cardinal virtues – independence, integrity, honesty and justice – she discusses within the paragraph on the virtue of rationality. Given these facts, it seems as if Rand thought of the four as minor virtues subsumed under the major virtue of rationality, yet important enough to rank as cardinal virtues. Independence is an important virtue. While many critics of liberalism fear atomism, the human propensity to fall in with the herd is much more worrisome and prevalent. The virtue of independence recognizes that we are separate persons with our own minds which we must use to make decisions. It means that if we are to live a flourishing life that is our own, we must take the responsibility to think and work for ourselves rather than abdicate this responsibility to others. The virtue of integrity touches on this responsibility too. Rand couches it in the sense of having the courage of one's convictions in the face of social pressure but more generally it is about endeavoring to have a consistent set of principles and to holding to them whatever temptations one might face, be they other people, unfortunate situations or one's baser inclinations. Rand's conception of honesty is the most unusual, for it is not simply about telling the truth or not lying. It is more fundamental than that. While the virtue of honesty entails that it is generally right to tell the truth and wrong to lie, sometimes (contra Kant) lying may well be the right thing to do. The classic example is the case of a would-be kidnapper demanding to know where your child is hiding. It is excessively rigid and a-contextual, typical of a deontic rule as opposed to a virtue (a principle), to maintain that lying in such a case is immoral. A deontologist might reply that one does not have to lie, one could simply not answer instead. The consequences of keeping silent are likely to be severe, and keeping silent will not necessarily direct the would-be kidnapper *away* from one's child. This is an ethics for a god, not a man. Instead, a more fundamental conception of honesty involves never faking reality (to oneself or to others) – which means not attempting to acquire values via fraud and not shying away from the facts, including one's proper hierarchy of values. It is not wrong to lie to protect one's values from criminals, i.e., those attempting to expropriate your values by force or fraud. To tell the would-be kidnapper the truth, or likely even to keep silent, would be to put the lie on the value your child is to you. Similarly, it may also be right in certain contexts to lie to protect one's privacy from snoopers.<sup>238</sup> Finally, once again I will put off discussing the virtue of justice until later.

Rational beings are also capable of communication and conscious, purposeful cooperation. Being social and political beings is part of what it means to be a rational being. We are born in a social environment. We derive enjoyment from being in the company of other human beings who share our ideas and interests. We acquire much of our knowledge from other human beings. We depend upon exchanging the values we produce for the values they produce in order to survive and flourish. Social existence enables the division and specialization of labor responsible for the continual expansion of knowledge and economic progress that we benefit from today. We naturally form into groups to cooperate in the pursuit of shared ends. Together

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237 See Kelley and Thomas (unpublished manuscript), Ch. 6. For earlier discussions of these virtues, see Kelley (2001a) and Kelley (2003).

238 See Peikoff (1993), pp. 274 (bottom)-276, for a similar, earlier and fuller argument.

we accomplish much more, and live much better lives spiritually and materially, than we would alone.

There are a number of virtues made possible and required by human social existence. Many of the virtues we have already discussed have readily recognizable social dimensions. Other important social virtues include those that Kelley and Thomas argue should be added to Rand's list of cardinal virtues: benevolence and the minor virtues subsumed under it: sensitivity, generosity, civility and tolerance. Benevolence means having a habitual disposition of goodwill towards others. Sensitivity involves being alert to the interests, feelings, concerns, needs and so forth, of others, particularly our friends. Generosity is that virtue in which we give of ourselves to others out of a sense of fullness or overflowing, without any expectation of receiving anything definite in return. Civility involves being polite and courteous in myriad ways and the virtue of tolerance involves enduring ideas or practices with which we disagree. It is easy to see how these virtues serve to grease the wheels of social relationships, so to speak, while their lack can cause friction and even grind cooperation to a halt. Civility and tolerance, in particular, are also necessary for the joint pursuit of truth because they facilitate open discussion and debate.

There are two important aspects of Aristotle's ethical theory that Rand unfortunately seems to have rejected without fanfare. These are 1) the distinction between intellectual and moral virtue and 2) the doctrine of the mean. For Aristotle, rationality in its several forms – intuitive, theoretical and practical wisdom as well as skill and knowledge – is an intellectual virtue. For Rand, it is a moral virtue. This might help to explain an unfortunate tendency among many Objectivists to moralize, to denounce intellectual errors (actual or perceived) as evil. This tendency led Objectivist David Kelley to argue in favor of the virtue of tolerance and to found an independent branch of the Objectivist movement.<sup>239</sup> While I agree that tolerance is a virtue, I do not think it goes far enough in curbing the tendency to moralize. So long as rationality is seen as a moral, rather than an intellectual, virtue, any deviation from what is perceived as rational necessarily must be seen as immoral as well. It is not by the ideas we hold but by what we do that we count as being good or bad. Intellectual error can lead to immoral actions, to be sure, and moral failings (vices) can lead to bad intellectual habits that produce intellectual errors that in turn lead one to vice and crime. In other words, vice can lead to a lack of practical wisdom but a lack of practical wisdom is not itself a moral vice. For Aristotle, practical wisdom guides the proper application of the moral virtues but gets its content from them. Practical wisdom without the moral virtues is empty; the moral virtues without practical wisdom are blind.

Rand also quietly drops Aristotle's doctrine of the mean. But the doctrine performs useful practical and theoretical functions. Simply at a practical, day-to-day level the doctrine of the mean can be useful for determining the right thing to do in a given situation, because contrasting a virtue with vices at two extremes provides one with more specific information than the virtue alone. As Aristotle says, there are more ways to do the wrong thing than the right.<sup>240</sup> This is true at the theoretical level too: conceiving of a virtue and its two vices in relation to one another gives one a better grasp of the meaning of each, which should aid in richer, more contextual and nuanced theorizing. The doctrine is also useful for developmental purposes, for self-improvement or pedagogy, as Aristotle himself points out, for if one knows he has a tendency toward a particular deviation from a virtue, e.g., courage (the proper response to fear and

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239 The organization Kelley founded has had several names but is currently called The Atlas Society; it runs The Objectivist Center (the organization's previous name).

240 *NE* II.6 1106b29-35

potential harm), say toward excess (rashness), then he can attempt to habituate himself in the virtue of courage by consciously erring in the direction of deficiency, what he might normally, though erroneously, consider to be cowardice.<sup>241</sup> Related to this is Aristotle's observation that virtue is the mean relative to us.<sup>242</sup> This has both practical and theoretical import as it underscores that virtue is not one and the same for everyone no matter the context, while the universal and general aspects of flourishing keeps Aristotelian virtue ethics from descending into moral relativism or subjectivism. The doctrine of the mean can be overused, however, for as Aristotle points out – not everything admits of a mean. It can also be misused, through rigid analysis that pays insufficient attention context.

Finally, or nearly so, let us turn to a discussion of liberty and justice. Liberty is a final good (end), valuable in itself but also valuable as a constitutive means to the ultimate end of flourishing. For liberals, it is often said that liberty is the highest political value (end), but in chapter seven I will argue instead that it is the highest *pre*-political value (end). Also, in chapter seven I will discuss the place of liberty in Aristotle's political philosophy and in what ways its role in Aristotelian liberalism differs. Intimately related to liberty is justice. Justice is both a final good and a virtue; as such, it too is valuable in itself and also as a constitutive means to flourishing.

Liberty and justice are of central importance to political philosophy. To the extent that they are absent, a life of flourishing and a free and flourishing society are made impossible. As it is conceived in (classical) liberal tradition, liberty is freedom from aggression; more precisely, liberty is freedom from the threat or use of initiatory physical force. The act of coercing someone with the threat or use of physical force – such as by violence, murder, fraud and naked theft – imposes the aggressor's desires, interests, preferences, choices, actions, on the victim without his consent. To the extent that this occurs the victim exists not for his own sake but for another's: his desires, interests, preferences, choices, actions, are no longer truly his but are alien to him. More to the point, to the extent that this occurs his actions are not self-directed. A person being physically coerced by another is not able to make the choices and take the actions he judges necessary for the maintenance and furtherance of his life. And he is not being respected as a person.

In the Aristotelian tradition, remember, morality is a matter of choice. To elaborate on my earlier comments, for an action to count as virtuous it must be done freely, by choice, both for the right reasons and because it is desired.<sup>243</sup> Thus, it is not enough simply to possess the goods, and it is impossible to possess the virtues, one needs in life without self-directed action. In other words, an act of mine does not count as virtuous and therefore contributory toward my flourishing if you force it upon me, even if it otherwise would have been had I desired and freely chosen it for the right reasons. To the extent that one's liberty is infringed, one is unable to flourish.

What liberals bring to the table, as a matter of political justice, is a greater recognition of this central importance of liberty and a more consistent protection of liberty in the form of an ethical, political and legal principle of justice: the right to liberty (and all of its corollaries and consequences). A right is a legitimately enforceable moral claim against the prior obligation of

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241 *NE* II.9 1109a20-b26.

242 *NE* II.7 1106b36-1107a2.

243 *NE* II.4 1105a30-b4, II.6 1106b19-24 & 1106b36; III.1 1110a1-5 & 1111a22-24, III.5 1114b21-25; *Metaphysics* I.2 982b26.

another not to threaten or use initiatory physical force against you. Not all the moral claims we have on the obligations of others are legitimately enforceable via the law or vigilantism. In the liberal tradition, only the moral claim to freedom from aggression can be consistently upheld as legitimately enforceable. The rights to life and property are two of its corollaries. A right to liberty is a right to a life of our own. And our right to liberty cannot be exercised if we are not allowed to keep and use the fruits of our labor as we see fit (provided we do not use our property to violate the equal rights of others to their own life, liberty and property).

But so far we have not gotten deeply enough into the reasons, at the level of personal ethics, for why rational beings have rights and why we must respect them. I have said that our rights derive from a prior obligation of others.<sup>244</sup> What gives us this obligation? Ultimately, what gives us this obligation not to aggress against others is our obligation to pursue a life of flourishing. To put it in a nutshell, since we are rational, political and social beings, we ought to deal with other such beings through reason, discourse, persuasion and cooperation, except when necessary to protect our own right to liberty (or the rights of others), rather than through violence and force. To do so is a matter of justice.

Consider the virtue of justice; it means accepting and granting the earned and deserved, and never seeking or granting the unearned and undeserved.<sup>245</sup> What do other rational beings deserve from us? Again we can turn to Aristotle for some illumination. Aristotle argues that justice is complete virtue practiced in relation to others and because of this it is “often thought to be the greatest of the virtues.”<sup>246</sup> In other words, what other rational beings deserve from us is for us to possess integrity, to be prudent, independent, honest, productive, brave, benevolent, sensitive, generous, civil, tolerant, and so forth. We owe virtue first and foremost to ourselves, and because we are political and social beings we owe virtue to others as well. Virtues are not rigid rules, however; they are abstract principles and traits of character whose proper application is highly dependent upon context. While the virtues are, in the abstract, universal principles, Aristotle reminds us that what virtue demands of us will depend upon our talents and abilities, the cultural traditions we accept (so long as they do not contradict what our nature as a human being demands of us), our particular circumstances and the particular conditions at the time of action.

Finally, we may follow Aristotle in his wisdom in another way. He makes a useful distinction between what he calls general justice and particular (or special) justice. General justice is, for Aristotle, the complete virtue we have just been discussing. Particular justice pertains more to political matters, such as violence, theft, fraud, restitution and the like. With some tweaking, this distinction can be adapted to the liberal conception of justice and rights. An Aristotelian liberal must disagree with Aristotle that it is just that the law be used to require all virtue and prohibit all vice. The only vices that we recognize as crimes are those that involve aggression, i.e., those that involve the violation of rights. It is aggression that is fundamentally

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244 Typically in the liberal tradition theorists do the opposite; they derive the obligations of others from our prior rights. This is one important way in which Aristotelian liberalism differs from its Enlightenment counterparts, and this difference results from grounding the obligation to respect rights firmly in human flourishing and virtue.

245 Philosopher David Schmidtz argues that desert is not merely backwards-looking, given only as a compensatory reward; it can also be forward-looking, promissory: we can come to deserve something on the basis of what we do after receiving it. Deserving and earning are not interchangeable, however. Something can only be earned after the work is done. Nevertheless, it is possible to do justice to unearned opportunities. See Schmidtz (2006), Part 2, Chapters 6-12, pp. 31-70.

246 *NE* V.1 1129b26-1130a1.

anti-social, as it substitutes force for reason and discourse. It is aggression that compromises self-direction and so makes flourishing impossible to the extent that it is used. Requiring virtue and prohibiting vices that do not involve aggression necessarily involves aggression.<sup>247</sup> Aristotle says that particular justice is distinct from complete virtue, but even while accepting this we must recognize that even particular justice is informed, as general justice is, by all of the other virtues. Through the lens of particular justice the other virtues tell us how we should treat rational beings qua rational beings at a pre-political and pre-social level. I do not mean ‘pre-’ in a temporal sense here, but rather in the teleological sense that dealing with one another through reason and discourse rather than force is a fundamental prerequisite for a social or political relationship. So in light of all this, an Aristotelian liberal would see particular justice as pertaining to what is sometimes called political justice, which involves protecting the right to liberty and rectifying violations of it. An Aristotelian liberal would thus see general justice as pertaining to obligations we have to others that are not legitimately enforceable. To keep the difference between the two types of justice clear, it will help to rename them: 1) We have political justice which pertains only to rights and is legitimately enforceable. And 2) we have social justice which pertains to our moral obligations to others and is not legitimately enforceable.<sup>248</sup>

While liberals tend to focus exclusively on (political) liberty given its fundamental importance, there is no reason why liberals cannot accommodate and be concerned about other senses of freedom. Indeed, Aristotelian liberalism counsels about the importance of doing so. One fruitful area of research is the issue of autonomy currently popular in moral philosophy. There are a number of competing conceptions and theories that all suffer in my view from some weakness or other. Aristotelian liberalism is in a position to offer a unique account of autonomy. In the short remainder of this chapter I can offer only a brief sketch of an Aristotelian-liberal account of autonomy. I have gone into more detail elsewhere on the existing literature and on the account presented here.<sup>249</sup>

What is called autonomy in much of the existing literature is really a conflation or confusion of several different things. Moral philosophers are concerned almost exclusively with individual autonomy, a property of individuals considered individually. Group autonomy is the autonomy of individuals considered *as a group*, e.g., political autonomy or political self-rule. Note that individual autonomy does not necessarily entail conceiving of human beings as essentially a-social or apart from society or in a state of nature. Within individual autonomy we can further distinguish global and local dimensions. Global autonomy is the exercise of one's rational capacities. This is similar to Gerald Dworkin's account of autonomy<sup>250</sup> and is what Rasmussen and Den Uyl call self-direction. Local autonomy is individual autonomy with respect one's particular desires, preferences, actions, and so forth. It is local autonomy that is the primary concern of contemporary moral philosophers. Local autonomy, hereafter referred to just as

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247 Cf. Thomas Aquinas, *Summa Theologica*, I-II, Question 96, Second Article: “Now human law is framed for a number of human beings, the majority of whom are not perfect in virtue. Wherefore human laws do not forbid all vices, from which the virtuous abstain, but only the more grievous vices, from which it is possible for the majority to abstain; and chiefly those that are to the hurt of others, without the prohibition of which human society could not be maintained: thus human law prohibits murder, theft and such like.”

248 This definition of the term ‘social justice’ obviously differs from popular usage; nevertheless, I can think of no more appropriate term for this type of justice. There is a sense in which one can speak of personal justice too, e.g., “I owe it to myself.” On the notion that we are each of us two-in-one, see Arendt (2004).

249 See my 2006 philosophy Master’s thesis, “Aristotelian-Liberal Autonomy.”

250 Dworkin (1988), p. 20.

autonomy, can be distinguished yet further in two ways. First, autonomy can be considered in relation to particular desires, preferences, actions, and so forth taken singly; or it can be considered in relation to particular desires, preferences, actions, and so forth in the aggregate. In the former case, one is either autonomous with respect to a particular desire, etc., or one is not. The latter case is a matter of degree, one is more or less autonomous in proportion to the number of desires, etc., in relation to which one is autonomous and/or heteronomous. Granted, there are obvious epistemic difficulties with respect to judging the degree of autonomy possessed by particular individuals, but this does not vitiate the theoretical usefulness of the distinction.

Second, it seems necessary to conceptually distinguish three dimensions of autonomy that the contemporary literature generally conflates: political, social, and personal. Political autonomy is here not quite equivalent to the traditional classical liberal/libertarian concept of liberty (political or negative liberty). The traditional meaning of liberty is freedom from the threat or use of *initiatory* physical force. We can define political autonomy as freedom from the threat or use of physical force period. Thus, one might not be autonomous in this sense while still not having his liberty violated if the force he is being subjected to is retaliatory rather than initiatory, as in the case when he is an aggressor and his victim employs force in self-defense and restraint of a serious standing threat. Autonomy therefore has a broader meaning than liberty, and freedom a broader meaning still. The threat or use of physical force clearly constitutes a violation of autonomy, or at least this should be clear, and it bears noting here that it is the swiftest and surest means of compromising self-direction. Social autonomy is freedom from the tyranny of systematic social oppression, other than the threat or use of physical force, that leads a person to deviate from his *telos* (natural end). Personal autonomy, in turn, is internal freedom from the tyranny of deviant desires, severe addiction to drugs, and so forth that lead a person to deviate from his *telos*. There are two marked differences between political autonomy on the one hand and social and personal autonomy on the other: 1) Political autonomy involves freedom from physical coercion while the other two do not. And 2) except possibly in some very extreme cases, self-direction is not compromised by social or personal heteronomy. Even in the face of systematic social oppression, deviant desires and drug use, self-direction is still usually possible, even if the range of options available to choose from is narrower than it should be. Thus, issues of social and personal autonomy are more complex and therefore more difficult to judge. They also depend far more on one's own choices.

There are any number of social influences that can lead a person astray from the life appropriate for him. Some social influences are more pervasive and powerful than others. Some such influences are in and of themselves malignant, but others are for the most part neutral or benign. Among the more malignant are certain sorts of behaviors and institutions that discourage or actively seek to suppress rationality, individuality, self-responsibility, productivity, and other virtues. Cultures that encourage unquestioning obedience to authority and subordination of the individual to the collective are prime examples. Other problematic cultural institutions are paternalism, racism, and sexism. Many social influences are not malignant in and of themselves, however; they can serve to distract but they also offer themselves up as opportunities to discover our true *telos*. It is the task of the individual to develop practical wisdom and employ it to make the correct choices for himself.

Personal autonomy can be compromised in a number of ways as well, most prominently by deviant desires and severe addiction to drugs. Deviant desires, in the Aristotelian tradition, stand opposed to reason, to one's *eudaimonia*. They undermine one's personal autonomy in the



aggregate. They are a part of who we are presently but alien to our *telos*. It also seems clear that being physically addicted to some substance undermines one's personal autonomy. Addiction puts one's desires in opposition to reason, but it does not necessarily compromise self-direction. It does, however, undermine how well one uses one's self-direction. On the other hand, an extremely severe addiction to a powerful drug might well be enough to compromise self-direction.

While it is important to distinguish political, social and personal autonomy conceptually, it is also important to recognize their deep interrelations. To the extent that political autonomy is violated social and personal autonomy are rendered impossible, for violations of political autonomy not only impose alien desires, etc., on the recipient. They also compromise self-direction, which is a constitutive part of all three dimensions of local autonomy. Social heteronomy can promote personal heteronomy, and vice versa. Similarly, personal and social heteronomy can encourage violations of political autonomy. For example, a teenager could mistakenly seek fulfillment by joining a street gang and, in order to fit in, get hooked on drugs and then commit violent crimes in support of his gang and his habit. For a generational example, a verbally abusive relationship with one's father can be a contributing factor (although not an excuse!) in the son growing up to become an alcoholic who then visits the same abuse he suffered on his own son. Personal heteronomy could easily lead to the verbal abuse becoming physical as well.

I will grant that in extreme cases of social and/or personal heteronomy in which self-direction may be compromised, that it *might* be the necessary and right thing to do to forcefully *but temporarily* intervene in order to restore the heteronomous person's capacity for self-direction. Because these are exceptional cases, involving highly complex issues, the proper course of action cannot be generalized or universalized into law. It is a personal moral decision not to be taken lightly – one that depends on the capabilities and other obligations of the one making the decision, on the likelihood of immediate and long-term success, and myriad other factors; and one that requires intimate knowledge of the heteronomous person in question, including whether the person would endorse the intervention after being restored to self-direction and some measure of local autonomy. Such a decision is not one that can be freely sanctioned by the law. There must be a presumption in favor of liberty in the legal system and the law must be restricted to protecting individual liberty, as a requirement of justice and in order to protect the possibility of self-direction. Should the concerned party choose to intervene, he must be prepared to pay the legal consequences if the one he intended to help ultimately rejects his efforts and chooses to press charges.<sup>251</sup> The paradigm case I have in mind here is that of a close friend or relative who becomes severely addicted to drugs, such as crystal meth. Up to a point it *might* be the necessary and right thing to do for that person's family and close friends to stage an intervention in an attempt to restore his or her capacity for self-direction and some measure of local autonomy, in order to give the drug addict a chance to reconsider his life and past actions.<sup>252</sup> In such a case I would say that the drug addict's *right* to liberty has not necessarily been violated, *if* there was good reason to believe that the intervention was something he or she would want *and if*, freed from the immediate grip of the drug, he or she actually endorses the intervention. In other words, the intervener(s) must have good reason to believe that the

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251 Or if an interested party presses charges on the heteronomous person's behalf in the event that the latter cannot.

252 Then again, it might turn out not to be the right thing to do.

intervention is something that the heteronomous person would consent to and then hope that this supposition proves to be accurate.

To avoid possible misunderstanding, it is important to clarify what the argument of the previous paragraph does *not* mean or imply. I do not think that there is an inherent conflict between virtue and rights or between morality and the law. The actual demands of virtue and rights, of morality and the law (insofar as it is just), do not conflict. Ultimately, rights are ethical principles derived from the virtue of justice. On the other hand, there certainly can be apparent conflicts between virtue and rights, morality and the law. These can arise because of errors made by the involved parties – the principals, witnesses, lawyers, and judge(s) – whether because of bias, a deficiency in practical wisdom, a mistaken notion of the good and the right, a badly formed or applied law, a lack of all the relevant information, etc. If the law and the legal system are to be just and the possibility of self-direction protected, there must be a presumption in favor of liberty. It thus may happen that *particular* legal decisions will sometimes run counter to what virtue and rights actually demand in those cases.

There can be no conflict between the actual demands of justice and rights; and there is no conflict between morality and just laws. However, ethics and law have different natures and functions. Ethics is open-ended and must deal with the contingent and the particular in the lives of individuals; its demands are 'relative to us'. Law must be universal, applying to all equally, because it has the function of maintaining a political/legal order that is not biased in favor of any form of human flourishing by protecting the possibility of self-direction, the central and most fundamental necessary feature of all forms of human flourishing. Rights qua metanormative principles are the standard by which we judge whether the laws and legal system are just. In order to fulfill their function, the laws and legal system must have a presumption in favor of liberty and this will sometimes lead to a gap between particular legal decisions and the actual demands of virtue and rights qua interpersonal ethical principles.

Along the lines of distinguishing between ethics and the law, a few brief remarks can be made here about the notion of 'law as educative'. It can be, but this is not its primary function and its educative power is far more limited and indirect than Aristotle and many others have supposed. First, there is no necessary connection between the law and the promotion of ethical virtue. Second, correct behavior or orderly conduct is only one component of ethical virtue or moral excellence, and it is only the former that the law can promote directly.<sup>253</sup> Third, there is an important difference between legislative laws, those mountains of arbitrary and vague laws invented by state's men in a generally corrupt monocentric system on the one hand and polycentric customary law, which can result from competitive institutions through a process of natural social evolution on the other.<sup>254</sup> Finally, any law or public policy that goes beyond the protection of the right to liberty is contrary to the demands of justice and the nature of law, and biases the political/legal order in favor of some forms of human flourishing over others.

Clearly on the Aristotelian-liberal theory of autonomy sketched above there are epistemic difficulties inherent in evaluating the autonomy of particular persons, particularly for social and personal autonomy but even for political autonomy.<sup>255</sup> We sometimes or often in the case of

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253 On these points, see Rasmussen and Den Uyl (2005), pp. 94-95.

254 On monocentric and polycentric law, see Bell (1991). On social evolution, see Hayek (1973) and Hamowy (2005).

255 Aristotle recognized similar epistemic difficulties in particular cases with regard to determining precisely what virtue demands of us or whether someone is being virtuous (*NE* II.9 1109b14-23).

political autonomy, and usually in the case of social and personal autonomy, do not have all of the relevant information about a person, persons, or situation. Such epistemic difficulties are not unique to the Aristotelian-liberal theory of autonomy. Indeed, they are a natural part of life. The epistemic difficulties of evaluating particular cases of autonomy or heteronomy can only be mitigated, as social and personal autonomy can only be promoted, through effective teaching, habituation, and experience – i.e., through the development of practical wisdom and ethical virtue. It is important to reiterate that social and personal autonomy cannot be promoted at the systematic expense of political autonomy, for political autonomy is necessary for the very possibility of social and personal autonomy. Moreover, the threat or use of initiatory physical force is harmful of the agent's flourishing as well as the patient's.

This concludes the series of chapters focusing on *eudaimonia*, the basic goods and virtues, and rights. In the next chapter I will go into more detail about the Aristotelian-liberal conception of society. I will also address various communitarian criticisms of the liberal conception of society. And I will critique the communitarian conception of society in turn.

## **Chapter Five.**

### **Liberal and Communitarian Conceptions of Society**

Of all accusations against the system of Free Trade and Private Property, none is more foolish than the statement that it is anti-social and individualistic and that it atomizes the body social. Trade does not disintegrate, as romantic enthusiasts for the autarky of small portions of the earth's surface assert; it unites. The division of labour is what first makes social ties: it is the social element pure and simple. Whoever advocates the economic self-sufficiency of nations and states, seeks to disintegrate the œcumenical society; whoever seeks to destroy the social division of labour within a nation by means of class warfare is anti-social.

- Mises, *Socialism*, p. 310.

Morality knows nothing of geographical boundaries, or distinctions of race. You may put men on opposite sides of a river or a chain of mountains; may else part them by a tract of salt water; may give them, if you like, distinct languages; and may even colour their skins differently; but you cannot change their fundamental relationships. Originating as these do in the facts of man's constitution, they are unalterable by the accidents of external condition. The moral law is cosmopolite – is no respecter of nationalities: and between men who are the antipodes of each other, either in locality or anything else, there must still exist the same balance of rights as though they were next-door neighbours in all things.

- Herbert Spencer, *Social Statics* (1851), Ch. XXIII, Section 1.

It is only with abstract principles that a social system may properly be concerned. A social system cannot force a particular good on a man nor force him to seek the good: it can only maintain conditions of existence which leave him free to seek it. A government cannot live a man's life, it can only protect his freedom. It cannot prescribe concretes, it cannot tell a man how to work, what to produce, what to buy, what to say, what to write, what values to seek, what form of happiness to pursue – it can only uphold the principle of his right to make such choices. . . . It is in this sense that 'the common good' . . . lies not in what men do when they are free, but in the fact that they are free.

- Ayn Rand, "From My 'Future File,'" *The Ayn Rand Letter*.

### **Introduction**

What is the liberal conception of society? On the one hand it is cosmopolitan, encompassing the whole of the Earth and the human race. On the other, it can accommodate restrictive, close-knit local communities and all manner of social and market organizations. It recognizes a universal brotherhood of human beings and embraces the increasing global integration brought on by modern telecommunications, transportation and commerce. But it also recognizes that this universal brotherhood and increasing globalization does not necessarily entail the homogenization of culture or render families, local communities, and myriad other voluntary associations and organizations (such as churches, fraternal societies, clubs, business

firms and the like) either unnecessary or undesirable. The liberal conception of society embraces pluralism and diversity while respecting the right of individuals to associate as they please, even if that means establishing a restrictive, closed society, so long as it is done on a voluntary basis. While liberalism, especially Aristotelian liberalism, recognizes that human beings are profoundly social and political animals, it also holds along with Aristotle that society exists for individuals and not the other way around.<sup>256</sup> Liberalism goes further than Aristotle, however, in consistently upholding the inviolability of an individual's rights to life, liberty and property. For liberalism, the ordering principle of society is the right to liberty, and its corollaries and consequences. But liberalism has oft been criticized for having an atomistic, a-social and a-historical conception of man. Communitarians of various stripes (progressive, conservative and others) are now perhaps the most prominent critics of liberalism. The fundamental disagreement between liberals and communitarians lies over whether, to what extent and in what manner society may exert control over the individual. In this chapter I will attempt to sketch in more detail than heretofore an Aristotelian-liberal conception of society. I will also address various communitarian criticisms of the liberal conception of society and offer some criticisms of the communitarian conception in return.

### **An Aristotelian-Liberal Conception of Society**

In previous chapters it has been argued that human flourishing is profoundly social. I am not aware of any major form of liberalism that does not at least tacitly agree with the following four ways in which human beings are naturally social animals: 1) "Our maturation or flourishing requires a life with others." 2) "[H]aving other-concern is crucial to our maturation." 3) "Our origins are almost always social." 4) And here liberals go beyond Aristotle: "Human sociality can, if need be, extend beyond the polis and be cosmopolitan. . . . [H]uman sociality is open-ended."<sup>257</sup> This fourth point is particularly important because it marks a major difference between liberals and Aristotle, and, to an even greater extent, between liberals and communitarians. An Aristotelian liberal will recognize that in order to flourish one can only do so "in some community or other," but also that "this does not mean that a given community's values will always be appropriate for an individual. Thus, one is not morally required simply to accept – indeed, one might be required to reject – the status quo. In such circumstances, one might need to [attempt to] refashion a community's values [by example and persuasion] or find a new community."<sup>258</sup>

Rasmussen and Den Uyl argue that "the open-ended character of human sociality discloses the need for a perspective that is wide-ranging enough to explain how the possible relationships among persons who *as yet* share no common values and are strangers to each other can, nonetheless, be ethically compossible."<sup>259</sup> In this vein, one may look upon humanity as a whole insofar as its members do not engage in fundamentally anti-social behavior (i.e., the threat or use of initiatory physical force) as comprising a *cosmopolis* or Great Society within which are an uncountable number of different kinds and levels of overlapping communities: some of which

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256 Aristotle, *Politics* IV.4 1291a24-8, VII.8 1328a35-7, VII.13 1332a32-38; cf. Miller (1995), pp. 219 & 222.

257 Rasmussen and Den Uyl (2005), pp. 141-142.

258 *Ibid.*, p. 142.

259 *Ibid.*, p. 143. Emphasis mine.

we will belong to for life, some we will join, some we will leave, and all of which we will affect in often unintended ways to some degree with our dreams, choices, and actions.

Although Stephen Toulmin, in his book *Cosmopolis: The Hidden Agenda of Modernity*, criticizes the idea of a *cosmopolis* as an ecumenical society as rationally ordered as the Newtonian view of nature,<sup>260</sup> the idea of a human *cosmopolis* actually dates back to the Stoics. Toulmin's modern Newtonian *cosmopolis* is exemplified by Hobbes' Leviathan:

Writing shortly after Descartes, with a knowledge of his arguments, Thomas Hobbes presented the theory that shaped so much later political and social theory of Western Europe and North America. A modern state (specifically, a nation-state) requires, in his view, overwhelming force concentrated at the center, under the authority of a sovereign, whom he likens to an irresistible monster, or Leviathan. As willful social atoms, all of his subjects will otherwise go their own ways, and pursue their individual goods independently; so they must be made to understand that their personal activities take place under, and are constrained by, the shadow of this overwhelming central force.

