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Editor's Note

I am particularly excited about this issue of *Reason Papers*. On the personal front, Douglas Rasmussen and Douglas Den Uyl are major influences on my thought and I have learned so much from both their written work and from conversations with each of them. So having the opportunity to work with them on the *Reason Paper*'s symposium of their newest book, *The Realist Turn: Repositioning Liberalism* has been a thrill. On top of that, many of the contributors to the symposium have also been important to my intellectual development in countless ways. It was a pleasure in every way to work on this issue.

But I am also excited for this issue because it tackles important philosophical issues. Rasmussen and Den Uyl's work runs the gamut from metaphysics to political philosophy; and *The Realist Turn* takes up some of the deepest metaphysical and epistemological questions we have and connects them to a defense of individual rights and liberty. The contributors take up different parts of these arguments. David Kelley, though sympathetic to their general case for metaphysical realism, challenges Rasmussen and Den Uyl on their discussion of universals and concepts. Aeon Skoble encapsulates Rasmussen and Den Uyl's argument from realism to rights, highlighting the key connections between *The Realist Turn* and their earlier works: *Norms of Liberty: A Perfectionist Basis for Non-Perfectionist Politics* and *The Perfectionist Turn: From Metanorms to Meta-Ethics*. Eric Mack focuses his criticism on Rasmussen and Den Uyl's defense of self-directedness as the basis for their meta-normative account of rights. Timothy Sandefur puts on his Devil's Advocate hat to challenge the perfectionist basis that Rasmussen and Den Uyl offer in defense of individual rights. Paul Gaffney pushes back on the connections Rasmussen and Den Uyl make between metaphysical realism and negative individual rights. Lastly, Lauren Hall raises concerns that Rasmussen and Den Uyl rely too heavily on a theory of human nature that doesn't fit with the reality of human existence, especially in terms of the central roles of community and family in our lives. In their authors' reply, Den Uyl and Rasmussen respond to these criticisms and challenges, offering crucial restatements and elaborations of their arguments.

If that wasn't enough, we have two book reviews. First, Jeffrey Carroll reviews Eric Mack's *Libertarianism*. Carroll describes the book as offering "a systematic treatment of libertarianism that covers its historical antecedents and contemporary incarnations" and praises it as offering a model for doing philosophy well. Second, Sandra Woien reviews Marc Champagne's *Myth, Meaning, and Antifragile Individualism: On the Ideas of Jordan Peterson*. Woien argues that Champagne's book is a great starting point for understanding Jordan Peterson and his ideas. Love him or hate him, it is always better to understand him.

Reason Papers is still accepting submissions for its next symposium: Rethinking College. This symposium seeks to examine various normative questions and issues in higher education: from cancelling of debt to free speech to diversity to the very purpose of college. The deadline is July 15, 2021; more information is available on the *Reason Papers* website: https://reasonpapers.com/. Lastly, we encourage individuals to propose a symposium or contact us if you are interested in writing a book review.

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Symposium: Douglas B. Rasmussen and Douglas J. Den Uyl's *The Realist Turn: Repositioning Liberalism*

Concepts and Natures: A Commentary on

The Realist Turn

David Kelley

The Atlas Society

In *The Realist Turn*,[1] along with their previous books and many articles, Douglas B. Rasmussen and Douglas J. Den Uyl have developed a systematic philosophical case for liberty. It is systematic in grounding the institutions of a free society in principles of natural rights, which they derive in turn from substantive claims in moral theory, epistemology, and metaphysics. They differ in this respect from the more popular trend among political philosophers who prefer to untether their views from such substantive claims; instead basing their accounts on more formal or constructivist approaches..

The ethical basis for rights, they say, is the moral theory they describe as "individualist perfectionism":

> Individualist perfectionism is a neo-Aristotelian ethical theory in which the actualization (or perfection) of individualized human nature is foundational to a description of human good and moral obligation. *Eudaimonia*—human flourishing—is the ultimate good or *telos* (end) for human beings; and living in a

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[1] Douglas B. Rasmussen and Douglas J. Den Uyl, *The Realist Turn: Repositioning Liberalism*, (Switzerland: Palgrave MacMillan, 2020). Henceforth, TRT. All parenthetical citations in the text are to TRT unless otherwise specified.

practically wise (*phronesis*) and virtuous manner is the primary obligation required by that end (p. 32).

Unlike other moral philosophers in the Aristotelian tradition, such as Alasdair MacIntyre, their view of flourishing is individualistic. While it involves many social goods in the form of relations of many kinds, flourishing is agent-relative—my flourishing is a good for me, yours for you—and cannot be maximized across individuals (p. 34). It includes goods and virtues that are "both worthy in themselves and nonetheless done for the sake of human flourishing" (p. 35). This moral standard is objective: while the specific nature of flourishing depends on the unique characteristics of an individual person, the basic principles are universal and based in human nature. Flourishing "is a way of living that is not reducible merely to our attitudes, feelings, conventions, or mental (or social) constructions" (p. 37).

This moral theory raises the question of how a political-legal system that governs a society universally can be consistent with the agent-relativity and uniqueness of flourishing for each individual. The authors refer to this as "liberalism's problem" (p. 27 and *passim*), and it's a major reason why political philosophers, including libertarians, have shied away from basing their views on definite moral foundations. The authors' solution relies on their view that flourishing involves self-direction through the exercise of reason, which takes effort and will. "[S]elf-direction is not merely one of the many conditions necessary for the existence of human flourishing; rather, it is fundamental to the very nature of human flourishing" (pp. 39-40). Natural rights function politically as "metanorms" to protect the exercise of self-direction against coercive interference.

Such, in briefest outline, is the moral and political philosophy the authors have developed in previous works, and they reprise it in the first five chapters of *The Realist Turn*. But the *raison d'etre* of this book is to go deeper: to make a case for natural rights and individualist perfectionism as objective truths, based on a realist epistemology. They spell out these views in considerable detail, and along the way deal with a wide range of other classical and contemporary views. One can disagree with specific elements in their view—I have doubts about flourishing as an ultimate value, for example, as I have written

elsewhere.[2] But I salute their efforts to ground their defense of liberty in a systematic philosophy with a foundation in ethics, and both in a view of human nature and human knowledge.

The case for realism occupies the final two major chapters in the book, dealing respectively with realism in ethics (Chapter 6) and knowledge (Chapter 7). In both cases, the authors' primary target is the pragmatist constructivism of Hilary Putnam (and to a lesser extent Willard Quine and Richard Rorty)—and the views of John Dewey and Ludwig Wittgenstein that these recent philosophers invoke. As an epistemologist, I will devote this commentary chiefly to Chapter 7, "On the Alleged Demise of Metaphysical Realism." As an Objectivist epistemologist, moreover, I will note similarities and differences between the Objectivist version of realism and the one that Rasmussen and Den Uyl put forward. Although the authors identify with the Thomist-Aristotelian tradition, they are familiar with Ayn Rand's epistemology, which is also Aristotelian in a broad sense. Comparing these sibling approaches will bring out a number of more specific questions and concerns to complement the broader differences with constructionism.

In section 2, I will discuss their case for metaphysical realism as such. In section 3, I will turn to the core of their defense, a theory of concepts and universals. Before we begin, though, we should consider briefly the connection between rights and realism.

1. Rights and realism

The principle of natural rights is a political thesis; realism is a metaphysical and epistemological thesis. How are they related? At a superficial level, there's a plausible connection. The authors hold that the rights we have are based on our nature, in light of the perfectionist requirements of our nature, which in turn depends on our cognitive ability to grasp natures.[3] But they also acknowledge that metaphysical realism does not entail natural rights. Metaphysics is a descriptive

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[2] David Kelley, "Why Virtue is a Means to Our Ultimate End," in *Is Virtue Only A Means To Happiness? An Analysis of Virtue and Happiness in Ayn Rand's Writings*, ed. William Thomas, The Atlas Society, 2001/2010.
[3] See TRT pp. 142-146.

branch of philosophy. Natural rights, and their ethical basis, are normative theses that need support from a normative theory of values.

What about the converse implication: Does the thesis of natural rights depend on metaphysical realism? The authors say it does:

> For if there was no such thing as a defensible realism generally, and of realism with respect to normative concepts in particular, the case for natural rights does indeed fall apart…

> So considered, human nature is the stable object of our cognition across cultures and indeed times, which is, of course, vital to any account of natural goodness and natural rights (p. 144, p. 213).

This dependence is the fundamental point in "the realist turn" that the authors defend. But it is a trickier issue. Any ethical or political theory claims, at least implicitly, that it has some sort of objective basis, by some standard of objectivity, even if that basis is convention or a contract theory. In that respect, one could question the authors' claim. On the other hand, any alleged conventional basis for normative claims is wide open to views incompatible with a politics based on individualism and individual rights. So I'm inclined to agree with the authors about this direction of dependence. In any case, I think realism in metaphysics and epistemology is worth defending in its own right. So let us move on to that defense.

2. Realism

> What is metaphysical realism?

> Metaphysical realism involves both an ontological thesis and an epistemological thesis. The ontological thesis is that there are beings that exist and are what they are independent of and apart from anyone's cognition. The epistemological thesis is that the existence and nature of these beings can be known, more or less adequately, sometimes with great difficulty, but still known as they really are (p. 188).

This definition nicely captures the essence of realism across its many specific forms, from Aristotle to contemporary realists. It is the thesis that Rand called the primacy of existence: Things exist in a world

that is independent of our conscious awareness. Things are what they are, they have identities, regardless of whether or not we know about them, regardless of what we believe or feel. Facts are facts. But we can acquire knowledge of facts. The function of the mind, of our conscious capacities, is to grasp things as they are.[4]

Constructivism is a form of the opposing thesis, the primacy of consciousness—in this case the beliefs and practices of a group rather than individual subjectivism. The authors' definition:

> Epistemically, constructivism holds that our beliefs are true or false only because they are based on principles that are ultimately grounded in our thoughts and practices, not on the nature of cognitive-independent things such as human nature… (p. 187).

The corresponding ontological claim is

> … that the natures of cognitive-independent beings are either constructions of or projections from human thoughts and practices. This claim is generally expressed in terms of the conceptual scheme or language or conventions employed by the knower, or the points of view or interests, or even more generally, the cultural background of the knower (or some combination of them all) (p. 188).

How then does one make a case for realism? Rasmussen and Den Uyl claim that it is self-evident (p. 218). I agree. They do not offer a systematic account of self-evidence, but they do cover all elements of such an account. In this section I will pull those elements together, with a bit of elaboration, to show why their case for realism is persuasive.

A self-evident proposition is one justified by the direct awareness of the fact that makes it true, rather than by inference from other facts. Two types of proposition meet that standard: perceptual judgments and axiomatic truths like the law of identity—and the primacy of existence. In a perceptual judgment, we predicate a concept

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[4] Ayn Rand, "The Metaphysical Versus The Man-Made," *The Ayn Rand Letter*, Vol. II, No. 12 March 12, 1973. See also David Kelley, *The Evidence of the Senses* (Baton Rouge: Louisiana State University Press, 1986), pp (27 ff).

of an object we perceive. I see the sheet of paper and judge that it is white; both the awareness of the paper and of its color are direct. I take the authors to be making the same point in their critique of the constructivist claim that all perception is theory-laden:

> The ultimate bases for concept formation are things and their properties. Our sense perceptions of these things and their properties result in preconceptual or prelinguistic sorting of them on the basis of their perceived similarities and differences (p. 220).

To be sure, perceptual judgments are fallible. If the conditions of perceptual are distorted, or misleading in some other way, I could be wrong. But in normal circumstances my application of the concept is justified by the direct awareness not only of the object itself but of its determinate color. There is no inference involved.[5]

Perceptual judgments lie at the basis of all human knowledge. (The authors agree with Aristotelian empiricism in holding that all knowledge derives from the senses (p. 80, pp. 219-20). Axiomatic truths lie at the other extreme, as the most abstract and fundamental level of knowledge. The laws of identity and non-contradiction, for example, apply to every object of knowledge, known or yet to be discovered; and to everything we know or could know about them. I take it that the authors consider realism to be self-evident in this sense.

For realism to meet the standard of a self-evident proposition, it must be validated by the direct awareness of the fact that makes it true. In the case of perceptual judgments, the direct awareness is obvious. In the case of realism, it takes a bit more thought. In any case of knowledge from simple perception to the most complex knowledge of the world, we are aware of something—an object, a society, a law of physics—something that exists and is what it is; and we know this by reflecting on that awareness. The essential point is that conscious awareness is relational. As the authors explain:

> Though each of these tools [concepts, propositions, and arguments] has different cognitive functions from the others,

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[5] I provide an account of how perceptual judgments are justified by perceptual awareness in *Evidence of the Senses*, Chap 7.

their common fundamental character consists in their being of or about something other than themselves…. They are inherently relational or intentional and cannot be known first (either logically or temporally), before it is known what they are of or about (p. 214). [6]

Two points should be noted here. First, this is not an argument for realism. It points to a fact about cognition in general and asks the reader to observe the same fact and recognize its truth in his own mental functioning.[7] Axiomatic truths, like perceptual judgments, are justified by direct awareness, not inference. Secondly, this realist insight excludes the representationist view that cognition is mediated by an inner object—an image or sense-datum in the case of perception, an idea in the case of conceptual knowledge. That is the point of the authors' statement that the tools of cognition "cannot be known first (either logically or temporally), before it is known what they are of or about." They elaborate on this point elsewhere in arguing that a concept is not a "third thing" standing between knower and known. Concepts "are not what know but that by which we know" (p. 206).

Axiomatic truths, then, are justified in the same way as perceptual judgments, by the direct awareness of the fact they state. That is the positive side of their justification. But there is also a negative, polemical case. Unlike perceptual judgments, axiomatic truths are not fallible. We could not be mistaken, for example, about the laws of identity and non-contradiction. How would we even understand a claim that there are exceptions to these laws? Do the exceptions have an identity? Are they both exceptions and not exceptions? These laws of logic lie at the base of all knowledge. Denying them is incoherent; anyone who tries to deny them implicitly refutes himself by using them.

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[6] Or, as Ayn Rand put it, "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." *Atlas Shrugged*, Centennial Edition (New York: Plune, 2005), p 1015.