Given this theory, the Newtonian image of the state as a planetary system, and the power of the sovereign as a counterpart of the central force of the sun, fleshed out and added detail to Hobbes' basic picture. The stability of society required not just centralized force, but also a system of fixed orbits (or stations) in which different parts of society follow predictable paths.<sup>261</sup>

In contrast, the Stoic conception of the *cosmopolis* is that of a universal moral community grounded in the universal aspects of human nature, the aspects from which individual rights are derived by liberals. Although there are of course differences between Aristotelian and Stoic thought, this is essentially the Aristotelian-liberal conception of the *cosmopolis* as well. Naturally, this conception predates and rejects the conception Toulmin devotes his book to criticizing. His target is a product of the Age of Enlightenment rationalism and empiricism. Toulmin sees this Enlightenment *cosmopolis* as "conferring Divine Legitimacy on the political order of the sovereign nation-state" and taking as its "guiding principles *stability* in and among the different sovereign nation-states, and *hierarchy* within the social structures of each individual state."<sup>262</sup> But liberalism rejects any kind of enforced stability or hierarchy, and, in its most radical forms, rejects the state entirely (we may call this radical liberalism). Toulmin calls for a move from "Leviathan to Lilliput," from a Newtonian society that encourages "hierarchy and rigidity, standardization and uniformity" to one based on an "ecological perspective" that "emphasizes, rather, differentiation and diversity, equity and adaptability."<sup>263</sup> This is a goal that liberals share, and a *cosmopolis* whose ordering principle is the right to liberty embodies this ideal.

An ecological perspective that emphasizes differentiation, diversity, equity and adaptability is inherent in the nature of liberalism. This is all the more so in its more radical forms and in those directly influenced by the social philosophers of the Scottish Enlightenment. Ronald Hamowy observes: "For at least two hundred years [owing to the Scottish

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260 Toulmin (1992).

261 Ibid., p. 194.

262 Ibid., p. 128. Emphasis in original.

263 Ibid., p. 194.

Enlightenment], social philosophers have known that association does not need government, that, indeed, government is destructive of association.”<sup>264</sup> Scottish Enlightenment thinkers like Adam Ferguson, David Hume, and Adam Smith as well as modern thinkers like Austrian economist F.A. Hayek have theorized about and historically described the emergence of society, culture, law, language, and markets as spontaneous orders. Hayek observes: “The conception of an already fully developed mind designing the institutions which made life in society possible is contrary to all we know about the evolution of man.”<sup>265</sup> And he is critical of social contract theories, like that of Hobbes, which he views as being a retrogression in social and political science.

This 'rationalist' approach [of Cartesian constructivism], however, meant in effect a relapse into earlier, anthropomorphic modes of thinking. It produced a renewed propensity to ascribe the origin of all institutions of culture to invention or design. Morals, religion and law, language and writing, money and the market, were thought of as having been deliberately constructed by somebody, or at least as owing whatever perfection they possessed to such design. This intentionalist or pragmatic account of history found its fullest expression in the conception of the formation of society by a social contract, first in Hobbes and then in Rousseau, who in many respects was a direct follower of Descartes. Even though their theory was not always meant as a historical account of what actually happened, it was always meant to provide a guideline for deciding whether or not existing institutions were to be approved as rational.<sup>266</sup>

But law, culture, markets and other institutions of society are evolving spontaneous orders.

Hayek distinguishes two sources and kinds of social order: 1) “The made order . . . an exogenous order or an arrangement may . . . be described as a construction, an artificial order or, especially where we have to deal with a directed social order, as an *organization* [in classical Greek: *taxis*].” 2) The grown order, on the other hand, which we have referred to as a self-generating or endogenous order, is in English most conveniently described as a *spontaneous order* [*kosmos*].”<sup>267</sup> Spontaneous orders are the result of human action but not of human design. They do not have a centrally directed purpose. They result from individuals following certain rules of conduct which allow them to understand and predict the actions of their fellows with reasonable accuracy, to mutually adjust their actions and plans to each other and to the particular circumstances of time and place about which only they know, to compete and cooperate. Spontaneous orders need not be vast and complex but, owing to their reliance on rules of conduct rather than central direction, they are able to achieve much greater degrees of scale and complexity than can made orders directed by a human mind. “In society, reliance on spontaneous order both extends and limits our powers of control.”<sup>268</sup> Individuals have more freedom to direct their own lives, and the increasing knowledge, scientific and technological advancement, and economic prosperity made possible by spontaneous orders is also giving individuals more control over their lives and over nature. However, this comes at the cost of the ability to consciously

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264 Hamowy (2005), pp. 236-237.

265 Hayek (1973), p. 17.

266 Ibid., p. 10.

267 Ibid., p. 37. Emphasis in original.

268 Ibid., p. 41. Emphasis removed.

direct the particular arrangement and content of the order's elements. Even the ability to control its overall shape will be severely limited in comparison to directing an organization.

Law is of central importance to a well-functioning society and thus will serve as a particularly relevant example. Hayek distinguishes between law and legislation. Legislation is the product of an organization and has generally been issued in an attempt to direct society as if it were an organization itself. Hayek argues that law is older than legislation:

Legislation, the deliberate making of law, has justly been described as among all inventions of man the one fraught with the gravest consequences, more far-reaching in its effects even than fire and gun-powder. Unlike law itself, which has never been 'invented' in the same sense, the invention of legislation came relatively late in the history of mankind. . . . It will certainly remain an exceedingly dangerous power so long as we believe that it will do harm only if wielded by bad men.

Law in the sense of enforced rules of conduct is undoubtedly coeval with society; only the observance of common rules makes the peaceful coexistence of individuals in society possible.<sup>269</sup>

The idea of law as a deliberate product of human design was first fully developed in ancient Greece, largely died out during the Age of the Roman Empire and the subsequent Dark Ages, and then was revived in recent centuries in the form of legal positivism.<sup>270</sup> Hayek observes why

in all early civilizations we find a law like that 'of the Medes and the Persians that changeth not', and why all early 'law-giving' consisted in efforts to record and make known a law that was conceived as unalterably given. A 'legislator' might endeavor to purge the law of supposed corruptions, or to restore it to its purity, but it was not thought that he could make new law. The historians of law are agreed that in this respect all the famous early 'law-givers', from Ur-Nammu and Hammurabi to Solon, Lykurgus and the authors of the Roman Twelve Tables, did not intend to create new law but merely to state what law was and had always been.

Nevertheless, law did not remain static, but those "changes which did occur were not the result of intention or design of a law-maker."<sup>271</sup>

There are a number of other ways than the open-ended nature of human sociality in which Aristotelian liberals disagree with Aristotle, some of which have already been discussed and some of which will be discussed in later chapters. It is pertinent to note a few more here. One of these is that Aristotle conflates the state and civil society in his conception of the *polis*, a conflation that might have been unavoidable in the era of the Greek city-state but can no longer be excusable in light of modern experiences, theory and historical knowledge. The conflation of state (an organization) and civil society (a spontaneous order) can only lead to conceptual confusion, paternalism and totalitarianism. Two more areas of disagreement involve central principles that Aristotle accepts – the principle of community and the principle of rulership. These principles, as Aristotle conceives them, have little, if any, validity for radical liberals. The

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269 Ibid., p. 72.

270 Ibid., p. 82.

271 Ibid., p. 81.



principle of community holds that “individuals can attain the good only if they belong to and are subject to the authority of the political community” – it is the second half of this principle that is problematic. Whether individuals can attain the good only if they are subject to the authority of the community depends on what exactly is meant by 'subject to the authority of'. And the principle of rulership holds that “the community can function only if an order is imposed on it by rational agents.”<sup>272</sup>

Liberals reject any use of aggression (the threat or use of initiatory physical force) to impose the authority of the community on individuals. Defensive uses of force will sometimes be necessary in order to end rights violations, including acquiring restitution, and sometimes to restrain criminals who present serious on-going threats. Aside from this, the only legitimate and legal means of imposing the authority of the community on individuals are all voluntary, ranging from moral suasion to boycotts and ostracism. As the discussion on social autonomy in the last chapter indicates, however, liberals, or at least Aristotelian liberals, can and I think ought to be concerned about systematic social oppression. The notion of subjecting individuals to the authority of the community flirts with collectivism and threatens to easily shade over into a soft form of coercion that stifles individuality and thus human flourishing. Though admittedly difficult, it is important to find the proper mean here.

Recently, one Aristotelian liberal has attempted to bring Aristotle’s *polis* into the twenty-first century. I quote a section from my review of Mark Young’s *Negotiating the Good Life: Aristotle and the Civil Society*:

Young recognizes that the ancient *polis*, a necessary condition for *eudaimonia* according to Aristotle, no longer exists and that we probably could not return to it even if we so desired. Yet he does not see a necessary connection between the ancient *polis* and *eudaimonia*. Instead, he reconceives the *polis* in light of modern conditions and possibilities. Aristotle lived in a time in which the boundaries of the state and of society were nearly one and the same, such that it was easy to identify the two. In light of modern globalization, economic interdependence, and technological advances in transportation and communication, it need no longer be the case that society and other forms of association be confined to the limited territorial borders of states. Indeed, it is now possible to conceive of a global society composed of an uncountable number of other societies, communities, and other forms of association with overlapping memberships and jurisdictions that need not be territorially defined.

Young locates the notion of a modern Aristotelian *polis* within civil society, which he defines as a “globally linked community of [shared] values.”<sup>273</sup> The global civil society may, in turn, be termed a modern *cosmopolis*. Instead of looking to the bureaucratic state to help its citizens live a *eudaimonic* life through coercive legislation, regulations, and education, Young turns to his notion of modern *polei*, civil societies, to help their members or citizens aim at and achieve *eudaimonia* by providing them with the necessary conditions, opportunities, and capabilities through voluntary cooperation and exchange. Not just any association will do, however. Young argues that only “communities which help their citizens

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272 Miller (1995), p. 336.

273 Young (2005), p. 202.

aim at this true Good can be considered viable candidates for a modern Aristotelian *polis*.<sup>274</sup>

Young treats his modern *polis* as an ideal type, a standard by which to judge all existing communities. But perhaps we should go further, and not only look to individual communities to provide all by themselves the full function of an ideal *polis* for their members. Most human beings hold memberships in a multitude of associations over the course of their lives, many of them simultaneously. Each association provides some value that the others do not. Perhaps membership in multiple communities, taken together, could perform the function of a *polis* by compensating for the deficiencies of any single community. Young does not discuss such a possibility, though it seems a fruitful one to explore.<sup>275</sup>

So the Aristotelian-liberal *cosmopolis*, or Great Society, can be conceived in two ways: 1) as a universal moral community including all human beings, or even all rational beings should it turn out intelligent aliens exist. And 2) an empirically identifiable global human society that is becoming increasingly integrated by modern telecommunications, transportation and commerce while retaining a healthy pluralism and diversity. Within this *cosmopolis*, I have suggested, are an uncountable number of associations, communities and organizations of various sizes, scope and cohesiveness, with overlapping and constantly changing memberships, some territorially defined and some not. Some of these associations, communities and organizations will fulfill the needs and wants of their members more fully than others. I am skeptical that any single one, other than the *cosmopolis* itself because it includes them all, could provide by itself all a person needs to flourish.

Some readers may be frustrated by what they perceive to be an insufficient degree of specificity in the foregoing conception of society. Unfortunately, for those readers, it is not the purpose of this dissertation to lay out a detailed blueprint. Indeed, by now it should be evident that developing such a blueprint would be antithetical to the nature of Aristotelian liberalism. This is so for a number of related reasons: 1) Human flourishing is highly individualized. 2) Moral and cultural pluralism and diversity are liberal values. 3) The right to liberty prohibits aggression, and so individuals cannot legitimately be forced to follow anyone's blueprint for a better world. 4) Law, culture, markets and many other social institutions are spontaneous orders. It is best to let them evolve naturally, rather than to attempt to centrally plan them; and if, in one's view, they do not change fast enough or in the right direction, then one ought to take the initiative, lead by example and persuade.

The demand for a detailed blueprint, and often even the more limited demand to know how X would be done or provided in a free society, is the demand that the liberal contradict his own beliefs to play the role of the central planner and social engineer. It is not reasonable to demand that the liberal explain, or even demonstrate in practice, how every existing or conceivable issue will be dealt with successfully (in the questioner's view) in a free society. It is not even *really* necessary that the liberal be able to explain, or have already demonstrated in practice, how the "key issues" or even one issue in particular will be dealt with successfully in a free society. The whole point of liberalism is that people ought to be free to experiment with other ways of doing things, to judge for themselves what works best for them in their pursuit of

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274 Ibid., p. 150.

275 Plauché (2007).

their own flourishing. It is not necessary to have all the practical answers in advance. The moral case for liberty is enough. This is not to say that nothing can be said about what a free and flourishing society will/might/probably and will/might/probably not look like. When asked how X will be done, provided or dealt with in a free society one should, to the extent one is able, endeavor to provide an explanation. The point is simply that the inability to do so to the questioner's satisfaction does not in and of itself undermine the case for liberty with respect to X.

I believe, even ignoring the moral case for the moment, that there is ample theoretical and historical support for other associations and organizations in a free society being able to provide on a voluntary basis every good and service ever and currently provided by the state. This dissertation is primarily about the moral case for a free and flourishing society, however. Nevertheless, a few more things can be said in addition to what has already been said and what will be said both in the remaining sections of this chapter and in subsequent chapters. Rather than a monocentric legal system with predominantly legislative laws, a free and flourishing society will possess a polycentric legal system with predominantly customary laws. A monocentric legal system is one in which a single organization (generally the state) monopolizes through institutionalized aggression the promulgation of laws and provision of legal services. A polycentric legal system is one in which the law and legal services are provided by multiple, freely competing associations and organizations with overlapping jurisdictions. Rather than large standing armies and police forces, security in a free and flourishing society will be a matter of self-responsibility and will also be provided by various private associations (e.g., family, friends, clubs, etc.), local communities and private businesses.<sup>276</sup> Instead of state-run and funded schools, education will be provided by more traditional associations and organizations – e.g., the family, the church, etc. – as well as by private schools and other businesses. Health care, medicine, support during unexpected unemployment, food, clothing and shelter, and so forth – these are ultimately one's own responsibility as well, although one may also be able to depend on the generosity of family, friends, members of one's local community and even total strangers, and one can purchase insurance and join mutual aid associations such as churches or something like the fraternal associations that existed before the state crowded them out.

In the remaining sections of this chapter I turn to a discussion of some communitarian thinkers and a social liberal. Hegel was a modern critic of liberalism, while Alasdair MacIntyre is a post-modern Aristotelian critic. T.H. Green was a modern British idealist who was influenced by Hegel and was an early proponent of what one might call social liberalism or left-liberalism, which deviates from classical liberalism in (greater) support of welfare statism and government involvement in the economy, e.g., via greater economic regulations and state enterprises. I aim to answer some of their criticisms of liberalism, describe their conceptions of society and the state, and criticize their conceptions in turn.

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<sup>276</sup> As government contractors, private security firms like Blackwater are not model security agencies for a free and flourishing society.

## Hegel on the State: A Conservative Rationalization of the Status Quo Or – The State and War as Historical Moments in the Process of Reabsorption

Reabsorption Theology: “Stage One is the original state of the pre-creation cosmic blob, with man and God in happy and harmonious unity, but each rather undeveloped. Then, the magic dialectic does its work, Stage Two occurs, and God creates man and the universe. But then, finally, when the development of man and God is completed, Stage Two creates its own *aufhebung*, its transcendence into its opposite or negation: in short, Stage Three, the reunion of God and man in an 'ecstasy of union' and the end of history.”<sup>277</sup>

Perhaps this is something of a caricature of Hegel’s position; it was not meant to apply to Hegel alone. But if it is a caricature, it nevertheless seems an apt one. In this section I will sketch out an argument along two parallel lines. I will argue that Hegel’s philosophy, and in particular his *Philosophy of Right*, amounts at least in part to a conservative rationalization of the historical conditions of his time. It will be seen that his ideal conception of society stands diametrically opposed to the Aristotelian-liberal conception sketched above. I will also suggest that the logic of Hegel’s account of the state and war implies that they are historical moments in the progressive process leading towards the absolute rationalization and unification of mankind.

I will begin by looking at some key aspects of Hegel’s philosophy. Hegel believed that there is a rational necessity to history, that is, that history is a rational process with a specific *telos* or end, namely freedom. This freedom is not only the negative freedom inherent in the protection of individual rights, but ‘positive’ freedom in the sense of “humanity’s self-awareness that it is both separate from and sovereign over nature where nature indicates both our external environment and our internal drives and inclinations.”<sup>278</sup> The goal or end of history is the fulfillment of human freedom. Hegel’s philosophy is an attempt to find the rational in the real and the real in the rational, to “comprehend what is.”<sup>279</sup> On the *Philosophy of Right* in particular:

This book, then, containing as it does the science of the state, is to be nothing other than the endeavor to apprehend and portray the state as something inherently rational. As a work of philosophy, it must be poles apart from an attempt to construct a state as it ought to be. The instruction which it may contain cannot consist in teaching the state what it ought to be; it can only show how the state, the ethical universe, is to be understood.<sup>280</sup>

This is a curious doctrine; it eerily resembles positivism, except insofar as Hegel is interested in unobservables; and it is not hard to see how such a doctrine can predispose one to conservatism regarding the historically given institutions of one’s time. But what if the State *is not* rational? What if, on the contrary, it is wholly *irrational*?

For Hegel, the real is rational because it is a necessary part of the rational, progressive process of history. Thus, even evil is rational in the context of historical development. In contrast to this extreme holistic and organic approach, Aristotelian liberalism follows Aristotle in locating

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277 Murray Rothbard (1990), “Karl Marx: Communist as Religious Eschatologist,” p. 130. Emphasis in original.

278 Smith (1987), p. 114.

279 Hegel (1952 [1967]), p. 11.

280 Ibid. This is reminiscent of Machiavelli’s apology in chapter fifteen of *The Prince* for his writing a practical guide to politics as it is rather than a book about how it ought to be.

rationality in individual human beings. This does not mean that the reality of currently existing human behavior is rational but rather that human beings have the capacity for rationality and ought to choose to exercise it. People can make mistakes, evade the truth, do the wrong thing, and because of this evil exists in the world. I would also argue that the foregoing also means historical progress toward the fulfillment of some ideal is not guaranteed. The obvious objection to this would be that it may seem that way now from a limited, individual perspective but from the perspective of history the present will in the future be shown to be rational. But this flirts with the danger of rationalizing the status quo. While it may seem when examining the historical record that one development necessarily follows from another as if by some logical progression, this is not reason enough to accept the results uncritically. And, moreover, we cannot know what the future will bring; for all we know we could be furthering the rational progress of history by rejecting the status quo. Thus, just because the State developed historically and still currently exists does not mean that it is necessary for human flourishing or is right and good.

The State is the culmination of Hegel's political philosophy. It is the State that makes the ethical life and thus the maximization of human freedom, or absolute freedom, possible. Rather than launch directly into a discussion of Hegel's State, I will briefly examine the two imperfect institutions (or stages) that culminate in and make up a necessary part of the State: the family and civil society. In his critique of civil society lies Hegel's critique of liberalism, but as a dialectical thinker Hegel does not reject liberalism outright; instead, he reconciles it with his communitarian ideal by subsuming civil society within the State.

For Hegel, the family is imperfect because "it is ethical mind in its natural or immediate [and substantial] phase."<sup>281</sup> It is "characterized by love, which is mind's feeling of its own unity."<sup>282</sup> The result is that one views oneself "not as an independent person but as a member."<sup>283</sup> The family is undifferentiated but eventually dissolves as children grow up, become educated, and form families of their own. It quite escapes me, however, precisely how the family is undifferentiated and why one cannot view oneself as both an independent person and a member of the family simultaneously.

Civil society Hegel defines as "an association of members as self-subsistent individuals in a universality which, because of their self-subsistence, is only abstract. Their association is brought about by their needs, by the legal system – the means to security of person and property – and by an external organization for attaining their particular and common interests."<sup>284</sup> Civil society is "the world of ethical appearance."<sup>285</sup> The imperfection of civil society is its external character and the fact that it exists only to satisfy the needs of self-interested individuals. Civil society in fact resembles what we would recognize as a conflation of society and the modern state; in addition to the market and the various social relations of its members, Hegel's civil society also performs the function of administering justice and producing security through a monopolistic institution. Here some conservatism creeps in: Hegel, like most political philosophers before and after him, commits a non sequitur by making the illogical leap from the correct premise that man needs protection of his rights and property to the unwarranted conclusion that a monopolistic institution is needed to provide it.

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281 Ibid., p. 110.

282 Ibid.

283 Ibid.

284 Ibid.

285 Ibid., p. 122.

Hegel claims that the State is needed to weld civil society back into unity; the State is “the end and actuality of both the substantial universal order and the public life devoted thereto.”<sup>286</sup> In other words, the State is “the actuality of the ethical Idea. It is ethical mind *qua* the substantial will manifest and revealed to itself, knowing and thinking itself, accomplishing what it knows and in so far as it knows it. [It] exists immediately in custom, mediately in individual self-consciousness, knowledge, and activity[.]”<sup>287</sup> Its end is substantive freedom.

From the undifferentiated substantiality of the family and the differentiated abstractness of civil society, the State sublates and transcends the particular and the universal, or matter and form to use Aristotle’s terminology.

The state is absolutely rational inasmuch as it is the actuality of the substantial will which it possesses in the particular self-consciousness once that consciousness has been raised to consciousness of its universality. This substantial unity is an absolute unmoved end in itself, in which freedom comes into its supreme right. On the other hand this final end has supreme right against the individual, whose supreme duty is to be a member of the state.<sup>288</sup>

This universal will that Hegel speaks of is not the ‘general’ will of Rousseau. To the latter, the universal will is the general will which proceeds out of the individual will. To Hegel the universal will is what is absolutely rational in the individual will. And yet it is difficult to see how Hegel, with his obsession to actualize unity and universality in a concrete form, has avoided Rousseau’s collectivism. Indeed, it is plain in the above quoted passage, and will be made more so below, that he has not.

The State accomplishes its end through its Constitution, which consists of three substantive divisions: the Legislature, the Executive, and the Crown. The Legislature has the power to determine and establish universal laws; open to the many, it thereby draws them into public life. The Executive consists of civil servants and advisory officials; its purpose is the “maintenance of the state’s universal interest, and of legality, in this sphere of particular rights [i.e., that of the civil society], and the work of bringing these rights back to the universal[.]”<sup>289</sup> The highest ranking executives are in direct contact with the monarch. With the Crown we have “the power of subjectivity, as the will with the power of ultimate decision . . . [in which] the different powers are bound into an individual unity which is thus at once the apex and basis of the whole, i.e., of constitutional monarchy.”<sup>290</sup> In Hegel’s conception of the State we can see some rationalist Newtonian echoes of Hobbes’ Leviathan.

Hegel’s conception of the State, like his conception of civil society betrays the conservatism of his philosophy. It does so in two ways. First, from the premise that an institution(s) is/are needed in order to fully actualize man’s freedom via the ethical life it does not follow that the monopolistic institution of the State is the correct conclusion. Hegel here commits a non sequitur. Moreover, he provides no compelling case for the State as against other institutions in society. Second, following the Treaty of Westphalia and the French Revolution, the modern nation-state became the dominant political institution. Constitutional monarchies and

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286 Ibid., p. 110.

287 Ibid., p. 155. Emphasis in original.

288 Ibid., p. 155-156.

289 Ibid., p. 189.

290 Ibid., p. 176.

liberal republics began to increase. Germany itself became a constitutional monarchy, and Hegel ends the *Philosophy of Right* with the Germanic realm as the fourth world-historical realm, the one in which a State (or States) had arisen. Finally, another criticism of Hegel is that his conception of civil society is a flawed one, having been influenced by classical economists like Adam Smith. Hegel sees civil society as little more than a competitive marketplace of self-interested individuals seeking material benefit and thus bound to rip itself apart at the seams. This conception is wholly mistaken, but more will be said on this subject in chapter eight.

With regards to international war, too, we can see Hegel's conservatism and collectivism. Vis-à-vis each other, the States are sovereign individuals. Hegel speaks of the "national mind."<sup>291</sup> Why States can be sovereign and individuals cannot is not entirely clear, Hegel's dialectical argument for the necessity of the State in actualizing the ethical Idea notwithstanding. Lockean and Hobbesian social contract arguments for the State work just as well, if not better, in justifying the need for a world government. Hegel's dialectical argument for the State seems to allow him to avoid this dilemma, but I do not find his argument compelling. He has another line of defense, however, in that he argues that a State is no more an actual State without other States than an individual is an actual "person without *rapport* with other persons."<sup>292</sup> As we shall soon see, however, this defense is not as strong as it seems.

States, being sovereign, will quite naturally come into conflict with each other and go to war. Hegel does not merely see war as a necessary evil, however. Indeed, like Randolph Bourne, he sees war as the health of the State. Only, unlike Bourne, he is not concerned with the State growing in such power and centralization that it breaks the bounds of constitutional limits. Hegel sees war as a good thing. States are an ethical unity and go to war to protect that unity, not merely from other States but from internal forces. The State recognizes that the enforced unity brought about by war is needed to preserve itself from its own internal contradictions (or in Hegel's mind, the stresses of civil society). "[W]ar is a 'moment' in the ethical life of the state."<sup>293</sup> In war, individual citizens are educated in the ethical Idea when they submerge and lose their individuality in the universal, in the common will pursuing the State's goal of self-preservation.

States paradoxically have equally legitimate sets of conflicting rights and therefore have no rights against each other.<sup>294</sup> Hegel imports the Hobbesian notion of states being in a state of nature vis-à-vis each other. In Hegel's philosophy of history, States are paradoxically founded by evil actions and the tyrants who found them are considered "great" men due to their place in the rational process of history. Good is created through evil. Likewise, the question of right in wars between States is decided by world history; the outcome itself is history's judgment. "[W]ar makes them unequal so that they can be unified, and this happens when one gives way to the other."<sup>295</sup> In other words, might makes right.

Recall that the rational process of history has the end of actualizing absolute freedom for humanity. The State is the embodiment of the ethical Idea, of absolute freedom, for its citizens. It stands to reason, following Hegel's obsession with the Idea, the synthesis of concrete and

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291 Here Hegel is in danger, if indeed he is not guilty, of the reification fallacy of treating the abstract concept of the State as a concrete entity.

292 Ibid., p. 212. Emphasis in original.

293 Smith (1983), p. 627.

294 Ibid., p. 630. Why do States have no rights against each other if individuals do?

295 Hegel, quoted in *ibid.*

universal, that the State that most embodies the ethical Idea vis-à-vis other States is superior. World history is the final arbiter in this matter, but world history is progressive and rational. This implies a growing rationality as history marches forward. Hegel thought that modern warfare with modern weapons would be more humane than previously. Though history has proven him wrong by the sheer inhumanity of modern total war, for Hegel history must lead to the “complete and total rationalization of human kind” and thus

to the homogenization or unification of humanity characterized by an increased agreement over all the fundamental aims of life. The triumph of reason will mean the elimination of the grounds of all war and conflict because there will be nothing left to fight about. It will represent the final triumph of bourgeois civil society with its pacific and commercial interests over the political state which seeks preeminence in struggle and combat. In the final analysis Hegel’s idea of an end of history undercuts his insistence on the necessity of war.<sup>296</sup>

The State, then, would seem to be a “moment” in the rational historical process leading to the triumph of reason in absolute freedom for man. Is this where Hegel intends to go? I am not sure. Such a future may entail the emergence of a World-State, as Hegel’s philosophy of history would seem to necessitate.

Next I turn to a prominent communitarian of a different stripe, a contemporary thinker who has more thoroughly rejected both modernity and liberalism, including modern nation-states. My discussion and criticism of his ideas has been strongly influenced by the work of Rasmussen and Den Uyl.

### **Alasdair MacIntyre: Postmodern Aristotelian Communitarian**

Alasdair MacIntyre is commonly considered to be a communitarian, although strongly disassociates himself from contemporary communitarians who “advance their proposals as a contribution to the politics of the nation-state.” He adds: “To those Aristotelians, such as myself, . . . the nation-state is not and cannot be the locus of community.”<sup>297</sup> This is something with which radical liberals can sympathize. However, Stephen Mulhall and Adam Swift argue that MacIntyre can best be understood as a communitarian because for him

the very possibility of sustaining rationality and objectivity in the arena of moral and political evaluation depends on locating individuals and their arguments with other individuals within an overarching and nested set of inherently social matrixes. . . . On MacIntyre’s view, failing to recognize the way in which human beings can be and are constitutively attached to their communities entails an inability to give a coherent account of the circumstances necessary to achieve *any* kind of human good (whether communal in content or not), for in absence of such constitutive communal frame works, the very idea of morality as a rational intelligible enterprise drops out.<sup>298</sup>

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296 Ibid., p. 631.

297 Horton and Mendus (1994), pp. 302-303.

298 Mulhall and Swift (1992), p. 93.



MacIntyre appears to have a strong antipathy toward liberalism and anything connected with it. Among his criticisms of liberalism are the standard ones discussed briefly in the introductory chapter: atomism, an a-social and a-historical conception of human nature, subjectivism, relativism, emotivism, privileging the right over the good, instrumentalism, and so on.

We have already seen that even if these charges are true, to some extent, of other forms of liberalism, they miss their mark against Aristotelian liberalism. This should be particularly obvious with respect to all but the last two. With regard to the charges of privileging the right over the good and instrumentalism, a few more words could perhaps be said. The charge of privileging the right over the good is really only applicable to deontological versions of liberalism. In the Aristotelian tradition, the right and the good can be conceptually distinguished but not separated. Moreover, in Aristotelian ethical theory, despite the fundamental pre-political importance of rights, it is ultimately the good that is privileged over the right, for all of the goods and virtues are constitutive means to one's ultimate end or good, one's own flourishing.

In *Whose Justice? Which Rationality?*, MacIntyre argues that rights are not ethically primary because they depend upon deeper ethical concepts and also that rights are too absolute and blunt to adequately handle the complexities of moral life. Because of these two flaws, he argues that a political/legal order based on liberal rights is generally detrimental to self-perfection because it destroys the community traditions within which people's pursuit of the good life is inextricably embodied.<sup>299</sup> This argument too misses its mark. The first part of the argument fails because from the fact that rights are not ethically primary it does not follow that they are not politically primary. The second part of the argument also fails because liberalism, especially Aristotelian liberalism, with the exception of contemporary social or left-liberalism, does not attempt to employ rights-language for the whole of ethics. Rights are a narrow subset of morality. It is only contemporary and progressive social liberalism that has led to the proliferation of rights language to the impoverishment of ethics.

The conclusion of MacIntyre's philosophical argument ties in with the instrumentalism charge, but before we get to that let us first consider a related objection. MacIntyre shares with Charles Taylor, another communitarian, a cultural/sociological objection to liberalism. The objection is this: that for a regime to make rights, i.e., liberty, the primary moral message to citizens is not enough to maintain the intellectual, moral, cultural and scientific foundations that make liberal civilizations possible. In short, liberalism is self-destructive. There is a kernel of truth to this objection. However, in addition to the responses given in the previous paragraph, which I would apply to this objection as well, I would suggest that, as will be seen in subsequent chapters, to the extent that this objection holds true it does so mainly to social liberalism and corporatist liberalism and is primarily due to the acceptance of the state by most liberals.

The right to liberty has transformed into a right to any and all positive freedoms, to entitlements to the fulfillment of our needs and wants. The classical liberal distinction between rights and the rest of morality has been broken down by progressive, social liberalism. And so Western civilization has seen the rise of Leviathans, which increasingly intrude into every aspect of our lives. The result has been the rapid erosion of traditions both good and bad, the erosion of virtue and personal responsibility, and the intensification of special interest warfare. In short, the abandonment of the negative right to liberty has led to the dramatic growth of the state and a concomitant breakdown of social order. The instrumentalism that MacIntyre decries is but

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299 MacIntyre (1988), pp. 335-345.

another symptom, as statist politics is centered around serving special interests and resolving conflicts between them. The perceived goods that people pursue through the liberal-corporatist state are external to the practices followed to acquire them.

The conclusion of MacIntyre's philosophical argument against liberalism is that liberty as the fundamental political value is detrimental to self-perfection because it ultimately destroys traditional community life within which people's conception of the good life is embodied.