[7] Cf. TRT, 220: "So, the principle of non-contradiction is implicitly grasped in sense perception in the following way: the child's awareness that she cannot have her cake now that she has eaten it involves grasping the constituents that are to be used in forming the concept of impossibility; and that concept will be a constituent later used in grasping the principle of non-contradiction.

Rasmussen and Den Uyl mount the same self-refutation arguments on behalf of realism.

In simplest form, if someone claims that a statement is true because he believes it, one can ask whether that claim—"statements are true because I believe them"—is itself true only because he believes it, or does he intend it as a truth about the real, objective nature of cognition—in which case the content of his statement is inconsistent with his intent in making the statement. Arguments of this form can be mounted not only about truth but about other terms of epistemic appraisal such as evidence, meaning, and reference. The authors spend some time mounting self-refutation arguments about all these terms, hunting down constructivists in the tall grass of their attempts to get around the problem.

I do not consider these self-refutation arguments as *arguments* for realism (or for the laws of logic). If these truths are self-evident, they are not derived from other truth known antecedently. And the self-refutation arguments presuppose realism; treating them as arguments would be circular reasoning. What they do show is that the axiomatic truths are inescapable as foundations for any knowledge we may claim to have. They complement the positive validation—the direct awareness that all cognition is relational—by providing dialectical tools to help focus attention on that fact.

What I have outlined is the case that Rasmussen and Den Uyl make for realism, and I think it's a solid case. Despite their efforts to present the case in detail, however, and to answer a wide range of possible objections, they recognize that there's more work to do. The self-refutation arguments in particular are certainly not new. They are at least as old as Plato's attack on Protagoras in the *Theaetetus*.[8] In my experience, they rarely persuade anti-realists. The reason may be that realism as such is a highly abstract tenet, applicable to all forms of cognition. But each form of cognition has specific issues about its objectivity—from the validity of the senses, to the nature and basis of

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[8] Plato, *Theaetetus*, trans. John McDowell (Oxford, 1973), 170a-171d. Aristotle seems to be making a similar argument, in a more complicated form, in *Metaphysics*, trans. W. D. Ross, in Richard McKeon (ed.), *The Basic Works of Aristotle* (New York, 1941), Book IV, Chaps. 4-8.

abstract concepts, to the problem of induction, to mention a few. Realists need to address these specific issues. Rasmussen and Den Uyl take on the issue of concepts in the central section of their chapter on metaphysical realism.

3. Concepts

The authors recognize that validating the objective basis of concepts is essential to defending realism. The human ability to form and use concepts is the core of rationality, the basis of language, science, and politics and law—including the principle of rights. The authors offer a theory of concepts which they describe as a "Neo-Aristotelian-Thomistic View of Concepts and Cognition." To set the stage for discussing this view, I'll begin by explaining what I take to be the philosophical issue.

The problem of concepts has been an issue in metaphysics and epistemology since Plato; it was better known historically as the problem of universals—and that's a good place to start. A concept like *cat* is universal. It refers indifferently to an open-ended range of beings, not merely my cats and other cats I have seen but all the cats there are in the world, past, present, and future. While individual cats are similar, moreover, they differ along every dimension, from size to color to temperament to hunting skills, among many other attributes. A concept like *cat*, in other words, is abstract as well universal. It is universal because it subsumes an open-ended range of *numerically* distinct things. It is abstract because it subsumes a range of *qualitatively* distinct things: things that are similar but differ qualitatively. When I say of my pet Isabella that she is a cat, I am predicating of her exactly the same thing I would mean in identifying any other animal as a cat, despite the many differences among these creatures.

Assuming that all things existing outside the mind are concrete individuals, with their individual concrete attributes—an Aristotelian view that Rasmussen and Den Uyl accept, as do I—the problem of concepts is that of explaining how the use of universal and abstract concepts is justified as a cognitive tool for identifying these particular individuals. The authors reject Platonic extreme realism, which holds that concepts refer to universals existing *ante rem*, in a realm outside the world of the particulars that instantiate those universals. Instead, they

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adopt "a version of what is traditionally called 'moderate realism'" (190), the view usually attributed to Aristotle and developed further by Aquinas. Before we consider their theory in detail, it will be useful to consider two other theories as contrast objects. The first is a version of moderate realism they do *not* accept; the second is the Objectivist theory.

Moderate realists hold that universals do not exist apart from particulars, and do not exist in particulars, either—not literally, not *as* universals. What exist outside the mind are particular things, with their concrete, numerically discrete attributes and natures. But some moderate realists hold that these attributes and natures do contain a kind of abstractness. The leaves of the plants on my shelf are different shades of green. What makes them all green is the possession of that color property, which makes them similar, together with a determining element that makes them different shades. We form the concept *green* by distinguishing the abstract property from the differentiating element. In the same way, we form the concept of a kind, like *man*, by distinguishing the nature that makes an individual person human from the specific differences that make him qualitatively different from other humans. The abstract property or nature, as it exists in the things themselves, is only a potential universal. But once we have isolated it, we can see that it is common to many other things, predicable of many things, and so on. We now have a concept that results from our own cognitive activity but is grounded in reality. The universality of the concept has an objective basis in reality, even though it does not correspond to anything that exists as universal apart from the mind. But this is possible only because the abstractness of the concept does correspond it—it mirrors—something that exists as abstract apart from the mind. This version of moderate realism is typically described as holding that abstract properties exist *in re*.

In re realism faces both ontological and epistemological problems. The ontological question concerns the status of the attributes or natures in individuals. If there is an abstract element existing in things as they are, apart from the mind, how does that abstract element relate to the differentiating element that makes each particular object and its particular attributes or nature determinate? In the Aristotelian tradition, that individuating role was sometimes assigned to matter, as opposed to

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form, in the hylomorphic view of ontology. Among the scholastics and later thinkers, that role was often assigned to individualizing or determinate "notes" that, for example, makes one of my plants its distinctive shade of green, another plant a different shade; or makes me a specific, determinate instance of the nature *man*, different as an individual from other people. Peter Coffey put it this way:

> The absolute nature or object signified by "man" is really in this, that, and the other individual man, in John and James and Thomas, etc. It is really in them, but, of course, with this difference in each, that it has in each individualizing characteristics which are not included in it as it is when considered in itself, in its abstract condition as an object of thought, apart from the singulars of which it is predicated. In any individual man there are *individualizing notes* that are not in the abstract thought object "man"; but there is nothing in the latter that is not in the former." [9]

On this view, the abstract attribute or nature cannot exist in things apart from the determining note in those things. And that raises the epistemological question: In what sense can the abstract and determining elements be distinguished? How do we abstract the general attribute or nature from the individualizing element in a particular thing? Some realists seem to hold that we attend selectively to the general attribute or nature, attending to the general element as opposed to the determining notes, as we might attend selectively to the color of an object as opposed to its shape. But abstracting the general property green from two specific shades of green is not like abstracting one specific property from another. As Hume argued,

> 'tis evident at first sight, that the precise length of a line is not different nor distinguishable from the line itself; nor the precise degree of any quality from the quality.[10]

If we ignore the respect in which two shades of green differ, do we find in the leaves of my plants an abstract greenness? Or have we ignored

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[9] CF. Peter Coffey, *Epistemology* (Gloucester, MA: Peter Smith, 1958), vol I, pp 274-75 (emphasis added)
[10] David Hume, *A Treatise of Human Nature* (Baltimore: Penguin Books, 1969/1739), I,1,vii., p 66.

their color attribute entirely? If we ignore the differences between me and other human beings, differences not only in accidental properties but in properties essential to being human—e.g., my degree of intelligence, the particular content of knowledge I have acquired, my cognitive style, and other dimensions of rationality—are we left with an abstract property of rationality that is qualitatively the same in me and all other human beings? Or have we ignored my rational faculty altogether? It is not enough to say that we can distinguish in thought between things that cannot exist separately. That's true of the color and shape of an object. But in that case we can conceive of and describe the two attributes individually. How would we describe the differentiating note in a concrete shade of green as opposed to its greenness?

Such are (some of) the difficulties faced by *in re* realism. Consider, by contrast, Rand's Objectivist theory. On that theory, the ontological basis of a concept like *green* is the fact that certain colored things—the leaves of my plants, to use that example—differ quantitatively in color. Each leaf is what it is, with the specific color it has. There is nothing abstract in that identity. But there are relations of similarity and difference among colored things—relations that are themselves concrete and determine—such as the similarity between the different shades of green in my plants. These shades can be put in order as specific measurements on the dimension of color, from yellowish green to bluish, say, or deeper green to lighter. The basis for the concept *green* is that the difference in measurements of those leaves are much less than their differences in color from things like the plants' red flowers or brown stems. In the same way, the basis for the concept *man* is that the differences among human beings, along the countless dimensions on which they vary, are less than their differences from cats, apes, or beetles.

The epistemology of concept-formation is based on that ontology. The differences among the similar things we categorize under a concept are differences in specific measurements along a dimension of similarity. The abstract attribute or kind that a concept identifies is really the set of determinate relationships among determinate characteristics that allow objects to be ordered quantitatively. Concept-formation is then the cognitive act of omitting those measurements, within the range of quantitative differences among objects we have grouped together as

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similar—such as the leaves of my plants, or the human beings I know—by contrast with qualitatively different things—such as brown chairs in the case of color, or the family dog or cat in the case of humans. Once we omit the measurements among the specific objects whose similarity we perceive, the concept is open to anything else that is similar to them. Thus the concept we form is abstract and universal in subsuming an open-ended range of particulars, but its objective content is neither universal nor abstract; its content is those particulars, isolated by the similarity they have in virtue of their determinate characteristics. And, as Rand notes, a concept embodies the "some but any" principle:

> Bear firmly in mind that the term "measurements omitted" does not mean, in this context, that measurements are regarded as non-existent; it means that measurements exist, but are not specified. That measurements must exist is an essential part of the process. The principle is: the relevant measurements must exist in some quantity, but may exist in any quantity. [11]

The theory of concepts that Den Uyl and Rasmussen outline has similarities to and differences from both of the contrast theories I have sketched. At the core of their theory is a distinction between two modes of abstraction. On the one hand, we may abstract one thing from another, A from B, to focus just on A to the exclusion of B. Using terms from Aquinas, the authors describe this as "abstraction with precision." It is the mode of abstraction referred to earlier, the *in-re* realist view that we can attend selectively to a general element in a thing as opposed to the determining notes, as we might attend selectively to the color of an object as opposed to its shape. By contrast, "abstraction without precision" is abstracting an attribute or nature without including the specific, individuating forms it takes in particular things but recognizing that the attribute or kind exists only in those individuating forms.

> Thus, when we consider in similar manner the natures of individual human beings, say Barack Obama, Donald Trump,

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[11] Ayn Rand, *Introduction to Objectivist Epistemology* (New York: NAL Books, 1990), p. 13. See also David Kelley, "A Theory of Abstraction," *Cognition and Brain Theory 7* (1984), pp 329-57 [The Atlas Society, Objectivist Studies Book 5, https://shop.atlassociety.org/collections/ebooks/products/a-theory-of-abstraction-objectivist-studies-book-5

Bill Clinton, and Socrates, we are considering their natures indeterminately (that is, without regard to their specific determination), as a conceptual unit or universal but we know nonetheless that their natures must have some determination (p. 209).

In light of that distinction, they claim that the concept *man* identifies the nature human beings share without denying or disregarding the fact that the nature exists only in concrete forms in individual humans with all their variety. As the authors put it,

> the characters of each of the things that are grasped in abstraction as one common character (that is, as a universal) only exist in reality in an individualized manner…. the universal signifies indeterminately what is common to the respective natures of individual beings that is exhibited determinately in each (p. 211).

Thus, in a formulation the authors use often, "the nature of a human being either exists thoroughly individualized in cognitive-independent reality or universalized in cognition" (p. 212).

That formulation captures one aspect of concept-formation: Concepts are universal in referring to (an open-ended range of) individual things. But concepts can have this universal character only because of another aspect: They abstract from the determinate nature of particulars. How is that possible? Objects have determinate attributes and natures, whereas concepts identify those attributes and natures in abstract form. What exactly is the determinate element in objects that we abstract from in forming a concept? And what cognitive process is involved in abstraction? To see the issue, consider what is involved in grasping the determinacy of a particular thing and its features. When I perceive a green object by itself, I am aware of a color property which is in fact determinate. Insofar as my perceptual awareness is specific to the color, I could in a sense be said to be aware of its determinacy. But that could not be said in any full-bodied sense, because I am not aware of it *as* determinate. Determinate—as opposed to what? Until I form the abstract concept green, I don't yet have any grasp of the contrast *determinate vs. abstract*. How do I get there? Rasmussen and Den Uyl give the start of the answer: "The nature of a thing only becomes

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universal [and presumably abstract] in virtue of its being compared and contrasted to the natures of other existents and thus viewed in certain real relationships among them" (p. 220) They go on to say that those real relationships are relations of similarity.

So far, so good. The role of similarity, in forming concepts directly from the perceptual awareness of particulars, is common to all three theories we have discussed. And that leads to the next and crucial question: How does the awareness of similarity alter and enlarge our awareness of the determinacy of things and features in such a way as to enable us to abstract? Both in-re realism and the Objectivist theory can answer this question. For in-re realism, similarity reveals the differences among the determining notes of similar things, allowing us to distinguish those notes from the common abstract quality or nature—perhaps by a direct (intuitive) grasp. On the Objectivist view, similarity is a quantitative relationship; grasping the determinate features as differences in measurements allows us to abstract by omitting those measurements. I don't see a comparable level of explanation in the authors' presentation.

To put this point in a different way, the idea of abstraction without precision is parallel to Rand's "some but any" principle. [12] But that principle needs an answer to the question "some but any *what*?" Rand's answer is, "some but any measurement." An in-re realist's answer could be, "some but any determining note." As far as I can see, however, Rasmussen and Den Uyl do not have an alternative answer. The idea of abstraction without precision is a good first-pass description of the cognitive process. So far, however, we have only a re-description of what is to be explained, not a real explanation.