Liberalism in the name of freedom imposes a certain kind of unacknowledged domination, and one which in the long run tends to dissolve traditional human ties and to impoverish social and cultural relationships. Liberalism, while imposing through state power regimes that declare everyone free to pursue whatever they take to be their own good, deprives most people of the possibility of understanding their lives as a quest for the discovery and achievement of the good, especially by the way in which it attempts to discredit those traditional forms of human community within which this project has to be embodied.<sup>300</sup>

What dominion is MacIntyre talking about? Granted that the state is a problem in itself, but if the state did nothing but protect the right to liberty the only "dominion" being imposed is a prohibition on aggression. No one is forced to pursue whatever they take to be their own good. They are simply allowed to do so. Moreover, there is nothing inherent in protecting the right to liberty that serves to discredit traditional forms of human community, except the following: What MacIntyre is ultimately objecting to is the prohibition on violence and other forms of initiatory force. Is this the sort of community tradition he has in mind to preserve? Perhaps he will reply that if communities are not allowed to enforce their traditions by aggression or the threat thereof, then they will not last in the face of competition. If this is the case, however, then they must not have been as valuable to those who abandoned them for alternatives. Who is MacIntyre, or anyone else who wants to preserve a particular community or tradition, to coerce others into conforming? In previous chapters I have argued that aggression is not a part of any form of flourishing worthy of the name. There is no individual or group right to preserve an association or cultural tradition by aggression.

Ironically, MacIntyre's criticisms of liberalism run him dangerously close, if not into, a form of cultural relativism.

For I am never able to seek the good or exercise the virtues only *qua* individual. This is partly because what it is to live the good life concretely varies from circumstance to circumstance even when it is one and the same conception of the good life and one and the same set of virtues which are being embodied in a human life. What the good life is for the fifth-century Athenian general will not be the same as what it was for a medieval nun or a seventeenth-century farmer. But it is not just that different individuals live in different social circumstances; it is also that we all approach our own circumstances as bearers of a particular social identity. I am someone's son or daughter, someone else's cousin or uncle; I am a citizen of this or that city, a member of this or that guild or profession; I belong to this clan, that tribe, this nation. Hence what is good for me has to be good for one who inhabits these roles. As such, I inherit from the past of my family, my city, my tribe, my nation, a variety of debts, inheritances, rightful expectations and

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300 MacIntyre (1998), "Interview with Giovanna Borradori," p. 258.

obligations. These constitute the given of my life, my moral starting point. This is in part what gives my life its own moral particularity.<sup>301</sup>

An Aristotelian liberal will readily accept all of this, except for the implicit argument, which MacIntyre makes more explicit elsewhere, that there is no substantive universal human nature that we all share. Without this, MacIntyre must fall into cultural relativism. While we are all the things MacIntyre says above, we are also human beings and as such share certain essential characteristics. There may be aspects of the social context that we are born into that run contrary to human nature, or are internally contradictory, or inferior to aspects of another set of community traditions. While some of us may get distracted by the range of choices liberty opens up to us, it is only if we are free to choose that we can truly be virtuous and flourish – and having a range of alternatives to compare can help us find the right path for us.

I turn now to a predecessor of MacIntyre's, an early proponent of social liberalism: T.H. Green. As with MacIntyre, my discussion and criticism of his ideas has been strongly influenced by the work of Rasmussen and Den Uyl. As a social liberal Green stands somewhere between classical and more radical forms of liberalism on the one hand and communitarianism on the other. Communitarianism seems unable to avoid the specters of paternalism and totalitarianism. Does social liberalism represent a viable "Third Way"?

### **T.H. Green: Social Liberal**

T.H. Green is usually considered one of the first of the social liberals, concerned with more than just negative rights. He also seems to advocate a fairly minimalist government by modern standards. He stresses the importance of civil society and civic or political duties more than traditional classical liberals and libertarians, but like other liberals and Aristotle he believes that society and the state exist for the benefit of individuals rather than the other way around. On the other hand, there is enough ambiguity in his moral and political thought to make one wonder just how much government he would contenance and whether it is possible to draw a sharp distinction between so-called social liberalism and communitarianism. Certainly many who have come after Green have thought his philosophy justifies a more expansive and intrusive state.

Green's ethical theory bears some affinity to the Aristotelian theory espoused in this dissertation. It is both teleological and perfectionist. For example, he argues: "The moral progress of mankind has no reality except as resulting in the formation of more perfect individual characters; but on the other hand every progress toward perfection on the part of the individual character presupposes some embodiment or expression of itself by the self-realizing principle in what may be called . . . the organization of life."<sup>302</sup> But his ethical theory also bears some Kantian overtones and explicit positions that distance his views from those of an Aristotelian. There is his emphasis on will, for example, and his view that "morality consist[s] in the disinterested performance of self-imposed duties."<sup>303</sup>

Green's political philosophy and conception of rights also bear some striking similarities to the metanormative dimension of the Aristotelian-liberal account of rights put forward in this

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301 MacIntyre (1984), pp. 204-205.

302 Green (1967), p. 26.

303 Ibid., p. 44.

dissertation. He too sees liberty, self-direction and personal responsibility to be necessary for moral perfection.

The value then of the institutions of civil life lies in their operation as giving reality to these capacities of will and reason, and enabling them to be really exercised. In their general effect, apart from particular aberrations, they render it possible for a man to be freely determined by the idea of a possible satisfaction of himself, instead of being driven this way and that by external forces, and thus they give reality to the capacity called will: and they enable him to organize his reason, i.e., his idea of self-perfection, by acting as a member of a social organization in which each contributes to the better-being of all the rest.<sup>304</sup>

In a way similar to Aristotelian liberals he conceives of the social/political/legal function of rights and government to be limited to establishing the conditions and encouragements necessary for self-perfection rather than to directly promote or require virtue and prohibit vice. “The real function of government [is] to maintain the conditions of life in which morality shall be possible[.]”<sup>305</sup>

There is a crucial difference here, however. In Green’s theory, the function of rights and government is to establish the conditions and encouragements necessary for moral conduct. In the Aristotelian-liberal theory espoused here, the function of rights and the political/legal system is to establish the conditions necessary for the possibility of moral agency (self-direction). There is a world of difference here, in that the Aristotelian-liberal theory goes no further than prohibiting aggression whereas Green’s theory presumably requires significantly more than that although I am none to clear on precisely what. This is not to say that simply securing the necessary conditions for the possibility of moral agency will not tend also to lead to the development of the necessary conditions and encouragements for moral conduct and self-perfection. There are very good reasons, theoretical and historical, to believe it will. But note that this is even less direct than Green’s theory. The advantage of the Aristotelian-liberal theory is that it requires no aggression to enforce and consequently it demands a more consistent respect for persons and practice of reason, discourse, persuasion and cooperation with others; its conception of rights can be consistently upheld, that is, it does not end up with conflicting rights in principle as Green’s must; and since it does not seek directly to establish certain conditions and encouragements for moral conduct it does not bias the structure of the political/legal order in favor of or against any particular forms of flourishing.

The question remains: what sort of government policies are necessary for establishing the conditions and encouragements necessary for moral conduct? Green apparently rules direct morals legislation out, for he says that unlike rights, which it is the state’s function to protect, “moral duties do not admit of being so enforced.”<sup>306</sup> In his undergraduate essay on legislative interference in moral matters, he objects on the practical grounds that, unlike the Greek *polis*, the modern state is much too large, populous and diverse. He rightly recognizes that morals legislation will tend to cause social strife and that civil society is much better suited to educating its citizens than is the state. But if the conditions and encouragements for moral conduct are to be established, surely some sort of soft-paternalist policies are required to give the right nudges.

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304 Ibid., p. 32-33.

305 Ibid., p. 44.

306 Ibid., p. 34.

Once a government embarks down this road, however, it will be favoring the conceptions of morality and flourishing held by those in power at the expense of other forms. In his “Lectures on the Principles of Political Obligation,” he does argue that education should be enforced by the state so that parents will not be allowed to neglect their children’s education. Of course, the definition of neglect will be determined by those in power and so may not conform to how Green or the parent might think it is defined. He seems to have considerable respect for private property and free trade. However, once the door of government interventions is cracked open, successive administrations will naturally seek to open it wider and wider. Should government do more to establish the necessary conditions and encouragements? Many who have been influenced by Green have thought so.

### **Conclusion**

While some communitarian criticisms have hit home to varying degrees against some forms of liberalism, I do not think they do so against the account of Aristotelian liberalism presented in this dissertation. Moreover, it seems that communitarianism cannot avoid the specters of paternalism and totalitarianism. Communitarianism tends to subsume individuals within the collective and subject them excessively to the authority of the community, by the initiation of force if necessary. Social liberalism is not a viable “Third Way,” as it too involves the institutionalized initiation of force and will tend to result in the scope and power of the state expanding over time.<sup>307</sup> Even Aristotle, who often sought the proper mean between extremes, recognized that some things do not admit of a mean. While Aristotle himself would not agree, for both moral and practical reasons liberty is not something to be compromised. Liberty ought always to be respected, just as murder is always wrong. Indeed, I do not think it correct to conceive of a proper mean as being a compromise between two flawed extremes in the first place. Rather, it is the two flawed extremes that represent compromises in one direction or another from the right course. On the other hand, from a different perspective, one can conceive of liberty as it is defended here – freedom from the threat or use of initiatory physical force, i.e., aggression – as the proper mean between the Hobbesian conception of liberty in the state of nature as the moral and legal freedom to do whatever one wants (including aggress against others), on the one hand, and the complete rejection of a right to liberty, on the other.

Much of the reticence socialists and communitarians feel toward liberalism can probably be attributed to a fundamental misunderstanding of market processes. This misunderstanding, I believe, has at least two sources: 1) the misidentification of statist-corporatist capitalism with free markets and 2) the mistaken approach taken to economic theory by prominent classical and, especially, neoclassical economists. Modern mainstream economics provides an especially unrealistic, mechanistic and atomistic picture of markets. The Austrian school of economics and the radical form of liberalism defended here are not plagued by these errors, however; and these issues, among others, will be discussed in the next three chapters. For now, it may suffice to assuage the communitarian critic with the following point by Roderick Long:

Strictly speaking, liberals do not generally have any objection to status relationships as such; they need not regard significant moral ties as originating from voluntarily chosen relationships alone. In this sense, liberals have nothing

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307 For more on the latter point, see Higgs (1987).

against communitarian values. What liberals insist on is that people's lives not be coercively *controlled* by such relationships. This distinction is one that communitarian critics of liberal individualism often miss.<sup>308</sup>

In the next chapter, as I begin to delve more deeply into politics, I present a sustained critique of corporatist liberalism and the modern, democratic state.

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308 Long (1995), p. 7. Emphasis in original.

## **Chapter Six.**

### **The New Left and Participatory Democracy**

Political and economic freedom is not simply the absence of government controls over the economy and of dictatorial authority. It involves the emergence of alternative and more fragmented notions of “authority” in which participants in effect have to earn the always partial authority they have. It depends on the active participation in the polity and in the economy by diverse people who exercise their own initiative.

- Lavoie and Chamlee-Wright, *Culture and Enterprise*, p. 1.

Radicalizing [democracy] is too often imagined as moving toward “direct democracy,” voting directly for social outcomes. But there is much more to democratic processes than voting, and much more to politics than government. Wherever human beings engage in direct discourse with one another about their mutual rights and responsibilities, there is a politics. I mean politics in the sense of the public sphere in which discourse over rights and responsibilities is carried on.

- Lavoie, “Democracy, Markets and the Legal Order,” pp. 111-112

### **Introduction**

Liberalism, and the market forces it has traditionally championed, helped to undermine and overthrow the old order of the status society which characterized human social existence from the dawn of history up until around the eighteenth century. The old order still continues to exist in some places in the world and is not entirely vanquished even in the West. Still the liberal revolution that occurred around the time of the eighteenth century promised to usher in a new order, replacing the status society with the contractual society. This revolution achieved significant success that persists to this day. The liberals were radical champions of liberty, property, equality, limited governments and free markets – the original Left. Their opponents, in contrast, were reactionary conservatives – the original Right – who wanted to preserve rigid hierarchies of status based on heredity, plutocratic monopoly privilege and the top-down management of society by these elites. It might be wondered at, then, how it came to be in the 1960s that the radical New Left movement saw the liberal-corporatist state as the primary source of modern society’s ills, or at least the chief obstacle to fixing them. What relation did this corporatist liberalism have to the radical liberalism of old? Why and how did the new radicals oppose it? In addressing these questions I seek not to engage primarily in historical reconstruction and analysis but rather to draw from the history of liberalism and the New Left important lessons for the conduct of our private and public affairs. To engage in a bit of foreshadowing, these lessons call for radicalization of how we conceive of democracy and politics and their role in the pursuit of our well-being. The primary purpose of this chapter and the next is to build on the burgeoning tradition of Aristotelian liberalism; specifically, it is to develop a non-statist conception of politics grounded in man’s natural end – which is to live a life of *eudaimonia* (flourishing, well-being, happiness). To this end, the New Left concept of participatory democracy will be contrasted with the prevailing reality of manipulative democracy. And it will be argued that there is still too much focus on what the state can and

should do for us. Rather, the locus of politics ought to be shifted from the state to society – to what we *as members of society* can and should do for ourselves and each other.

### **A Brief History of Liberalism**

Liberalism arose in radical opposition to the status society of the old order. The old order was characterized by rigid status hierarchies based on heredity, plutocratic monopoly privilege and the top-down management of society primarily to the benefit of those on top. Social and geographic mobility were severely restricted. Feudal lords were given control over tracts of land and the production, commerce and people within them. Individuals and companies would be granted monopoly privilege over areas of production and trade, both within and without the country (e.g., the East India Trading Company). The origin of intellectual property in the form of copyrights and patents had its origin in such grants of monopoly privilege. The state controlled the mint. Guilds controlled entire professions with the backing of the state. Tariffs were raised to protect domestic industry, benefiting wealthy and politically-connected elites at the expense of everyone else. Wars were waged to open up new markets and natural resources for exploitation by companies with official government charters.

The market forces of capitalism gradually undermined the institutions of the old order. The growth of international production and trade, the development of new industries and methods of production, the expansion and increasing wealth of the middle class – these phenomena brought change, progress and, most importantly, hope to an otherwise static and stagnant society in which the bulk of the population previously had no hope of significantly bettering their situation and that of their posterity. These socio-economic changes culminated the political revolutions of the seventeenth and eighteenth centuries: the English Revolutions and the later American and French Revolutions. The old order was shaken loose and the way paved for the Industrial Revolution. But those who favored the old order did not go quietly, and the old order was not entirely vanquished. As Murray Rothbard relates the conflict: “Soon there developed in Western Europe two great political ideologies, centered around this new revolutionary phenomenon: one was Liberalism, the party of hope, of radicalism, of liberty, of the Industrial Revolution, of progress, of humanity; the other was Conservatism, the party of reaction, the party that longed to restore the hierarchy, statism, theocracy, serfdom, and class exploitation of the Old Order.”<sup>309</sup> Nevertheless, the eighteenth century and especially the nineteenth century ushered in economic growth, prosperity and victories for individual liberty that were unprecedented in human history.

Why then did the members of the radical New Left movement come to see liberalism as intimately related to the corporatist welfare-warfare state of the twentieth century? The answer to this lies in dissolving two socialist myths about feudalism and capitalism. Of one of these myths, Rothbard remarks:

The myth held that the growth of absolute monarchies and of mercantilism in the early modern era was necessary for the development of capitalism, since these served to liberate the merchants and the people from local feudal restrictions. In actuality, this was not at all the case: the King and his nation-State served rather as the super-feudal overlord re-imposing and reinforcing feudalism just as it was

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309 Rothbard (1965b), p. 5.



being dissolved by the peaceful growth of the market economy. The King superimposed his own restrictions and monopoly privileges onto those of the feudal regime. The absolute monarchies were the Old Order writ large and made even more despotic than before.<sup>310</sup>

Over time the absolute monarchies gave way to constitutional monarchies and democratic states, culminating in World War I. Even the freest of these countries, the United States, which came closest to approaching the liberal ideal of limited government in its formative years, engaged in the politico-economic policies of the old order at the outset. And this brings us to the second myth, which conflates the radical liberal ideal of free markets (*laissez-faire* capitalism) with state-corporate capitalism. Thus the evils of state-corporate capitalism are identified as the necessary expression and outcome of liberal ideals. State-corporate capitalism has nothing to do with radical liberalism, however, but rather is the result of its abandonment. No sooner did many of the original revolutionary liberals achieve partial success on their immediate goals than they gave up their radical methods and joined the new Establishment, settling at first for merely liberalizing the state and then eventually giving up their radical ideals as well. It was this renunciation of liberalism's radical roots and the concomitant shift to conservative methods of reform, along with the rejection of radical natural law/natural rights philosophy in favor of the much more amenable to *raison d'état* decision-making philosophy of utilitarianism, that left a radical void into which stepped socialism as a reaction to the then quasi-conservative liberalism and traditional conservatism.<sup>311</sup> Communists, social democrats, and most socialists have similarly abandoned socialism's radical roots in favor of conservative means. The modern liberal corporatist state is anything but liberal, being rather a return to methods of the old order in liberal democratic drag.

## **Participatory Democracy vs. Manipulative Democracy**

### **Passive Citizenship and Representative Democracy**

One of the cornerstones of modern liberal democracy, as it is commonly called, is the system of democratic representation, usually seen as a superior alternative to direct democracy for a variety of reasons. Many members of the New Left came to see it as a major part of the problem with liberal democracy, however. They identified it strongly with manipulative democracy and juxtaposed it to participatory democracy. One of the few older members of the New Left, Sidney Lens, summarizes the sentiment well in his essay "The New Left and the Establishment":

The United States is a democracy, all right, but a manipulative one in which we are excluded by and large from the major decisions in our lives. Participative democracy, on the other hand, means participation in the process of decision-making in all areas of life – economic and social, as well as political. Now if you judge the United States by its own standards of political democracy – that is, the right to put an "X" in a box every four years and to speak and write with a degree of tolerance – then the United States ranks very high in the firmament of democracies. But if you put it to the criteria of participative democracy, it ranks

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310 Ibid., p. 5.

311 Ibid., pp. 6-7.

rather low. The area of decision-making is extremely narrow, and while we do have elections they are between two parties which stand for much the same thing.<sup>312</sup>

There are other aspects to the charge of manipulative democracy, of course, but the system of representation is a key component.

Although in principle political offices are open to all citizens of a certain age, the reality is that most will never get into office and will have little if any influence on important decisions that greatly affect their lives. The system of representation has the effect of creating or maintaining a distinction between ruler and ruled, although this distinction is much more blurry and permeable than that created by monarchical and dictatorial regimes due to the electoral process, voting and the universal franchise. Massimo Teodori, editor of the important book *The New Left: A Documentary History*, offers a pithy summary of the realization of this contradiction between principle and practice that sparked the New Left movement: “The students, who had been raised to believe the myth of the great American democracy, found here – no less than in other aspects of their life – a contradiction between fact and principle, between values their upbringing had taught them to cherish and the exercise of authoritarian power by individuals who professed those same values.”<sup>313</sup>

A libertarian writer, James Bovard, recently compared the act of voting in elections to the feudal act of swearing fealty:

French historian Marc Bloch noted that, during the Middle Ages, “the notion arose that freedom was lost when free choice could not be exercised at least once in a lifetime.” The only freedom many people sought was to pick whose “man” they would become. Medieval times included elaborate ceremonies in which the fealty was consecrated. With current elections, people are permitted to choose whose pawns they will be. Voting is becoming more like a medieval act of fealty – with voters bowing down their heads and promising obedience to whoever is proclaimed the winner.<sup>314</sup>

Are relatively frequent elections a sufficient safeguard for freedom? And what good are elections when any representative democratic system eventually, and inevitably, becomes rigged to favor incumbents and a class of elites? The present system is dominated by a class of career politicians, increasingly hereditary, who must possess some combination of wealth, influence, insider connections, and official credentials, and who use their offices to acquire more. Generally, the higher the office the more this is the case. It is little wonder that a system such as this would create a mass of passive, easily manipulated citizens and a professional political class increasingly adept at manipulating them.

In an important but neglected work, *An Essay on the History of Civil Society*, Adam Ferguson, a liberal of the Scottish Enlightenment, voices some worries about the increasing division and specialization of labor of modern commercial societies that bear on the topic at

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312 Sidney Lens (1965), p. 9.

313 Teodori (1969), p. 21.

314 Bovard (2007), p. 4 of the free online pdf version; cf. Mencken (1926), pp. 72-73. Cf. Benjamin Constant (1819 [1988]: 312), “[T]he individual, independent in his private life, is, even in the freest of states, sovereign only in appearance. His sovereignty is restricted and almost always suspended. If, at fixed and rare intervals, in which he is again surrounded by precautions and obstacles, he exercises this sovereignty, it is always only to renounce it.”

hand. He does not repudiate the increasing division and specialization of labor outright and even sees benefits in it, but he finds it particularly problematic with respect to representative democracy. Ferguson preferred small nations; a small nation makes direct democracy possible, allowing all citizens an active role in government. It is well-known that beyond a certain extent (ignoring for the moment potential technological advances) a representative or authoritarian system becomes necessary for the state to function. Democratic representation encourages the division and specialization of labor in the realms of politics and security provision. But before going further, let us see what Ferguson has to say on the division and specialization of labor.

Ferguson observes that “By the separation of arts and professions, the sources of wealth are laid open.”<sup>315</sup> But for Ferguson, “It is in conducting the affairs of civil society, that mankind find the exercise of their best talents, as well as the object of their best affections.”<sup>316</sup> And so he is concerned about the effects of increasing division and specialization of labor on active man and active citizenship: “This description [active citizenship] does not pertain to any particular craft or profession; or perhaps it implies a kind of ability, which the separate application of men to particular callings, only tends to suppress or to weaken. Where shall we find the talents which are fit to act with men in a collective body, if we break that body into parts, and confine the observation of each to a separate track?”<sup>317</sup> He sees in the shift from citizen militias to professional and mercenary armies, that even republics have undergone, the cause of a “breach” in “the system of national virtues.”<sup>318</sup> It disarms the populace, removes from most of them an important avenue of active citizenship, promotes a more bureaucratic and obedient sensibility in the soldiers, and is more conducive to offensive wars that are destructive of domestic liberty. Just as excessive division of labor and specialization in security provision and its consequent professionalization is undesirable, so too is such a division of labor and professionalization in politics. Ferguson says of both that it helps “to break the bands of society, to substitute form in place of ingenuity, and to withdraw individuals from the common scene of occupation, on which the sentiments of the heart, and the mind, are most happily employed.”<sup>319</sup>

So Ferguson was willing to accept an extensive division of labor and specialization in the economic spheres of activity, but he saw the same in the realm of security provision and politics to have a destructive influence on active citizenship and on liberty,<sup>320</sup> for it encourages the bulk of the citizenry to be apathetic about political issues. It also encourages the formation of a professional political class that will make careers out of their political offices, giving them a dangerous amount of power and influence. The concentration of power in the hands of relatively few professional politicians, while the vast bulk of the population remains only vicariously connected to politics and largely ignorant about important matters pertaining to policy,<sup>321</sup> is a strong inducement for the continual growth of government, particularly when the professional politicians take advantage of perceived crises to ratchet up its power and scope.<sup>322</sup> The tendency

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315 Ferguson (1995), p. 173.

316 Ibid., p. 149.

317 Ibid., p. 32. See, also, pp. 58-59.

318 Ibid., p. 146.

319 Ibid., p. 207. See, also, the paragraph immediately following the quoted passage. Hannah Arendt makes a similar observation; see the discussion below.

320 Some amount of division of labor and specialization in these areas is no doubt desirable and inevitable. It is the formal institutional development of exclusive professional classes in these areas that is problematic.

321 On the pervasive ignorance of voters, see, e.g., Bryan Caplan, *The Myth of the Rational Voter* (2007).

322 On this last, see, e.g., Robert Higgs, *Crisis and Leviathan* (1987).

is to consolidate and expand government power, to increasingly centrally plan society and the market which in turn begets more calls for central planning as the people become accustomed to central planning in more and more areas of life and in order to deal with the inevitable unintended consequences of previous policies. For these reasons, and others described here and elsewhere, small nations with direct democracy would be more conducive to active citizenship and the preservation of liberty, while large representative democracies are destructive of active citizenship and liberty. A vast multitude of the former is more conducive to beneficial spontaneous social processes while a relative handful of the latter is decidedly not.

### **Gambling with Morality: The Moral Hazards and Inefficacy of Voting**

As the New Left movement developed it grew steadily more radical, rejecting the formal democratic process in favor of extra-governmental direct action. Why did they bypass the state? Part of the reason is that it involves moral hazards and is inefficacious. In 1963, John Lewis, then president of the Student Nonviolent Coordination Committee, gave a speech in which he gave voice to both of these concerns:

In good conscience, we cannot support the administration's civil rights bill, for it is too little, and too late. There's not one thing in the bill that will protect our people from police brutality. . . . We are now involved in a serious revolution. This nation is still a place of cheap political leaders who build their careers on immoral compromises and ally themselves with open forms of political, economic and social exploitations. . . . The party of Kennedy is also the party of Eastland. . . . The Revolution is at hand, we must free ourselves of the chains of political and economic slavery. . . . We all recognize the fact that if any social, political and economic changes are to take place in our society, the people, the masses, must bring them about. . . . Mr. Kennedy is trying to take the revolution out of the street and put it in the courts.<sup>323</sup>

The great majority of the people, and particularly blacks and the poor, had been left out of the decision-making process for too long.<sup>324</sup>

The formal process was too slow, too gradual, too prone to compromises not merely on results but on moral principles. Politicians too often proved themselves to be corrupt. Politicians often break campaign promises, for a variety of reasons, and all too often get away with it. The New Left came to recognize that allying with establishment politicians was a mistake, as they were more interested in preserving and furthering their own power.<sup>325</sup>

Politically there emerged, through local community work, the contradiction between the strategy of *alliances*, which often ended in co-optation and only marginal improvements, and the strategy of *power*, i.e., beginning to build a movement capable of remaining autonomous, both in its demands and in its control over the institutions in which it participated.<sup>326</sup>

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323 Teodori (1969), Second Part 1.3, pp. 100-101.

324 Ibid., First Part 3.2, p. 13.

325 Ibid., 3.4, p. 15.

326 Ibid., 5.4, p. 28; cf. 10.1, p. 45.

They came to recognize the difference “between *those who were part of the movement* and made it autonomous, and *those who wanted to use the movement*; between those involved in its internal dynamics and those who debated its power strategies in magazine columns.”<sup>327</sup> Even Martin Luther King succumbed to the lure of statist politics.<sup>328</sup>

While members of the New Left did conduct voter-registration campaigns in the early 1960s, even then this was “opposed by some activists, for whom the drive for the vote represented a recourse to old-fashioned and discredited methods.” But the main purpose of the campaign seems not to have been voting but educating “citizens about their rights, catalyz[ing] energy at the base of the most deprived levels of society and encourag[ing] potential local leaders to adopt participatory methods.”<sup>329</sup> In *SNCC, The New Abolitionists*, Howard Zinn complained about “the ineptitude of parliamentary procedure.”<sup>330</sup> Winning the vote was not sufficient. The problems the New Left saw demanded direct moral action in the streets.

It is a crucial matter that voting is essentially gambling with morality. This insightful observation was made by Henry David Thoreau but has been too little noticed, contemplated and taken seriously by most. The members of the New Left movement understood it and acted on it better than most. Thoreau wrote:

All voting is a sort of gaming, like chequers or backgammon, with a slight moral tinge to it, a playing with right and wrong, with moral questions; and betting naturally accompanies it. The character of the voters is not staked. I cast my vote, perchance, as I think right; but I am not vitally concerned that that right should prevail. I am willing to leave it to the majority. Its obligation, therefore, never exceeds that of expediency. Even voting *for the right* is *doing* nothing for it. It is only expressing to men feebly your desire that it should prevail. A wise man will not leave the right to the mercy of chance, nor wish it to prevail through the power of the majority. There is but little virtue in the action of masses of men. When the majority shall at length vote for the abolition of slavery, it will be because they are indifferent to slavery, or because there is but little slavery left to be abolished by their vote. *They* will then be the only slaves. Only *his* vote can hasten the abolition of slavery who asserts his own freedom by his vote.<sup>331</sup>

With this last sentence Thoreau is no longer really speaking of voting, as becomes clear later on when he writes “Cast your whole vote, not a strip of paper merely, but your whole influence.”<sup>332</sup> With these two sentences, and some passages that come in between, Thoreau is advocating precisely the radical methods increasingly employed by the New Left movement; he is advocating civil disobedience and participatory democracy.

A moral hazard arises from this gambling aspect of voting and the gulf that the formal, especially representative, democratic process creates between the act of voting and the consequences of said act. Responsibility and costs are diffused among a plurality or majority of voters who do not actually have to carry out or enforce policies themselves. Given the nature of

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327 Ibid., 3.4, pp. 16-17.

328 Ibid., 3.6, p. 18.

329 Ibid., p. 3.4, p. 15.

330 Zinn (1965), p. 220.

331 Thoreau (1849 [1993]), “Civil Disobedience,” p. 5.

332 Ibid., p. 9.

voting, the employment of the coercive power of state agents, and the fact that the benefits of state policies tend to be concentrated while the costs tend to be spread over a large population (including those who did not vote for them), voters have a strong incentive to support policies that they otherwise would not if they had to bear the full cost and risk in money, time and enforcement themselves. This moral hazard is compounded by the representative system. A democratic representative cannot identify precisely who his real constituents are (those who voted for him). He is not strictly responsible to them; generally the worst he has to fear is a small chance he will be ousted in the next election. Nor are they held strictly responsible for his actions while in office. Despite frequently employed social-contract language, this is not a real principal-agent contractual relationship. And the representatives themselves are not the ones who actually have to pay for, carry out or enforce the policies they enact either. The result of these facts is that both voters and their representatives have strong incentives to support and enact irresponsible legislation, regulations and policies.

### **Making Men \_\_\_\_\_:<sup>333</sup> Corporatist Liberalism & the Bureaucratic Welfare-Warfare State**

Like classical liberals and contemporary libertarians, members of the New Left generally opposed corporate-political partnerships and the bureaucratic welfare-warfare state. Indeed, it is interesting to note that I am not sure of the origin of the term ‘welfare-warfare state’. Was it coined by the New Left? or by libertarians, who use it frequently? At any rate, Massimo Teodori uses the term in the introduction to his documentary history of the New Left, published in 1969.<sup>334</sup> The New left opposed not only interventionist foreign policies, the warfare state, but also the provision of welfare through statist-political means, the welfare state. They were opposed to the bureaucratic administration of society in general, with education, welfare and war being three of the major battlegrounds.

The New Left recognized the interconnection between social, economic and political problems. For example,

[t]he activists began to discover that many of the important economic structures of the South were in some way connected to and controlled by those of the North; that the programs for huge military expenditures which supported the most highly developed national industries could be approved only thanks to deals made by Southern representatives in exchange for the installation of military bases in their states; that the welfare programs of preceding decades, just like the civil-rights and poverty programs, had not in fact improved the lives of the people toward whom they had been directed, but had only favored the expansion of a powerful bureaucracy; that the reason there would be no mass unemployment and economic crisis, as had been predicted, was that the war economy continued to expand.<sup>335</sup>

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333 Fill in the blank: e.g., “make” men moral, patriotic, obedient, do this or don't do that, pursue a unified goal like cogs in a machine, and so forth, but primarily in the sense of constructing them into something. See, for example, recent books like Robert George's *Making Men Moral: Civil Liberties and Public Morality* (1995), Walter Burns's *Making Patriots* (2002), and Nancy Bristow's *Making Men Moral: Social Engineering During the Great War* (1997).