Of course, providing anything like a complete theory of concepts would take a much longer work, as the authors acknowledge. They also refer briefly to Rand's theory and my elaboration of it as relevant to "a well-developed theory of abstraction,"[13] which suggests that they may think the Objectivist theory can be incorporated within

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[12] Rasmussen noted the parallel in a talk to the Ayn Rand Society: Rasmussen, "Rand and Aquinas on the Problem of Universals," 2004 unpublished).
[13] TRT, p. 217, n 81.

their version of moderate realism. But I doubt that that would be possible because of a further element in their theory that I can mention only briefly here. They invoke another use of abstraction without precision, pertaining not to the relation between an abstract concept and its determinate instances, but to the existence of a nature as such, whether it exists in things or in the mind.

> When one absolutely considers the nature of a human being, one abstracts but does not prescind from every mode of existence that nature might have—that is, fundamentally speaking, from how it exists individualized and determinately in cognitive-independent reality and from how it exists universally and indeterminately in human cognition….
>
> Such a consideration is indifferent to how that nature exists—namely, individually and determinately in cognition-independent reality or universally and indeterminately in cognition…. (pp. 212-13)

This claim reflects a Thomist refinement of the Aristotelian idea that, in cognition, the knower's mind takes on the form of the thing known. This idea is common among moderate realists in that tradition. But it seems to assert a kind of mirroring of nature that I reject. I mention the claim because it seems an essential element in the authors' view of concepts and universals – and one at odds with the Objectivist account. But it is too fundamental and complex an issue to discuss here.[14]

Most of the points I have made about moderate realism were discussed in depth by scholastic philosophers and other thinkers in the Thomist-Aristotelian tradition. Rasmussen and Den Uyl are deeply versed in this literature, and I doubt that anything I have said will come as a surprise to them. So I leave my comments as questions and concerns for further discussion. At the same time, I suspect that many potential readers of *The Realist Turn* who have an interest in epistemology will have questions like mine. However, the authors' treatment of realism, especially the section on moderate realism, is couched almost entirely in the framework of Thomist-Aristotelian thought: actuality and

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[14] See my discussion of the diaphanous model of cognition in *Evidence of the Senses*, pp. 37-43, including the brief comment on Aristotle, p 38, n. 44.

potentiality, immanent activity, form and matter, etc. Which raises the question: Who is the intended reader? In other chapters, the authors have extended discussions of other approaches, including many contemporary theories. In their chapter on realism, however, after the discussion of Putnam and constructivism, they stay within the framework of Thomist-Aristotelian thought, with no outreach to thinkers who do not share this framework. Concepts have been an active topic of research in cognitive science, with many philosophers now involved. They could have been an interested audience, but with their account so fixed in the Thomist-Aristotelian tradition I suspect that many will not make the effort.

4. Conclusion

In my critique of the theory of concepts presented in *The Realist Turn*, I have focused on the core issues of abstraction. I consider these issues to be most important of all the metaphysical and epistemological problems that anti-realists have raised about cognition. Rasmussen and Den Uyl have much more to say, however, about conceptual knowledge, including definitions, fallibility, the foundations of knowledge in perception, and concepts for imaginary objects like unicorns, to mention a few. These are insightful discussions that do much to bolster the case for realism and reveal the errors of anti-realism.

I have also tried to show (Section 2) how their defense of realism in general is successful, based on the relational character of all awareness as well as self-refutation arguments against anti-realism.

I have not discussed in any depth their earlier chapters on natural rights or the ethics of flourishing. But as a fellow advocate of rights, reason, and realism, I salute the authors' commitment to grounding political philosophy in fundamentals. Making systematic connections among the different branches of philosophy is an important standard for philosophical work. In *The Realist Turn*, Rasmussen and Den Uyl provide a model of what that standard looks like in depth and detail.

Why Liberalism Needs Metaphysical Realism

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At the very beginning of *The Realist Turn: Repositioning Liberalism*,[1] Douglas Rasmussen and Douglas Den Uyl explain that their new book is the culmination of "what has become" a trilogy, suggesting that it may not have been the case in 2005, when they published *Norms of Liberty: A Perfectionist Basis for Non-Perfectionist Politics*,[2] that they were planning a trilogy. But if we think of philosophy as a process, it makes good sense that things would turn out that way. As its subtitle claims, their goal in NOL was to explain why a philosophical defense of a liberal political/legal order[3] (the "non-perfectionist" part) was best grounded in a eudaimonist moral theory (the "perfectionist" part). So part of NOL is devoted to explaining what that kind of liberalism might look like, and part to explicating what sort of theory of human well-being would underwrite that. For the former, they identify individual rights (negative, natural rights) as being central to the political/legal order. For the latter, they identify several features of human well-being which can be understood as an ethic of individualistic perfectionism. To further examine and understand this

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[1] Douglas B. Rasmussen and Douglas J. Den Uyl, *The Realist Turn: Repositioning Liberalism* (Palgrave Macmillan, 2020), henceforth TRT. All parenthetical citations in the text are to TRT unless otherwise specified.
[2] Douglas B. Rasmussen and Douglas J. Den Uyl, *Norms of Liberty: A Perfectionist Basis for Non-Perfectionist Politics* (Pennsylvania State University Press, 2005), henceforth NOL.
[3] Den Uyl and Rasmussen use the expression "political/legal order" rather than "state" or "government" so as not to beg any questions about the nature and justification of any particular authority. In principle, their defense of natural rights is compatible with traditional accounts of the minimal state or with polycentric alternatives.

account of ethics, they published the "middle" volume in 2016, *The Perfectionist Turn: From Metanorms to Meta-Ethics*.[4] The goal of the new book is to explore the idea of metaphysical realism and show why it is important for the previous two undertakings. The goal of this essay is to defend the idea that the realism-perfectionism-liberalism trajectory is correct, and to defend the appeal to natural rights in political philosophy.

Metaphysical realism, Rasmussen and Den Uyl explain, "involves both an ontological and an epistemological thesis – namely that there are beings that exist and are what they are apart from our cognition of them and that we can know both the existence and nature of these beings" (p. xi). This is meant to be both intrinsically interesting, a contrast to other views about what constitutes reality, what is knowable, and the relation between minds and objects; and relevant to moral and political philosophy, in that (according to Rasmussen and Den Uyl) it underwrites "a non-reductive naturalistic account of human good" as well as the idea that human beings have "basic, negative, natural rights"(p. xi).

It should be uncontroversial that political philosophy requires some grounding in moral philosophy. Any claims we might make about how we *should* live together or what a government *should* or *must not* do presupposes normative concepts that are unavoidably part of the larger realm of ethics. Perhaps less obvious is the idea that getting ethics right requires having some kind of metaphysics underlying *that*. Not every attempt in the history of moral theory does this, but the most comprehensive ones do. For both Plato and Aristotle, the question of how should I live is answered in reference to what sort of thing I am. While it is Aristotle who is the most closely related ancestor to what Rasmussen and Den Uyl are trying to do, the general approach is certainly not limited to Aristotle.[5] It's in Plato, it's in Aquinas, it's

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[4] Douglas J. Den Uyl and Douglas B. Rasmussen, *The Perfectionist Turn: From Metanorms to Meta-Ethics* (Edinburgh University Press, 2016), henceforth TPT.

[5] They also cite favorably more recent thinkers such as Henry Veatch and Philippa Foot.

arguably in Stoicism, it seems to be in Kant.[6] Broadly speaking, a theory about what people *ought to* do presupposes an account of what they *are*, so minimally, ethics requires an account of human nature. But a robust account of human nature requires metaphysics. To argue that there *is* any such thing as human nature, what it means to *be* a person, one would have to have an account of what it is to be, period. Hence, a "realist turn."

The argument Den Uyl and Rasmussen made in TPT involves an account of human nature on which people can be simultaneously seen as *members of a species* and as *individuals*. That is, Smith and Jones are at the same time the same sort of thing and also distinctly different things. As examples of *homo sapiens*, there are common biological characteristics, and even common psychological characteristics, in general ways. But Smith and Jones are nevertheless very different individuals. So their well-being, their flourishing, though similar at a generic level, may look very different. Flourishing is achieved by concrete individuals, so there is no "human flourishing" apart from the actual individual humans who flourish. This is actually true for anything—there's no fern flourishing or lion flourishing apart from the individual ferns and lions that are flourishing. Fern flourishing and lion flourishing are objective – that is, there are some objective criteria to determine whether those organisms are doing well. But those criteria are not individualized. The point is that people are complex enough as to make possible a variety of ways of flourishing. Whereas all flourishing ferns are flourishing in the same way, not all persons are flourishing in the same way. The generic conditions for fern flourishing are only present in concrete individual ferns, but they aren't different from the individual conditions. Contrast that with the generic conditions of human flourishing: use practical reason to develop states of character that are conducive to the good life. Virtues are context- and capability-sensitive means between extremes. Acquire wisdom and prudence. Have friends. Not only do these things happen only in concrete individual instances, they are individualized. The claim that friendship is a

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[6] In academic philosophy today, people generally specialize in one area within philosophy. Specialists in metaphysics or epistemology typically do not work in moral and political philosophy, and vice versa. But this is a relatively recent development. Plato, Aristotle, Aquinas, Locke, and Kant are all known for working in several areas.

necessary condition of the happy life doesn't say which people to befriend or how. The claim that some particular virtue is necessary won't entail specific instructions in how to discover the mean. The default answer, that we rely on practical reason to figure these things out, presupposes that there will be a range of possible answers.

This account of human *flourishing* as being objective yet pluralistic derives from an account of human *nature* as being objective yet pluralistic. To be able to make such a claim, one has to be able to say that things have a nature – that is, that "being an X" means there's some characteristics a thing has or doesn't have that constitute its X-ness. Notice that even to argue against this would require a metaphysics. Aristotle famously noted that one way to tell that the principle of non-contradiction is true is that any attempt to argue against it presupposes it. While metaphysical realism might not be as unassailable as the principle of non-contradiction, the basic point applies here: rejecting Rasmussen and Den Uyl's argument presupposes *some* alternative account of what is real, what it means to be a thing, so they are correct to stress the importance of drilling down to the metaphysical in order to continue talking about human nature, flourishing and perfectionism, and rights.

Rasmussen and Den Uyl note that *talking about* natural rights is itself less popular then it once was. The idea of natural rights is central in figures such as John Locke, and to the argument of the Declaration of Independence: People have rights by nature, and form governments in order to secure those rights. The "natural" in natural rights here signifies that rights should be understood as moral concepts which are conceptually prior to political systems. The confusion arises, of course, because once we have political systems, people have or don't have various rights *within that system*. But to infer from the fact that there are rights-in-the-legal-sense that there are no moral rights is a non-sequitur. Another confusion is ontological: by nature humans have a spleen, and this can be observed via x-ray or dissection. Rights can't be "seen," of course, but again it's fallacious to think that natural endowments must be physical masses. Think of a skill, or an instinct. These aren't observable physical masses either, but it's plain that creatures have them.

But philosophic appeal to natural rights is indeed less "popular" than it was in 1776 or 1974. Chapter 1 of TRT is meant to both document and understand this. Rasmussen and Den Uyl note that, broadly speaking, one might eschew theories natural rights for two reasons: one, it's *wrong*; there's no such thing as natural rights, and arguments based on rights are all fallacious. Alternatively, two, there are other, better ways to justify liberalism that obviate rights-talk. So, for example, utilitarians simply deny that natural rights are a legitimate concept. Since rights are meant to function as guarantees or prohibitions, they can easily bump up against a consequentialist analysis of the "best outcome." But Rasmussen and Den Uyl go on to examine thinkers such as David Schmidtz, John Tomasi, Jacob Levy, and Michael Huemer, none of whom could plausibly called a utilitarian, but who for other reasons shy away from centering their characterizations of liberalism around natural rights. It is mostly the need to respond to this second sort of approach that animates TRT and the defense of realism.

Defenses of rights theory as a basis for liberalism need not be based on extravagant metaphysics. But even the most rudimentary liberal argument will end up relying on some kind of metaphysics. Consider the following defense of rights: We each have a rationally justifiable moral claim to be treated as equals in our social status; that is, the structure of the political/legal order cannot justifiably assign positions of authority or power to Smith than could not be enjoyed by Jones. Smith can have no rights over Jones that Jones does not have over Smith. So the fundamental moral equality we ascribe to them is the rationale for the legitimacy of the equal liberty they enjoy. In other words, the underlying moral equality justifies the claim of equal rights, not the other way around. It's because Smith and Jones are moral equals that it would not be rationally justifiable to treat one as a nonconsensual servant to the other. Treating Smith and Jones as moral equals entails equal respect for their rights by the political/legal order. Rights theory thus offers a moral framework which preserves the equal dignity and autonomy of all persons.

The argument in the preceding paragraph is much more simplistic than the one made on NOL. But even this argument makes a tacit appeal to metaphysics. Clearly the argument in the preceding paragraph could be challenged – one might ask for further defense of

underlying equality of persons that it presupposes. Say one were to try to offer such a defense. One might begin by drilling down into what sorts of creatures Smith and Jones are and showing why *that* entails their moral sameness. Another approach might be to shift the burden of proof: if my opponent rejects the premise that Smith and Jones are equals, please demonstrate why Smith has a natural entitlement to lordship over Jones. Either way, it seems hard to avoid falling back on some baseline metaphysical claim. Individual things are examples of sorts of things. As Rasmussen and Den Uyl put it, "*Whatever pertains to a human being according to his or her nature will also be true of every individual with that same nature*" (p. 253, emphasis original). We can improve our understanding of a thing by understanding what it's like to be that sort of thing. So if Jones is a human, we need to understand (a) what "being a human" means, (b) that Jones is one, and (c) how Jones differs from other humans. Without realism, it's hard to see how we could do any of that work.

Rasmussen and Den Uyl note that "a large part of the reluctance to appeal to natural rights in explaining and justifying liberty has to do with the idea that speaking of the natures of things is…not defensible, and indeed that metaphysical realism is either false or senseless" (p. 254). This could be a result of (at least) three different things. First, philosophers concerned to defend liberalism might literally think realism is false. But it's arguably the rejection of realism that has given rise to the most robust forms of anti-liberalism: fascism and Marxism. Second, philosophers might think that realism might well be true, but that it lends itself to anti-pluralist or other authoritarian models, such as Platonism or theocracy. But this overlooks the specific nature of the human person. A metaphysical realism about human nature ought to lead one to notice the individuative as well as the generic aspects of our well-being (as Den Uyl and Rasmussen argue at length in TPT). Third, philosophers might think it more strategic to formulate an argument for liberalism that doesn't presuppose any metaphysics. I suppose this is a function of whether one sees "arguing in defense of liberty" as primarily a philosophical activity as opposed to a rhetorical activity. If the latter, then perhaps relying on metaphysics would be ineffective. But ultimately, I think it is a philosophical activity, which means pushing back to first principles for ultimate justification. Rasmussen and Den Uyl have noted that their primary goal is understanding and truth-

seeking rather than persuasion per se.[7] But they also note that political philosophy is ultimately action-oriented: if we have a true theory of how we ought to structure the political/legal order, then we ought to structure the political/legal order that way. Beyond its tautological sense, this means making a case to others, but I disagree, and I think Rasmussen and Den Uyl disagree, that this can be done without a firm metaphysical foundation. So, establishing the correctness of metaphysical realism is indeed "useful" for the robust defense of liberalism.

If we look at liberalism in isolation, free from any philosophical context, it would be neither robust nor especially defensible. Why prefer one set of social arrangements to another? To *prefer* one set of institutions to another is already to presuppose a commitment to something beyond those institutions. This is what promotes the greatest good for the greatest number. This is what is necessary to keep us all from killing each other. This is what promotes my (or my tribe's) power over others. This is what rational agents would agree to. This is how we can live together in peace and prosperity. This is what God wants. All of these rationales depend on some underlying desideratum. So defending liberalism means showing why it's preferable to something else. According to Rasmussen and Den Uyl, we can not only show this, but we can make such a demonstration as justifiable as possible. Their idea of rights as *metanorms* both solves a problem and points to deeper justification. Flourishing happens *to* individuals, but *within* a social setting. People are people, but they're all different. So how can we live together? "Rights" as a metanormative principle doesn't specify a particular end for a particular person, but establishes the conditions under which ends can be pursued. In the three books culminating in TRT, Rasmussen and Den Uyl have shown not only why it makes sense to see rights as metanormative, but also how this conception of rights can be justified by reference to the "individualistic perfectionism" account of human good, which follows from an account of the person – and now, how we cannot really have any of this without a metaphysical realism to ground it all.

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[7] E.g., in "*Norms of Liberty*: Challenges and Prospects," in *Reading Rasmussen and Den Uyl*, ed. Aeon J. Skoble

Liberalism's Problem and
the Self-Directedness Meta-Norm

Eric Mack

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The Realist Turn: Repositioning Liberalism[1] by Douglas B. Rasmussen and Douglas J. Den Uyl is chuck full of big, well-developed, and challenging ideas. It is a boldly ambitious philosophical work that proposes nothing less than a fundamental shift in the way that we should think about morally worthwhile lives and the nature of liberal political/legal order – a shift that itself is justified by a reassertion and vindication of metaphysical realism. Section I of my discussion of this work is devoted to identifying the key themes of *The Realist Turn* and exploring their relationship to one another. For me, one of the most valuable features of *The Realist Turn* is the degree to which it got me thinking about the links among these core themes. Section II of my discussion focuses almost entirely on what I call "the self-directedness meta-norm" – especially on questions about the nature of the case for this meta-norm and the character of this meta-norm. Rasmussen and Den

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[1] Douglas B. Rasmussen and Douglas J. Den Uyl ,*The Realist Turn: Repositioning Liberalism*, (Switzerland: Palgrave MacMillan, 2020). Henceforth, *TRT*. All parenthetical citations in the text are to *TRT* unless otherwise specified.

Uyl offer an innovative and promising repositioning of the fundamental principles of a liberal political/legal order. Nevertheless, I raise some questions about whether the promise is fulfilled.

1. Individualist Perfectionism, Natural Rights, and Metaphysical Realism

The Realist Turn presents the authors' neo-Aristotelian perfectionist ethics and their self-directedness meta-norm which Rasmussen and Den Uyl argue is the foundational principle for liberal non-perfectionist political order. That meta-norm requires that any political/legal order protect and certainly not itself preclude each individual's self-direction of her own life. The authors explain how their perfectionist ethics sets the stage for this most fundamental meta-norm and the basic natural rights to life, liberty, and property which express that meta-norm. (These natural rights are themselves described as meta-norms.) At least in this stage-setting way, their perfectionist ethics is taken to underwrite the self-directedness meta-norm[2] and, hence, the non-perfectionist political/legal order that would arise through the institution of and the respect for that meta-norm.

The authors want to preserve their thoroughly perfectionist – indeed, *self*-perfectionist – conception of "the morally worthwhile life" (p. 22). But they also want to support a political doctrine that centers on moral side constraints that the political/legal order must itself abide by and must enforce upon individuals in their interactions with one another. The self-directedness meta-norm and the natural rights of life, liberty, and property are correlatives of the most basic of these side constraints. According to the authors, compliance with these constraining rights is not as such as aspect or element of self-perfection. Hence, according to the authors, justifiable meta-norms cannot themselves be part of the recipe of self-perfection. Meta-norms are not part of the code for leading a morally worthwhile life. "[A]s important and vital a matter as following natural rights may be, they are nonetheless not central features

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[2] The authors' official formula for what I am calling "the self-directedness meta-norm" constrains each individual's endeavors so as to maintain the *possibility* of each other person's self-perfection. More specifically, it focuses on the necessity of self-direction for every mode or aspect of self-perfection and constrains each individual's conduct so as to maintain the *possibility* of each other individual's self-direction.

– and certainly not the only features – of moral life. . ." (p. 31). These meta-norms are not part of the answer to the questions: What should one seek in one's life? What would living well consist in? Rather, they are answers to the question: What norms underwrite political/legal order that is appropriate for a society of individuals each of whom quite properly seeks her own numerically and qualitatively distinct perfection? "[T]he natural rights to life, liberty, and property override other ethical notions in determining the function of the political/legal order; but they do not thereby become the most important ethical notions" (p. 32).

Indeed, these constraining rights are not at all among the sort of normative notions that constitute a proper self-perfectionist ethics. In this way, the authors reject what they call "*equinormativity*" (p. 30), the view that all sound norms function in the same way. "[I]t is possible for there to be ethical norms that do not direct conduct but only regulate conditions under which conduct that employs moral concepts [presumably, the moral concepts that are descriptive of a worthwhile life] take places[sic]."(p. 30).[3] The constraining principles that specify or set the framework for social life are sharply distinguished from the principles that specify how individuals ought to live their lives within that framework.[4]

Hence, it is natural to think that the basic division of labor between the norms that guide self-perfection and the meta-norms that forbid conduct that deprives others of self-direction (or of life, liberty, or property) is between goal-oriented norms that are in some broad sense consequentialist and constraining norms that are deontic. However, Rasmussen and Den Uyl insist that the meta-norms are not deontic. To try to divide ". . . rights into either consequentialist or deontological notion, is really beside the point. Rights are not consequentialistic; and once one learns what their function is, they are not deontological either"

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[3] The last two words of this sentence should most likely be "takes place."
[4] So, Rasmussen and Den Uyl rightly resist the temptation to argue that the reason that each person has to abide strictly by the rights of others is that such compliance is part of each person's self-perfection. See *TRT* pp. 46-52. They deny that respecting rights is simply a constituent of [or, presumably, a means to] one's pursuit of the self-perfecting life or a form of living well" (p. 50).

(p. 30).[5] I will return to this claim and the consequences of it in section II.

The normative and meta-normative doctrines that I have mentioned have been articulated and defended in earlier volumes by the authors.[6] What is most new in this volume is their presentation and defense of a neo-Aristotelian version of metaphysical (i.e., ontological and epistemological) realism combined with their contention that this metaphysical realism provides a philosophical basis for their perfectionist ethics and, *mutatis mutandis*, their self-directedness meta-norm. "Ultimately, our aim is to tie the defense of natural rights to a metaphysical realist position in ontology and epistemology" (p. 17). The authors offer both a critique of prominent anti-realists – especially Hillary Putnam -- and a positive neo-Aristotelian defense of metaphysical realism. Metaphysical realism here includes both the affirmation of the existence of and our knowledge about mind-independent entities and the existence of and our knowledge about the nature of those entities.[7] Metaphysical realism includes realism with respect to the existence of the external world and realism with respect to the natures of types of things (including types of externally existing things). I learned most from the chapters within *The Realist Turn* that

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[5] Even though their individualist perfectionist ethics identifies a summum bonum for each individual, Rasmussen and Den Uyl also deny that their individualist perfectionist ethics is consequentialist. See *TRT* 36.

[6] See *Norms of Liberty: A Perfectionist Basis for Non-Perfectionist Politics* (University Park: Pennsylvania State University, 2005) and *The Perfectionist Turn: From Metanorms to Metaethics* (Edinburgh: Edinburgh University Press, 2016).

[7] I do not believe that the authors ever make explicit the distinction between realism with respect to the external world and realism with respect to natures. Yet clearly there is a distinction to be made. One can be a realist in the first respect without being a realist in the second respect. That is, one can affirm the mind-independence of lots of objects of our (perceptual) awareness while being a nominalist about the natures of those objects. One can also be an anti-realist with respect to the external world and a realist with respect to natures. That is, one can think that all the objects of our awareness are mind-dependent and yet think that one can ascertain the nature of at least some sorts of these mind-dependent objects of our awareness. On the authors' account, this seems to be the character of Martha Nussbaum's "internalist essentialism" (pp. 149-151), even though the authors describe Nussbaum's position is "an essentialism without realism." (p. 149).

are devoted to the authors' critique of anti-realism and their positive neo-Aristotelian account of the character of our knowledge of the natures of things.

In addition, the authors maintain -- I think as part of their affirmation of metaphysical realism -- that the goodness of a (living) thing of a given kind consists in its actualization of its nature. Hence, the goodness of a human life consists in the realization by that individual of the particular human potential of that individual. This is the element of metaphysical realism that bridges the supposed gap between "is" and "ought," between descriptive and prescriptive propositions. It is because they include this potentiality/actualization doctrine within metaphysical realism that the authors can claim that metaphysical realism and only metaphysical realism can ground their perfectionist ethics.

Do the authors of *The Realist Turn* hold that metaphysical anti-realism, understood simply as the rejection of realism with respect to the external world or realism with respect to natures, is necessary and sufficient for normative anti-realism, i.e., the denial of objectively sound moral propositions? I think the *tone* of *The Realist Turn* is that metaphysical anti-realism is necessary and sufficient for normative anti-realism. The sufficiency claim seems correct and important. If non-normative propositions cannot be grounded in external realities and natures, then normative propositions cannot be so grounded.

Yet, it would be a mistake to hold that metaphysical anti-realism is necessary for normative anti-realism. For one can be a full-fledged metaphysical realist (*sans* the potentiality/actualization doctrine) while still thinking that normative properties do not have objective existence or knowable natures. If one is a metaphysical realist, one still needs something else – for the authors, it is the potentiality/actualization doctrine -- to get one over the hump to normative realism. Thus, a realist turn (that is not accompanied by the defense of the potentiality/actualization doctrine or some alternative defense of the objectivity of normative properties) would be less of a cure-all than the tone of *The Realist Turn* suggests.

There is a much more specific application of this broad point to the course of argument undertaken in *The Realist Turn*. The book begins with a chapter entitled, "Whence Natural Rights?" in which the authors

note that natural rights thinking no longer dominates philosophical defenses of libertarian or classical liberal argumentation. They seek to explain this unfortunate development as the effect of the abandonment of metaphysical realism by many current supporters of libertarian or classical liberal conclusions. If this is correct what is most needed to bring advocates of libertarian or classical liberalism back into the natural rights fold is the revitalization of metaphysical realism. However, I have my doubts about the authors' particular diagnosis of the turn away from natural rights. For the theorists cited as evidence for this diagnosis do not seem to me to be either metaphysical or normative anti-realists.

Rasmussen and Den Uyl most prominently mention two authors, David Schmidtz and Jacob Levy, each of whom offer a more pluralist and loose-jointed[8] defense of classical liberal conclusions than do the authors. Yet neither seem to show any significant sign of being either metaphysical or normative anti-realists. Schmidtz's analogy of theories as maps that track diverse features of some terrain simply supposes that there are diverse real features which different maps intended for different purposes track and not at all that the features tracked are the product of their being mapped. Levy's tracing of two quite distinct forms of liberalism simply supposes that each of these forms captures part of the political truth and does not imply that there are two competing conceptual schemes untethered to moral reality.

Here is one final observation about the relationship of certain of the major themes of *The Realist Turn*. It is not clear to me whether the authors think that only their individualist perfectionist ethics -- which includes as a vital element the doctrine that the good for any given (living) entity of a given sort is the realization of its potential -- can set the stage for (something like) their self-directedness meta-norm and natural rights. Overall, I do not think they argue or even want to argue that only an ethical doctrine that appeals what I have called the potentiality/actualization doctrine can underwrite (something like) their self-directedness meta-norm and natural rights. For example, neither

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[8] I think that the doctrine developed by David Schmidtz in *Elements of Justice* (Cambridge: Cambridge University Press, 2006) is less loose-jointed that Schmidtz himself suggests. See Eric Mack, *Libertarianism* (Cambridge: Polity Press, 2018), Online bonus chapter at http://politybooks.com/mack-online-chapter/ pp. 27-36.