334 Teodori (1969), 9.2, p. 42.

335 Ibid., 9.2, p. 41.

The bureaucratic welfare-warfare state rests upon the ideology of corporatist liberalism, which, Teodori argues,

promotes internal economic planning, together with increased consumption and planned obsolescence, aims toward the control of distribution and advertising and toward a monopoly over mass communications, finances scientific research applied to the development of technology and social control, requires a liberal policy of coexistence abroad to permit the expansion of markets, supports higher education for the training of experts and consultants, subsidizes rich foundations which patronize cultural and intellectual developments, and is interested in state promotion of public well-being through welfare programs. In other words, it is a system based on power in the hands of an oligarchy which penetrates and controls – directly through ownership, or indirectly through pressure and influence – the life of the entire nation.<sup>336</sup>

The 1963 SDS document *America and New Era* correctly identified the real source of the problem, i.e., the statist-political forces seeking to maintain and further the system that benefited them – the politicians, corporate officers, union leaders, college administrators, foundation officials, etc.<sup>337</sup> These people tended to reduce basic social issues “to problems requiring administrative manipulation.”<sup>338</sup>

The ideology of corporatist liberalism, Carl Oglesby, president of SDS in 1965, argued in a speech, “performs for the corporate state a function quite like what the Church once performed for the feudal state. It seeks to justify its burdens and protect it from change.”<sup>339</sup> The revolt of the New Left was “a revolt against paternalistic, indirect authority which hides the hand of power in the glove of verbal idealism.”<sup>340</sup> State funded and controlled public education was a part of this system. It substituted a kind of “painless, non-threatening coercion” for overt coercion, indoctrinating children and young adults in the reigning orthodoxy, molding them into “good citizens,” and instilling the skills necessary to take their places as cogs or operators of the existing machine.<sup>341</sup>

Hannah Arendt's analysis of the differences between action (*praxis*)<sup>342</sup> and work – and between politics, which involves action, and fabrication or making (*poiēsis*), which involves work – has negative implications for the central planning of society that is characteristic of modern representative-democratic states. In particular, I have in mind her criticism of Plato, and to a lesser extent Aristotle, regarding their tendency to view society as a sort of organization and politics as the running of society as such an organization – or, in their words, politics as akin to household management. Action, Arendt defines as “the only activity that goes on directly between men without the intermediary of things or matter”;<sup>343</sup> it is directly and intimately related to politics, which Arendt links to Scottish Enlightenment notions of spontaneous order.<sup>344</sup> “To

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336 Ibid., 9.3, pp. 42-43.

337 Ibid., Second Part, Chapter 2, 5.2, “SDS: America and the New Era”; see also the quote on First Part, 9.4, p. 43.

338 Ibid., p.176.

339 Ibid., 5.3, “Trapped in a System,” p. 187.

340 Long (1969), p. 9.

341 Ibid., p. 9-10; cf. Teodori (1969), First Part, 5.1, p. 26.

342 Arendt uses the term action more narrowly than do the praxeologists of the Austrian School.

343 Arendt (1958), p. 7.

344 Ibid., p. 185.

act, in its most general sense, means to take initiative, to begin (as the Greek word *archein*, “to begin,” “to lead,” and eventually “to rule,” indicates), to set something into motion (which is the original meaning of the Latin *agere*).”<sup>345</sup> Work, on the other hand, is

the activity which corresponds to the unnaturalness of human existence, which is not imbedded in, and whose mortality is not compensated by, the species’ ever-recurring life cycle. Work provides an ‘artificial’ world of things, distinctly different from all natural surroundings. Within its borders each individual life is housed, while this world itself is meant to outlast and transcend them all.<sup>346</sup>

We need not accept in its entirety Arendt’s conception of action and work with all its implications and baggage in order to appreciate the difference between dealing with other human beings as ends in themselves (i.e., voluntarily and politically) and treating them like beasts who must be tamed, or raw materials for the shaping, or living tools, or mere parts of the machinery of the state.<sup>347</sup> A famous Marxist phrase is apropos here: the formal democratic process of the state, particularly in the form of representative democracy, amounts to the “replacement of the government of men by the administration of things.”<sup>348</sup>

Arendt identifies an element of violence in all making (fabrication),<sup>349</sup> and observes government foundings and legislation to be a kind of making.<sup>350</sup> In “legislating and the execution of decisions by vote” men “‘act like craftsmen’: the result of their actions is a tangible product, and its process has a clearly recognizable end.” Plato and Aristotle prefer ‘making’ because “of its greater reliability. It is as though they had said that if men only renounce their capacity for action, with its futility, boundlessness, and uncertainty of outcome, there could be a remedy for the frailty of human affairs.”<sup>351</sup> This aversion to spontaneous order and genuine politics is pervasive in political philosophy.

Escape from the frailty of human affairs into the solidity of quiet and order has in fact so much to recommend it that the greater part of political philosophy since Plato could easily be interpreted as various attempts to find theoretical foundations and practical ways for an escape from politics altogether. The hallmark of all such escapes is the concept of rule, that is, the notion that men can lawfully and politically live together only when some are entitled to command and the others forced to obey.<sup>352</sup>

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345 Ibid., p. 177.

346 Ibid., p. 7.

347 On the different ways in which the ancients and the moderns viewed men as less-than-human objects of legislation, see p. 188 n. 15.

348 Quoted from Rothbard (1965b), p. 8. Not incidentally, Rothbard relates that this phrase can be traced back ultimately to the radical nineteenth century French liberals Charles Comte and Charles Dunoyer. “And so, too, may the concept of the ‘class struggle’; except that for Dunoyer and Comte the inherently antithetical classes were not businessmen vs. workers, but the producers in society (including free businessmen, workers, peasants, etc.) versus the exploiting classes constituting, and privileged by, the State apparatus.”

349 Arendt (1958), pp. 139-140, 153.

350 Ibid., p. 228.

351 Ibid., p. 195.

352 Ibid., p. 222.



In applying to “its administration the [then] currently recognized maxims for a well-ordered household,” Plato was quite aware that he was proposing “a revolutionary transformation of the *polis*.”<sup>353</sup> The treating of society as an organization to be run according to a plan has the effect of “banishing the citizens from the public realm” while they leave the ruler to “attend to public affairs.”<sup>354</sup> James O’Brien observes of the New Left radicals that the “Federal Government’s liberal bureaucracy, as typified by the Justice Department and the War on Poverty, was viewed with increasing impatience and distrust. The new radicals came to regard the liberal style as a series of back-room deals among “leaders,” in which decisions were made without the participation of the governed.”<sup>355</sup>

Arendt calls a delusion the idea “that we can ‘make’ something in the realm of human affairs – ‘make’ institutions or laws, for instance as we make tables and chairs, or make men ‘better’ or ‘worse’ – . . . it is conscious despair of all action, political and non-political, coupled with the utopian hope that it may be possible to treat men as one treats other ‘material’.”<sup>356</sup>

In the *Republic*, the philosopher-king applies the ideas as the craftsman applies his rules and standards; he ‘makes’ his City as the sculptor makes a statue, and in the final Platonic work these same ideas have even become laws which need only be executed.

Within this frame of reference, the emergence of a utopian political system which could be construed in accordance with a model by somebody who has mastered the techniques of human affairs becomes almost a matter of course; Plato, who was the first to design a blueprint for the making of political bodies, has remained the inspiration for all later utopias.<sup>357</sup>

Such centrally planned schemes of government must inevitably “break down quickly under the weight of [the] reality . . . of the real human relationships they [cannot] control.”<sup>358</sup> Beyond the impracticability of central planning, of running society like an organization, there is the moral dimension that legislation in both the foundational and general sense, insofar as it rests upon force, treats human beings as means rather than as ends in themselves and thus gives us a *prima facie* reason to condemn it as immoral and unjust.

### **Participatory Democracy: Direct Moral Action and Voluntary Cooperation**

The New Left was a radical and decentralized movement that lacked any coherent ideology. It was born out of an immediate need to confront the many social, political and economic problems of the day.

Dissent and revolt sprang from individual and social malaise; that is, out of a kind of individual and social alienation from prevalent institutions, values and

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353 Ibid., p. 223. Cf. p. 230.

354 Ibid., p. 221.

355 Priscilla Long (1969), p. 7. Quoted by Staughton Lynd in his introduction, “Towards a History of the New Left.”

356 Arendt (1958), p. 188.

357 Ibid., p. 227. The last phrase in the second quoted passage implies that Plato was the first to actually attempt the feats mistakenly credited to the great Founder-Legislators, and this corresponds to Hayek’s observation that the idea of legislating law in Western civilization saw its first full development in ancient Greece.

358 Ibid. On the divine qualities such administration would require, see p. 227.

behavior. The spring which set the action into motion . . . was the need to reaffirm lost values in the name of ideal objectives and moral standards – freedom, community feeling, right to participate, control of one’s own life – rather than a positive vision of society and its structures.<sup>359</sup>

Participatory democracy was both a means and an end; its goal was the end of manipulative democracy and the return of freedom, direct participation and cooperation in pursuit of shared ends. As a means, participatory democracy eschews the top-down administration of things, the voting, the lobbying, the backroom deals, and the coercion in favor of bottom-up change through direct moral action and voluntary cooperation. The organization of the movement reflected its goals and its methods with “no separation between masses and intellectuals, movement and party, those who theorize and those who act; between ‘leaders’ and ‘followers.’”<sup>360</sup>

Participatory democracy for the New Left involved two distinct sorts of activity: protest and the cooperative development of parallel or alternative institutions. Both types were spontaneous and decentralized, brought about by grass-roots development and leading by example. Members staged sit-ins, picketing, marches, ‘freedom rides’ and other forms of largely non-violent protest in order to galvanize support, make a statement and influence the public. Members would also move into local communities and help them organize to solve local problems. “A great many local programs sprang up – neighborhood political groups, local radio stations, bulletins, cooperatives, tenants’ associations, police control committees”<sup>361</sup> as well as ‘free universities’ and alternative, voluntary welfare programs,<sup>362</sup> and so forth. Certain of these had their aim as the formation and development of counter-communities, reflecting “the desire to build values, structures, life-styles and actions which should pre-figure the society of tomorrow.”<sup>363</sup>

Teodori relates how the logic of direct action led directly to the radicalization of the movement.

The two-party structure, as the principle vehicle for participation in the political process, seemed at the time not only a historical reality, but also a mental habit which set limits even for the new modes of thinking. But the very logic of direct action and nonelectoral organization of the new grass-roots organizations, as well as the contact with the nation’s social and economic realities and power structures, helped evolve the new activists’ attitudes toward the ruling class.<sup>364</sup>

For the new radicals, ‘independent politics’ combined with direct action, which rested in the hands of anyone wanting to use it as a means of political participation and intervention in social and economic life. Because of the dispersion of power among complicated institutions and the ever-growing complexity of the organization of post-industrial society, direct action was a form of challenge which could attack the system anywhere. Direct action was a method which returned the initiative to the base and escaped the trap of those ideological

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359 Teodori (1969), First Part, 11.1, p. 49.

360 Ibid., 3.2, p. 14.

361 Ibid., 5.4, p. 29.

362 Ibid., 10.3, p. 47.

363 Ibid., 5.4, p. 29.

364 Ibid., 10.2, p. 46.

disputations over “the necessity of deciding everything in advance” which had paralyzed the traditional left. The method proved successful in at least two respects: it mobilized an ever-growing number of citizens who discovered the possibilities for expression as well as the permanently revolutionary nature of direct action and its possible use as an alternative to both “the bloody futility of civil war and the ineptitude of parliamentary procedure.”<sup>365</sup>

Thus participatory democracy goes beyond even Jefferson’s wish for a revolution every twenty years but eschews the bloody violence of the American Revolution.<sup>366</sup>

### **What Happened to the New Left?**

The New Left achieved a number of successes in its heyday – from wide-ranging civil rights victories, to ending the Vietnam War, to reviving political activism on campus. What, then, happened to the New Left? For surely there is much left still to be done. After achieving these victories it would seem that the New Left has largely disappeared from the scene, its members retiring from activism and/or allowing themselves to be co-opted into the Establishment. Members of the New Left seem to have given up their radicalism in favor of the status quo and, at best, piecemeal reform; in short, they have returned to the ways of the Old Left which is not really of the left at all. What can explain this phenomenon? People do tend to grow more conservative as they age, but this is not an inevitable occurrence and is rather relative. There are two related factors that, while they do not exhaust the range of likely influences, I think carry much explanatory power: 1) While the New Left turned away from the formal democratic process in favor of spontaneous participatory democracy over the course of the movement, I do not think most of them ever really rejected the former on principle. It was too slow and corrupt for dealing with urgent problems in all their immediacy. But once the most urgent of these problems were resolved or at least significant progress had apparently been made, once the Establishment had finally begun to take notice and cater to issues important to the activists, and as the activists grew older and became eligible for moving into respectable positions of power, well, then, the formal democratic process probably began to look more attractive as a means for furthering their remaining goals. As so often happens with radical movements, the New Left was co-opted by or rejoined the Establishment. Staughton Lynd, in the introduction to Priscilla Long’s *The New Left: A Collection of Essays*, writes: “Among white radicals. . . . As participatory democracy, like nonviolence, came to seem the product of a naïve early stage of protest before the magnitude of the Movement’s task was fully recognized, white radicals drifted back toward the political style of the Old Left.”<sup>367</sup> Lynd describes this trend beginning in the second half of the 1960s. 2) The New Left lacked a systematic and consistent ideology with which to resist the lure of statist politics. One example of this lack can be found in Thomas Hayden’s essay “The Politics of the Movement,” in which he looks forward to the formation of a sort of counter-Continental Congress that “might even become a kind of second government, receiving taxes from its supporters, establishing contact with other nations, holding

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365 Ibid., 10.4, p. 48. The internal quotations are of Howard Zinn, op. cit.

366 *The Writings of Thomas Jefferson*, Memorial Edition, Vol. 6, “Thomas Jefferson to William S. Smith, 1787,” p. 372.

367 Long (1969), p. 10.

debates on American foreign and domestic policy, dramatizing the plight of all groups that suffer from the American system.”<sup>368</sup>

And what of the New Left’s successes? Arguably little or no lasting progress was made. With regard to civil rights, the plight of ethnic minorities and the poor remains a live issue – and government social-welfare policies and intervention in the economy are largely to blame, policies and interventions that former members of the New Left continue to advocate today. What of war? The American empire overseas continues to grow. Presidents continue to get us involved in entangling alliances and conflicts that inevitably spur further conflicts, and Congress and the Judiciary continue to acquiesce to the expansion of executive power. The New Left played a key role in stopping one unnecessary, un-Constitutional and unjust war, but there have been more such wars since. Universities continue to be bureaucratic factories of good corporate citizens. Political activism on campus has largely been co-opted into the status quo, while the process of student government elections serve as early training grounds for our future rulers. The New Left was not radical enough. And it lacked a systematic, consistent anti-statist ideology to sustain it.

### **Direct Democracy vs. Representative Democracy: Is There an Important Difference?**

It might be thought that the various problems plaguing the formal democratic process that we have been discussing are peculiar to a particular form of democracy, that is, representative democracy. Representative democracy, we have seen, distances the bulk of the population from direct moral and political action on important public matters. It encourages the formation of a professional political class. It is conducive to a top-down bureaucratic management of society by a technocratic and plutocratic elite. The masses have every incentive in this system to be increasingly ignorant of their representatives and of important public issues. It might be thought, then, that democracy can be radicalized in the direction of direct democracy and that this will fix its problems. Direct democracy would seem at least superficially to be a form of participatory democracy, for in direct democracy the entire population is supposed to be able to be directly involved in deciding important public matters. But not so fast. Is direct democracy really all that different from representative democracy? Is direct democracy really a formalized participatory democracy?

Direct democracy is not really a form of participatory democracy and there are certain important respects in which direct democracy and representative democracy are not so different. Participatory democracy is extra-governmental and involves discourse and deliberation culminating in direct action; it is decentralized and spontaneous, dynamic and flexible. Both direct democracy and representative democracy transform democratic processes into a rigid, formalized, procedural instrument of the state. The result is a centralization and monopolization of democratic decision-making processes.

The focus in direct democracy on voting is still vulnerable to the Thoreauvian objection of gambling with morality, i.e., that you must gamble on getting enough votes to get done what you believe to be right. The very existence of this centralized voting system for deciding public matters of moral importance encourages citizens to focus their energies on this formal democratic process, which is to say that it encourages the wasting of time and money on vote

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368 Teodori (1969), Second Part, Chapter 2, 6.2, p. 208.

getting (or buying), at the expense of getting anything actually productive done in a timely fashion. The result is the incentive increasingly to use the system to centrally plan society from the top-down.<sup>369</sup> And a gulf is opened up between discourse and action. As Benjamin Constant remarks: “Lost in the multitude, the individual can almost never perceive the influence he exercises. Never does his will impress itself upon the whole; nothing confirms in his eyes his own cooperation.”<sup>370</sup> This is not participatory democracy. Participatory democracy is about taking spontaneous direct action, in voluntary cooperation with likeminded fellows, to do what one can to substitute a more satisfactory state of affairs for a lesser one.

Finally, as H.L. Mencken argues, both direct democracy and representative democracy are usually “led and dominated by a few men of unusual initiative and determination, some of them genuinely superior, but most of them simply demagogues and fanatics.”<sup>371</sup> He goes on to add:

The truth is that the difference between representative democracy and direct democracy is a great deal less marked than political sentimentalists assume. Under both forms the sovereign mob must employ agents to execute its will, and in either case the agents may have ideas of their own, based upon interests of their own, and the means at hand to do and get what they will. Moreover, their very position gives them a power of influencing the electors that is far above that of any ordinary citizen: they become politicians *ex officio*, and usually end by selling such influence as remains after they have used all they need for their own ends. Worse, both forms of democracy encounter the difficulty that the generality of citizens, no matter how assiduously they may be instructed, remain congenitally unable to comprehend many of the problems before them, or to consider all of those they do comprehend in an unbiased and intelligent manner. Thus it is often impossible to ascertain their views in advance of action, or even, in many cases, to determine their conclusions *post hoc*.<sup>372</sup>

This might seem like an equally good indictment of participatory democracy, but two things can be said to this objection: 1) I am not quite so cynical and pessimistic about the abilities of the common man as was Mencken. 2) People are far better at dealing with personal, local, smaller matters alone and in voluntary cooperation with others than they are at directing the vast coercive power of the state. When they are misled by fanatics and demagogues in control of the state apparatus (and even on the rare occasions when they are not misled), the consequences are usually disastrous; when they are misled by similar types not in control of the state, the harm caused pales in comparison and is more easily corrected. And when it comes to the larger issues, well, these are usually imaginary or greatly exaggerated (recall the fanatics and demagogues), or they are the direct result of previous state action in which case more state action would only compound the error.

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369 Cf. Teodori (1969), Second Part, Chapter 2, 5.2, “SDS: American and New Era,” p. 180: “At present, the major liberal organizations devote their political energies to various kinds of lobbying operations, usually in support of policies emanating from the administration. Proposals are offered to the President or the Congress, with only rare efforts to organize popular support of them; blame for the failure of liberal programs is usually accorded to the Congress or occasionally to the Administration.”

370 Constant (1819 [1988]), p. 316.

371 Mencken (1926), p. 74.

372 Ibid., pp. 75-76.

Fundamentally though, both representative democracy and direct democracy are statist forms of democracy. Hans-Hermann Hoppe's incisive critique of statist democracy, while primarily directed at modern representative democracy, given its contemporary prevalence, is also applicable to direct democracy. In his book, *Democracy: The God That Failed*, Hoppe makes a distinction between private ownership of government and public ownership of government. The characteristic historical example of the former is monarchy, of the latter, statist democracy. A privately-owned government is one in which the government is considered to be the personal property of an individual(s). In contrast,

[d]emocratic rule—in which the government apparatus is considered “public” property administered by regularly elected officials who do *not* personally own and are not viewed as owning the government but as its temporary *caretakers* or *trustees*—typically only follows personal rule and private government ownership.<sup>373</sup>

These two forms of government have systematically different effects on social time preference.

The Austrian theory of time preference holds that, *ceteris paribus*, people tend to prefer satisfaction of wants sooner rather than later. An individual with a higher degree of time preference will be more present-oriented, while a person with a low degree of time preference will be more future-oriented or far-sighted. Under a privately-owned government, the ruler and the people will tend to have relatively lower degrees of time preference than they would under publicly-owned or democratic government.

Hoppe offers two interrelated structural/institutional factors that drive the tendency towards higher time preference in democracies: “public” ownership of the government and free entry into it.

A democratic ruler can use the government apparatus to his personal advantage, but he does not own it. He cannot sell government resources and privately pocket the receipts from such sales, nor can he pass government possessions on to his personal heir. He owns the *current use* of government resources, but not their capital value. In distinct contrast to a king, a president will want to maximize not total government wealth (capital values and current income) but current income (regardless and at the expense of capital values). Indeed, even if he wished to act differently, he *could not*, for as public property, government resources are unsaleable, and without market prices economic calculation is *impossible*. Accordingly, it must be regarded as unavoidable that public-government ownership results in continual capital consumption. Instead of maintaining or even enhancing the value of the government estate, as a king would do, a president (as distinct from a king) has no interest in not ruining his country. For why would he *not* want to increase his confiscations if the advantage of a policy of moderation—the resulting higher capital value of the government estate—*cannot* be reaped privately, while the advantage of the opposite policy of higher taxes—*can* be so reaped? For a president, unlike for a king, moderation offers only disadvantages.<sup>374</sup>

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373 Hoppe (2001), p. 17. Emphasis in original.

374 Ibid., p. 24. Emphasis in original.

This, of course, applies not only to presidents or prime ministers in a democracy but also to members of congress or parliament as well as to bureaucrats. Obviously not all politicians act in the manner described above, or at least do not intentionally pursue policies with such effects, but public-government ownership has the effect of encouraging such tendencies; it creates an incentive.

Moreover, in a modern democracy, entry into government is in principle open to everyone. In contrast, entry into government in a monarchy is restricted to the ruler and his family and friends. This has the effect of stimulating “the development of a clear ‘class consciousness’ on the part of the governed public and promotes opposition and resistance to any expansion of the government’s power to tax.”<sup>375</sup> Also, “government attempts at territorial expansion tend to be viewed by the public as the ruler’s private business, to be financed and carried out with his own personal funds. The added territory is the king’s, and so he, not the public, should pay for it. Consequently, of the two possible methods of enlarging his realm, war and military conquest or contractual acquisition [e.g., marriage], a private ruler tends to prefer the latter.”<sup>376</sup>

Free entry into government blurs the distinction between the rulers and the ruled. Anyone, in theory, can become part of the ruling class. The “class-consciousness” of the ruled is blurred. Pressure groups will inevitably attempt to influence politicians and get representatives elected in order to use the coercive power of the government apparatus to satisfy their short-run interests at the expense of others. Consequently, “public resistance against government power is systematically weakened.”<sup>377</sup>

The combined effect of these two factors – “public” ownership of government and free entry into it – is conducive to a state of affairs, commonly used to refer to environmental issues, that can best be characterized as a “tragedy of the commons.”<sup>378,379</sup> Of course, the tendency of a higher social time preference under publicly-owned governments relative to privately-owned governments should be understood in conjunction with the tendency of government growth. The Jacobin-style, statist democracies obviously won out over Jeffersonian-style democracy in the twentieth century.<sup>380</sup> The transition from monarchy to democracy in the West has been characterized by rising public debt, high levels of taxation and inflation and the advent of total war. Representative democracy, particularly as it matures, develops a clearer demarcation line between ruler and ruled, but so long as it remains a democracy the line is far less clear and rigid than in a monarchy or dictatorship. Direct democracy only serves to blur the line even further.

Direct democracy, then, is not the radical antidote to the evils of representative democracy. As Don Lavoie observes:

Radicalizing [democracy] is too often imagined as moving toward “direct democracy,” voting directly for social outcomes. But there is much more to democratic processes than voting, and much more to politics than government.

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375 Ibid., p. 21.

376 Ibid., p. 23.

377 Ibid., pp. 25-26.

378 See, for example, *Managing the Commons*, Garret Hardin and John Baden, eds., San Francisco: W.H. Freeman, 1977.

379 It should be noted that neither Hoppe nor the present author advocate a return to monarchy or deny that monarchy suffers from serious flaws as well.

380 Paul Gottfried, “Is Modern Democracy Warlike,” in Denson (2001), pp. 425-431.

Wherever human beings engage in direct discourse with one another about their mutual rights and responsibilities, there is a politics. I mean politics in the sense of the public sphere in which discourse over rights and responsibilities is carried on, much in the way Hannah Arendt discusses it.<sup>381</sup>

When democracy is but the handmaid of the state, relegated merely to the instrumental process of its functioning, as direct democracy still is, it cannot be truly radical and participatory. It cannot help but be inefficacious and coercive. The problem, then, is not democracy but the state itself. As Edmund Burke wisely observed in his radical youth:

Parties in Religion and Politics make sufficient Discoveries concerning each other, to give a sober Man a proper Caution against them all. The Monarchic, Aristocratical, and Popular Partizans have been jointly laying their Axes to the Root of all Government, and have in their Turns proved each other absurd and inconvenient. In vain you tell me that Artificial Government is good, but that I fall out only with the Abuse. The Thing! the Thing itself is the Abuse! Observe, my Lord, I pray you, that grand Error upon which all artificial legislative Power is founded. It was observed, that Men had ungovernable Passions, which made it necessary to guard against the Violence they might offer to each other. They appointed Governors over them for this Reason; but a worse and more perplexing Difficulty arises, how to be defended against the Governors? *Quis custodiet ipsos custodes?* In vain they change from a single Person to a few. These few have the Passions of the one, and they unite to strengthen themselves, and to secure the Gratification of their lawless Passions at the Expence of the general Good. In vain do we fly to the Many. The Case is worse; their Passions are less under the Government of Reason, they are augmented by the Contagion, and defended against all Attacks by their Multitude.<sup>382</sup>

Burke rightly recognized the source of the state's evil in its very nature, viz., that it subordinates the rest under the will of the one, the few or the majority, that the state is necessarily supported by violence and injustices, and that these amount to tyranny.

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381 Don Lavoie (1993), pp. 111-112. Lavoie is here referring to Arendt's *Between Past and Future: Eight Exercises in Political Thought* (1954; New York: Penguin, 1977).

382 Edmund Burke (1757 [1982]), p. 22 (p. 13 of the ebook edition). The question in Latin is from Juvenal, *Satires* VI.347, and can be translated as "Who watches the watchmen?" Italics and archaic spellings and capitalizations in the original.



## **Chapter Seven.**

### **Immanent Politics and the Pursuit of *Eudaimonia***

Political and economic freedom is not simply the absence of government controls over the economy and of dictatorial authority. It involves the emergence of alternative and more fragmented notions of “authority” in which participants in effect have to earn the always partial authority they have. It depends on the active participation in the polity and in the economy by diverse people who exercise their own initiative.

- Lavoie and Chamlee-Wright, *Culture and Enterprise*, p. 1.

Radicalizing [democracy] is too often imagined as moving toward “direct democracy,” voting directly for social outcomes. But there is much more to democratic processes than voting, and much more to politics than government. Wherever human beings engage in direct discourse with one another about their mutual rights and responsibilities, there is a politics. I mean politics in the sense of the public sphere in which discourse over rights and responsibilities is carried on.

- Lavoie, “Democracy, Markets and the Legal Order,” pp. 111-112

### **Introduction**

In the previous chapter I presented a brief overview of the history of liberalism then examined the history and beliefs of the New Left movement in thematic fashion in order to illustrate some lessons about democracy and radical movements. These lessons call for radicalization of how we conceive of democracy and politics and their role in the pursuit of our well-being. The primary purpose of this chapter is develop a non-statist conception of politics grounded in man’s natural end – which is to live a life of *eudaimonia* (flourishing, well-being, happiness). And it will be argued that there is still too much focus on what the state can and should do for us. Rather, the locus of politics ought to be shifted from the state to society – to what we *as members of society* can and should do for ourselves and each other.

### **Toward an Aristotelian Radicalization of Politics and Democracy**

#### **Aristotle on Politics and Democracy, and on the Good Man vs. the Good Citizen**

Before elaborating the aforementioned neo-Aristotelian theory of non-statist politics it will first be useful to briefly explicate and critique Aristotle’s views on politics and certain matters pertaining to it, such as his conception of the *polis*, liberty, the good citizen and the good man. The aim here is to distill from Aristotle’s ideas the essence of the political. We may begin with Aristotle’s conception of the *polis*.

What is Aristotle’s conception of the *polis*? Aristotle says

Every *polis* is a community of some kind, and every community is established with a view to some good; for everyone always acts in order to obtain that which they think good. But, if all communities aim at some good, the *polis* or political

community, which is the highest of all, and which embraces all the rest, aims at good in a greater degree than any other, and at the highest good.<sup>383</sup>

A *polis* is a political community, i.e., a community aimed at the highest good, which encompasses all the others. But of whom is this community comprised and what is the highest good at which they aim in common?

A *polis* is a community of equals, aiming at the best life possible. Now, whereas *eudaimonia* [flourishing, well-being, happiness] is the highest good, being a realization and perfect practice of excellence, which some can attain, while others have little or none of it.<sup>384</sup>

The *polis* is comprised of equals and the highest good at which they aim in common is *eudaimonia*.

Political community is, to our current knowledge, unique to human beings. Human beings are, according to Aristotle, *logikon* and *politikon* animals. Aristotle explains thusly:

Now, that man is more of a political animal than bees or any other gregarious animals is evident. Nature, as we often say, makes nothing in vain, and man is the only animal who has the gift of speech [*λόγον; logon*]. And whereas mere voice is but an indication of pleasure or pain, and is therefore found in other animals (for their nature attains to the perception of pleasure and pain and the intimation of them to one another, and no further), the power of speech [*λόγος; logos*] is intended to set forth the expedient and inexpedient, and therefore likewise the just and the unjust. And it is a characteristic of man that he alone has any sense of good and evil, of just and unjust, and the like,<sup>385</sup> and the association of beings who have this sense makes a family and a polis.

Philosopher Roderick Long elaborates on Aristotle's explanation here by pointing out that while the best translation for these terms *logikon* and *politikon* in English are 'rational' and 'political', respectively, the close links between the two are somewhat lost in translation.

*λόγος* [*logos*] does mean "reason," but its more basic meaning is "speech," or "language," or indeed anything that is *spoken*. By extension, it has two derivative meanings: first, that which is expressed or explained in speech – in other words, the intelligible nature of something; and second the capacity or faculty of speech – in other words, reason. However, even when *λόγος* [*logos*] is used to mean "reason," it nevertheless retains a connotation of "language" and "discourse," and accordingly a social dimension, that the English word lacks. To be a rational animal is to be a language-using animal, a conversing animal, a discursive animal; and to live a human life is to live a life centered around discourse.

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383 Aristotle, *Nicomachean Ethics* (hereafter *NE*) I.1 1252a1-7. Emphasis added.

384 *NE* VII.8 1328a36-40. Emphasis added.

385 *NE* I.2 1253a7-1253a18. Aristotle is ambiguous here when he says that man is *more* of a political animal than bees or any other gregarious animal. It would be more precise and clear to say that man is the only political animal while he and many others are also social, while allowing that a political nature may be ascribed to bees and such animals loosely by way of analogy rather than by a strictly correct usage of the term. For man is the only animal capable of rational thought, speech, and comprehension of right and wrong, and therefore of pursuing shared ends on this basis.

Our nature as rational animals is thus closely allied to our nature as political animals. To be a political animal is not simply to be an animal that lives in groups or sets up governments (after all, sheep do the former and barbarians do both; but neither, in Aristotle's view, are political – or at least not in the fullest and highest sense); rather, it is to cooperate with others on the basis of discourse about shared ends.

For Aristotle, being political is an expression of being rational; just as rational animals naturally conduct their private affairs through reason rather than through unreflective passion, so they naturally conduct their common affairs through public discourse and rational persuasion, rather than through violence. . . . A fully human life, then, will be a life characterized by reason and intelligent cooperation. (Bees may cooperate after a fashion, but not on the basis of discourse about shared ends.) To a discursive (*λογικόν* [*logikon*]) animal, reason's value is not solely as an instrumental means to other goals, but as an intrinsic and constitutive part of a fully human life; and the same is true for the value of cooperation. The *λογικόν* [*logikon*] animal, to the extent that it truly expresses *λόγος* [*logos*] will not deal on cooperative terms with others merely because doing so makes others more likely to contribute instrumentally to the agent's good; rather, the agent will see a life of cooperation with others as an essential part of his own good.<sup>386</sup>

We might then sum up Aristotle's conception of politics as discourse and deliberation between equals in joint pursuit of *eudaimonia*.

To fully understand the nature of the *polis* and of the *polis* members' relations to each other it is necessary to explore the role that liberty plays in Aristotle's ethical and political thought. Long argues that liberty is an external good for Aristotle. He distinguishes between two different meanings of external, however: "An external<sub>1</sub> good is one that is external to body and soul; that is, one that consists largely or solely in facts about the agent's environment. By contrast, an external<sub>2</sub> good is one that is external to the agent's well-being; that is, its value is purely instrumental."<sup>387</sup> Miller seems to concede to communitarians that liberty is an external<sub>2</sub> good for Aristotle with these remarks: "Aristotle . . . evidently relegated liberty to the status of a mere external good" and "freedom is only instrumentally valuable."<sup>388</sup> Long argues that, to the contrary, Aristotle treats liberty as an external<sub>1</sub> good but not also as an external<sub>2</sub> good.

Like friendship, liberty is an external<sub>1</sub> good but is not merely of instrumental value. It is a constitutive part of *eudaimonia*. Voluntary action for Aristotle is that in which "the moving principle is in the agent himself"<sup>389</sup> and actions done under compulsion are involuntary.<sup>390</sup> When one is physically coerced the moving principle is not in the agent himself.<sup>391</sup> For actions to be considered virtuous or vicious, and by implication for someone to achieve *eudaimonia*, the agent must act voluntarily and not under compulsion.<sup>392</sup> Additionally, Long makes the following

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386 Long (1996), pp. 781-782. Emphasis, except on the Greek words, in original. See, also, Aristotle's *Politics* 1253a7-18 & 1280b6-35 and his *NE* 1097b7-11, cf. 1169b17-19.

387 Long (1996), p. 787.

388 Miller (1995), p. 356 and 356 n. 46, respectively.

389 *NE* III.1 1111a23-24.

390 See *NE* III.1 1111a22-23.

391 See *NE* III.1 1110a1-5.

392 See *NE* III.5 1114b21-25.

points: He observes that Aristotle says in the *Politics* that “slavery is inconsistent with self-sufficiency (*αὐτάρχεια* [*autarchia*]).”<sup>393</sup> In the *Nicomachean Ethics*, we see that self-sufficiency is a formal requirement of *eudaimonia*,<sup>394</sup> and that “subordination to another person, being slavish, is inconsistent with greatness of soul.”<sup>395</sup> We are also told in the *Politics* that “virtuous people must be spirited and that spiritedness involves an inclination toward freedom.”<sup>396</sup> Moreover, Aristotle argues that deviant constitutions are despotic whereas a *polis* “is a community of freemen.”<sup>397</sup> Finally, in the *Metaphysics*, Aristotle anticipates Kant when he says “the man is free . . . who exists for himself and not another.”<sup>398</sup>

As the foregoing analysis implies, liberty and individual autonomy are intimately interrelated with group political autonomy. Miller argues that group “political autonomy (political rule according to law) requires some measure, at least, of individual autonomy (self-governance of the soul): that is, a city-state is (politically) autonomous only if the citizens are (individually) autonomous to some degree.”<sup>399</sup> The individual citizens must be able to rule themselves rationally before being fully able politically to rule and be ruled in turn. Group political autonomy also requires, among other things, the consent of the governed to the constitution of the *polis*.<sup>400</sup> Miller argues that consent is merely evidence of a just constitution for Aristotle: “Aristotle gives no indication of . . . treating the consent of the governed as a justification for political authority. Rather, his view is that the voluntary compliance of the subjects to political rule is evidence that the political rule is justified.”<sup>401</sup> But as Long points out, Aristotle suggests otherwise:

Yet it would, like as not, seem highly absurd to those willing to reflect, if this should be the task of the *πολιτικῶν* [*politikou*]: to be attending to how he can rule and despotize (*δεσπόζει* [*despozē*]) over his neighbors, both those who are willing and those who are not willing. For how can that be *πολιτικόν* [*politikon*], or appropriate to a lawgiver, which at any rate is not even lawful? Now to rule not only rightly but wrongly is unlawful, and to dominate is not also to do so rightly. Nor yet do we see this in the other sciences; for it is not the task (*ἔργον* [*ergon*]) of a healer, nor of a steersman, to either persuade or coerce, the one his patients and the other his passengers [but only to persuade them]. But most people seem to think despotic art is *πολιτικῆν* [*politikēn*]. And precisely what they each will say is neither right nor advantageous with regard to themselves, this they are not ashamed to practice toward others; for they seek rightful rule for themselves, but toward others they have no concern for the things that are right.<sup>402</sup>

Long argues that this passage is a reply to Plato's argument in the *Politicus* that, analogous to a good physician, the “true *πολιτικός* [*politikos*] . . . is not one who rules over willing subjects,

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393 Long (1996), p. 788; cf. *Politics* IV.4 1291a10. Emphasis added.

394 See *NE* I.7 1097b7-21.

395 Long (1996), p. 788; cf. *NE* IV.3 1124b31-1125a2, *EE* III.7 1233b36-37.

396 *Ibid.*; cf. *Politics* VII.7 1327b19-1328a7.

397 *Politics* III.6 1279a21; see, also, 1279a17-21.

398 *Meta.* I.2 982b26.

399 Miller (2002), p. 390.

400 See *Politics* II.11 1272b30-31, III.14 1285a27-b21, IV.10 1295a15-24, V.10 1313a5-10, VII.2 1324b22-26.

401 Miller (1995), p. 273.

402 *Politics* VII.2 1324b22-36; Long's (1996: 790) translation. Emphasis added. These words – “but only to persuade them” – in brackets are his; the rest are mine. Cf. *Politics* VII.14 1333B5-1334a10.

but rather one who rules wisely, be his subjects willing or unwilling.”<sup>403</sup> Aristotle here turns Plato's argument on its head by denying his “assumption that the consent of the patient is irrelevant to the ἔργον [ergon; function, task] of medicine; and he insists that to rule against the will of the ruled is a violation of [natural] law and [natural] justice.”<sup>404</sup>

This consent of the governed is no mere consent of the majority but must be unanimous consent. This is the case because, as Miller convincingly argues in *Nature, Justice, and Rights*,

Aristotle implies that the best polis is a group of individuals co-operating for *mutual* [not the overall] advantage, when he characterizes it as 'a community of similar persons for the sake of the best possible life' ([VII.8] 1328a35-7). It is implied that all members of the polis must take part in the good life, since the inhabitants who play a merely functional role in promoting the end without partaking are adjuncts rather than members (cf. IV.4 1291a24-8).<sup>405</sup>

As evidence, among others, Miller cites the following passage from Aristotle's *Politics*:

But a *polis* is excellent due to the fact that the citizens who partake in the constitution are excellent; but in our case all the citizens partake in the constitution. We must therefore enquire as to how a man becomes excellent; for even if all the citizens could be excellent without each of the citizens [being excellent], the latter would be more choiceworthy; for 'all' follows from 'each'.<sup>406</sup>

In other words, a *polis* that does not have the consent of every citizen or does not promote the *eudaimonia* of every citizen is not a just *polis*. Consent, of course, is not enough by itself to establish group political autonomy and justify political rule. As the foregoing has suggested, it is also necessary that the constitution of the *polis* be in accord with natural justice and, more generally, that it promotes the *eudaimonia* of each and every one of its citizens.

An important qualification needs to be made regarding the role of consent in Aristotle's political theory, however. Long remarks that “Aristotle's focus is on consent *to* the political framework, rather than on consent *within* the political framework. Liberalism, of course, has traditionally been concerned with both.”<sup>407</sup> Long points out that it is important to take note of the different uses to which Aristotle put the terms ἐλευθερία (*eleutheria*) and ἐξουσία (*exousia*). Both can be translated as “freedom” or “liberty,” but ἐλευθερία (*eleutheria*) “represents the condition of not being ruled against one's interest and without one's consent” and “is for the most part a matter of consent to the constitution as a whole” while ἐξουσία (*exousiai*) “are specific freedoms one is allowed under that constitution.”<sup>408</sup> The following passage from the *Metaphysics* is evidence that Aristotle did not think ἐλευθερία (*eleutheria*) necessarily implied any and all ἐξουσία (*exousiai*):

For all things are ordered together in relation to one end; but, just as in a household, to those who are free (ἐλευθέρους [eleutherois]) it is least open ἡκιστα ἔξεστιν [ēkista exestin]; note that ἔξεστιν [exestin] is the verb form of

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403 Long (1996), p. 790. Emphasis added. Cf. Plato's *Politicus* [Statesman] 276d-277a and 291e-293e.

404 Ibid. Emphasis added.

405 Miller (1995), p. 219. Emphasis in original.

406 *Politics* VII.13 1332a32-38; Miller's (1995: 222) translation. Emphasis added. The brackets are his.

407 Long (1996), p. 795. Emphasis mine.

408 Ibid., p. 794.

ἐξουσία [exousia]} to act as chance dictates, but rather, all or most things are ordained, whereas for slaves and beasts little is ordained toward the common end, and most is as chance dictates.<sup>409</sup>

For liberals and for the Athenian democrats, ἐλευθερία (*eleutheria*) is not separable from ἐξουσία (*exousia*); but Aristotle rejects this conception of ἐλευθερία (*eleutheria*): “It is thought that . . . doing whatever one wishes counts as being free (ἐλεύθερον [eleutheron]). Thus, in democracies of this sort, each person lives as he wishes. . . . But this is base; for one should not deem it slavery, but rather salvation, to live according to the constitution.”<sup>410</sup> Hence, the door to paternalistic legislation is open.

However, there are at least two rights in particular, highly valued by (classical) liberals, that Aristotle also recognizes and values: the right to bear arms and the right to private property. According to Aristotle, the “constitution must be confined to those who bear arms.”<sup>411</sup> Indeed, ancient Athens possessed no standing army or police force. It relied on a citizen militia. Aristotle's reasons for advocating an armed citizenry are the same as the reasoning for the Second Amendment of the United States Constitution, viz., so that the citizens could ward off both threats from abroad and tyranny at home.<sup>412</sup> An unarmed citizenry is virtually an enslaved one.<sup>413</sup> It is tyrannies and oligarchies, and certainly not the best *polis*, that do not trust the general population with arms.<sup>414</sup>

In *Politics* II.5, Aristotle claims that private property is necessary for virtuous actions: for example, generosity.<sup>415</sup> Miller correctly observes that Aristotle does not explicitly “endorse a Locke-style labour theory of acquisition,”<sup>416</sup> but Long argues that Aristotle does do much to lay the groundwork for such a theory.<sup>417</sup> Long points out that “Aristotle, like the Lockean liberal,<sup>418</sup> insists that one's property is an extension of oneself;<sup>419</sup> it is for this reason that our property is so precious to us, as something that is our own.”<sup>420</sup> Most significantly, Long adds, property comes to have this relationship to and importance for us precisely because we have produced it.<sup>421</sup> Aristotle states:

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409 *Meta*. XII.9 1075a18-23; Long's (1996: 795) translation. The {} brackets are Long's; the [] brackets are mine. Emphasis added.

410 *Politics* V.9 1310a30-36; Long's (1996: 795) translation. Emphasis added.

411 *Politics* IV.13 1297b2; Long's (1996: 799) translation. Cf. *Politics* IV.13 1297a30-b2 and VII.9 1329a10-12. It does not appear as if this is an optional right, however; that is, it is not clear whether citizens have a right *not* to bear arms.

412 See *Politics* III.15 1286b33-40, IV.4 1291a7-9, VII.8 1328b7-10.

413 See *Politics* II.8 1268a16-20.

414 See *Politics* V.10 1311a6-13.

415 Herein lies one case in which Aristotle recognizes at least implicitly a right to do wrong. He defends private property rights as a necessary precondition of the virtue of generosity. Generous giving differs from just giving in that the former involves giving what one has a right to withhold: “Aristotle's point is that without private property rights, no act of giving could count as generous; generosity would simply collapse into justice. Thus, in Aristotle's eyes, generosity presupposes the right to act ungenerously.” (Long 1996: 779)

416 Miller (1995), p. 328.

417 Long (1996), pp. 800-801.

418 See Locke, *Second Treatise*, 5.26-27.

419 See *NE* V.6 1134b10-14, *Politics* I.6 1255b11; cf. *Politics* I.4 1254a7-18.

420 Long (1996), p. 800. See also *Politics* II.4 1262b22-23, II.5 1263a40-b5; *Rhetoric* I.11 1371b12-28.

421 *Ibid.*

The cause of this is that existence is to all men a thing to be chosen and loved, and that we exist by virtue of activity (i.e., by living and acting), and that the handiwork *is* in a sense, the producer of activity; he loves his handiwork, therefore, because he loves existence. And this is rooted in the nature of things; for what he is in potentiality, his handiwork manifests in activity.<sup>422</sup>

It remains to discuss Aristotle's conceptions of the good citizen and the good man, and to do that we must also consider in more detail his conception of political rule. To begin with, Aristotle distinguishes political rule from other forms of rule such as kingly, despotic, and household management.<sup>423</sup> "When the government is personal, the ruler is a king; when, according to the rules of the political science, the citizens rule and are ruled in turn, then he is called a statesman" and there is political rule.<sup>424</sup> Those who know only how to rule and not how to be ruled as well as those who know only how to be ruled and not how to rule are not capable of political rule.<sup>425</sup>

Aristotle remarks that "there are different kinds of citizens; and he is a citizen in the fullest sense who shares in the honours of the state. Compare Homer's words 'like some dishonoured stranger';<sup>426</sup> he who is excluded from the honours of the state is no better than an alien."<sup>427</sup> A *polis* "ought to be composed, as far as possible, of equals and similars."<sup>428</sup> It is the virtuous who possess individual autonomy, or the greatest measure of it, and in the best *polis* the citizenry will all be virtuous and roughly equally so. The reason for this lies in Aristotle's conception of distributive justice and, particularly in relation to the question of who should rule, what has come to be called the merit principle. In discussing the just distribution of political offices, Aristotle makes the following argument:

All men think justice to be a sort of equality; and to a certain extent they agree with what we have said in our philosophical work about ethics. For they say that what is just is just *for* someone and that it should be equal for equals. But there still remains the question: equality or inequality of what? . . . But if wealth and freedom are necessary elements, justice and valour are equally so; for without the former qualities a [*polis*] cannot exist at all, without the latter not well. . . . If the existence of the [*polis*] is alone to be considered, then it would seem that all, or some at least, of these claims are just; but, if we take into account a good life [which is the *telos* of the *polis*], then, as I have already said, education and excellence have superior claims.<sup>429</sup>

Our conclusion, then, is that political society exists for the sake of noble actions, and not of living together. Hence they who contribute the most to such a society have a greater share in it than those who have the same or a greater freedom or nobility of birth but are inferior to them in political excellence; or than those who exceed them in wealth but are surpassed by them in excellence.<sup>430</sup>

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422 *NE* IX.7 1168a5-10.

423 See *Politics* I.1 1252a7-9; cf. I.3 1253b19-20.

424 *Politics* I.1 1152a14-17.

425 See *Politics* III.4 1277b7-30 and IV.11 1295b15-26.

426 The quote is from *The Iliad* IX.648.

427 *Politics* III.5 1278a35-38.

428 *Politics* IV.11 1295b25-26; cf. I.7 1255b19-20, III.6 1279a8-16, and III.17 1287b37-1288a5.

429 *Politics* III.12 1282b16-22, 1283a19-21, 13 1283a23-25.

430 *Politics* III.9 1281a3-8.

Thus, a *polis* that is politically autonomous will consist of citizens who are virtuous and roughly equal in this regard so that they can justly rule and be ruled in turn.

But is it possible to be both a good citizen and a good man at the same time? Can the requirements of the one conflict with those of the other? In what, specifically does being a good citizen consist?

One citizen differs from another, but the salvation of the community is the common business of them all. This community is the constitution; the excellence of each citizen must therefore be relative to the constitution of which he is a member. If, then, there are many forms of government, it is evident that there is not one single excellence of the good citizen which is perfect excellence. But we say that the good man is he who has one single excellence which is perfect excellence. Hence it is evident that the good citizen need not of necessity possess the excellence which makes a good man.<sup>431</sup>

Thus a good citizen is loyal and obedient to his *polis*, whether it is just or not, and in such cases where the *polis* is not just the requirements of being a good citizen will conflict with the requirements of being a good man. For Aristotle, obviously, the requirements of being a good man trump those of being a good citizen; and herein lies potential for civil disobedience and even revolution. The good man and the good citizen can be one and the same in the best *polis*, however. But should we not go further than this constitution-relative conception of the good citizen? Should we not take a broader perspective and say that a good citizen will be a good man who, recognizing that his *polis* deviates from the best *polis*, will do what he can to right its wrongs and steer it toward the ideal? For surely a citizen too is deficient who settles for a *polis* that is less than it can be.

From the liberal point of view there is a more serious difficulty besetting Aristotle's conceptions of the good citizen and the good man. Aristotle seems to suggest that the good man cannot actualize his full potential except when he is exercising practical wisdom as a just ruler. He says that "the good *ruler* is a good and wise man, but the citizen need not be wise."<sup>432</sup> Moreover,

men are praised for knowing both how to rule and how to obey, and he is said to be a citizen of excellence who is able to do both well. Now if we supposed the excellence of a good man to be that which rules, and the excellence of the citizen to include ruling and obeying, it cannot be said that they are equally worthy of praise.<sup>433</sup>

Finally, Aristotle claims that "Practical wisdom is the only excellence peculiar to the ruler: it would seem that all other excellences must equally belong to ruler and subject. The excellence of the subject is certainly not wisdom, but only true opinion."<sup>434</sup> It would seem, then, that the truly good man will be a rare bird indeed and that he will only be so while he rules over supposedly free men, not when he serves in his capacity as a mere citizen. Even in the best *polis* it seems that the good citizen and the good man are only one and the same when united in the good ruler.

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431 *Politics* III.4 1277b27-35.

432 *NE* III.4 1277a14-15.

433 *NE* III.4 1277a26-28.

434 *NE* III.4 1277b26-29.



Given the considerations of this section and previous chapters, radical liberals can have no truck with this ideal.

Both individual autonomy and group political autonomy depend upon the citizens receiving a proper education, however, for virtuous behavior generally requires education beginning in childhood. Aristotle, in essence, discusses two forms of education pertaining to intellectual virtue and ethical virtue, respectively, in *Nicomachean Ethics* II.1. “[I]ntellectual excellence in the main owes both its birth and its growth to teaching (for which reason it requires experience and time), while moral excellence comes about as a result of habit.”<sup>435</sup> It is the task of legislators to “make citizens good by forming habits in them . . . and those who do not effect it miss their mark, and it is in this that a good constitution differs from a bad one.”<sup>436</sup> The legislators or lawmakers must design the constitution and the law, which need not be written,<sup>437</sup> so that the *polis* will perform its proper educative function of teaching the citizens intellectual virtue and habituating them in ethical virtue, for

the paternal command indeed has not the required force or compulsive power (nor in general has the command of one man, unless he be a king or something similar), but the law *has* compulsive power, while it is at the same time an account proceeding from a sort of practical wisdom and intellect. And while people hate *men* who oppose their impulses, even if they oppose them rightly, the law in its ordaining of what is good is not burdensome.<sup>438</sup>

From the point of view of the modern liberal, there are a number of deficiencies in Aristotle's ethical and political thought. First, Aristotle's conception of *eudaimonia* is arguably overly monistic, focusing on a rather narrow conception of the contemplative life, the political life, or some combination of the two. Despite his significantly greater recognition of the value of diversity and the individualized and diverse nature of human flourishing than Plato, he did not appreciate them fully. Second, Aristotle did not fully understand the nature, value, and fundamental importance of individual liberty for human flourishing. Third, he wrongly attributes to nature rather than cultural factors and mere prejudice on his part the alleged rational deficiency of women compared to that of men and of non-Greeks compared to Greeks. Fourth, as noted in chapter five, Aristotle, conflates the state and civil society in his conception of the *polis*, a conflation that might have been unavoidable in the era of the Greek city-state but can no longer be excusable in light of modern experiences, theory, and historical knowledge. The conflation of state and civil society can only lead to conceptual confusion, paternalism, and totalitarianism. Fifth, he overestimates the power and efficacy of the state to educate its citizens in virtue. And finally, again as noted in chapter five, liberals must reject his principle of rulership and, to a certain extent, his principle of community as well.

### **Toward a Non-Statist Theory of Politics and Democracy**

We have seen that in Aristotle's conception of political liberty the role of consent is limited *to* the constitution, or political framework. Consent *within* the constitution is not as important to him, whether it should be protected or not depends on the case. Liberals, on the

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435 *NE* II.1 1103a14-19.

436 *NE* II.1 1103b3-6.

437 See *NE* X.9 1180b1.

438 *NE* X.9 1180a19-24.

other hand, hold consent within the political framework to be just as important as consent to the political framework; liberalism is a political philosophy of mutual consent. But liberalism has since its discovery carried the seeds of its own corruption and destruction within it, with the exception of a few truly radical thinkers over the past few centuries, in the form of an inner contradiction – its acceptance of the state. Just as the radical members of the New Left movement of the 1960s eventually made their peace with the state after achieving their most immediate goals, so too did the original revolutionary liberals settle for merely liberalizing the state and then joining the new Establishment. It was this renunciation of its radical roots and the concomitant shift to conservative methods of reform, along with the rejection of radical natural law/natural rights philosophy in favor of the philosophy of utilitarianism, much more amenable to *raison d'état* decision-making, that left a radical void into which stepped socialism as a reaction to the then quasi-conservative liberalism and traditional conservatism.<sup>439</sup> The role of the state in most liberal theories leads to an inevitable tension between consent to the political framework and consent within the political framework. For the state, which is an organization that claims a territorial monopoly on the legal use of force and ultimate decision-making, must, by its very nature and existence, interfere with at least some mutually consensual relationships.

Roderick Long, in his essay “Immanent Liberalism: The Politics of Mutual Consent,” draws some illuminating distinctions between immanent and vicarious liberalism as well as immanent and vicarious communitarianism. He drew his inspiration for the distinction between immanent and vicarious liberalism from a similar distinction between genuine and spurious communitarianism made by Karl Marx in his essay “On the Jewish Question.” As Long relates Marx’s argument:

[T]he modern democratic state systematically spreads a communitarian illusion over an underlying liberal reality. Citizens of such states exercise the communitarian values of solidarity and fellowship with other human beings – but only at the political level, through their ties to the state apparatus (in the form, e.g., of equal rights to the franchise). Such communal ties have no significance in people’s actual, everyday lives, which remain competitive, individualistic, and atomized[.]<sup>440</sup>

Against this vicarious form of communitarianism, Marx advocates an immanent communitarianism in which communitarian ideals are realized in people’s everyday lives in society. These communitarian ideals are essentially expressed in status relationships; the ideal community is modeled after the family (or, to hearken back to Arendt’s critique of Plato, the household).<sup>441</sup> For socialist communitarians, these status relationships ought to be egalitarian in nature rather than hierarchical as with the conservatives of the Old Order. Marx’s solution to the problems inherent in liberal corporatism

is to reassert the claims of status over contract – not, of course, by giving government priority over society, but rather by reshaping society along status rather than contract lines. In short, he favors an Immanent Communitarianism, with status values realized directly at the level of society, and he warns communitarians against a Vicarious Communitarianism that, by attempting to

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439 Rothbard (1965b), pp. 6-7.

440 Long (1995), pp. 1-2.

441 See, e.g., Alasdair MacIntyre, *After Virtue* (1984), pp. 220-221.

realize status only indirectly through the intermediary of the state, in effect turns the entire social realm over to the liberal ideal of contract.<sup>442</sup>

The paradigm liberal relationship is the contractual relationship, which is characterized by mutual consent. The distinction between immanent and vicarious liberalism hinges on the locus of consent. “Shall liberalism be immanent, realizing contract values directly at the level of society, or vicarious, realizing such values only indirectly and fictively through the intermediary of the state – thus running the analogous risk of turning the entire social realm over to the communitarian ideal of status?”<sup>443</sup> And it is exactly the realization of this risk in corporatist-liberal democracies around the world against which the New Left rebelled. Long points out that although at first glance the social contract appears to embody the contractual ideal of mutual consent,

[s]ocial-contract theory runs the risk of displacing consent from its immanent role at the level of society to a vicarious role at the level of the state. This opens the door to the Rousseau-Kant-Hegel paradigm of contractualism, which aims not at freedom *from* constraint, but rather at freedom *through* constraints expressive of the constrainees’ true will. Thinkers in this paradigm see the function of consent as the *legitimation* of our chains, rather than their removal. The danger to liberalism is that, in focusing on the role of consent *to* the political framework, liberals may lose sight of consent, or its absence, *within* that framework – bartering, in Benjamin Constant’s terms, the liberty of the moderns for the liberty of the ancients. This is fine from a communitarian perspective, of course, but surely undesirable from a liberal one.

Social-contract theory need not have such implications, of course. For Overton, Milton, and Locke, for example, the function of the social contract is to guard and preserve consensual relations in everyday social life, not to replace them. Contract values remain immanent, not vicarious. When consent to political authority takes center stage, however – as it does with Hobbes and Rousseau – and the state rather than society becomes the morally significant locus of contract relations, the result all too often is a *de facto* society of status resting on a *de jure* foundation of contract[.]<sup>444</sup>

Although the state is not the morally significant locus of contract relations in all theories of liberalism, we have seen that it tends to become so in practice over time. This is because even the most minimal state monopolizes two of the most important realms of political decision-making and enforcement: law and security. It must by its very nature, if it is to remain what it is, prohibit mutually consensual relations in these realms. Moreover, theory and history have shown that no state remains limited for long; they all eventually grow into Leviathan if they are not first overthrown from within or conquered from without.

In the previously quoted passage above, Long says something interesting about the liberty of the moderns versus the liberty of the ancients that bears further consideration. He remarks that vicarious liberalism risks trading the former for the latter, with the implication that

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442 Long (1995), p. 10.

443 Ibid., p. 10.

444 Ibid., pp. 10-11. Emphasis in original.

this would not be desirable. As described, correctly, by Constant, they do appear to be irreconcilable. The liberty of the ancients, Constant writes:

consisted in exercising collectively, but *directly*, several parts of the complete sovereignty; in deliberating, in the public square, over war and peace; in forming alliances with foreign governments; in voting laws, in pronouncing judgments; in examining the accounts, the acts, the stewardship of the magistrates; in calling them to appear in front of the assembled people, in accusing, condemning or absolving them.<sup>445</sup>

There is room for consent to the political framework here, but the ancients “admitted as compatible with this collective freedom the complete subjection of the individual to the authority of the community.”<sup>446</sup> In contrast, the moderns traditionally understood liberty to mean everyone having

the right to be subjected only to the laws, and to be neither arrested, detained, put to death or maltreated in any way by the arbitrary will of one or more individuals. It is the right of everyone to express their opinion, choose their profession and practice it, to dispose of property, and even to abuse it; to come and go without permission, and without having to account for their motives or undertakings. It is everyone’s right to associate with other individuals, either to discuss their interests, or to profess the religion which they and their associates prefer, or even simply to occupy their days or hours in a way which is most compatible with their inclinations and whims. Finally it is everyone’s right to exercise some influence on the administration of the government, either by electing all or particular officials, or through representations, petitions, demands to which the authorities are more or less compelled to pay heed.<sup>447</sup>

Here we have both consent to the political framework and consent within the political framework protected, but something has gone missing in the transition. While a marked improvement over the liberty of the ancients, the liberty of the moderns replaces direct political participation with a vicarious substitute. Representative democracy is substituted for direct democracy.

[T]he individual, independent in his private life, is, even in the freest of states, sovereign only in appearance. His sovereignty is restricted and almost always suspended. If, at fixed and rare intervals, in which he is again surrounded by precautions and obstacles, he exercises this sovereignty, it is always only to renounce it.<sup>448</sup>

Representative democracy and the federal and constitutional checks and balances that accompany it in modern republican governments are thought to be necessary to protect the liberty of the moderns. Is it not possible to have the liberty of the moderns with the direct participation of the ancients? to combine the best features of both types of liberty? Indeed, I think it is. The dialectical solution to this apparent dilemma lies in participatory democracy and a

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445 Benjamin Constant (1819 [1988]), “The Liberty of the Ancients Compared with that of the Moderns,” p. 311. Emphasis mine.

446 Ibid., p. 311.

447 Ibid., pp. 310-311.

448 Ibid., p. 312.

shifting of the locus of politics from the state to civil society. What is needed is a truly immanent, rather than our customarily vicarious, politics.

At this point libertarian anarchists may object. What is all this talk about democracy and politics within the locus of society? We are trying to get rid of democracy and politics; these are creatures of the state, after all. Well, no, they are not, actually. One of the aims of this chapter and the last has been to show that properly conceived they are radically non-statist. Granted, more needs to be said in this regard, but I am not yet done. Don Lavoie has some remarks that are particularly relevant here:

Just as socialism resolved the conflict between democracy and markets by rejecting markets, liberalism ends up marginalizing democracy [by traditionally relegating it to an instrumental process within the state]. . . . The anarchist position seems even worse . . . anarchism winds up apparently rejecting politics, and therefore democracy, altogether. After all, as radical liberals say, if everything is decided by market forces, what is there to vote about?

In that question is contained, I suspect, a fundamental misreading of the nature of both market forces and democratic principles. First of all, as I have been saying, democracy is more an issue of open discourse than it is an issue of voting. And secondly, when decisions are “left to the market” there is plenty to talk about.<sup>449</sup>

Although the market process operates by fixed laws, in a fundamental sense *we* are the market. Ultimately, it is up to us what the market will provide and what it will not. The market reflects our own values. To this it can be added that the market is but an aspect of society, albeit an important one, not the whole of it. Not all decisions need be purely market-based ones.

Lavoie makes some important points about the political culture necessarily underlying any political framework as well as the market. Critics of the market often assume wrongly that it is comprised of a-political, cultureless, atomistic agents. When defending their preferred political framework people usually assume without explicit argument a political culture necessary to support it. Every political framework is necessarily supported by commonly held beliefs about what is morally acceptable. Focusing on the legal system, Lavoie writes:

What makes a legal system, *any* legal system, work is a shared system of belief in the rules of justice – a political culture. The culture is, in turn, an evolving process, a tradition which is continually being reappropriated in creative ways in the interpersonal and public discourses through which social individuals communicate. Anarchism seems workable to its advocates only because they implicitly assume a certain democratic political culture will prevail. Unless anarchists begin to say something about the kind of political culture that would be necessary for a stateless legal order, they will never get very far.

Everything depends here on what is considered acceptable social behavior, that is, on the constraints imposed by a particular political culture. Where slavery is considered offensive, those who attempt it are easily overwhelmed by the horror of the public. Where it is thought by the general public justifiable, no amount of constitutional design will prevent it. Where taxes are accepted as morally defensible, they will be deployed; where they are equated with slavery, they will

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449 Lavoie (1993), p. 117. Emphasis in original.

be impossible to collect. The feasibility of slavery or taxation does not fundamentally depend on the (concentrated) opinion of the designated representatives of the public, but on the (distributed) opinions of the public itself.

To be sure, there are fixed natural laws, economic and otherwise, that preclude some political frameworks from being workable. Of the rest, some will be better than others; and some, like minarchism, will possess such inherent structural incentives as to carry the seeds of their own eventual destruction. But all rely upon an underlying political culture for support.

Lavoie is quite right that political culture is an issue that libertarian market anarchists sorely need to address, particularly with regard to the two most sacred and intertwined duties of the state: the provision of justice and security.

The issue of the market supply of legal services is especially interesting, in that law lies at the intersection of the two great ideals of liberalism, democracy and markets. Law is at once the most important precondition of effective market processes and the most important topic of democratic political discourse.

In the debates over the supply of justice services, anarchists have tended to picture the legal order nonpolitically, and the limited governmentists to picture it noneconomically. I think both of these ways of thinking about the legal order need to be challenged. Each is a one-sided way of viewing political economy, which should be seen as an inseparable whole.

Rothbard and [David] Friedman are a case in point. They take the position that politics (and hence any positive notion of democracy) is by definition a matter of government, so that the whole topic is, as it were, summarily dismissed. There is no need for political discourse in the utopias of these authors, since agents simply “buy” justice services on an impersonal competitive market. Friedman’s approach leaves the enforcement, interpretation, and definition of rights to be “decided by the market.” In Rothbard’s case, enforcement and interpretation are left to private police and courts, but the legal rules are supposed to be derived from natural law, established once and for all by a deductive science of ethics.

In either case, there is no room in these utopias for politics. At most, political discourse is only needed in order to drive the process that brings about a radically liberal society, but once the free society exists, all the work of politics is over. The definition of rights is decided without the need for discourse, either by the force of an impersonal market, or by the force of an unquestionable logic.