John Locke nor Ayn Rand rely upon the potentiality/actualization doctrine. Although the authors would say that this weakens the accounts of the moral life offered by Locke or Rand, I doubt that they would say it weakens their respective moves from their own accounts of the moral life – which still take each person to have ultimate ends of her own the successful pursuit of which requires freedom from interference by others – to the affirmation of natural rights. More precisely, I do not think they would say that it weakens Locke's or Rand's *opportunity* to make the type of move to natural rights as meta-normative principles that Rasmussen and Den Uyl make.[9]

2. The Self-Directedness Meta-Norm and Natural Rights

In the course of writing this review-essay I have realized that I have not thought carefully enough about the route by which Rasmussen and Den Uyl get to their meta-normative principles. I think I have always taken myself to understand their philosophical motivation for casting their fundamental political/legal principles as "meta-norms" and have always presumed that, except for this particular casting, the basic character of their move to these principles was substantially the same as that of standard natural rights theorists (among whom I count myself). But I now suspect that my lazy presumption was mistaken and, hence, I

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[9] Perhaps Rasmussen and Den Uyl take Rand to come very close to making their sort of move to rights as meta-normative principles. See the passage from Rand cited at *TRT* p. 51. In contrast, I think the dominant view within Rand's *vindication* of basic rights is that individuals have rights to engage in certain types of action because it is in their interest to engage in those types of action. In her essay on "Man's Rights"[9] [Ayn Rand, "Man's Rights," in *The Virtue of Selfishness* (New York: Signet Books, 1964) pp. 92-100] Rand reproduces this crucial passage from *Atlas Shrugged*.
Rights are conditions of existence required by man's nature for his proper survival. If a 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. (pp. 94-5)
The problem with this sort of justification of an individual's rights is that rights entail obligations on the part of others to abide by the asserted rights yet invoking the value for an individual of not be prevented from acting in certain ways does nothing to explain why others are obligated not to interfere with this individual acting in those ways.

need to think more carefully about the character of the authors' meta-norms and of their argumentative route to them.

More specifically, I need to think more carefully about just what "liberalism's problem" is, about how the self-directedness meta-norm and the natural rights of life, liberty, and property are supposed to solve liberalism's problem, and about how appropriate it is to construe principles that are designed to solve liberalism's problems as natural rights. So, to begin with, what is liberalism's problem and why is it a problem? Liberalism's problem, which they also call the problem of integrated political diversity, arises, according to the authors, from the numerical and qualitative diversity among individuals' self-perfecting lives. For "the divergent pursuit of ends may result in conflict among agents" (p. 42). But, is liberalism's problem the prospect of actual (and troublesome) conflict or is it the absence within the moral/political doctrine of norms or meta-norms that forbid the behavior that would engender (troublesome) conduct? Is the problem actual defective conduct or a deficiency within normative doctrine?

On reflection, I think Rasmussen and Den Uyl must hold that liberalism's problem is a deficiency within normative doctrine. After all, their solution to liberalism's problem is to supplement their individualist perfectionist ethics with accompanying constraining meta-norms to form a more comprehensive normative whole. The authors may expect that acknowledgement of their proposed meta-norms (or this acknowledgement and their enforcement) will in fact reduce actual (troublesome) conflict. However, their philosophical affirmation of those meta-norms is not undermined if actual (troublesome) conflict persists in the face of the acknowledgement (or even acknowledgement and enforcement) of the constraining natural rights to life, liberty, and property. An affirmation of rights is not rebutted by some ongoing violation of those rights.

It is a bit puzzling why the authors focus solely on conflict that might arise between individuals who are on course for self-perfection. Why not think that part of liberalism's problem is the absence within moral/political theory of norms or meta-norms that forbid behavior *by anyone* – including individuals not on a self-perfecting course -- that would engender (troublesome) conduct? Surely the authors hold that both those who are self-perfecters and those who are not self-perfecters

are bound by the same meta-norms and can invoke the same meta-norms against those who engender (troublesome) conflict with them. Perhaps Rasmussen and Den Uyl focus on conflict among self-perfecters because they want to emphasize that something beyond the affirmation of an ethics of individual self-perfection is needed to solve the problem of not having conflict-constraining principles within one's overall normative doctrine. *Even* universal subscription to the authors' self-perfection ethic would not itself solve this problem (pp. 46-52). Hence, the need to go beyond that ethic to constraining normative principles that are not themselves counsels of self-perfection.

More important than who are the parties in possible conflict, is the question, what sort of conflict poses liberalism's problem? I have anticipated this question above by alluding to "(troublesome) conflict." One self-perfecter may open a new beauty salon in town just a block away from the town's one established and quite dreary salon. This brings the owners of the two salons into a sort of conflict. Two teenage glad-handers both run for class president and this brings them into a sort of conflict. One individual forcibly resists another who is set on tweaking the first party's nose even though the resister knows that his resistance will intensify the physical conflict between the tweaker and the tweakee. Yet, it is pretty certain that the prospect of these sorts or conflict – more precisely, the prospect of these conflict-engendering actions not being forbidden -- is not what the authors have mind as even part of liberalism's problem. I am certain that Rasmussen and Den Uyl do not think that part of the solution of liberalism' problem is the prohibition of competition among hair salons and glad-handing teenagers or of conflict-intensifying resistance.

One might think that the conflict-engendering actions of the new salon owner, the glad-handing teenagers, and the resister are not properly subject to moral prohibition precisely because they do not violate anyone's master right to self-direction or any of the basic rights to life, liberty, or property that are aspects of that master right. One might then say that only those conflict-engendering actions should be forbidden that are in violation of these natural rights. Let us call this the standard natural rights solution to liberalism's problem. However, merely invoking these rights is not much of a solution. A genuine natural rights solution needs to go beyond their invocation to a philosophical

grounding of the invoked rights. Within the standard natural rights project that grounding turns on the identification of seminal and universal properties of persons – properties that make persons bearers of these rights.[10] The guiding intention is the grounding of natural rights in deep, morally significant features of individuals; the welcome byproduct is the solution of liberalism's problem. Within this project, first come the grounding of natural rights and then comes the solving of liberalism's problem.

However, for the most part, Rasmussen and Den Uyl pursue a different route to the identification of our basic rights. They seek to base claims about what basic rights we have not on grounding those rights on deep features possessed by all persons but, rather, on an identification of what basic norms are needed to overcome the problem of the prospect of normatively ungoverned conflict among individuals. (Of course, some claims about deep features of human nature will play a role in the authors' explanation of why certain meta-norms are needed to solve liberalism's problem.) The authors seek to solve liberalism's problem by determining which meta-norms must be added to their perfectionist ethics in order to counteract the threat of normatively ungoverned conflict. The guiding intention of the authors' project is the identification of these conflict-restricting norms; the welcome byproduct of the affirmation of these meta-norms is an inventory of our basic natural rights. First comes the conflict-restricting norms, and then comes an inventory of our basic rights.[11]

My sense is that the authors want to avoid falling back on the sort of arguments typically offered by natural rights theorists because those arguments support a deontic understanding of natural rights and the authors seek to avoid this understanding. Just as the authors deny that their perfectionist ethics is consequentialist, they deny that their meta-norms are deontic. They hold that their construal of meta-norms as the solution to the liberalism's problem undermines an understanding of

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[10] See Eric Mack, "Natural Rights Justifications: Their Abiding Structure," *Routledge Companion to Libertarianism*, eds. Benjamin Ferguson and Matt Zwolinski (forthcoming).

[11] See the contrast in passages I cite below between those that say that natural rights derive from the nature of sociality and those that say that natural rights derive from the nature of the individual.

the self-directedness meta-norm and natural rights as deontic elements within a normative scheme. "It is the nature of this problem – not some a priori or deontic view of what ethical principles must be like – that determines the kind of ethical principle or norm that is needed to find a solution"(p. 42).[12] Liberalism's problem is a *sui generis* problem. The choiceworthiness of the meta-norms is that they are the solution to this problem. Natural rights are reconceived as the meta-norms which provide this solution.

So, what exactly is the argument for the conclusion that the self-directedness meta-norm and its manifestation as the rights to life, liberty, and property are the solution to liberalism's problem? Certain interpersonal principles have to be found that preclude (troublesome) conflict and do so in a way that is neutral among the parties to be governed by those principles. The authors cast this neutrality as a matter of the principles "not structurally prejudic[ing] the overall social context more toward some forms of human flourishing than others" (p. 42). Perhaps the authors cast liberalism's problems as the absence of side constraints *among individuals who are all on course for self-perfection* because this supports casting neutrality as neutrality across self-perfecters. And this casting of neutrality suggests the selection of the protection of self-direction as the fundamental meta-norm. For self-direction is the essential common feature of all modes of self-perfection.

> Only a norm that protects the possibility of self-direction is compatible with the plurality of forms of human flourishing, because such a norm seeks to determine not the object of self-direction, but only [to protect] its exercise (p. 43).

Unfortunately, this seems like an argument for the self-directedness meta-norm as the fundamental political principle *for a society of self-perfecters*. For it is not clear how this meta-norm is neutral between those who seek self-perfection and those who do not subscribe to the authors' perfectionist ethic, e.g., those who fundamentally want to be taken care of or to be told how to live. Thus, it is not clear how it qualifies as the fundamental meta-norm for a society composed partly

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[12] Do those who affirm deontic principles really do so because they begin with an "a priori" or "deontic" view about what ethical principles must be like?

of individuals on course for self-perfection and partly of individuals on less estimable courses.

The other problem I see in this argument goes back to my remarks about "troublesome" conflict. Certain constraining principles are to be embraced because they morally forbid conduct that engenders troublesome conflict and does so neutrally. In virtue of performing this task, those principles are taken to be our basic natural rights. We discover what our basic natural rights are by discovering what principles will solve liberalism's problem. However, my previous remarks suggest that one needs already to know what our basic natural rights are in order to know which conflicts are troublesome, i.e., to know which conflict-engendering conduct has to be forbidden in order to solve liberalism's problem. So, in order to set up liberalism's problem, out of which our knowledge of natural rights is to emerge, we need already to have that knowledge. Perhaps the authors can respond by saying that do not need to appeal to rights in order to explain why certain conflict-engendering actions – like the opening of the second hair salon – are to be not to be forbidden. For the reason not to forbid those actions is that their prohibition would not be neutral among value-pursuing individuals rather than the reason being that those actions do not violated rights.

Still, I think there is an ongoing tension within *The Realist Turn* between the standard natural rights project and the endeavor to solve liberalism's problem first. The view that is distinctive to Rasmussen and Den Uyl is that one discerns natural rights by starting with an account of liberalism' problem and what principles are needed to solve that problem and, then, natural rights turn out to be the moral claims that are affirmed by those problem-solving principles. On this view the meta-norms and, hence, the rights have the function of solving liberalism's problem. The other view is that one starts with an identification of natural rights which determine which conflicts are troublesome and which normative constraints are justified because they forbid actions that initiate conflict by violating those natural rights. On this view rights have the function of defining what conflicting-initiating conduct may be forbidden. This prohibition may be conducive to a peaceful and non-conflictual society. But that outcome is not the what for of rights.

Here are some passages that express the first view:

The function of the meta-norms "is to solve the vital political problem of integrated diversity" (p. 30).

The meta-norms "are designed for making . . . self-perfection possible, when living among others, by protecting the possibility of self-direction" (p. 48).

"Rights are for the sake of solving liberalism's problem . . ." (p. 51).

". . . when thinking about rights, we are concerned with the conditions that must be secured *for the individualized nature of flourishing to function* (p. 62, emphasis added).

"The key idea is that rights are meta-norms whose function is to provide a social/political context within which individuals are given space to make choices that affect their pursuit of flourishing. . . . They apply to individuals *through the recognition of the nature of a social/political order*" (p. 90, emphasis added).

". . . rights take their bearing from *some truth about the nature of sociality that has compelling ethical significance*. In this case, in order to protect the self-directedness *of every ethical actor*, rights define in general terms the limits of freedom of action such that *all actors* have equal spheres of freedom" (pp. 91-92, emphasis added)[13]

The functional role for the self-directedness meta-norm and the natural rights to life, liberty, and property is the ultimate basis for the authors' claim that their meta-norms – including natural rights -- are not deontic elements within their overall normative scheme.[14]

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[13] When the authors speak of the rights protecting "every ethical actor" do they mean to exclude from protection those who are living badly and yet are not rights violators?

[14] Despite the fact that the meta-norms have a different function than the norms of self-perfection, the reason for compliance with both sorts of norms is provided by an appreciation of the function of the norms.

However, I wonder whether their functional account of their meta-norms throws out the rights baby along with the deontic dishwater. For it seems that rights are essentially reduced to tools – tools *designed* to engender a certain non-conflictual social order. Notice the salience in the passages above of the idea that the case for the meta-norms arises when one considers the prospect for conflict within "the nature of a social/political order" (p. 90) or "the nature of sociality" (p. 91). It seems that the desirability of morally precluding conflict by setting normative limits on how individuals may pursue their own individual flourishing does the primary normative work. Ascriptions of natural rights are justified by compliance with those rights engendering this sort of non-conflictual social order. This is a type of telic, if not consequentialist, account of rights.

I turn now to a number of other passages in *The Realist Turn* that express a less instrumentalist understanding of natural rights. According to Rasmussen and Den Uyl,

> [T]he natural rights of individuals to life, liberty, and property determine the rules for what we will metaphorically call "playing the moral game of life among others" (p. 23).

Rather than liberalism's problem determining what natural rights are to be affirmed, rights determine what sort of political/legal order is to be adopted. Rather than first identifying a problem to be solved and then adopting certain meta-norms that will solve that problem and will thereby be designated as natural rights, here the order is reversed. First one identifies the natural rights and then those rights determine what sort of political/legal order is to be instituted.

> [T]he natural rights to life, liberty, and property . . . determin[e] the function of the political/legal order . . . (p. 32).

> [T]here are ethical norms – namely, natural rights – to which political orders are subject and which provide *the basis for determining their function* (p. 27, emphasis added).

> These natural rights are *the basis for the ethical evaluation* of political/legal orders. Particularly, *they provide the justification* for a political/legal order that protects people from having their lives and possessions, as well as conduct, used or directed by

others for purposes to which they have not consented. (p. 31, emphasis added).

Here rights are not devices that are designed to induce conditions that thwart conflict. They are not norms that are justified by their serving the function of specifying a type of non-conflictual moral order – even if compliance with them constitutes such an order. Indeed, the last cited passage suggests quite a different sort of rationale for these rights, viz., they are correlatives to a moral side constraint against using or directing others "for purposes to which they have not consented."

> . . . we do not refrain from violating someone's rights so that the overall number of rights violations will be less, but because *not violating rights is the defining norm of all action in society* (p. 69, emphasis added)

> [N]atural rights determine what the overall aim or function of positive law *ought* to be (p. 98).