Liberals cannot resolve the issue of whether a legal system could be supplied by a free market because the issue depends on what is happening in the political culture, in the ongoing discourses about mutual rights and obligations, which individualist liberalism, in both limited-government and anarchist versions, utterly ignores. Radical liberals have been so intent on establishing a universal system of individual rights that they have failed to address the cultural conditions in which socialized individuals would demand this or that kind of legal service.

The weakness of both sides in the debates over anarchism is their neglect of what lies behind the legal order. Why does anybody obey the law, whether it is conceived as being supplied in a competitive or monopolistic manner? Limited-

government advocates assume that it is the ultimate threat of force by a monopoly state that ensures that individuals will obey the law. Anarchists assume that there is a demand for genuine justice on the part of individual agents, so that competitive courts will profit most from behaving in a properly liberal manner. Both beg the question of the political culture. What gives legitimacy to a legal system is neither the force of threat by the police, nor the force of pure logic, but the force of public opinion, of the distributed political discourse about rights and responsibilities.<sup>450</sup>

Lavoie is arguably unfair to Friedman and Rothbard, but tendencies he identifies are there in both and in their followers. While Friedman, Rothbard, and their followers do not ignore the issues of political culture to the extent Lavoie suggests, he is right that they do not give these issues enough attention. And notably Lavoie remarks in a footnote that he has been persuaded that free-market anarchism is workable under the right cultural conditions.<sup>451</sup> He does seem to go too far, however, in another footnote:

Indeed, this may be giving these authors too much credit. Political discourse presupposes an open exploration of issues of mutual concern. It seems that for Rothbard and his followers, genuine political discourse is not even needed in order to *get* to the free society. Instead, it seems there needs to be what is essentially a religious-conversion experience. The definition of rights is not open to exploratory dialogue but presumed to have been accomplished once and for all in Rothbard's *Ethics of Liberty*.<sup>452</sup>

I do not think it accurate to say that Rothbard held the Libertarian Law Code had been deduced once and for all in his *Ethics of Liberty*. But what I find particularly problematic about this footnote is the vagueness in the notion that the definition of rights must be open to exploratory dialogue. What does this mean exactly? It seems uncontroversial to me that there will and should be open exploratory dialogue as to which particular liberal theory of rights is the best; likewise, that there will and should be dialogue over the proper interpretation and application of rights at the margin. There will even be disagreements over matters of substance. But the core conceptions of the basic liberal rights must be generally accepted if there is to be genuine, immanent political-democratic discourse at all. Lavoie seems to recognize this in another work co-authored with Emily Chamlee-Wright:

To do away with the principle of voluntary action, no matter how worthy the end, is to annihilate freedom and to institute slavery. When the challenge of social responsibility is made in the arena of civic debate, this is no longer a problem, as any action taken in response to those claims would be voluntary.<sup>453</sup>

They are here discussing the challenge of social responsibility with regard to businesses but the point applies to political-democratic discourse generally. Liberty, in the full liberal sense, is a necessary precondition for genuine, immanent politics.

Let us now turn to the task of developing the kernel of an adequate theory of politics. I understand such a theory to be a non-statist one along Aristotelian-liberal lines, grounded in a

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450 Lavoie (1993), pp. 117-119.

451 Ibid., p. 115 n. 26.

452 Ibid., p. 118 n. 30.

453 Lavoie and Chamlee-Wright (2000), p. 116.

*eudaimonistic* theory of virtue ethics and natural rights. In the liberal tradition rights have, at least since Locke, generally been grounded in self-ownership, and liberalism has generally been viewed by defenders and critics alike as having little or nothing to say about ethical issues beyond justice. An Aristotelian liberalism, on the other hand, grounds rights precisely in man's obligation to pursue his own *eudaimonia*, his natural and ultimate end, which is a life of flourishing or well-being, a life proper to man. Since man is a rational, political and social animal, a fully human life is one lived in accord with these essential aspects of his nature within the context that he is neither a god nor a mere beast but a *human* being who must make his way in the world in all his vulnerable embodiedness without giving in to the baser aspects of his nature.

First and foremost, *eudaimonia* requires living a life of reason, which means using one's rational faculty to discover the ends one ought to pursue and the proper means for achieving them, both in solitary situations and in social and political life. The virtues are constitutive of a life of *eudaimonia*, principles of proper conduct both for when we are alone and in our relations with others. Like the virtue ethics of Aristotle, Aristotelian-liberal virtue ethics focuses on the moral agent; it offers a *supply-side* approach rather than a typically modern *demand-side* approach to morality and rights. As Roderick Long (1994/95) explains: "According to a demand-side ethics, the way that A should treat B is determined primarily by facts about B, the *patient* [recipient] of moral activity; but for a supply-side approach like Virtue Ethics, the way that A should treat B is determined primarily by facts about A, the *agent* of moral activity." The central question of a eudaimonistic virtue ethics is not "What consequences should I promote?" or "What rules should I follow?" but rather "What kind of person should I be?"<sup>454</sup>

It is the very nature of *eudaimonia* and virtue, or more narrowly of moral acts, that they must be desired and freely chosen for the right reasons.<sup>455</sup> The pursuit of *eudaimonia*, the practice of virtue, must be self-directed. Coercive interference, or the threat or use of physical force, compromises self-direction and therefore moral agency. An act of mine does not count as virtuous and therefore contributory toward my *eudaimonia* if you force it upon me, even if it otherwise would have been had I desired and freely chosen it for the right reasons. From the structural level of analysis, of the ordering principle of society, we can see that the right to liberty protects the *possibility* of self-direction, a necessary condition for moral agency common to all forms of human flourishing. The right to liberty, in this sense, is a *metanormative* principle. From the personal level of analysis, the level of ethical theory, we can draw on the supply-side/demand-side distinction to arrive at the realization that rights do not derive primarily from facts about the rights-bearer qua moral recipient but rather derive primarily from facts about the moral agent. In other words, it is not that rights are first properties of individuals and thereby produce obligations in others. On the contrary, it is rather our prior obligations as human beings to live a life of reason from which rights are derived. As Long argues,

just as courage, generosity, and temperance are the virtues that define the appropriately human attitudes toward danger, giving, and bodily pleasures respectively, so the virtue of justice defines the appropriately human attitude toward violence. A maximally human life will give central place to the distinctively human faculty of *reason*; and one's life more fully expresses this faculty to the extent that one deals with others through *reason* and persuasion,

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454 Long (1994/95).

455 See Aristotle, *Nicomachean Ethics*, II.4 (1105a18-1105b17) and III.1-5 (1109b30-1115a6).



rather than through violence and force. To choose cooperation over violence is to choose a human mode of existence over a bestial one. Hence the virtuous person will refrain from initiating coercion against others.<sup>456</sup>

Rights are legitimately enforceable moral claims derived from the prior obligation to deal with each other through reason rather than force. Stated negatively and more precisely: your right is a legitimately enforceable moral claim derived from my prior obligation not to threaten or use initiatory physical force against you.

For Locke, the origin and purpose of government, and its only justification, is the protection of the individual's rights to life, liberty and property. If the state is to have any justification in light of a Lockean or Aristotelian liberalism, it will at least have to meet this criterion. A careful examination of the nature of the state, however, reveals that it cannot. Recall that the state is an organization that claims a territorial monopoly on the legal use of force and ultimate decision-making. Consider, also, that states generally acquire their revenue by physical coercion (taxation). Now, taxation is theft and therefore a violation of property rights. While it is conceivable that in principle a state could acquire its revenue purely from voluntary contributions, it would be a misnomer to call this taxation.<sup>457</sup> If tax "contributions" were truly voluntary, there would be no need to back up their collection with the threat or use of initiatory physical force. As a self-proclaimed territorial monopolist, even the most minimal libertarian state, should it seek to enforce its claim, must necessarily violate the rights of any of its rights-respecting subjects who prefer an alternative. When the state attempts to prohibit competitors in the voluntary production, purchase and sale of security and legal services, it violates the rights of all the parties involved. Even if we put all this aside, no state known to history has been so constituted as to provide a reasonable assurance that the exercise of its power will not be arbitrary, that the laws it passes will be just, that it will not seek continually and increasingly to expand the size and scope of its activities beyond the protection of rights.

It would be correct to point out that none of the foregoing precludes the possibility of a state actually acquiring the explicit and unanimous consent of its subjects. It is, after all, conceivable that a state could, at least in principle, manage to do so. A few points can be made in reply. First, while this may in principle be possible, in actual practice such an occurrence is exceedingly unlikely and like to be of only transitory duration. Second, this in-principle-possibility is no justification of a state that does not have explicit and unanimous consent in reality. Third, although consent is necessary, it is not enough to justify the state, to make the state just. A state that has the explicit and unanimous consent of its subjects but violates the rights of other persons who are not its subjects is still unjust, as are its agents and supporters.

More to the point, a contract with the state is no more valid than, and is essentially the same as, a slavery contract.<sup>458,459</sup> This is essentially because the state claims a territorial

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456 Long (1994/95). Emphasis in original.

457 One possible means of voluntary revenue for the state that has been suggested is a lottery. However, one wonders how any state would effectively enforce its claim to a territorial monopoly with voluntary contributions as its only source of revenue. Hence, one sees in history the inherent tendency of states to impose and increase taxation on their subjects.

458 For lack of a better term, I will use 'state contract' to refer primarily to hypothetical explicit contracts with the state, although my argument against these applies equally as well to the fiction of the implicit consent-based social "contract."

459 Locke's contention that the people have a right to revolution because the relationship between a people and their state is contractual notwithstanding; that this ought to be the case is true. Moreover, a truly voluntary government

monopoly on the legal use of force and ultimate decision-making. In both cases (of state contracts and slavery contracts), to paraphrase Spooner, an individual delegates, or gives to another, a right of arbitrary dominion over himself, and this no one can do, for the right to liberty is inalienable. If the subject/slave later changes his mind, exit from the agreement would be barred to him by the terms of the contract; a state contract with the right of secession (down to the individual level), or a slavery contract with the right of exit, would be a contradiction in terms. Moreover, even if the contract stipulates what the state/master can or cannot do to the subject/slave, aside from those stipulations the state/master has been delegated or given arbitrary dominion over the subject/slave. If anything, the state contract is the worse of the two because states generally have greater power and perceived legitimacy than individual persons and private organizations. To whom does the subject turn when the state inevitably begins exceeding the limits of the contract? *Quis custodiet ipsos custodes?*

For an explanation of why the right to liberty is inalienable, and why one cannot therefore delegate or give to another a right of arbitrary dominion over himself, two points can be made, the first suggestive and the second decisive.<sup>460</sup> First, since we all have an obligation to live a life of *eudaimonia*, which requires self-directed action, person A cannot morally abdicate his responsibility by delegating or giving to person B a right of arbitrary dominion over himself. While this claim does not by itself establish the right to liberty or its inalienability, it does point out the moral impropriety on the part of the would-be subject/slave to enter into a state or slavery contract. Second, recall that for Aristotelian liberalism rights derive primarily from the moral agent's obligation not to aggress against other rational beings. Rights do not simply reside in the moral recipient and thereby produce obligations for others. Person A's right not to be aggressed against by person B cannot simply be abdicated by an act of will to B, for B's obligation not to aggress against A depends on B's calling as a human being, something which is not in the control of A. *Nemo dat quod non habet.*<sup>461</sup> The right to liberty is therefore inalienable. It follows from this that both state contracts and slavery contracts are illegitimate because they are fraudulent on the part of the would-be subject/slave and more generally unjust on the part of the would-be state/master, for the former is attempting to transfer something that is not his to transfer and the latter is attempting to receive and exercise a power to which he has no right. The state, therefore, can never be just, even in the extremely unlikely event it should somehow garner the explicit and unanimous consent of its subjects.<sup>462, 463</sup> That the state is inherently unjust is a conceptual truth; whether any given organization in society counts as a state is a separate empirical matter that

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will recognize an unlimited right of secession (making revolution unnecessary). But Locke's normative claim about states does not reflect reality – states do not behave as if their relationships with their people are contractual, and no such contract has ever been signed by all of the people in any case. Furthermore, it is not enough for the rights to secession and revolution to reside only in the people as a whole.

460 The argument that follows is heavily indebted to Roderick Long's (1994/95) "Slavery Contracts and Inalienable Rights: A Formulation."

461 An ancient Roman legal maxim: "No one can give what they do not have."

462 This is not to say that everything a state may do or require of us is unjust.

463 If the foregoing has raised the worry that the Aristotelian-liberal account of rights undermines the making of contracts in general, it is beyond the scope of this essay to allay those concerns but I happily refer the reader to Long (1994/95) wherein this worry has already deftly been dealt with. It also bears pointing out that a similar critique of the state can be made on purely Lockean grounds, although Locke's conception of the inalienability of the right to liberty hinges upon God's ownership of us rather than on a supply-side justice argument. Finally, the foregoing analysis presents a problem for those relatively few libertarians who hold the right to liberty to be alienable and therefore slavery contracts to be legitimate, for state contracts too would seem to be legitimate on this view, and so a back door is left open for legitimate statism by consent.

must be left up to analysis of history and the present. I dare say, however, that every one of the national governments currently existing is a state.

The foregoing highlights an important element of any adequate definition or theory of politics: equality. I have in mind here equality of a particularly fundamental and radical kind: equality of authority. Locke describes this equality of authority as a condition

wherein all the power and jurisdiction is reciprocal, no one having more than another: there being nothing more evident than that creatures of the same species and rank promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another without subordination or subjection[.]<sup>464</sup>

The violation of a person's rights constitutes putting him under subordination or subjection to the rights-violator(s). Likewise, to delegate or grant to some person or organization the power of arbitrary dominion over oneself constitutes submitting oneself to subordination or subjection.

[B]eing all equal and independent, no one ought to harm another in his life, health, liberty, or possessions. . . . And being furnished with like faculties, sharing all in one community of nature, there cannot be supposed any such subordination among us that may authorize us to destroy one another, as if we were made for one another's uses, as the inferior ranks of creatures are for ours.<sup>465</sup>

Roderick Long notes in his essay "Equality: The Unknown Ideal" that this "is a notable pre-Kantian statement of the principle that human beings are not to be treated as mere means to the ends of others." Long also points out that equality of authority "involves not merely equality *before* legislators, judges and police, but, far more crucially, equality *with* legislators, judges, and police."<sup>466</sup>

[T]he execution of the law of nature is in that state put into every man's hands, whereby everyone has a right to punish the transgressors of that law [of natural rights] to such a degree as may hinder its violation. . . . For in that state of perfect equality, where naturally there is no superiority or jurisdiction of one over another, what any may do in prosecution of that law, everyone must needs have a right to do.<sup>467</sup>

The state institutionalizes inequality of authority, making its subjects subordinate and subjected to legislators, judges and police. This is true even of a democratic state. Locke took the equality of authority described here as existing in a state of nature, which device he used as a thought experiment for discovering man's rights. Eschewing the use of such a philosophical method, I take equality of authority instead to be natural in the Aristotelian sense of teleological completeness or perfection.

We are now in a position to adopt the Aristotelian conception of politics sketched in the previous section and to understand the role that the 'between equals' phrase plays in it within an Aristotelian-liberal theory. In general, *politics is discourse and deliberation between equals in joint pursuit of eudaimonia*. In specific, narrower cases, this will manifest in the cooperative

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464 Locke, Second Treatise II.4, p. 263.

465 Locke, II.6, p. 264.

466 Long (2001). Online publication with no page numbers. Emphasis in original.

467 Locke, II.7, p. 264.

pursuit of shared ends which are partially constitutive of *eudaimonia*. I include deliberation in the definition to signify in Aristotelian terms the decision-making process that culminates in action. Politics is not limited to mere theoretical discourse but has its ultimate end in practical, cooperative action in pursuit of *eudaimonia*.

There are at least three conditions necessary for immanent politics to take place: direct participation, direct action and individual liberty. Politics ceases to be immanent, and becomes increasingly vicarious until it is nonexistent or is replaced by despotical rule, under at least three conditions: 1) the extent that it is conducted only by representatives, 2) the extent to which discourse and deliberation are separated from their culmination in direct action, and 3) the extent that rights-violating behavior (the threat or use of initiatory physical force) pervades the relationship. Much of what passes for politics in modern states takes place only among representatives, puts a vast gulf between political discourse and direct action, and involves rights-violating behavior or policies. Thus politics, an important means of pursuing *eudaimonia*, is highly vicarious in even the freest of modern states.

The particular institutions within which genuine politics is conducted vary. It has been a long-standing mistake in political philosophy to identify politics primarily with one particular institution – the state – particularly since statist politics is extremely vicarious at best, a complete misnomer at worst. Politics can take place at work, but I am not here referring to what is cynically and jokingly called “office politics.” So-called office politics, like statist politics, is a vulgar imitation of politics not really aimed at *eudaimonia*. It is more competitive than cooperative, modeled as it is after the power-grabbing, back-stabbing, deceit and vice prevalent in statist politics. Immanent politics at work can manifest in discourse and deliberation over the goals of the company, its internal culture and activities for instilling and reinforcing it, the products and services that will be provided, the wages and benefits of employees, philanthropic efforts, its impact on the environment, and so forth. Genuine politics can also be found in the governing operations of clubs of various types. When parents, whose son or daughter has died of some rare and understudied disease that as yet has no cure, set out to raise awareness of it by enlisting the voluntary aid of others and setting up a foundation to fund educational outreach, scientific research and charitable support for other victims, genuine politics is involved. When parents in a local neighborhood become fed up with ineffective public schools and get together to discuss setting up a cooperative home-schooling venture, here too is genuine politics. Much of what the New Left did in the name of participatory democracy involved genuine politics. Genuine politics can even take place in internet chatrooms and forums and on blogs.

The question of what is or should be the end of politics is a perennial one in political philosophy. Classical liberalism and contemporary libertarianism have traditionally held, with Lord Acton, that liberty is the highest end of politics. Other political philosophies and even progressive or “leftist” deviations of liberalism give different answers and are willing to compromise liberty to varying degrees in pursuit of their favored ends. Most classical liberals and contemporary libertarians do not think that liberty is the highest end period, however. Rather, they hold liberty to be the highest end of politics because it is a necessary means for achieving other, more important ends, outside of politics. Consequently, they tend to limit liberalism and politics to narrow considerations of justice, rights and liberty, putting a wall of separation between politics and the rest of morality. It should be apparent that the highest end of the conception of politics I have developed is not liberty but *eudaimonia*. Can my theory then have any legitimate claim to being a form of liberalism? I think so. Classical liberals and

contemporary libertarians have mistaken statist politics for true politics. If politics is identified with the state, then liberty must indeed be the highest end of politics – but it will eventually be undermined by the state. Those who reject the state entirely tend to throw out the baby (politics) with the dirty bathwater (the state). But in my conception, genuine politics *presupposes* liberty and *precludes* acceptance of the state. Liberty, we might say, is the highest *pre-political* end, for without it politics and flourishing are not possible. When the state is not the locus of politics, there is no problem in holding liberty to be an end-in-itself and, more importantly, to be a necessary precondition of and constitutive means to the highest end of politics – *eudaimonia*. Statist policies such as wealth redistribution, economic regulation and morals legislation are all unjust in this view; liberty and pluralism are not threatened by Aristotelian liberalism's more robust conceptions of ethics and politics.

## **Chapter Eight.**

### **Free Markets and Free Enterprise: Their Ethical and Cultural Principles and Foundations**

There is hardly an ethical problem, in fact, without its economic aspect. Our daily ethical decisions are in the main economic decisions, and nearly all our daily economic decisions have, in turn, an ethical aspect.

- Henry Hazlitt, *The Foundations of Morality* (1964), p. 301.

The market makes a perfect totalizing enemy: it is impersonal, has no particular location and legitimates itself through a myriad of democratic practices of buying and selling. . . . The problem is that . . . the market is a democratic institution aggregating the decisions of whomever participates in it. When all is said and done, complaints about the market are nothing but complaints about the people themselves.

- Paul Piccone, “From the New Left to the New Populism,” *Telos*, 101 (Fall 1994), p. 202.

### **Introduction**

Thus far I have sketched an Aristotelian-liberal account of human flourishing along with an integrated theory of virtue ethics and natural rights. I have discussed the Aristotelian-liberal conception of society, defended this conception against communitarian critics and in turn critiqued the communitarian conceptions of society and state. Finally, in the previous two chapters, I have critiqued the state itself and statist democracy and sketched the foundations of a new anti-statist theory of politics. No defense of liberalism would be complete, however, without a defense of free markets. This last substantive chapter attempts to perform two interrelated tasks: 1) provide a moral defense of the free market based on an Aristotelian-liberal theory of virtue ethics and natural rights, and 2) challenge political liberals to take seriously the need for liberalism as a political philosophy to deal with ethical and cultural foundations and principles beyond political liberty, political justice and negative rights.

It may be useful at this late stage to offer a reminder in summary of just what Aristotelian liberalism is. Aristotelian liberalism holds that man's natural end is a life of *eudaimonia* (flourishing, well-being, happiness); that virtue is constitutive of one's own flourishing but must be freely chosen to count as such; that man is a profoundly social being, but nevertheless that individuals are ends-in-themselves and not means to the ends of others; that the right to liberty is a metanormative principle necessary for protecting the possibility of all forms of human flourishing and an interpersonal normative principle such that rights-respecting behavior is constitutive of one's own *eudaimonia*. Unlike most Enlightenment versions of liberalism, Aristotelian liberalism is not solely concerned with rights, political justice and political liberty. It is also important to identify ethical and cultural institutions and principles necessary for bringing about and maintaining a free and flourishing society.

Free markets have never had a shortage of critics. However, the demonstration of the necessity and superior efficiency of markets by economic theory and historical evidence has long

since refuted full-blown Marxist and socialist critics. Not that Marxism and other forms of socialism are thoroughly dead, but they are no longer the dominant form of criticism. Today's dominant forms of market criticism, outside of economics, come from at least two sources: 1) communitarians, and 2) the field of business ethics. Many communitarians fault mainstream neoclassical economics for a number of Enlightenment pitfalls: an atomistic, a-historical and a-contextual view of human nature; a mechanistic view of the world; the preoccupation with universal laws and prescriptions to the exclusion of cultural differences; and so forth. But they are not merely critical of mainstream economics, they are also critical of the market process itself as atomizing and mechanistic, an impersonal force that destroys community bonds and undermines tradition.

In the field of business ethics, while there is a general acceptance of the market (if not the free market), there are frequent demands for “social responsibility” from businesses. Businesses have a responsibility not merely to their *stockholders*, or even to their customers and employees, but to *all* of their *stakeholders*. In this stakeholder literature, stakeholder is a rather nebulous concept encompassing any constituency upon which a firm has an impact. Impact too is a rather vague and broad standard allowing the inclusion of “suppliers, distributors, [and] the local, national and global communities” to fall within the category of stakeholder.<sup>468</sup> It is the responsibility of a business to weigh the relative importance of these stakeholders within the context of its impact and capabilities and to avoid having a negative impact when possible, to compensate for it when not possible, and ultimately to “become an active agent for [positive] social change.”<sup>469</sup> Maximizing profit and dividends, while important, may not always be the top priority and certainly are not the only concerns of business.

While these challenges to free markets are not without significant flaws, there are some respects in which their criticisms are valid. Communitarians and business ethicists are right to be critical of mainstream neoclassical economics and merely economic defenses of free markets predicated on efficiency or some other utilitarian concept. The entrepreneur of mainstream neoclassical economics *is* a cultureless, contextless, atomistic individual operating in mechanical, calculative and reactive fashion to exogenous, impersonal forces. But this unrealistic account of the entrepreneur and of the market is the result of mainstream general equilibrium and perfect competition analysis, and is not a necessary feature of economics or of the market as such.

Don Lavoie and Emily Chamlee-Wright point out that mainstream economics makes the “explicit assumption that economic agents possess (or come to possess) all relevant information necessary to make rational decisions.” They then identify three implicit assumptions that follow from this, viz.:

1. Economic agents possess the “true” model of the economy and thus, will be able to identify the one clear path towards profit maximization.
2. As the competitive world is a world of equilibrium, a “socially responsible” decision and a “profit maximizing” decision are usually incompatible.

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468 Lavoie and Chamlee-Wright (2000), p. 112.

469 Quoted in *ibid.*, p. 108.

3. Individuals' utility functions are well-specified . . . and rest upon a singular goal.<sup>470</sup>

All of these assumptions have their basis in general equilibrium and perfect competition analysis, in which simplified models of the world are created by making false assumptions in order to make problems tractable to statistical methods. In equilibrium the economy goes through an endless and unchanging round of activity. No new information, methods, products, or what have you, are introduced; supply equals demand. Economic actors are thus able to possess perfect knowledge of products and prices, supply and demand. Perfect competition resembles actual competition in the real world not at all. It is a hypothetical situation in which no producer or consumer has the power to influence prices. For this situation to attain, economic power must be so diffused that the activities of the economic agent will have no measurable effect, goods and services must be homogeneous, and actors must have complete and perfect information. Real entrepreneurship is impossible in mainstream neoclassical economics, for all potential entrepreneurial opportunities are perfectly competed away. Indeed, in equilibrium real competition has ceased.

Within the model of perfect competition, there is no room for interpretation, no space for weighting alternatives, no slack. Agents in such a world are mere cogs in the machine, never really exhibiting any true agency.<sup>471</sup>

To paraphrase an inside joke among mainstream neoclassical economists: Two economists are walking down the sidewalk and one of them spots a \$20 bill lying in the gutter. He says to the other, "Look! There's a \$20 bill lying in the gutter. Aren't you going to pick it up?" And his companion replies, "No, there couldn't be. If there had been somebody else would have picked it up already." The "entrepreneur" of mainstream economics merely reacts to objective stimuli, making mechanistic calculations rather than value judgments and contextual interpretations, and in general equilibrium – which is the mainstream model of the economy – has no distinctive function to perform whatever. Moreover, business owners/managers have no room for discretion and so the possibility of socially responsible decisions is excluded, for any socially responsible decisions would *a priori* be economically irrational.

Now, the Austrian school of economics does make some use of equilibrium analysis. Although there are some similarities between mainstream partial and general equilibrium and the Austrian evenly rotating economy (ERE), the similarities are non-essential for these imaginary constructs differ greatly in their underlying methods and in their purpose. Whereas mainstream economists posit equilibrium as a model of reality, Austrians merely use it to abstract from the actual workings of the market process in order to isolate *analytically* different aspects of how the market process actually operates. Austrians employ similar techniques in order to understand precisely what is the function of the capitalist-entrepreneur, the consumer, and so forth, in the actual operations of real markets. Thus, while Austrian economists abstract away from the particulars of culture and context in order to understand the function of, say, the pure entrepreneur in the market process, it is only as a means to understand the phenomenon of profit. The capitalist- or integral-entrepreneur, for example, is conceived essentially as a forecaster, an owner, and a bearer of risk. In both cases, it is not forgotten that the entrepreneur is a socially-culturally embedded actor in the actual market process. These Austrian praxeological concepts of

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470 Ibid., p. 117.

471 Ibid.



the entrepreneur are aspects of actual acting persons, not simplified models based on false assumptions that have no corresponding counterpart in the real world. Economics, being for the Austrians a branch of praxeology (the general science of human action), is not concerned with the mainstream's *homo oeconomicus* but rather with *homo agens*: acting man who employs various scarce means to attain his ends, whatever they may be. The Austrians view the market as an aspect of society, not the whole of it. The difference in methods between mainstream economics and the Austrian school is that between Platonic Forms and Aristotelian concepts, between precise and non-precise abstraction.<sup>472</sup> Thus, some neo-Austrians make a fundamental mistake when they conflate mainstream general and partial equilibrium, perfect competition, and the concept of the entrepreneur with the Austrian concept of the ERE and the pure and capitalist-entrepreneur, for example. Austrians, moreover, apply their praxeological concepts and theories to the real world primarily by means of the hermeneutical method (or hermeneutical psychology) rather than primarily through econometric models.

The essential differences between mainstream neoclassical economics and Austrian economics are important for our purposes in light of the criticisms put forth against economics and free markets by communitarians and certain business ethicists. The communitarian charges of atomism, mechanism, and so forth, strike home against mainstream neoclassical economics but miss their mark against Austrian economics.<sup>473</sup> With regard to the business ethics literature, the mainstream neoclassical view of man and the market is fundamentally incompatible with the view of economic actors having any ethical obligations beyond contractual ones. On the other hand, the positive economic theory of the Austrian school as a descriptive foundation is not merely compatible with but is arguably essential to a normative defense of free markets and free enterprise, including one that goes beyond rights to the broader requirements of virtue.

Not all normative defenses of free markets and free enterprise are made equal. One type of such a defense that is very common is the argument from economic efficiency. Another finds its basis in natural rights. To commit oneself solely to one or the other, or even both together, I will argue, is unnecessarily self-limiting. Moreover, economic efficiency arguments, taken by themselves, suffer from an inherent weakness. As compelling as economic efficiency arguments can be, they are only be persuasive, by themselves, to those who already hold the results of efficiency to be of higher moral value or importance than other goods. Those who value efficiency less highly than some other good that they think free markets harm or make harder to attain will not be persuaded. Efficiency arguments provide no answer to the Marxist criticism of alienation, for example. The unparalleled economic benefits of free markets are a good reason to regard free markets as the most preferable economic system, but they are not the only reason and arguably are not a sufficient reason to hold free markets to be the only moral alternative. Since a deeper moral defense of free markets is possible, and since such a defense need not preclude the economic benefits of free markets from being important considerations, it is unnecessarily self-limiting to limit the defense of free markets to arguments from economic efficiency.

It is also common to defend free markets by invoking our natural rights to life, liberty and property. Thus, any government intervention in the market beyond protecting these rights is unjust. I think this sort of defense is essentially correct and powerful. There seems to be a tendency, however, inherent in all the Enlightenment versions of liberalism increasingly to

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472 On precise vs. non-precise abstraction in economics, see Roderick Long (2006a).

473 It is ironic that both mainstream neoclassical economics and communitarianism, despite their radical opposition, both have their roots in Plato, despite communitarian claims to be hearkening back to Aristotle.

restrict the moral defense of free markets to considerations of negative rights, political liberty and political justice. It is my contention that merely *political* liberalism of this sort are unnecessarily self-limiting. The moral defense of free markets can be strengthened by considering broader ethical and cultural issues. Aristotelian liberalism is uniquely well-suited to the task of providing a full moral defense of free markets, for it can offer a seamlessly integrated theory of virtue ethics and natural rights that allows for a robust conception of the good while fully protecting individual liberty and pluralism. Even some Aristotelian liberals have not fully grasped the potential uniqueness of Aristotelian liberalism in this regard.

Rasmussen and Den Uyl explicitly deny that simply refraining from rights-violating behavior carries much moral weight. Rather, as they see it, rights are *metanormative*; as such rights protect the central necessary condition that makes ethical action possible, the possibility of self-direction. For Rasmussen and Den Uyl, rights function like deontic side-constraints, delimiting what can count as moral in a social context. On the one hand rights-violating behavior cannot be virtuous, but on the other merely refraining from rights-violating behavior does not by itself count as virtuous. Rights-respecting behavior can still be marked by vice. It is possible to live a life riddled through with vice, even a predominantly parasitic one, without ever violating anyone's rights. However, what Rasmussen and Den Uyl underemphasize is that while rights-respecting behavior as such may seem unremarkable to the members of a fully libertarian society, we do not live in a fully libertarian society. We live in a society in which the barbarism of rights-violations is all too prevalent. Indeed, the human race has from its beginnings even unto the present shown a distressing atavistic tendency to revert to violence, although there have, thankfully, been historical pockets of prevailing liberty from time to time. Seen in this light, a life supported by personal productivity and trade, lived in peace with one's fellow men, even if only to enjoy hedonistic pleasures, is a significant achievement. It would not seem to diminish the achievement of a full flowering of virtue to recognize that there is at least a little virtue in this, in simply respecting the rights of others. Moreover, it can be pointed out that there is a world of difference between merely refraining from violating rights and actually respecting them; this is the difference for Aristotle between doing an action for the wrong reasons (not virtuous) and doing it for the right reasons (virtuous).<sup>474</sup>

I have criticized, in chapters two and three, Rasmussen and Den Uyl's view that rights are metanormative principles but not also interpersonal normative principles. In chapter three, I also offered my own account of rights. A brief summary of my account will be useful here. Rasmussen and Den Uyl are indeed correct that rights are metanormative principles. They *are*, from a certain point of view; namely, at the structural level of analysis (of political, economic, and legal theory), rights serve a metanormative function. The typical liberal account of rights is a demand-side one, i.e., it derives rights primarily (but not exclusively) from facts about the moral recipient (rather than the moral agent) and then our duties as moral agents are derived from the moral recipient's prior rights. Rasmussen and Den Uyl's account takes this form, albeit at a systemic level. In contrast, Aristotelian liberalism is capable of providing a truly supply-side theory of rights in which rights are derived primarily (but not exclusively) from facts about the moral agent. Thus, at the personal level of analysis (of ethical theory), rights are interpersonal normative principles derived from the requirements of our own flourishing and, in particular, the

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474 Additionally, it is arguable that someone who lacks the psychological or physical strength to violate another's rights could not be said to "refrain" from doing so. (Nietzsche, *Zarathustra*, "Verily I have often laughed at the weaklings who thought themselves good because they had no claws.")

virtue of justice. As rational, political and social animals our well-being requires that we deal with others on a rational basis through discourse, persuasion and voluntary cooperation rather than through the threat or use of initiatory physical force. The reasons for this are many; I cannot explore them all here, but must restrict myself to a few remarks. In the Aristotelian tradition, what the virtue of justice requires of us is informed by the requirements of the other virtues, virtues such as productiveness, honesty, independence, integrity, courage and benevolence. Facts about ourselves and others qua moral recipient are also relevant considerations for determining what is required by virtue in general and the virtue of justice in particular, facts such as the necessary conditions for our own flourishing and the flourishing of others (including metanormative conditions). But the relevant difference in the derivation of rights is that this latter sort of consideration factors into determining what moral obligations we have to others as a constitutive part of our own well-being, and then rights (legitimately enforceable moral claims) are derived from certain of these prior moral obligations.

But liberals can go beyond a virtue-ethical derivation of rights by pointing to the moral principles and virtues expressed in various market activities and by identifying the ethical and cultural foundations of free markets as well as the principles and virtues encouraged, and the vices discouraged, by free markets. So long as the rights to life, liberty and property remain central to the political philosophy of liberalism, there need be no fear of endangering liberalism's commitment to the values of pluralism and diversity. Identifying these foundations, principles and virtues in general terms need not come at the expense of their actual diversity in particular cultures and contexts. Even with a general theory, the issue of what virtue demands of us in particular circumstances will still be a matter of personal judgment and open to debate.

The essential point to remember is that only the basic rights to life, liberty and property (and their corollaries and consequences) guarantee the possibility of such personal judgment and political-democratic debate. This is what many business ethicists seem to forget with their vague demands for social responsibility that sometimes imply the need, sometimes explicitly call, for state intervention. It is one thing to argue that businesses ought to be socially responsible in their actions, it is another thing entirely to advocate violating rights in order to make them do so.

To do away with the principle of voluntary action, no matter how worthy the end, is to annihilate freedom and to institute slavery. When the challenge of social responsibility is made in the arena of civic debate, this is no longer a problem, as any action taken in response to those claims would be voluntary.<sup>475</sup>

Moreover, as Lavoie and Chamlee-Wright point out, much of the stakeholder literature in business ethics shares something in common with mainstream economics: namely, the apparent assumption that there is a single and clearly identifiable course of action to take in every situation.<sup>476</sup> But as an Aristotelian would argue, Lavoie and Chamlee-Wright point out that "Like profit opportunities themselves, the ways in which business people might effect positive social change need to be interpreted out of a complex social, political, and cultural context in which no single course of action presents itself as the only correct choice."<sup>477</sup>

It must be emphasized, however, that an Aristotelian account of virtue ethics does not limit virtue to the modernist notion of morality-as-social-duties. In other words, the virtues and

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475 Ibid., p. 116

476 Ibid., p. 114.

477 Ibid.

vices that will be subsequently discussed are not exclusively of the other-regarding variety. The focus of this chapter is not solely the social responsibilities, if any, of individuals and businesses. On the other hand, it will not be argued that businesses *never* have any responsibilities beyond those to their stockholders, or to their employees and consumers.<sup>478</sup>

## **Production, Consumption, and Exchange**

Before moving on to such subjects as entrepreneurship, profit and competition, the business firm and the active consumer, and the distribution of wealth, it will be useful to discuss some more basic categories of activity in the market process: production, consumption and exchange. At the subsistence level, production and consumption are necessary activities in the maintenance of life. While modern moral theories typically do not ascribe any ethical weight to the process of production *per se*, especially to personal production for the maintenance and improvement of one's own life, an Aristotelian theory of virtue ethics need not be so uncharitable. Indeed, there *is* something virtuous in producing for oneself what one needs to survive and even to flourish, in pulling one's own weight, as opposed to the corresponding vice of producing nothing of value, of being a perpetual dependent and living parasitically off of others.<sup>479</sup>

Life is conditional and the things, the values, we need in order to survive and flourish are not acquired automatically. One must produce values in order to maintain and further one's life, and to do that well one must make rational use of one's mind. Productive work is necessary for producing and acquiring food, weapons, defenses, clothing, shelter, and other useful tools that better our chances of survival and improve our quality of life. It is also necessary for the creation of music, art, literature. Even philosophy can be an example of productive work. As Ayn Rand argues, productive work "means the consciously chosen pursuit of a productive career, in any line of rational endeavor, great or modest, on any level of ability."<sup>480</sup> As valuable as productive work is for creating values, it serves another useful function as well. It also, chosen wisely, provides us with a sense of purpose, a core personal identity with which to integrate and determine the hierarchy of all our other values. Knowing that we are efficacious and worthy of a flourishing life results in necessary self-esteem. In light of all this, productiveness is a virtue. But the virtue of productiveness is not limited to a productive career or to material values; we can and should produce spiritual values as well.

Consumption too need not be left in ethical limbo. It is true that consumption to excess is commonsensically recognized as a vice, but from an Aristotelian point of view, so too might be a willing deficiency of consumption. Applying the doctrine of the mean, to consume the right amount (of anything) is virtuous.<sup>481</sup> The virtue of temperance or moderation in relation to consumption is not only relevant to straightforward issues of physical and mental health. In life we face many uncertainties and risks. We could unexpectedly lose our job, be injured, become

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478 For arguments of this kind, see well-known work by Milton Friedman (1970 [1987]) and criticism by Lavoie and Chamlee-Wright (2000).

479 And one could call an unhealthy pre-occupation with productivity, to the abject neglect of the rest of one's life, the corresponding vice of excess.

480 Rand (1964), p. 29.

481 Just as there are some things that do not admit of a mean, in some cases the right amount of consumption may indeed be zero.

ill. We know that eventually we will be too old to work. Our house could burn down. We could get in a wreck and total our car. If we have children, we'll need to educate them. We may want to buy something that we cannot yet afford. For all of these things and more it is prudent to restrict our consumption to below our means so as to save and invest enough to cover such expected and unexpected expenses in the future. While there are no guarantees in life and we cannot always be prepared for everything, by saving and investing we can mitigate the risks and uncertainty we face. If we do not, the consequences can range from inconvenience to disaster. We will have to depend upon the generosity of others, which is not unlimited, and chronic irresponsibility wears out its welcome very quickly. More will be said on saving and investment versus consumption in the next section.

Production and consumption are not unique to the market process, but they *are* a part of it. On the other hand, it is difficult to imagine free markets and civilization flourishing for long in a cultural environment in which productivity is not highly valued, in which it is morally acceptable to live a parasitical existence. Moreover, the free market has the benefit of encouraging the virtue of productiveness while discouraging the vice of parasitism, unlike the social-welfare state which does precisely the opposite.

Since it is difficult, if not impossible, and certainly not very safe, to produce by oneself all that is needed for subsistence, to say nothing of all that is needed for flourishing, human beings quite naturally are disposed to enter into a societal division of labor and to exchange the fruits of their labor for that which they do not or cannot make for themselves. It has been pointed out by Franz Oppenheimer that fundamentally there are but two ways to acquire any goods: 1) to produce it oneself or exchange on a voluntary basis one's own products for the products of another; and 2) to expropriate by the threat or use of initiatory physical force the products of another, in other words, to steal them.<sup>482</sup> It has been observed often enough that theft is immoral and unjust, if not often enough that the same activity is still theft when performed by the state.

It is deplorably not observed often enough that voluntary exchanges are mutually beneficial. Even many defenders of free markets who recognize that voluntary exchanges are mutually beneficial follow Adam Smith in misleadingly ascribing this mutual benefit to being a contingent by-product of each party pursuing his own self-interest, self-interest being contrasted with the demands of virtue. According to Smith, "It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest."<sup>483</sup> Smith here follows Bernard Mandeville's argument about private vices in the *Fable of the Bees* in arguing that market incentives channel the "selfishness and rapacity" of men in such a way that these private vices will have good results. He later elaborates this principle by pointing out the unintended beneficial results to society as a whole:

By preferring the support of domestic to that of foreign industry, he [the entrepreneur] intends only his own security; and by directing that industry in such manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention. . . . By pursuing his own interest he

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482 Oppenheimer (1997), p. 14.

483 Smith (1981), I.ii, pp. 26-27.

frequently promotes that of the society more effectually than when he really intends to promote it.<sup>484</sup>

This way of explaining the market process and defending free markets, however, is misleading. It sets up a false dichotomy between morality and prudence (or self-interest). This conception of morality as demanding selfless, unremunerated benefit to others is a peculiarly modern and untenable one. It is correct to point out that market incentives encourage, nay, demand, that individuals benefit others in order to benefit themselves; but benefit is benefit whether remunerated or not. It seems unreasonably elitist and stringent to restrict virtues such as benevolence and generosity to selfless, unremunerated benefiting of others. This is indeed a harsh doctrine, as it forces man to act contrary to his natural inclinations. To restrict virtue to only those actions that benefit or are intended to benefit others without benefiting or intending to benefit oneself is to reduce the moral purpose of man to mere servitude. It is no accident that modern ethical theories are primarily concerned with social order and consequently with social duties, rather than with the perfection of the individual.

The classical, especially the Aristotelian, conception of virtue makes no such assumption of a fundamental conflict between self-interest and virtue. It is rather a necessary consequence of man's social nature that his rational or enlightened self-interest and the demands of virtue coincide. Rather than describing and defending free markets as transmogrifying private vice into mutual and public benefit, it is more accurate to say that not only does the free market process facilitate mutually beneficial trade by appealing to self-interest. It also encourages and greatly facilitates the exercise of certain virtues, both personal and social, while discouraging certain vices.<sup>485</sup> It does so by providing incentives and opportunities to engage in personally rewarding productive work and trade for mutual benefit, which in turn serve to educate us in virtue through habituation. Virtuous action is married to pecuniary and even non-pecuniary rewards, thus encouraging the development of a virtuous character through rewards and repetition.<sup>486</sup> As H.B. Acton points out: "It is not that the good of others is a contingent byproduct of selfishness, but that each party can only benefit himself by benefiting others. . . . Giving help and receiving it are united in one process. Not only is self-help rewarded, but misanthropy is rendered difficult by being made to result in self-injury."<sup>487</sup> The market is a fundamentally social institution. By contrast, as I will discuss in more detail later in the paper, the state is a fundamentally anti-social institution, for it is the state and increasing state intervention that institutionalize and perpetuate the dichotomy between self-interest and morality.

Against critics who argue that morality needs to be imported into or imposed on the market, Acton points out that "in the market people can be just or unjust, honest or dishonest, reliable or unreliable, and these are moral characteristics."<sup>488</sup> A competitive market environment provides strong incentives to be virtuous and strong disincentives to avoid vice. Reputation is important in the market. If one develops a bad reputation from being unreliable – say, for example, that he is often late or only does mediocre work – then he will lose business or his job

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484 Ibid., IV.ii, pp. 452, 456.

485 The market is an aspect of society, not the whole of it remember; likewise, not all virtues and vices are encouraged or discouraged by, nor expressed through, the market process.

486 It is, I think, no accident that those who are the most successful on the free market also tend to be the most passionate about their work, from the goods that they produce to the services they provide.

487 Acton (1993), pp. 44 & 47.

488 Ibid., p. 48.

or earn significantly less than he otherwise could. So he must have integrity and keep his promises. Dishonesty will also tarnish one's reputation, and if it rises to the level of fraud it can even incur legal penalties. Consider customer service and sales jobs, if people in these jobs are habitually rude to customers they will tend to drive away business; thus, they have an incentive not only to meet the minimum requirements for tolerance and civility but also to work to please customers with politeness and sensitivity. These salutary incentives and disincentives are weakened and even reversed, however, when competition is distorted and stifled by various government interventions, e.g., monetary and credit inflation, bailouts, subsidies, taxation, tariffs, trade quotas, monopoly privileges, and myriad regulations.

### **Property, Contracts, and Credit**

Functioning markets presuppose voluntary exchange. Voluntary exchange, or trade, presupposes private property. To say that something is someone's property is simply to say that control of it is rightfully his. Commonly-owned property is often difficult to manage, giving rise to the notorious tragedy of the commons. Conflicts arise over use and there is little, if any, incentive to use the resources responsibly and to take only "one's fair share." Aristotle recognized this tragedy of the commons problem.<sup>489</sup> A system of private property minimizes conflicts over scarce goods and resources. Aristotle also pointed out that the virtue of generosity presupposes private property; one cannot be generous with someone else's property, only with one's own, and commonly-held property is not just one's own.<sup>490</sup> While Aristotle did not explicitly endorse or lay out a Locke-style labor theory of property acquisition, philosopher Roderick Long argues that he did do much to lay the groundwork for such a theory.<sup>491</sup> Long points out that "Aristotle, like the Lockean liberal,<sup>492</sup> insists that one's property is an extension of oneself;<sup>493</sup> it is for this reason that our property is so precious to us, as something that is our own."<sup>494</sup> Most significantly, Long adds, property comes to have this relationship to and importance for us precisely because we have produced it.<sup>495</sup> Aristotle states:

The cause of this is that existence is to all men a thing to be chosen and loved, and that we exist by virtue of activity (i.e., by living and acting), and that the handiwork *is* in a sense, the producer of activity; he loves his handiwork, therefore, because he loves existence. And this is rooted in the nature of things; for what he is in potentiality, his handiwork manifests in activity.<sup>496</sup>

Property is a product of productive work and trade, and like productive work it not only plays a necessary role in our survival and material flourishing, it also helps to form our personal identities and give us a sense of self-efficacy and self-worth.

Trust is a very important aspect of market activities. If we do not trust that others will respect our rights to life, liberty and property, relations, especially complex market relations, will

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489 *Politics* II.3 1261b33-38.

490 *Politics* II.5 1263b10-14.

491 Long (1996), pp. 800-801.

492 See Locke, *Second Treatise*, 5.26-27.

493 See *NE* V.6 1134b10-14, *Politics* I.6 1255b11; cf. *Politics* I.4 1254a7-18.

494 Long (1996), p. 800. See *Politics* II.4 1262b22-23, II.5 1263a40-b5; *Rhetoric* I.11 1371b12-28.

495 *Ibid.*

496 *NE* IX.7 1168a5-10. Emphasis in original.

be difficult to initiate and maintain. Transaction costs are increased, making it more likely that mutually beneficial cooperation and exchanges will not occur and reducing the benefit from those that still do manage to occur. Unreliability, dishonesty, fraud and similar vices will also diminish the trust that others place in us, which will tend to hurt us in the market. Trust is particularly important when it comes to establishing contractual relationships. We trust that the other party will live up to his end of the bargain. And we trust that, even if he does not, we can always make recourse to the legal system.

A contract is a type of promise. Not all promises can or ought to be upheld in a court of law, only those that, as Austrian economist and libertarian theorist Murray Rothbard argues, involve a transfer of title to property. Rothbard argues: “[V]alidly enforceable contracts only exist where title to property is retained by the delinquent party, without the consent of the former (implicit theft).”<sup>497</sup> Although Rothbard makes a sharp distinction between promises and contracts, I do not think this sharp distinction holds up. I see no reason why a contract is not a special legal species of promising. The essential difference between a contract and a regular promise is thereby maintained. To see that a contract is a form of promising, consider this example: I enter into a contractual relationship with you in which I sell you a car in return for \$15,000. Let us say we agree that you need put no money down and will pay at a later date, in monthly installments. This is essentially a promise to pay me the \$15,000. Under the title transfer theory of contracts, if you later refuse or fail to pay, you are essentially in position of stolen property, my car. Your delinquency does not negate the promise to pay me, a promise which you broke. What makes the contract enforceable, however, is not the act of promising but the transfer of property title. Recognition that a contract is a special legal species of promising introduces issues of honesty (entering into contracts without deceit), integrity (the virtue of sticking to one’s principles and keeping one’s promises), responsibility (in exercising a number of virtues, including productiveness, to ensure that one will be able to hold up his end of the bargain), and so forth.

It is interesting to consider the etymology of two important market terms: credit and fiduciary. When someone is loaned money on credit, so that they are under obligation to repay the principal plus interest at a later date, the relationship between the creditor and the debtor is a contractual one. The term credit in this sense derives from the Latin term *creditum*, meaning “a loan, a thing entrusted to another,” which is the past participle of *credere*, “to trust, entrust, believe.”<sup>498</sup> The term fiduciary is commonly paired with others, e.g., fiduciary trust, fiduciary duty, fiduciary media (money substitutes). It is derived from the Latin term *fiduciarius* “(holding) in trust,” from *fidere* “to trust.” “In Roman law, *fiducia* was ‘right transferred in trust’.”<sup>499</sup> The term fiduciary media came to be applied to money substitutes because their use depends upon the trust of those who use them as money that they will be accepted by others as payment and that they are redeemable for base money.

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497 Rothbard (1982 [2002]), p. 113.

498 *Online Etymology Dictionary*; <<http://www.etymonline.com/index.php?term=credit>>.

499 *Online Etymology Dictionary*; <<http://www.etymonline.com/index.php?search=fiduciary>>. Emphasis in original.



## **Savings and Investment vs. Consumption**

Saving is having an excess of current production over current consumption. As the eminent Austrian economist Ludwig von Mises argues, “Saving is the first step on the way toward improvement of material well-being and toward every further progress on this way.”<sup>500</sup> Savings can be set aside so as to have more later or as insurance against misfortune or to buy a consumer good that one cannot yet afford. Savings can also be invested in order to earn more money, or to create or buy a more efficient producer’s good so that he will have more consumer goods and/or more leisure time in the future. “If acting man, other conditions being equal, were not to prefer, without exception, consumption in the nearer future to that in the remoter future, he would always save, never consume. What restricts the amount of saving and investment is time preference.”<sup>501</sup> A person’s time preference is high to the extent that he is present-oriented. The lower someone’s time preference, the more he is willing to restrict consumption in order to save and invest the excess of what he produces.

Time preference is related to interest in the following way. Mises defines originary interest as “the ratio of the value assigned to want-satisfaction in the immediate future and the value assigned to want-satisfaction in remoter periods of the future. It manifests itself in the market economy in the discount of future goods as against present goods. It is a ratio of commodity prices, not a price in itself.” Mises adds:

Originary interest is not a price determined on the market by the interplay of the demand for and the supply of capital or capital goods. Its height does not depend on the extent of this demand and supply. It is rather the rate of originary interest that determines both the demand for and the supply of capital and capital goods. It determines how much of the available supply of goods is to be devoted to consumption in the immediate future and how much to provision for remoter periods of the future.

People do not save and accumulate capital because there is interest. Interest is neither the impetus for saving nor the reward or the compensation granted for abstaining from immediate consumption. It is the ration in the mutual valuation of present goods as against future goods.

The loan market does not determine the rate of interest. It adjusts the rate of interest on loans to the rate of originary interest as manifested in the discount of future goods.<sup>502</sup>

The relationship between originary interest and the natural market rate of interest is crucial to the free market’s self-regulation.

There are many ways in which governments can disrupt the societal consumption-investment ratio in favor of consumption. The most egregious way, the one responsible for the systemic boom and bust business cycle, is a policy of easy credit. Such a policy is best facilitated by a fractional reserve central banking system with fiat money (i.e., paper money unbacked by a commodity with real value, like gold or silver). Easy credit is pumped into the economy by an expansion of the supply of money and credit, primarily by means of printing fiat money and

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500 Mises (1949 [1998]), p. 487.

501 Ibid.

502 Ibid., pp. 523-524.

artificially lowering interest rates. Monetary inflation leads to price inflation as the new money trickles through the economy, acting as a regressive tax on the poor and encouraging more spending now as people perceive prices rising and their money becoming less and less valuable. Artificially low interest rates, below the natural market rate, give market actors false signals. They see the value of savings and investment decline, particularly in light of inflation. Producers are misled by the cheap credit to undertake more expensive projects they otherwise would not have undertaken and which do not match real consumer demand, resulting in malinvestment. Consumers are misled by the cheap credit to take out loans in order to spend it on consumer goods. Andrew Dickson White, in his 1933 book *Fiat Money Inflation in France*, describes the results: “Then, too, as values became more and more uncertain, there was no longer any motive for care or economy, but every motive for immediate expenditure and present enjoyment. So came upon the nation the obliteration of thrift. In this mania for yielding to present enjoyment rather than providing for future comfort were the seeds of new growths of wretchedness: luxury, senseless and extravagant, set in: this, too, spread as a fashion.”<sup>503</sup>

There are many other policies that also tend to have this effect on consumption. Bailouts and promises of bailouts for failing or failed businesses encourage riskier behavior. This includes the FDIC’s deposit insurance for banks, which also encourages those who keep their money in banks to be more complacent about the practices of their bank and the safety of their money. Various social-welfare policies also tend to have a deleterious effect. In the absence of such programs people must save for a rainy day and for their own retirement, or depend upon the generosity of others. When governments provide these necessities, the incentive to save for them is decreased or eliminated. When government promises to take care of your retirement, at least in part, you have less incentive to do so yourself. Similarly with health care and medical expenses, unexpected unemployment, the education of your children, and so on and so forth. With these necessities partly or wholly guaranteed by government, what else is left to spend one’s money on after taxes other than consumer goods? The individual’s sense of responsibility in providing the fundamental necessities for himself and his family is diminished as is his control over them. He leaves it up to the government and concerns himself with his own amusements in luxuries and superfluities.<sup>504</sup> In his book *America’s Great Depression*, Rothbard gives some more examples:

Government can encourage consumption by "food stamp plans" and relief payments. It can discourage savings and investment by higher taxes, particularly on the wealthy and on corporations and estates. As a matter of fact, any increase of taxes and government spending will discourage saving and investment and stimulate consumption, since government spending is all consumption. Some of the private funds would have been saved and invested; all of the government funds are consumed. Any increase in the relative size of government in the economy, therefore, shifts the societal consumption-investment ratio in favor of consumption, and prolongs the depression.<sup>505</sup>

Yet another policy that has been employed recently is the handing out of “stimulus checks” to a majority of the population along with urges to spend it, following the modern fashion that consumer spending rather than savings and investment is the main driver of economic growth.

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503 White (1933), p. 65.

504 Acton (1993), pp. 93-96.

505 Rothbard (1963 [2005]), p. 20.

In the last few sections we have discussed a number of ways in which free markets encourage certain virtues and discourage certain vices. We have also discussed a number of ways in which government intervention into the economy tends to weaken and even reverse these incentives and disincentives, encouraging vice and discouraging virtue. Let us now turn to a discussion of the role of the business firm in society.

### **The Business Firm: Profit, Social Responsibility, and the Virtue of Prudence**

We generally expect individuals and organizations like families, churches, clubs and governments, to be socially responsible, although we disagree on what social responsibility is in general and what it requires of us in particular. Should we not expect businesses to be socially responsible as well? My short answer to this question is: Of course, we should. But the next questions that ought to be raised are: 1) What does social responsibility mean in the context of the business firm? And 2) what actions can legitimately be taken with respect to businesses that do not live up to what social responsibility requires of them? With respect to the second question, the Aristotelian-liberal answer is that rights are possessed by individuals whether they are considered by themselves or as members of a group, including a business firm. Thus, a business firm cannot be compelled by the threat or use of initiatory physical force to fulfill its social responsibility. Although, if members of a firm violate the rights of others, members or non-members, then of course proportional defensive force against the particular aggressors is justified. This leaves other methods of influencing a recalcitrant firm: public discourse, moral suasion, boycotting, and so forth. With regard to the first question, it is perplexing that no one ever seems to ask whether business firms have the same social responsibilities as other institutions and organizations in society. It is simply assumed that they do.

In the business ethics literature, the two main contrasting approaches are the stockholder position and the stakeholder position. According to the former, those directing a business firm have an obligation first and foremost to the owners of and investors in the firm, e.g., the stockholders (when the owners/investors and the manager(s) are not one and the same person(s)). This is a contractual or legal obligation, and so too a moral obligation, to give the owners and investors a good return on their investment, i.e., generally, but not necessarily limited, to maximizing profits. Corporations are not independent persons but are rather bundles of contracts established by human beings to perform particular tasks. The seminal work in the stockholder literature is Milton Friedman's "The Social Responsibility of Business." According to the stakeholder literature, a business firm has obligations to (nearly) anyone and everyone on whom its activities have an impact, directly or indirectly. These obligations are both negative and positive, to minimize or avoid harm, to compensate when this is not possible, and to promote positive social change. What exactly this entails will necessarily vary from advocate to advocate. It is not an uncommon tendency for profit owed to owners and investors to take a backseat to other goals or obligations. The question that immediately springs to my mind, however, is: are these two apparently diametrically opposed positions really mutually exclusive? I think ruling out aggression as a legitimate policy on both sides of the debate – be it for subsidies, protectionism (for business or labor), taxes or business-controlling regulations – is a necessary first step to reconciling these two views. The next step, mentioned briefly at the beginning of this chapter, is to reject the unrealistic assumptions of mainstream neoclassical economics that make "profit maximizing" decisions and "socially responsible" decisions mutually exclusive and the latter economically irrational. The third step is to recognize that there is no one-size-fits-all

model of social responsibility for all institutions or organizations and even for all businesses. And the final step is to recognize the role of the virtue of prudence in finding the best correct action to take, among what is often a range of correct and incorrect options, that satisfies obligations both to stockholders and stakeholders simultaneously.

If we do not make unrealistic assumptions about rationality, preferences, entrepreneurship, competition, and how the economy in general functions, then there is no necessary obstacle to turning a healthy profit in a socially responsible way. Moreover, the socially responsible aspect of decisions need not come at the expense of turning a healthy profit; it can even contribute to turning a better profit. More will be said on this soon enough, but first we must establish the context for the role of the business firm in society. The purpose of a business is to earn a living producing and selling goods and services that potential customers need and want for prices they are willing to pay. Any additional purpose must in theory and practice be secondary, otherwise what we have is not a business but something else, or at least it will not be a business for long. To accomplish this with any degree of long-term success, particularly within a competitive (i.e., free) marketplace, it is necessary to turn a healthy profit. Profit can be allocated toward immediately improving one's quality of life, toward investing for a rainy day, or toward improving the business via expansion, innovation, employee training and morale, fostering goodwill in the surrounding community through various actions like charity work, and so forth. Even a philanthropic for-profit food company like Newman's Own, whose tongue-in-cheek motto is "Shameless exploitation in pursuit of the common good," must focus on turning a healthy profit, for all of this profit after taxes is donated to charitable causes – no profit means no money for charity.

As a result of the market process and the incentive of profit, generally the actions of a profitable business will bring great social benefits far outstripping any negative impacts it produces. Consider the incredible extent to which even hampered markets and regulated businesses have improved quality of life over the past few hundred years simply by producing and selling ever improving goods and services at lower prices. This alone is a remarkable achievement for which markets and businesses seldom get the credit they deserve. John Hood points out:

When businesses are more profitable, individuals – be they owners, stockholders, executives, workers, and even consumers (if the profits stem from selling better products at lower prices) – can accumulate more wealth, with which they can make charitable donations or endow private foundations. . . . Without [a well-oiled, efficiently operating, i.e., free, market] system, less wealth will be generated for philanthropy. At the same time, without an efficient market system, there are likely to be more social problems (stemming from poverty and technological backwardness) on which philanthropists must spend their time and money.<sup>506</sup>

Philosopher David Schmidtz illustrates the importance of unhampered economic growth well: "Consider this: if the annual growth rate of America's gross domestic product (GDP) had been 1 percentage point lower between 1870 and 1990, America's *per capita* GDP would be less than one-third its present level, which would put it on a par with Mexico."<sup>507</sup> When you add in the

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506 Hood (1996 [2004]), pp. 33-34.

507 David Schmidtz and Robert E. Goodin (1998), p. 61.

things commonly thought of in the stakeholder literature as “socially responsible” that businesses already do, typically philanthropy, the record of the too-often-maligned business firm improves even more.

Does this mean that all businesses necessarily do enough already? That it is too much to ask for them to be socially responsible, or more socially responsible, too? Not necessarily, no. But what a particular business can or should do depends in large part upon the circumstances of that particular business. The foregoing does suggest, however, that calls for social responsibility tend to give far too little credit to businesses for the social benefits they provide simply by performing their core function. It also suggests that such calls tend to lack proper nuance and attention to context as well as to require businesses to act as if they are not in fact businesses. Profit and contractual obligations to the owners and investors must be the top priority of a manager or CEO if a business is to be successful; unsuccessful businesses go out of business. But believe it or not, there are actually strong business reasons for being socially responsible. Different firms implement strategic philanthropy in different ways. John Hood observes:

For some corporations, it involves the introduction of formal cost-benefit analyses, which set performance goals for social or charitable activities and carefully track progress toward those goals. . . . For other corporations, strategic philanthropy simply involves ongoing consideration of how philanthropy ties into the firm’s need to attract good employees, enthusiastic investors, and loyal customers.<sup>508</sup>

Firms cannot afford to throw away money as governments do. They will tend to invest in things that will at least indirectly benefit them. This is only natural. Everyone does this in some way, even so-called selfless parents<sup>509</sup> who set up a charitable foundation to fund research into sudden infant death syndrome because they lost their child to it and do not want other parents to experience the same loss. Certainly businesses must keep an eye on the bottom line when engaging in philanthropic activities, but their motives need not be limited to this. The leaders of firms are people too and are fully capable of having additional reasons, such as that of the aforementioned parents, to engage in corporate philanthropy. Businesses also have a far greater incentive than governments, and even non-profit charitable organizations, to insure that their philanthropic activities are effective at achieving clearly defined philanthropic goals. They may not invest as much money collectively as individuals and charitable organizations each do collectively, but why should they have to? In addition to cash, however, “corporations are giving non-profit organizations managerial advice, technological and communication support, and teams of employee volunteers.”<sup>510</sup>

Let us look at some of the specific strategic reasons businesses have for engaging in philanthropic endeavors. A couple have already been mentioned. One of these is attracting loyal customers. One common way this is done is by cause-related marketing. To give just one example from among many, during the early 1980s American Express pioneered a program in which when consumers made purchases on their credit cards American Express would contribute to a charity valued by the consumer. Cause-related marketing is only effective on the margin, however, meaning that goodwill from philanthropic activities is no substitute for offering goods

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508 Ibid., p. 21.

509 I do not mean this pejoratively in any way. It is just that from an Aristotelian point of view, their actions are profoundly selfish in an enlightened sense.

510 Hood (1996 [2004]), pp. 21-22.

or services that are competitive in price and quality. Cause-related marketing can provide the tipping point in competitive markets, helping consumers choose which product they prefer from a range of similar products.<sup>511</sup> Another strategic reason for business philanthropy is attracting and building a productive workforce. A productive workforce is a key component of business success in competitive markets.

[O]ne common approach, particularly when trying to attract skilled workers to a facility, is to make donations to organizations or causes that improve the amenities of the community surrounding the facility. Just as the railroad companies of the nineteenth century funded YMCAs and schools for their employees, so today many companies give funds to local chapters of the Boy Scouts, to schools and universities, and to local human services agencies.