Rights here are in the driver's seat. They determine what the function of positive law ought to be rather than having their function being determined by what is needed in the way of rules in order for conflict among self-perfecters to be morally precluded. Also,

> Natural moral law holds . . . that *it is the nature of the individual human being . . . that provides the foundation of all basic ethical principles*, including the natural rights of individuals to life, liberty, and property (pp. 104-5).

> . . . it is the nature of human beings and the moral life that provides the ultimate basis for natural rights (p. 22).

Here natural rights are a reflection of the nature of the individual rather than of "the nature of a social/political order" or "the nature of sociality." Perhaps they are a reflection of the fact that each individual properly pursues self-perfection in self-directed way and the import of this for each other person is that no individual is to be treated as a being who exists for others' purposes.

One advantage of rights being grounded in this way in "the nature of the individual human being" is that it allows us to give a simple and direct explanation of severe *state of nature* wrongdoing. Off in an

unowned wilderness Tom is painting a hunting scene on a large rock. He realizes that he is going to need some red liquid to depict the blood of a wounded animal. Fortunately, John comes wandering by and, seeing his opportunity, Tom slits John's throat and collects the useful red liquid. Why does Tom wrong John? The simple and direct answer is that Tom violates John's rights because he treats John as though he is merely a means to Tom's ends.

In contrast, it seems that the authors' meta-normative account of rights precludes their saying that in such a case Tom has violated John's rights. For, in slitting John's throat Tom does not contravene meta-norms that come into play only within a political/legal context. Perhaps Tom's conduct can be criticized by the authors on the grounds that such conduct does not accord with Tom's genuine self-perfection. However, this sort of criticism does not at all capture the fact that the key problem with Tom's behavior is that it victimizes John, not that it fails to be self-perfecting for Tom.

I want to conclude by considering a passage in which the authors anticipate and respond to the objection that their theory of rights is too consequentialist because it makes rights into devices to promote a favored social outcome. Against this objection, Rasmussen and Den Uyl maintain that on their view,

> . . . rights are based not on the worthwhile consequences of following them, but on finding a solution to what we call liberalism's problem. . . . [I]t is vital to note that liberalism's problem" does not result from a general concern for finding institutional rules of practice that will lead to a developing economy and a peaceful culture, or worthwhile social consequences in general, but instead from the very character of each individual human being's natural end and moral purpose. . . . Rights provide a principled solution to this problem by protecting the possibility of self-directedness, which is not itself concerned with directly producing particular social or political consequences, and it is because they do that rights are natural (p. 119).

My sense is that for the most part the authors are here emphasizing the abstractness of the social condition that rights function

to foster, viz., the establishment of (or compliance with) rules of the social interaction game that morally preclude conflict among individuals seeking their own self-perfection.[15] However, I still see this social condition as a type of societal outcome that rights are designed to engender. First comes the problem and its abstractly envisioned solution, and then come rights as the instruments that facilitate the solution.

I have tracked *The Realist Turn* by employing a conceptual map which sharply contrasts goal-oriented reasons and status-recognizing reasons and affirms that a proper moral code for individuals includes both of these sorts of considerations. Rasmussen and Den Uyl systematically challenge that conceptual map with a complex and coherent alternative conceptual framework. I join Rasmussen and Den Uyl in thinking that the test for such maps is reality. And my main concern about my essay is that I may not have been sufficiently open to their map as a better chart of reality. Another more interesting and reassuring thought is that the two contending maps are depicting the very same reality albeit from somewhat different angles.

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[15] Here, as in other places, there are interesting parallels between the authors' views and that of F.A. Hayek in *Law, Legislation, and Liberty*. Searching for a function of the rules of just conduct which will provide a non-utilitarian and yet telic rationale for compliance with those rules, Hayek hits upon the "abstract order of actions" – i.e., the complex network of voluntary and mutually beneficial interactions – which will obtain in some unpredictable concrete form if people abide by those rules.

Playing the Rights Game

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Douglas Den Uyl and Douglas Rasmussen's neo-Aristotelian arguments for classical liberalism are thorough and persuasive. Nevertheless, as an attorney and therefore a professional arguer, I cannot resist offering offer a critique in the spirit of the Devil's Advocate, in hopes of illuminating one aspect of their conception of individual rights.

1. Universalism and Certainty

The idea that there are principles of justice that hold for everyone always (though with context-dependent variations) is one of the great legacies of the Enlightenment, and, before that, of the classical western heritage. It lies at the heart of liberalism and its fruits, including the United States Constitution, although its influence can be detected in other nations and other political and legal institutions, too. How bizarre that today this idea is regarded by many, if not most, of the intellectual leaders in the west as essentially a passé superstition. Worse, classical or classical liberal conceptions about human nature and universal justice are noawadays often viewed as dangerous invitations to a kind of Puritanism. What Den Uyl and Rasmussen have shown is that this is incorrect: as long as one grasps that human good, while universal, is also agent-centered—so that while there is such a thing as human flourishing, there is no one best way of life for all—one can have a universal moral standard and diversity, too.

The anxiety over perfectionism that drives the search for a "pluralist" approach to liberalism seems to be largely an artifact of the twentieth century encounter with totalitarianism. The lesson many

liberals drew from the experience of the World War II era was not that the propositions on which National Socialism and similar evils rested were themselves wrong, but that *all* universal claims about how human beings ought to live are wrong. That is, that *certainty* is wrong. This is evident in slogans such as Judge Learned Hand's assertion that "the spirit of liberty is the spirit which is not too sure that it is right,"[1] and in the writings of other post-war liberals such as Friedrich Hayek or Jacob Bronowski, who emphasized the importance of intellectual humility. Standing at Auschwitz in a famous scene in his documentary series *The Ascent of Man,* Bronowski claimed that the death camps were "what men do when they aspire to the knowledge of gods…. In the end, the words were said by Oliver Cromwell: 'I beseech you in the bowels of Christ: Think it possible you may be mistaken.'"[2]

There are at least two obvious problems with resting the argument for freedom on intellectual humility, however. First, a *thoroughgoing* skepticism about *all* truth claims would be self-contradictory, as is well recognized. Second, even if one rejects extreme skepticism and accepts that there are some things of which we can be certain, it does not follow that one should build the argument for liberalism on the mere possibility of error. That seems to accept the objectionable premise that correctness equates to the legitimate authority to rule others, which would make liberalism into a function of being correct, rather than of the values *about* which one is or is not correct. Moreover, life is more complicated than the simple binary of correct and not correct.

Some have tried to steer the humility course while avoiding these two problems by appealing to the alleged dichotomy between "is" and "ought," and accusing those who cross this alleged gap of committing the "naturalistic fallacy." That term is dangerously misleading, because it is no fallacy to ground one's normative arguments on the nature of the world; that is where all normative arguments must of necessity rest at *some* point if they are to have any relevance for human affairs.

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[1] Irving Dilliard, ed., *The Spirit of Liberty: Papers and Addresses of Learned Hand.* New York: Knopf 1952), p. 190.

[2] J. Bronowski, *The Ascent of Man* (Boston: Little, Brown, 1974), p. 374.

These appeals to humility often argue that liberalism is better defended by appealing to outcomes of tradition, culture, or other "spontaneous orders." But these appeals can tell us nothing about the validity of spontaneously generated rules. On the contrary, to conclude that such rules are the *correct* or *justified* rules just because they have developed in this fashion really is fallacious. As Den Uyl and Rasmussen put it in another context, it is "like saying that the stunted and sickly condition of an organism is as natural as a healthy one,"[3] or like walking through an untended garden and concluding that weeds, wilting leaves, and dry earth are just the way gardens are supposed to be.

The fallacy committed by such a poor observer of gardens lies in failing to appreciate the distinction between living and non-living matter. That distinction lies in the fact that living matter faces the possibility of non-existence, and non-living matter does not. Unlike nonliving matter, living things can "succeed," "fail," "fare poorly," "be flawed," "prevail," etc. These terms are evaluative, meaning that they are simultaneously descriptive and normative. This is because a living entity has a course of development—what the physician calls a person's "quality of life"—which is to say, a *telos*. Things with a *telos* can be evaluated, and therefore classified as a good or bad thing of its kind. Similarly, the nature of existence for a living being includes capacities that, when fully realized, make it flourish. Rocks and other nonliving matter do not flourish, have no *telos,* and consequently, there is no such thing as a good or a bad rock.[4]

This claim can be made more strongly: for living beings, *everything* can be evaluated in terms of "good for," or "bad for," in principle. For living beings, the natural world is, so to speak, layered over with normativity. To invest any of our limited resources (such as time) in anything is to incur a cost, which must be balanced against benefits if we are to continue existing. This means every experience is in principle subject to normative evaluation for living creatures, which is not true for inanimate matter. This (positive) fact is the basis for an

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[3] Douglas Den Uyl & Douglas Rasmussen, *Liberty and Nature* (La Salle, Ill.: Open Court, 1991), p. 23.

[4] There can, of course, be rocks that are good for or bad *for living beings*, in terms of *their* goals.

(evaluative) principle of flourishing which gives us a (normative) basis for assessing the world in terms of good or bad. That is a "crane" (as opposed to a "skyhook"[5]), that lifts us from the descriptive to the normative that without committing any fallacies. At the same time, Den Uyl and Rasmussen's recognition of the individualistic nature of flourishing allows for its different modes—all of which can still be legitimately termed flourishing—which alleviates concerns that their account of goodness will, in logically and morally illegitimate ways, impose on other people preconceptions about the right way to live.

2. The Rules of the Game

This recognition is built into Den Uyl and Rasmussen's understanding of rights. They argue that rights are "meta-norms," meaning that the role of rights is not to give reasons for action, but to provide a framework within which moral excellence can be pursued. Thus they serve "the *practical* need[s] of diverse individuals having to live together" (p. 76). Like the rules of an athletic competition, rights are not themselves principles of excellence, but exist to establish the framework wherein people can pursue excellence. They are "concerned *not* with the guidance of individual conduct in moral activity, but rather with the regulation of conduct so that conditions might be obtained wherein morally significant action can take place" (p. 55).

Here, however, the Devil's Advocate senses a subtle contradiction. Den Uyl and Rasmussen view rights as social principles—as marking the boundaries of legitimate action by people "in the company of others."[6] This is a frequent refrain, in fact: they argue that rights enable "the possibility of pursuing flourishing *among others*" (56 (emphasis altered)), that rights "set the conditions or framework for making the employment of moral concepts possible *when seeking to play the moral game of life among others*" (p. 31), and that rights "provid[e] the structural conditions for the possibility of the pursuit of human flourishing *among other persons.*"[7] But what about the rights of

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[5] Daniel Dennett, *Darwin's Dangerous Idea: Evolution and the Meanings of Life* (New York: Simon & Schuster, 1995), pp. 74-75.
[6] Douglas Den Uyl & Douglas Rasmussen, *Norms of Liberty* (University Park: University of Pennsylvania Press, 2005), p. 61.
[7] Ibid., p. 342 (emphasis added).

those with whom one has no interest in associating? Our authors do show that one has reason to respect the principle of rights *within* a shared society, but can this function also as a reason for respecting rights of those who stand outside that society?

This is not an academic question. In 1776, when George Mason and others were writing the Virginia Declaration of Rights, the authors were temporarily stumped by the problem of asserting the equal rights of all mankind while holding slaves. Their answer to the problem was to declare that "that all men are by nature equally free and independent and have certain inherent rights, of which, *when they enter into a state of society,* they cannot, by any compact, deprive or divest their posterity."[8] The italicized phrase was understood to render Africans and their descendants outside the scope of the declaration. A century later, at the California Constitutional Convention of 1878—where a movement was underway to exclude Chinese immigrants from a host of constitutional rights—one racist delegate moved to amend the state's bill of rights:

> Mr. O'Donnell: I move to amend by inserting after the word "men" in the first line, the words, "who are capable of becoming citizens of the United States"....
>
> The Secretary read: "All men who are capable of becoming citizens of the United States are by nature free and independent"….[9]

More fundamentally, in *The Oresteia*, Aeschylus has Athena establish the rule of law only for those within the city walls of Athens: "Let our wars / rage on abroad, with all their force, to satisfy / our

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[8] Ralph Ketcham, *James Madison: A Biography* (Charlottesville: University Press of Virginia, 1990), p. 72.
[9] E.B. Willis & P.K. Stockton, eds., *Debates and Proceedings of the Constitutional Convention of the State of California* (Sacramento: State Printing Office, 1880), vol. 1, p. 233. Charles Carroll O'Donnell was in earnest. He was described as "the inaugurator of the Anti-Coolie crusade." D. Waldron & T.J. Vivian, *Biographical Sketches of the Delegates to the Convention* (San Francisco: Francis & Valentine, 1878), p. 60.

powerful lust for fame," she says, but "here in our homeland, never cast the stones / that whet our bloodlust."[10]

In short, the idea that rights function to make possible civilized life among the members of a political community is nothing new. What was revolutionary about the classical liberal conception of natural rights in the Enlightenment is that it viewed (at least some essential) rights as *not* having their origin in one's membership in a political community. And historical incidents such as the Valladolid Debate of 1550 over the rights of Native Americans are celebrated precisely because they concerned the question of whether we are bound to respect the rights of those of whose societies we are not members. According to Locke, even though "a Swiss and an Indian in the woods of America" are "perfectly in a state of nature in reference to one another," they are bound by any contract they might make because "truth and keeping of faith belongs to men as men, *and not as members of society*."[11]

Den Uyl and Rasmussen view rights as "inherently interpersonal" and "an inherently social concept."[12] In their view, the Swiss trader can be sensibly said to be subject to the requirements of *morality* while alone in the woods of America (morality understood, of course, in terms of Aristotelian principles of flourishing), but he cannot coherently be said to have *rights* until he encounters the Indian. Only then does it make sense to speak of each party having *rights* to life, liberty, or property, because these principles establish the framework for morally excellent behavior *inter se*. How, then are their rights *not* a function of some form of agreement between the Indian and the Swiss— if not a full-blown social compact, at least an agreement to interact in morally significant ways, or, at a minimum, to remain in each other's company?

The answer seems to be that their respective rights are *inchoate* until they meet. Rights do not owe their existence to a mutual agreement, but they remain in an imperfect or preliminary form until intercourse brings them to fruition. This is a feature of many interpersonal activities,

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[10] Robert Fagles, trans. *The Oresteia* (New York: Viking, 1970), p. 282.
[11] Peter Laslett, ed., *Locke: Two Treatises of Civil Government* (New York: Cambridge University Press, 2d ed 1988), p. 295.
[12] Den Uyl & Rasumussen, *Liberty and Nature*, p. 87.

such as conversation, waltzing, or playing chess. These are all potential capacities of the individual and remain in an inchoate state until the presence of another person makes it physically possible to converse, dance, or play. In this analogy, rights are not analogous to the dance itself or to the game of chess, but to the dance *moves* or to the *rules* of chess, which are implicit in the nature of these activities, and which facilitate the realization of (the best forms of) these activities once the parties choose to engage in them. This idea of rights seems to be the one contemplated by Robert Frost's famous poem "Mending Wall," in which the neighbors, by constructing the wall that divides them, genuinely do become "good neighbors," but only to as a consequence— and only to the extent—of their mutual effort in building the wall. The rest of their rights, whatever they may be, remain unspecified, in a hazy, inchoate form.

But if, like the Devil, one has no interest in playing chess with another person, or building a wall with a neighbor, then one can have no interest in learning or abiding by the rules implicit in these activities. Someone who does not play chess has the prerogative of disregarding the rules of chess entirely, and a person need not learn how to build stone walls if he has no intention of building such a wall. If rights are guidelines for enabling the pursuit of moral excellence in concert with, or at least in the vicinity of, other people, what interest or obligation can rights have for those who are simply not interested in such an undertaking?

To be clear, the Devil's Advocate is not merely restating the commonplace objection to classical liberalism, to the effect that it gives citizens insufficient reason to respect or fight for the rights of their neighbors. That objection has force, but it is not what the D.A. is getting at. In fact, *that* objection assumes that one's fellow citizens do have rights to begin with. By contrast, Den Uyl and Rasmussen appear to build into their very *definition* of rights a commitment by the "players" to participate in the "game" of pursuing moral excellence in the presence of others. Our authors define rights as meta-norms whose function is to enable our flourishing *vis-à-vis* other people, and suggest that these rights remain inchoate until one interacts with others in ways that raise the possibility of moral excellence. That definition appears to assume as

a condition precedent to the very existence of rights that there is some sort of agreement in place to pursue moral excellence alongside others.

The Swiss and Indian in Locke's hypothetical do intend to live in *some* kind of society with one another, so metanorms have a role to play in their interaction, even if it is as minimal as the neighbors in Frost's poem. But what if they prefer to live apart entirely, like Axel Heyst and the natives in Joseph Conrad's *Victory*? In what sense can Heyst and the Natives be said to have rights with respect to each other, given that they have no intention (and presumably no good reason) to flourish "among" each other? If rights are principles of sociality whose existence is predicated on a desire or need to pursue moral excellence in each other's company, are they not a function of an implicit agreement to do so, and therefore a product of convention after all?

This is obviously objectionable. It cannot be that an interpersonal agreement to pursue moral excellence is necessary for the existence of rights, since a mugger who steals one's wallet—and whom one can never expect to encounter again—is obviously not a party to such an agreement and never will be, and a mugging is the type specimen of a rights-violation. One alternative would be that the community's general agreement to pursue moral excellence in each other's company is what brings one's rights into fruition, and these rights bind the mugger notwithstanding his lack of interest or desire in pursuing moral excellence, on the principle either of tacit consent or that a macro-level agreement should not be deemed invalid simply because micro-level breaches have *de minimis* consequences.[13] These arguments begin to sound much like social compact theory, however, and Den Uyl and Rasmussen expressly deny that any agreement is a necessary predicate of rights existing.

The best answer appears to be that it is the *potential* pursuit of moral excellence in company with others that generates rights, and that without regard to any agreement, one's rights against the mugger come into full existence simply as a function of the interaction itself. But this seems like a kind of Categorical Imperative argument of the sort that Den Uyl and Rasmussen reject. In this view, the mere fact that it is possible to engage in morally excellent behavior constrains a person's

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[13] See *Gonzales v. Raich*, 545 U.S. 1 (2005).

actions when interacting with another regardless of their actual and specific needs and concerns, and, presumably, regardless of whether one has an interest in, or stands to benefit from, pursuing moral excellence in concert with others.

But if this is the case, does one (or one's society) have a right to *refuse* to engage in the pursuit of moral excellence with others? And if so, where can *this* right originate? If Locke's American Indian and Swiss trader encounter each other in the woods, on what basis can they decline to interact with one another? Presumably there is at least some case in which it could be objectively proven that they would improve their respective pursuits of moral excellence through interaction. Would such proof entitle one or the other to *compel* such interaction? The answer at first blush would seem to be no, on the grounds that such coercion would violate a principle necessary for each party's own self-direction, and therefore that the question implies a self-contradiction. Yet there are likely cases in which compelled association would, in fact, make both sides better off in the long run—a proposition that Epstein sees as justifying coercion and even coercive association, as in a social compact.[14]

This answer also suggests that the decision by some to pursue moral excellence in each other's company obliges even outsiders to respect their autonomy to do so. This is counterintuitive because we normally do not view the decision of a group of people to pursue other types of excellence as imposing obligations on outsiders. Musicians or athletes may choose to pursue musical or athletic excellence, but that imposes no obligation on anyone else to learn about, practice, or care about the principles of those forms of excellence. One may even interfere with their pursuit of excellence under some circumstances. A Protestant is not obliged to curtail his activities in order to allow for the pursuit of excellent Catholicism by Catholics; he may preach against transubstantiation all he wishes. Likewise, if a group of musicians begins practicing beneath my window, I can ask a court for an injunction to shut them down notwithstanding their pursuit of musical excellence. Why, then, does the decision by a group of people to pursue moral

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[14] Richard Epstein, *Takings: Private Property and the Power of Eminent Domain* (Cambridge: Harvard University Press, 1985), pp. 199-200.

excellence in each other's company impose an obligation of respecting rights on outsiders who are not parties to that agreement?

We are left with a strange type of obligation—one that binds people, like the mugger, who have no understanding or interest in pursuing moral excellence; that obliges outsiders, whereas the pursuit of excellence in other kinds of activities imposes no such obligations; and that might even justify compelling outsiders to join the circle of those engaged in the activity—even though doing so would seem to violate that very metanorm itself—and that appeals to our self-interest in pursuing our own excellence, but in which that self-interest plays no necessary role.

3. The Pursuit of Excellence Together

There is an overlapping concern. Den Uyl and Rasmussen argue that rights are a solution to "liberalism's problem"—that is, the problem of individuals pursuing their own flourishing in company with others—but acknowledge that there are rare situations in which it is literally impossible to accomplish this, and that in these cases "individual rights are not applicable" (p. 122).

To test the range of this proposition, the Devil's Advocate will offer two hypotheticals drawn from that fountain of moral imagining, *Star Trek*. In the episode "Space Seed,"[15] the crew of the starship *Enterprise* encounter Khan Noonien Singh, a genetically engineered dictator who, along with his henchmen, was exiled from earth after starting World War III sometime in the 1990s. The dilemma presented in the episode arises from the fact that Khan does not merely *claim* to be a kind of Übermensch, but actually *is* one. He is a genetically engineered, genuinely superior being.[16]

Because Khan is superior, he has no interest in flourishing in company with the crew of the starship *Enterprise*, and their existence cannot in fact benefit him in his pursuit of moral excellence. This means that there is no solution to liberalism's problem with respect to Khan's

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[15] Originally aired Feb. 16, 1967.
[16] For this reason, when Captain Kirk thwarts Khan's effort to commandeer the *Enterprise*, he does not execute Khan, but finds a way to put his superhuman skills to productive use, by colonizing a deserted planet.

crew and Kirk's crew. This cannot mean, however, that individual rights are *entirely* inapplicable. Kirk and his crew certainly have rights *inter se*, because—but for Khan—the pursuit of moral excellence amongst themselves *would* be possible. The same is true of Khan and his own crew. Thus each side has rights within their respective boundaries, but no rights valid against the other group. Yet this would imply that Khan commits no violation of rights when he engages in aggression against Kirk and crew, or vice-versa, even though these groups are pursuing moral excellence within their respective boundaries. But if this is the case, then has the theory of rights not failed to accomplish its principal task, which is to make possible the flourishing of those subject to that principle, and to render justice coherent? At a minimum, it appears to return to Athena's conception of rights, as binding only those within the walls of Athens, but not everyone, everywhere.

A second hypothetical, from a *Deep Space Nine* episode,[17] inverts the situation. In this episode, the crew, on a trip to another dimension, accidentally bring back with them a small object that turns out to be a "protouniverse"—that is, an entire new universe in the initial stages of its expansion. Unless returned to the dimension from which it came (which appears impossible to do) the object will inevitably grow to crowd out the existing universe, destroying literally everything. It is within the crew's power to destroy it—but they refuse to do so because they cannot rule out the possibility that inside this tiny universe are sentient beings:

> Dax: I've found indications of life in the proto-universe…. The computer's confirmed that these are life signs.

> Kira: Now wait a minute. Single cell microbes are lifeforms too, but Doctor Bashir has [medicines] that will kill them….

> Dax: Kira, we could very well be dealing with *intelligent* life here.

This example appears to reverse the Khan hypothetical, except that here, the crew can *never* expect to have *any* form of intercourse with these living beings, assuming they even exist, except for entirely

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[17] "Playing God," originally aired Feb. 27, 1994.

obliterating them. So what rights do the inhabitants of the protouniverse have with respect to the crew of Deep Space Nine?

In the episode, the crew conclude that they do have such rights (and manage to find a way to return the protouniverse to its point of origin and save the day). Their position is therefore like that of Bartholomé de las Casas in the Valladolid Debate, who held that because the Native Americans were capable of reason, they possessed (some degree of) rights, *regardless* of whether they played in any role in Europeans' own pursuit of moral excellence. In other words, this argument holds that the natives' interaction with *each other* is sufficient to establish their possession of rights, valid against outsiders. Thus the question: assuming that rights are metanorms that set the groundwork for the pursuit of moral excellence of people in each other's company, is this sufficient grounds for the members of a community to assert rights against those outside that community? To what degree is *participation* in moral excellence with others either necessary or sufficient for the existence of rights with respect to third parties who are not or cannot be involved in this pursuit of moral excellence?[18]

4. Certainty and Rights

These playful hypotheticals are meant to reveal the counterintuitive consequences of defining rights as metanorms designed to preserve the possibility of flourishing in cooperation with, or at least in the same neighborhood as, others. But these consequences obviously

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[18] The protouniverse hypothetical contains a potential disanalogy, in that it presents a threat. Nozick has shown—with his famous hypothetical of the well—that there are cases in which one may have a right to initiate force against an innocently created threat, and because the protouniverse's expansion threatens the crew, they would likely be within their rights to defend themselves by destroying it even though its tiny inhabitants are not responsible for creating that threat. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 34. But in Nozick's well hypothetical, the person being thrown down the well does *have* rights—they have been violated by the person tossing him down the well. This interpretation of Den Uyl and Rasmussen, by contrast, seems to suggest that the residents of the protouniverse can have *no rights at all* with respect to the crew of Deep Space Nine, because the two sides are literally incapable of pursuing moral excellence in company with, or even in the same universe as, each other.

have real world consequences that are not so jocular. Societies exist with widely divergent and potentially conflicting conceptions of moral excellence. The 2008 raid by Texas law enforcement on the Yearning for Zion (YFZ) Ranch illustrates these concerns well. The YFZ Ranch was a facility owned by the Fundamentalist Church of Jesus Christ of Latter-Day Saints, which practices not only polygamy but marriage of females as young as 14. Many of these children, having been raised inside the community, raised no objection to such practices, which outsiders obviously consider abusive. (Let us set aside potentially distracting questions about age of consent, which varies from jurisdiction to jurisdiction, and stipulate *arguendo* that the practices within the community qualify as rights-violating according to outsiders.)

To outsiders, these children have been essentially brainwashed into being unconscious of their own abuse. To insiders, by contrast, the outsiders are deluded bigots, interfering with the practice of moral excellence by members of the YFZ Community. To what extent can Den Uyl and Rasmussen's definition of rights—which is intended to be universal and objectively valid, and not a contingent fact based on culture—mediate such a dispute? If it cannot, of what value is it? And if it can, what room does this conception truly leave for diverse practices and cultures? If outsiders can trump the claims of insiders with an allegation of "brainwashing," then the diversity of ways of living that Den Uyl and Rasmussen promise would appear to be illusory, given that outsiders will practically always try to employ that trump card against us. Communists invoke "false consciousness," for example, to characterize classical liberal conceptions of freedom as a sham. "For every church is orthodox to itself," as Locke says.[19] This is the problem that led post-World War II liberals to view intellectual humility as essential to the liberal mindset. To what extent are we confident declaring that the members of YFZ Ranch are simply *wrong* in their conception of the human good, and thereby interfering with their pursuit of what they believe to be moral excellence? The "brainwashing" card appears to make correctess equate to the legitimate authority to rule others, which we rejected in part 1 above. Since Den Uyl and Rasmussen are at such pains to insist that their perfectionism does not require

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[19] Mario Montuori, ed., *John Locke: A Letter Concerning Toleration* (The Hague: Martinus Nijhoff, 1967), p. 35.

authoritarianism, the degree to which their argument permits us to play this card seems crucially important, and unclear.

To summarize the D.A.'s case: rights are typically conceived as principles that can be invoked against those who would aggress against us—as showing why that aggression is morally objectionable and why it justifies preventative measures or punishment. But if rights function *only* as a social principle to enable us to pursue happiness in the company of others, then they can have no force against those who lack any interest (whether understood as conscious desire or as an objective benefit) in such a common endeavor. Yet it is often these very parties who present the greatest threat of aggression against us.