Another successful approach is instilling a sense of teamwork and the corporate mission through volunteer activities. In the past, companies commonly sponsored team sports. More recently, charity work is being sponsored. For example, “Connecticut-based GE Plastics has used several community-service projects in which volunteer teams have helped renovate a homeless shelter, a boys’ club, and a YMCA.” “Similarly, Questar Corporation, a natural gas company in Salt Lake City, researches and publishes a list of local volunteer opportunities for employees.” Union Planters National Bank in Memphis, Tennessee does something similar, running a program that facilitates its employees engaging in local philanthropic activities and that rewards the most devoted with special prizes and public recognition.<sup>512</sup>

Two other strategic reasons for business philanthropy are promoting the general economic interest of business firms and promoting pro-business public policy. As John Hood relates, “A great deal of corporate giving, especially the large amount of it directed toward institutions of higher learning, involves research of educational programs with an obvious connection to a donor firm’s economic interest. The Ameritech Foundation, for instance, gave Ohio State University \$1 million in 1993 ‘to support research in how telecommunications can be used to improve education, health care, and international trade’.”<sup>513</sup> In a vicarious political environment, in which government policies can have a significant impact on markets and individual businesses, it is certainly in a business’ interest to promote pro-business public policy. This is especially true of newer, less well-established, rising companies.

So, for example, many companies fund programs to teach students about free enterprise and the American economic system. Corporate-funded chairs in business, economics, entrepreneurship, sociology, and law often have the stated purpose of promoting market values and concepts. Furthermore, many corporations fund think tanks, associations, and other organizations in the public policy arena that research and promote capitalistic values and market-oriented public policies.<sup>514</sup>

On the other hand, in an economic environment in which governments are recognized to have the power to intervene in the economy, large, established and currently dominant corporations have an incentive to influence public policy to their advantage, i.e., by buying special privileges and

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511 For more on these issues, see *ibid.*, pp. 22-25.

512 *Ibid.*, p. 26.

513 *Ibid.*, pp. 27-28.

514 *Ibid.*, p. 28.

stifling competition in order to maintain the status quo. This may be a major explanation for why most large U.S. corporations that are active in the public policy arena give more money to organizations hostile to economic freedom.<sup>515</sup>

Social responsibility is not limited to philanthropy, of course. What about the environment? Employee wages, benefits and layoffs? And so on. With regard to the environment. Consider the well-understood problem called the tragedy of the commons. It has long been recognized, although frequently ignored when politically expedient, that private owners of land and resources have more incentive to manage them responsibly than land and resources that are commonly owned. Consider also that businesses must cater to consumer needs and wants. Businesses do play a role in shaping those needs and wants, to be sure, but the idea that they exert some kind of overwhelming control over the desires of passive consumers through diabolical advertising is grossly overblown. The recent rise in environmental concern, not entirely stemming from global warming alarmism, illustrates how businesses must follow the prevailing winds of consumer desires in order to remain competitive. All manner of businesses are nowadays finding creative ways to market environmentally-friendly products and services. Similarly, with the recent rising concern with obesity food companies are increasingly starting to offer (more) healthy alternatives. Government intervention, providing artificial economic incentives, can explain some of this but far from all.

To briefly tackle the issue of employees, again, given a free and mobile labor market and free markets in general, it is in a business' competitive interest to attract the best employees it can afford. Offering higher salaries and more and better benefits than one's competitors is the key means of attracting the best employees. Believe it or not, businesses also have incentives to lay off employees responsibly, from workforce morale and public image to cost savings. Suddenly laying off workers with no good reason, no warning and no help in finding another job can lower the morale of the remaining workforce. A pattern of such behavior, or a single high profile layoff, such as when many workers have to be laid off at once, can adversely affect the company's public image. And finally, severance packages and unemployment insurance can be costly. Getting a former worker re-employed as soon as possible can cost much less. Some firms have their own outplacement programs, but others employ specialized outplacement firms.<sup>516</sup>

So, businesses provide incredible but underappreciated social benefits simply by performing their core function, but there is no necessary incompatibility between "profit maximizing" decisions and "socially responsible" decisions. Many businesses already are socially responsible in the stakeholder sense, but this does not mean that businesses could not be more socially responsible. I suggested earlier that prudence is the key to finding the best choice, among a range of options, that combines both profitability and social responsibility. Prudence, or practical wisdom, in the Aristotelian tradition is that virtue by which we integrate all of the goods and virtues we pursue into a complete life and by which we determine the proper application of the other virtues to particular situations. Aristotelian prudence is not pure, calculating prudence à la Hobbes, however; while the moral virtues without practical wisdom are blind, practical wisdom without the moral virtues is empty.<sup>517</sup> "Profit opportunities," Lavoie and Chamlee-Wright point out, "are the outcome of an interpretive process that is highly dependent

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515 Ibid., p. 29.

516 Ibid., pp. 52-55.

517 This is not to suggest that the one can exist without the other but in a blind condition or an empty condition, respectively; quite the contrary.

on context.”<sup>518</sup> There is often more than one way to turn a healthy profit, and with some creativity a business leader can not only fulfill his other moral obligations in addition but even promote his company and possibly even increase its profitability at the same time. Consider one last example of a creative, profitable and socially responsible business decision: The owners of Hannah Anderson, Inc., a supplier of high quality children’s clothing, devised a clever marketing and philanthropic strategy to both promote how long-lasting their clothing is, establishing a brand-name reputation for superior quality, and donate used clothing to charities. So they started a program to give any customer who returns her Hannah Anderson clothing in good used condition a 20 percent credit towards her next purchase. The used clothing is then donated to area charities. “In 1989 and 1990, for example, more than thirty thousand of these articles of children’s clothing were donated to Portland, Oregon-area shelters for battered women.”<sup>519</sup> Generosity need not be a bad business decision; indeed, it can be quite the opposite.<sup>520</sup>

### **We Are the Market: Being an Active Market Participant**

The existence of slack means that there is room for either morally good or morally bad choices. Contrary to the impression given by some economists, the blind forces of competition alone will not necessarily yield an ethically admirable business community. As in all domains of human endeavor, virtue does not arise automatically but requires its own standard bearers.<sup>521</sup>

While free markets offer powerful incentives to provide goods and services that consumers need and want, generally with increasing quality and decreasing prices, free markets are not black boxes dispensing manna from heaven. *We* are the market. Ultimately, it is up to us what the market will provide and what it will not. The market reflects our own values. It is the function of the entrepreneur to be alert to, and effectively exploit, untapped opportunities to provide goods and services that consumers will want at prices they are able and willing to pay. The market is something of an economic democracy, with the purchases of consumers being an analog to votes for the goods and services they prefer, but a free market is far more responsive than a statist democracy. In a free market, those who fail to satisfy consumers go out of business. Those who better satisfy consumers will reap more profits. Ultimately it is consumers who decide which businesses, goods and services fail and which succeed, and so it is important to be an active and informed consumer.

The market is not the whole of society, however; it is but an aspect of it. Consequently, not every solution to a problem need be a market solution. There is ample room for the exercise of social power through voluntary associations and initiatives of various sorts, such as private charities – a form of social entrepreneurship, if you will. When we as citizens or consumers see an untapped opportunity or a problem that needs solving, we need not wait for another entrepreneur, social or economic, to take the initiative. Sometimes we should not wait but rather should take responsibility for getting something done ourselves.

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518 Lavoie and Chamlee-Wright (2000), p. 118.

519 Quoted in *ibid.*, p. 120.

520 This represents a qualified disagreement with H.B. Acton’s claim that “the market is not the place for directly exercising love and generosity” (1993: 30).

521 Lavoie and Chamlee-Wright (2000), p. 120.



## Chapter Nine. Conclusion

Liberty: not the daughter but the mother of order.

– Pierre-Joseph Proudhon

If Hayek, Rasmussen and Den Uyl are correct, and I think they are, liberalism is unique among political philosophies in having as a central concern “the problem of how to find an ethical basis for the overall political/legal structure of society,” namely one that recognizes the value of individual liberty and can accommodate moral and cultural pluralism and diversity.<sup>522</sup> Rasmussen and Den Uyl claim that this problem should be the central problem of political philosophy, but call it “liberalism’s problem” because liberalism has been the only political tradition to recognize its fundamental importance.<sup>523</sup> Liberalism’s best solution to this problem is the natural right to liberty and its logical corollaries. Liberalism shows us how diverse moral value systems can be ethically compossible both within and between societies. But liberals, especially Aristotelian liberals, need not, indeed, cannot afford to, and should not, limit their focus to rights, liberty and political justice.

Aristotelian liberalism has as its concern bringing about and maintaining a free and flourishing society. Aristotelian Liberalism holds that man's natural end is a life of *eudaimonia* (flourishing, well-being, happiness); that virtue is constitutive of one's own flourishing but must be freely chosen to count as such; that man is a profoundly social being, but nevertheless that individuals are ends-in-themselves and not means to the ends of others; that the right to liberty is a metanormative principle necessary for protecting the possibility of all forms of human flourishing and an interpersonal normative principle such that rights-respecting behavior is constitutive of one's own *eudaimonia*. Consequently, unlike most Enlightenment versions of liberalism, Aristotelian liberalism is not solely concerned with negative rights, political justice or political liberty. It is also important to identify ethical and cultural principles and institutions necessary for bringing about and maintaining a free and flourishing society.

If I have been successful, I have shown, if not conclusively then surely at least plausibly, the value of an Aristotelian form of liberalism and its ability to answer the challenges of postmodern, social or left-liberal, communitarian and conservative critics of liberalism.

I have discussed the nature of human flourishing and developed an integrated theory of virtue ethics and natural rights. In doing so, I first presented Rasmussen and Den Uyl’s account of human flourishing and their theory of rights as metanormative principles. I also critiqued their theory and then presented the different theories of Ayn Rand and Roderick Long. After this I sketched my own theory of rights which aims to synthesize the two seemingly incompatible accounts of rights put forth by Rasmussen and Den Uyl on the one hand and Long on the other. I argued that rights are both metanormative and interpersonal normative principles, meaning that 1) from the structural level of analysis, rights, by serving as the standard and basis for law, protect the conditions necessary for the possibility of human flourishing without biasing the

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<sup>522</sup> Rasmussen and Den Uyl (2005), p. 1.

<sup>523</sup> Ibid., pp. 1-3, 78 n. 1.

political/legal order in favor of or against any form of flourishing and 2) from the personal level of analysis rights are moral principles, legitimately enforceable moral claims to be precise, that guide our conduct and are derived from the requirements of our own *eudaimonia*, particularly the virtue of justice.

After this, I revisited the nature of human flourishing, addressing the is-ought problem, critiquing the survivalist standard of value in ethics, and examining in more detail the basic goods and virtues that constitute human flourishing. I revisited the importance of liberty and justice as constitutive goods of *eudaimonia*. Choices and actions must be voluntary in order to count as virtuous and contributory toward one's flourishing. Following Aristotle's distinction between general and special justice, with some modifications, I distinguished between social and political justice. Both are informed by what is required by our own flourishing, by the various goods and virtues. Political justice focuses more narrowly on the most basic requirements of social life (as a good) and how we should treat each other *as fellow human beings* (as a virtue). Consequently, its concern is the protection of the right to liberty (and its corollaries and consequences) and rectifying rights violations. Social justice is, as Aristotle remarks, complete virtue with respect to other people. It involves the fulfillment of the requirements of the other virtues with respect to other people, but unlike political justice is not legitimately enforceable. To enforce social justice by law, regulation or other means involving the threat or use of initiatory physical force is to set it in conflict with political justice, to undermine the very foundations of society, and to harm both the aggressor's and the victim's well-being.

Liberty and justice, of course, are not the only goods and virtues important to a flourishing life and a flourishing society. I argued that, as important as liberty is, social and personal autonomy are also important issues of concern. Both social and personal autonomy are important to a flourishing life and their systematic absence in a society can undermine the foundations necessary for liberty. Likewise, since self-direction is central to all three dimensions of autonomy, compromising liberty entails compromising social and personal autonomy: to the extent that you lack self-direction, you cannot be socially or personally autonomous. The virtue of courage is also important – not only the courage to physically defend one's liberty but the courage to seek and face the truth, to put one's convictions to the test in public debate or by putting them into action, to stake one's reputation, to take the initiative to get things done rather than wait for others to take the lead or do it for you. Generosity toward friends, family and strangers is integral to a free and flourishing society. It fosters spiritual and material flourishing for all parties involved, exemplifies and encourages cooperation and mutual aid, and facilitates the continuance and transmission of culture. In the form of charity, it is necessary for providing a voluntary social safety net to the unfortunate. Civility and tolerance are necessary for facilitating the discovery of truth and the peaceful and productive co-existence of different value systems. The virtue of independence, properly understood, mitigates the human tendency to fall in with the herd without encouraging the opposite vice of a-social, a-moral atomism. In order to flourish and contribute to a free and flourishing society, individuals must possess the virtue of productiveness. And so with other virtues as well. The systematic lack of these virtues and presence of their corresponding vices can over time undermine a free and flourishing society. As discussed in the last few chapters, however, there are strong reasons to believe a free society will encourage virtue and discourage vice while the state, especially an active and powerful one, acts systematically to undermine and reverse the salutary incentives and disincentives present in a condition of liberty.

After the more extensive discussion of the nature of human flourishing, I then sketched an Aristotelian-liberal conception of society and addressed social liberal and communitarian criticisms as well as their own conceptions of society. I conceived of politics, the market, and the state all as aspects of society, not external intrusions, although the state differs from the first two in being an organization. Against the communitarian conception of society I posited an Aristotelian-liberal conception of the Great Society (or Global Society), its major institutions, and its myriad levels of overlapping associations, communities and organizations. This *cosmopolis* is on one level a moral community that we all share in by virtue of universal aspects of our humanity, which call upon us to live a life of reason and discourse with one another. On another, empirical, level it is a global spontaneous order – a loose-knit society lacking any central planner and linked together by long-distance correspondence, travel, migrations and commerce. Improving technology in communications and travel, and increasing economic prosperity and interdependence, are producing a more integrated global society – facilitating cross-cultural influences as well as the development and maintenance of closer-knit communities that are not territorially contiguous, without necessarily dissolving diversity. This conception of society recognizes that it is not unusual for people to be members of more than one association, community or organization at the same time, and that not only do people at times end membership with one and begin membership with another but that this can be necessary to promote our own flourishing and we should be at liberty to do so as we see fit. This conception of society is strikingly at odds with the communitarian one.

The typical communitarian conception embraces some degree of cultural relativism, involving a rejection of the notion that there are universal aspects of human nature or the notion that anything meaningful can be said about them. It defines the individual good in terms of the individual's contribution to the pre-defined good of society rather than seeing the good of society as being the promotion of the good of each and every individual. But the crucial factor that makes communitarianism incompatible with liberalism, insofar as the factor is embraced, is the acceptance of using aggression to protect the community and enforce its authority on the individual. Communitarians like MacIntyre go beyond recognizing that man is a profoundly social being to rejecting any social ties and obligations a person can and should have to others beyond his particular tight-knit community on the basis of being a fellow human being. They go beyond recognizing that man needs to belong to a community in order to flourish to denying him the liberty to choose a different community, disobey or challenge its principles and traditions (other than the basic rights), or change roles within it, if the community happens to be so constituted as to prohibit these things. In reaction against a usually imagined atomistic individualism, and misunderstanding the true causes of such real atomistic individualism as exists, they tend to submerge the individuality of persons within the collective. While some communitarian criticisms of liberalism have hit home against other versions of liberalism to varying degrees, communitarians have been unable to provide alternatives that are clearly defensible and avoid the specters of paternalism and totalitarianism. Social or left-liberals, while they are generally more cosmopolitan and typically do not go as far as communitarians in subjecting the individual to the coercive authority of the community, still flirt with the same dangers.

After this preliminary discussion of the nature of society, I turned explicitly to politics. First, I sketched a brief history of liberalism in order to set the context for a discussion of the New Left movement and its opposition to so-called corporatist liberalism. The New Left movement was shown to have more in common with classical liberalism and contemporary

libertarianism than the traditional left/right political continuum would suggest. All three share a rejection of the old order of the status society that corporatist liberalism represents. Lessons were derived from the New Left opposition to the corporatist-liberal democratic state. The history of liberalism and the New Left teaches of the evils and inefficiencies of the bureaucratic managerial state and manipulative statist democracy. It also teaches that there are non-statist alternatives to social problems. And it teaches of the dangers radical movements face from co-option by the ruling elites, especially when they lack a consistent, systematic anti-statist ideology.

Next, I discussed Aristotle's conception of politics in order to distill the essence of the political in his thought and to point out some crucial areas of disagreement between him and Aristotelian liberalism. It will be useful to recapitulate these disagreements and others mentioned throughout the dissertation. An important point of disagreement discussed in chapter two is the recognition that human sociality can be cosmopolitan, not strictly limited to small and local, tight-knit communities like the *polis*. I have also noted that Aristotle did not fully recognize the highly individualized and diverse nature of human flourishing. Chapter four introduced more specific differences in how we conceive human flourishing: In particular, it is fairly well-known that Aristotle's conception of the best life entailed a life of leisure and that he did not think highly of productive work and market activities. Aristotelian liberals reject this singular conception of the best life and recognize the value and importance of productiveness and the free market. Additionally, Aristotelian liberals necessarily reject Aristotle's support for slavery and the subordination of women.

While I cannot speak for other Aristotelian liberals on this, I, at least, agree with Aristotle that the population size of a viable political community must by nature be small. Modern states are far too large in terms of population size and extent of territory to be true political communities. On the other hand, political communities can take different forms and individuals will generally belong to multiple associations, communities and organizations during their lifetimes. Also, people can and often do have meaningful cosmopolitan ties. Moreover, with current and improving technology and economic prosperity in the areas of telecommunications and travel, it is not even necessary for meaningful associations, communities and organizations to maintain tight territorial contiguity.

In my examination of Aristotle's conception of politics, I distilled the following essential definition: politics is discourse and deliberation between equals in joint pursuit of *eudaimonia*. Where we ultimately disagree is on the relevant meaning of 'equals' and on the proper locus of politics (see below). Liberals disagree with Aristotle on his conflation of the state and civil society. Liberals also disagree with Aristotle on the extent to which the law is educative and that it should be used for this purpose. The difference between the modern state with its mountains of vague, often contradictory, legislative laws and the Greek city-state with its largely customary laws is too often overlooked. If laws can have any educative power, they need to be relatively few in number, unambiguous and easy for a layman to learn, understand and remember. And they need to be supported by a shared political culture, otherwise they will simply be broken en masse. Witness the complete ineffectiveness, indeed, counterproductiveness, of the American Prohibition on Alcohol and War on Drugs. Moreover, there is no direct, one-to-one, necessary relationship between laws and education to virtue even in the best of conditions. Effective enforcement of the law can force correct behavior, but correct behavior does not necessarily lead to virtue. More fundamentally, however, liberals disagree with Aristotle over the legitimate scope of the law and its primary function in society. The primary function of a legal system and

its laws is not education but conflict resolution, and its legitimate scope is limited to prohibiting and rectifying (as far as possible) the most anti-social of vices – aggression, i.e., rights-violating behavior. Finally, while Aristotle makes consent a criterion for his best *polis*, he limits this consent to the constitution. Liberalism makes mutual consent a criterion for all social relationships.

After distilling from Aristotle’s thought what I take to be the essence of the political, I then turned to the task of developing a non-statist conception of politics and democracy. I argued that the essential characteristic and primary purpose of politics is the joint pursuit of *eudaimonia* – specifically, politics is discourse and deliberation between equals in joint pursuit of *eudaimonia*. The particular institutions within which politics is conducted vary, but there are at least three conditions necessary for politics to take place: direct participation, direct action and individual liberty. Politics ceases to be immanent, and becomes increasingly vicarious until it is nonexistent or is replaced by despotic rule, under at least three conditions: 1) the extent that it is conducted only by representatives, 2) the extent to which discourse and deliberation are separated from their culmination in direct action, and 3) the extent that rights-violating behavior (the threat or use of initiatory physical force) pervades the relationship. Much of what passes for politics in modern states takes place only among representatives and involves rights-violating behavior or policies. Thus politics, an important means of pursuing *eudaimonia*, is highly vicarious in even the freest of modern states. Moreover, the tendency among liberals to limit liberalism and politics to considerations of justice narrowly conceived, and to radically separate politics and morality, is misguided – for politics presupposes liberty, and the right to liberty precludes the threat or use of initiatory physical force. Political-democratic-civic debate over our responsibilities to ourselves and each other can only truly take place within the context of individual liberty. As Lavoie and Chamlee-Wright point out:

To do away with the principle of voluntary action, no matter how worthy the end, is to annihilate freedom and to institute slavery. When the challenge of social responsibility is made in the arena of civic debate, this is no longer a problem, as any action taken in response to those claims would be voluntary.<sup>524</sup>

Statist policies such as wealth redistribution, economic regulation and morals legislation are all unjust in this view; liberty and pluralism are not threatened by Aristotelian liberalism’s more robust conceptions of ethics and politics.

Finally, as no defense of liberalism would be complete without a defense of free markets and free enterprise, I endeavored to provide one. I argued that Austrian economics does not suffer from the flaws that communitarian and business ethicist critics have leveled or could level against mainstream neoclassical economics. Then I discussed some of the ethical and cultural foundations and principles of free markets and free enterprise. I identified moral principles embodied in free market activities as well as moral and cultural foundations presupposed by them. I also argued that free markets encourage certain virtues and discourage certain vices while state intervention weakens and even reverses these incentives and disincentives. And I discussed the role of business firms in society, pointing out that they are usually not given the credit they deserve for the social benefits they provide simply by performing their core function. Not stopping there, I argued further that businesses can be more socially responsible but that this cannot take precedence over profitability; through the creative exercise of practical wisdom

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524 Lavoie and Chamlee-Wright (2000), p. 116.

business leaders can find ways to be socially responsible without hurting the bottom line, indeed, can even find ways to make socially responsible decisions that improve the bottom line – but they cannot legitimately be forced to be socially responsible.

### **A Final Objection? The Charge of Utopianism or Gnosticism**

There are really two potential objections to Aristotelian liberalism here, but they are very much related, the latter being sort of a theological version of the former. Does the theory of virtue ethics and natural rights described in this dissertation represent an impossibly high standard of ethical excellence? On a related note, is it foolishly impractical given the current shoddy state of the world? And is the ideal society suggested by the non-statist conception of politics and severe critique of the state an impossible goal? Even if it is achieved, will it ring in a perfect world of peace, love and happiness without violence, misfortune and suffering? Naturally, my short answer to all of these questions is “No.” First, I wish to answer the charge of gnosticism that might be leveled by followers of the philosopher Eric Voegelin.

It is hard to find a clear definition of gnosticism in the sense that Voegelin uses it. He uses the term to refer to a certain kind of mass movement, particularly mass political movements. As examples, he gives “progressivism, positivism, Marxism, psychoanalysis, communism, fascism, and national socialism.”<sup>525</sup> In his view, the consequences wrought by these movements have been disastrous. With few and only partial qualifications, I do not disagree. What makes them gnostic are certain similar characteristics they share with the original Gnostic religious movement of antiquity. Before listing the main characteristics, it first bears pointing out that even the broad libertarian movement as a whole might not yet qualify as a mass movement. However, as Voegelin points out, “[n]one of the movements cited began as a mass movement; all derived from intellectuals and small groups,”<sup>526</sup> so contemporary libertarianism and Aristotelian liberalism are not off the hook yet! With regard to the following list, Voegelin cautions that the six characteristics, “*taken together*, reveal the nature of the gnostic attitude.”<sup>527</sup>

- 1) It must first be pointed out that the Gnostic is dissatisfied with his situation. This, in itself, is not especially surprising. We all have cause to be not completely satisfied with one aspect or another of the situation in which we find ourselves.

Despite Voegelin’s caveat it seems this characteristic does not carry much explanatory power. It would seem more relevant if the dissatisfaction manifests as a form of profound alienation from the world, from the society as a whole in which one lives, or from its government. Certainly liberals and libertarians must feel some alienation, but is it enough to really count significantly toward the gnosticism?

- 2) Not quite so understanding is the second aspect of the gnostic attitude: the belief that the drawbacks of the situation can be attributed to the fact that the world is intrinsically poorly organized. For it is likewise possible to assume that the order of being as it is given to us men (wherever its origin is to be sought) is good and that it is we human beings who are inadequate. But

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525 Voegelin (1968 [2004]), p. 61.

526 Ibid., p. 62.

527 Ibid., p. 64. Emphasis mine.

gnostics are not inclined to discover that human beings in general and they themselves in particular are inadequate. If in a given situation something is not as it should be, then the fault is to be found in the wickedness of the world.

Voegelin comes dangerously close here to extreme pessimism and fatalism and to absolving people of their responsibility for not behaving as well as they should and are able. On the other hand, it seems from his description of the gnostic that the gnostic too flirts with, even embraces, absolving people of responsibility: It is not their fault; they could not help it; all the blame rests with flawed institutions and/or deterministic socio-economic and historical forces. Liberalism, particularly the version of liberalism presented in this dissertation, avoids both of these extremes. In order to approach and achieve our ideal, human nature need not be changed. What is necessary is education and a change of institutions. There is a reciprocal causal relationship between people and their institutions; people shape them and are influenced in turn. Institutions present definite behavioral incentives and disincentives. But responsibility for one's behavior ultimately resides in the individual.

3) The third characteristic is the belief that salvation from the evil of the world is possible.

Salvation is certainly too strong a word for what we expect from our ideal society. It would bring greater material and spiritual prosperity, less injustice, i.e., less crime, exploitation and war. But it will not bring heaven on earth. There will still be crime, some wealth and income inequality (for that is only natural), scarcity, unhappiness and suffering. It will simply be much better than conditions are now. All the evils that exist in the world are created by human beings, and while these evils cannot be eradicated entirely, they need not be as great and prevalent as they are and have been.

4) From this follows the belief that the order of being will have to be changed in an historical process. From a wretched world a good one must evolve historically. This assumption is not altogether self-evident, because the Christian solution might also be considered – namely, that the world throughout history will remain as it is and that man's salvational fulfillment is brought about through grace in death.

Perhaps some contemporary classical liberals and libertarians believe there is an inexorable progressive historical process tending toward a final stage of history, but I do not think most do. Indeed, there is nothing guaranteed about achieving our ideal and even should it be achieved there is no guarantee that it will last forever. Human beings and human society being what they are, it is always possible for the necessary traditions and institutions to erode in the minds and hearts of men over the course of generations.

5) With this fifth point we come to the Gnostic trait in the narrower sense – the belief that a change in the order of being lies in the realm of human action, that this salvational act is possible through man's own effort.<sup>528</sup>

Classical liberalism and libertarianism in general, and the account presented here in particular, do not seek to change the entire order of being. Some things, like the laws of physics and of economics, just cannot be changed by man. The only changes that are sought lie within the

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528 Ibid., pp. 64-65.

realms of personal education and morality as well as social, economic and political institutions. These are changes that are within the realm of human action. Unlike other political movements, however, the changes and goals of liberalism properly conceived cannot be achieved by aggression, top-down central planning, or sudden and violent cultural revolutions. Rather, they can only be achieved through persuasion, education, the building up of alternative institutions – in short, a far from inevitable process of social evolution driven by purposeful, but not centrally coordinated, human action, the results of which on the macro-level will not be of human design. It will take generations, but “anyone who fights for the future, lives in it today.”<sup>529</sup>

6) If it is possible, however, so to work a structural change in the given order of being that we can be satisfied with it as a perfect one, then it becomes the task of the gnostic to seek out the prescriptions for such change. Knowledge – gnosis – of the method of altering being is the central concern of the gnostic. As the sixth feature of the gnostic attitude, therefore, we recognize the construction of a formula for self and world salvation, as well as the gnostic’s readiness to come forward as a prophet who will proclaim his knowledge about the salvation of mankind.<sup>530</sup>

Even non-gnostic movements have their leaders and their “prophets.” Knowledge is necessary for any human endeavor. This is another feature that does not really add much by itself. Features 2-5 seem to do the bulk of the explanatory work. Taking all six features into consideration together, it seems we can say conclusively that liberalism, particularly Aristotelian liberalism, does not qualify as a gnostic political movement. Aristotelian liberalism is about liberty and human flourishing; it is no more gnostic than Aristotle’s ethical and political philosophy.

In answering the hypothetical charge of gnosticism, the charge of utopianism has partially been met as well. The conception of human nature presented in the dissertation is, I think, a realistic one and the ideal society envisioned does not require human nature somehow to be miraculously changed in order for it to be brought about and maintained. The ideal society is not a perfect one in an otherworldly Platonic or Christian sense. It will not bring Heaven on Earth or usher in the End of History. I take the moral case to have been made fairly strongly, although the case can always be strengthened by fleshing the arguments out more fully and presenting more than time or space allowed here. What I have not spent much time addressing is the question of practicality, which raises objections that are variations on the theme “it will never work.” Addressing this question is largely beyond the scope of this dissertation and certainly cannot be accomplished in the concluding chapter. I must restrict myself to saying a few things and referring the reader to the significant body of literature, which deals with various aspects of the question of practicality, that already exists and continues to grow.

The moral/practical dichotomy does not sit well within Aristotelian philosophy. As has been argued, unlike most modern ethics, Aristotelian virtue ethics does not recognize a natural tension between what is moral and what is in one’s rational or enlightened self-interest. Immorality is never practical or in one’s rational self-interest in this view, even though a Hobbes or a Machiavelli would counsel otherwise. Moreover, if a critic is not convinced of the practicality, that does not by itself obviate the moral case; arguments need to be presented against the latter as well. This is simply a point about proper argumentation and should not be

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529 Rand (1975), p. viii.

530 Voegelin (1968 [2004]), p. 65.



taken as implying an embrace of a theory/practice dichotomy. It is sometimes said, “Well, it’s good in theory but it doesn’t work in practice.” But this is nonsense. If a theory is inapplicable to reality, then it is not a good theory.

The various theories of statism have been making a royal mess of things for centuries now. Perhaps it is time to try something radically different. As I noted in a previous chapter, Ronald Hamowy has observed that “For at least two hundred years [owing to the Scottish Enlightenment], social philosophers have known that association does not need government, that, indeed, government is destructive of association.”<sup>531</sup> Scottish Enlightenment thinkers like Adam Ferguson, David Hume and Adam Smith as well as modern thinkers like Austrian economist F.A. Hayek have theorized about and described the emergence of society, culture, law, language, and markets as spontaneous orders. Austrian economists, libertarians and others have built up a significant body of literature that demonstrates both theoretically and historically that legislative law and state-provided goods and services are inferior to other institutions in civil society: free markets and free enterprises, cultural norms, customary law and polycentric legal systems, and private organizations such as the family, churches, private schools, clubs, fraternal orders and the like.<sup>532</sup>

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531 Hamowy (2005), pp. 236-237.

532 Here is a partial list of the literature: Anderson and Leal (2001); Bell (1991); Barnett (1998 [2004]); Benson (1990); Caplan and Stringham (2003); Carson (2007); Cowen (2000); Cowen (2002); De Jasay (1997); Denson (2001); DiLorenzo (2004); Friedman (1989 [1995]); Hamowy (2005); Hayek (1954 [1963]); Hayek (1973 [1978]); Hayek (1976 [1978]); Hayek (1979); Higgs (1987); Hoppe (2002); Hoppe (2003); Keyt (1993); Konkin (1980 [1983]); Larson (2001 [2002]); Lipscomb (1889 [1913]); Loan (1991); Long (2002b); Long (2004a); Long (2004b); Long (2004c); Long and Machan (2008); Mises (1949 [1998]); Mises (2005); Rothbard (1973 [1978, 2006]); Rothbard (1982 [2002]); Rothbard (2004 [1962, 1970]); Smith (1979); Spooner (1992); Stringham (1998-1999); Stringham (2002); Stringham (2003); Stringham (2006); Stringham (2007); Stringham and Boettke (2004); Tannehill and Tannehill (1970 [1993]).

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## Vita

Geoffrey Allan Plauché was born in Lake Charles, Louisiana, and attended Sulphur High School. After graduating from high school in 1996, he joined the Louisiana Army National Guard, received training as an intelligence analyst, and rose to the rank of Sergeant (E-5) before being honorably discharged at the end of his enlistment in January 2002. He holds bachelor's degrees in political science (2002) and in history (2002) and master's degrees in political science (2004) and in philosophy (2006). He has published a book review in the *Journal of Value Inquiry*, an article in the *Journal of Libertarian Studies*, and has a chapter in the forthcoming book *Transformers and Philosophy* from Open Court Publishing Company. He is happily married to Sajida Begum Plauché.