On the other hand, if it is legitimate to assert rights against outsiders, then this would suggest the inadequacy of a definition of rights that restricts them to "regulat[ing] conditions under which conduct that employs moral concepts takes place" (p. 30). Den Uyl and Rasmussen analogize rights to the rules of a game—and rules "are not designed to provide guidance for…excellent play," but only "to establish the conditions for making the pursuit of such play possible" (p. 31). What rights can we have, then, against those who have no interest in playing with us, or whose excellence would not be served by doing so? If the answer is "none," that would appear to render rights useless against precisely those aggressors most likely to threaten our rights—those who disregard our value as human beings. On the other hand, if the answer is that we have a right to pursue moral excellence against those who do not want to play, then rights cannot be—like rules—limited to situations in which an agreement to play has already been made. By implying otherwise, Den Uyl and Rasmussen appear to smuggle in a kind of social compact theory through the back door, making rights dependent upon an agreement to play the game of moral excellence in the first place—which, of course, is the opposite of what they intend to show. But if they do not make agreement part of the equation, that would appear to allow outsiders to assert against us that we are simply deluded about the pursuit of moral excellence—which would appear to revive the perfectionism they disclaim.

Human Nature, Convention, and Political Authority

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1. Introduction

The Realist Turn: Repositioning Liberalism, by Douglas B. Rasmussen and Douglas J. Den Uyl, stands as the fulfilment of an intellectual project (a "trilogy," as the authors state) that began with the 2005 publication of *Norms of Liberty: A Perfectionist Basis for Non-Perfectionist Politics,* and the 2016 publication of *The Perfectionist Turn: From Meta-Norms to Meta-Ethics.*[1] Together, these works present a rigorous, coherent, and powerful worldview. Generally speaking, the first study defends a libertarian political order structured by basic, negative, natural rights; the second develops a teleological, perfectionistic ethic in the Aristotelian tradition, which grounds (and perhaps implies) the political argument. The third study completes the intellectual project by providing the ontological and epistemological foundation for the claims implied in the previous works of practical philosophy. For this reason, *The Realist Turn* reads like a fulfilment of

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[1] Douglas B. Rasmussen and Douglas J. Den Uyl, *Norms of Liberty: A Perfectionist Basis for Non-Perfectionist Politics* (University Park, Pennsylvania State University Press, 2005); Douglas J. Den Uyl and Douglas B. Rasmussen, *The Perfectionist Turn: From Metanorms to Meta-Ethics* (Edinburg: Edinburg University Press, 2016); and Douglas B. Rasmussen and Douglas J. Den Uyl, *The Realist Turn: Repositioning Liberalism* (New York: Palgrave Macmillan, 2020). All parenthetical citations in the text are to *The Realist Turn* unless otherwise specified.

an implicit promise; that is, because they present a political argument based on the concept of natural rights and an ethical argument based on the concept of natural goodness, at some point they must come through with an explanation of how one encounters and understands human nature.

The virtues of the book are many. Chief among them is intellectual honesty: the authors evidence a genuine desire to consider all possible objections and alternatives to their arguments in careful, thorough, and fair-minded analyses. These discussions demonstrate an admirable grasp of the relevant literature that allows them to further develop their earlier positions in response to scholarly disagreement, and to present their metaphysical thesis in the context of current anti-realist trends. The critical analyses of the well-known positions of Hilary Putnam and W.V. O. Quine are particularly helpful in this regard.

2. Ontology and Politics

However valuable these discussions are—and they are certainly independently worthwhile and illuminating—the objective of the present publication is contained in the following assertion:

> Thus it is time to consider what else is necessary for ethical knowledge…it is necessary to consider the foundation upon which our account of natural rights and natural goodness is grounded—namely, the viability of ontological and epistemological realism (p. 185).

It is this foundational effort—the attempt to ground natural right politics and perfectionistic, natural good ethics on metaphysical grounds—that focuses our interest here. How successful is this foundational effort? What motivates it? Is a real connection established between the ontological ground and the normative status of these values, or are these independent arguments? It would mislead to say that the argument attempts to provide *an* ontological ground for the political and ethical positions previously established, as if ontology could be variously described according to our purposes or convictions. On the contrary, as the authors indicate throughout this work, metaphysical

realism discovers ontology and follows it, so to speak, wherever it leads. If we are realists, our values are grounded in truth and should adjust according to what is discovered to be true.

I want to consider two conceptual possibilities about the relationship between the practical and the metaphysical, alternately taking one part of this systematic integration to be the more persuasive element (for the sake of simplicity I am setting aside the possibility of complete agreement or complete disagreement between the two parts as argumentatively less interesting). On the one hand, one might find the political and ethical arguments cogent and agreeable but the foundational argument unnecessary, unsuccessful, or even impossible. On the other hand, one might find the realist thesis to be important and essentially correct, at least at a certain level of abstraction, but think that a true understanding of objective human nature leads to different practical implications.

The book opens with a brief examination of the first alternative. The authors note that recent work in libertarian political theory has tended to eschew the natural rights tradition in favor of non-ideal theories, a departure due more to epistemological and metaphysical hesitation than political disagreements. A representative challenge comes from David Schmidtz, who offers something like a pragmatic approach to liberal political theory. Schmidtz describes his viewpoint as "pluralistic," "contextual," and "functional,"[2] and suggests as an analogy the art of map making.

> Like a map, a theory is a functional artifact, a tool created for a specific purpose. Thus a theory of justice may be incomplete, first, in the sense of being a work in progress, like a map whose author declines to speculate about unexplored shores, *never doubting that there is a truth of the matter* yet self-consciously leaving that part of the map blank.[3]

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[2] David Schmidtz, *The Elements of Justice.* (Cambridge: Cambridge University Press, 2006), pp. 17-18.
[3] David Schmidtz, "Nonideal Theory: What It Is and What It Needs To Be: Review Essay," *Ethics* 121, no. 4 (July 2011), p. 779, emphasis added.

This analogy is interesting for at least two reasons. First, although map making obviously has practical value, it should not be forgotten that an accurate and well-designed map will produce some contemplative satisfaction. Second, and more importantly for my purposes, in the highlighted line above (my emphasis), Schmidtz would appear to imply a commitment to some form of realism. Maps are not good or bad in themselves, without reference to something beyond themselves, as Rasmussen and Den Uyl rightly note: "…what drives all successful map making is the terrain itself, not the various maps that claim to represent it" (p. 246).

Rasmussen and Den Uyl describe Schmidtz' analogy as an "attack" on foundationalism (p. 246). But what, in the end, is the difference here? Let us suppose, for the sake of argument, that theorists like Schmidtz and Rasmussen/Den Uyl generally agree on basic political positions. What advantage then does the foundational program of *The Realist Turn* have, and what motivates it? We should keep in mind that Rasmussen and Den Uyl acknowledge the compatibility of epistemological realism and a moderate form of inherent (as opposed to inveterate) fallibilism (pp. 226-27).

Can we not imagine Schmidtz responding that the argument of *The Realist Turn,* despite its ambitious claims, is also a functionalist theory? Is it not designed primarily to support the ethical and political positions staked out in earlier works? It seems that Rasmussen and Den Uyl have two possible responses to this (imaginary) charge. The first is to admit that the motivation of the realist argument is ultimately practical; that is, so far as the foundation of natural rights and natural goodness is recognized as generally secure, it gives the political and ethical implications more weight than similar, but metaphysically less robust, practical theories. The second response is to claim a motivation more holistically philosophical. On this understanding, *The Realist Turn* presents a cogent, systematic world view that inherently satisfies—much like a map that is studied simply to have a sense of what is out there— and which secondarily presents ethical and political implications. In other words, the methodology observed over the course of the trilogy reflects the scholastic distinction between what comes first in the order

of knowing (*ordo cognoscendi*) and what comes first in the order of being (*ordo essendi*).

This leads to the second possible relationship between the practical and ontological arguments, which I consider to be the more interesting. One could applaud the effort to establish a realist foundation for the practical order and believe that Rasmussen and Den Uyl have presented some strong arguments along these lines—if nothing else, perhaps, in their critical assessment of constructivism. Yet despite sharing a basic methodological agreement, other theorists might think that a true understanding of human nature leads to different ethical and political positions. With respect to the specific objective of this book, such a disagreement would be, at least at some level, intramural. The authors acknowledge this possibility:

> For reasons we have stated elsewhere, we give primacy to natural rights over the natural law tradition; but the importance of metaphysical realism to both is exactly the same and for the same reasons (p. 98).

I think this openness provides for useful dialogue. If the ethical and political positions that have been defended throughout this trilogy fail to persuade, the disagreement is quite likely at the level of ontology. I take for granted that Rasmussen and Den Uyl would strongly disagree with any suggestion that their argument could be characterized as functional in the sense that Schmidtz implies. Rather, their metaphysical commitment is ultimately, in a strict sense of the term, disinterested. And for that reason, the success of *The Realist Turn* could provide the argumentative basis to challenge the ethical and political positions staked out earlier.

3. What is Out There: Natural Sources and Natural Rights

One of those positions—arguably the central conviction of the entire argument—is the program of negative, natural rights. In support of this position the authors defend a thesis asserting the objectivity and knowability of human nature:

We hold, then, that it is ultimately the nature of the individual human being that provides the standard or measure for determining the morally worthwhile life (p. 22).

Although I find this approach generally agreeable, at a certain level of abstraction, I am less convinced about some of the political conclusions drawn from it. Some of my hesitation might be because the authors often appear throughout this argument to take as their metaphysical and epistemological foil a rather thoroughgoing constructivism. But some of their arguments appear to overcorrect this trend in contemporary philosophy. For example, the following assertion is characteristic:

[Natural rights] are moral claims that exist prior to any agreement or convention, regardless of whether someone is a member of a particular society or community, and because they are due to someone's possessing certain natural attributes of human being. They are linked to our natural capacity to choose, reason, and be social (p. 21).

The priority asserted in this passage is crucial to the realist thesis defended in this book, but much turns on precisely what is prior to human convention or agreement. In this regard, I want to suggest that there is a logical distinction between two referents, which complicates the political argument. The quoted passage refers specifically to natural rights, and this is clearly the main argument that the authors present throughout their work, although sometimes they speak more broadly of human nature.[4] No doubt the authors believe that both are prior to human convention or agreement—in other words, human nature and natural rights are both part of the furniture of the universe, so to speak. But their status as objective realities would seem to be different.

I want to argue that "natural" rights are not the kinds of thing that exist prior to human agreement and convention—in fact, I would go so far as to say that the role played by human agreement and convention in the codification of rights is so crucial that the term 'natural rights' is

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[4] For example: "[H]uman nature is the stable object of our cognition across cultures and indeed times." (p. 253)

a misnomer, strictly speaking.[5] My precision does not diminish the normative authority of the rights program thus constructed, nor does it devalue the realist argument that the authors have provided in its support. What Rasmussen and Den Uyl persuasively describe is the objective basis of human rights but I want to suggest that there is a difference between the ontological source of rights and the rights themselves. Codification, the step from the former to the latter, assigns an essential role to human agreement and convention. If that argument can be made, it potentially shifts the political landscape in ways that I will outline below.

There are two reasons rights cannot be understood to exist prior to human agreement or convention, which I will state briefly here. First, rights are essentially relational; they are claims *against* someone or *against* some community. Their relatedness is constitutive of their very being. Now surely there is something that exists prior to that context, which is the value or the source that is discoverable in an objective study of human nature, but rights themselves, in the strictest sense of the term, do not exist prior to the social or political context. Second, rights are enforceable. This point simply elaborates the positivistic argument further. It is obvious that we can talk about "rights" that are not recognized or respected, and these are not empty, emotive complaints. They point to something real—values that deserve, but do not have, protection—but to call them rights in the fullest sense of the term is to neglect something essential about them.

It might be helpful to distinguish two senses of 'enforceability' here. In one sense, enforceability implies that rights-claims must be codified and promulgated by a legitimate political authority, thereby establishing their normative status. On this understanding, even if rights are not in some instances enforced, they are the kind of thing that could have been and should have been enforced. They are legitimate claims. In a stronger sense, 'enforceability' implies that rights-claims must be

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[5] Of course, we know what people or political documents intend when they speak of "natural rights" or "unalienable human rights," etc., and I have no objection to that language in that context. But what is perfectly acceptable as a political statement or as a rallying cry is often a bit imprecise philosophically.

actually enforced; if not, on this understanding, they are not really rights, regardless of any prior codification and promulgation.

I think enforceability is an essential element of a rights-claim in the first sense. Such an understanding stands as something of a mean between two extremes: on the one hand, it contrasts with the positivistic, rather Hobbesian, understanding of rights that requires the strong sense of enforceability and, on the other, it contrasts with the naturalistic understanding defended by Rasmussen and Den Uyl that apparently assigns no essential role to codification and promulgation.

The objections I raise are not new to the authors; they consider and respond to precisely these concerns in a section titled "Natural Rights do not Precede Their Implementation" (pp. 98-100). But this discussion, in my opinion, attempts to walk a rather thin line. We read this statement:

> Thus, the fact that their ethical foundation is *inherent* in the nature of individual human social life, neither means nor implies that their *existence* does not require human action beyond basic human coexistence and interaction (p. 98). (emphasis original)

This statement is agreeable; in fact, it could be taken to express precisely the distinction that I am suggesting between sources of rights and the rights themselves. Only a few lines later, the authors reiterate the point, and again specify the *existence* of natural rights.

> [T]he existence of natural rights certainly depends on human constructs and practices, but it does not follow from this that their ethical character is determined by such constructs and practices (p. 99).

These passages focusing on the *existence* of natural rights would seem to be in some tension with the earlier assertion (cited above) that natural rights are moral claims that exist prior to any human agreement or convention. These later passages, on the contrary, seem to assign an essential role to agreement and convention in the codification of rights. These later passages seem to suggest that human agreement and human

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convention do not merely record what is "written" in nature; on the contrary, community recognition of values deserving protection, and the codification of such, seems to contribute something significant to the normative claim of the rights.

Shortly after the discussion of the implementation objection, the authors turn rather abruptly to a repudiation of constructivism.

> There is a deeper claim in this objection…this deeper claim holds that human beings have no nature apart from social construction and practices, and hence there is no basis for claiming that rights exist prior to social conventions and social practices. There is fundamentally no human nature apart from these social forces (p. 99).

This response seems to overshoot the mark a bit. In a book so carefully argued, the discussion of the implementation objection is disappointingly brief; it occupies only one paragraph and then abruptly turns to a consideration of a position that is, by their own admission, extreme.

> The basic problem with social constructivism in this extreme sense is that constructing and practicing are not ontologically ultimate. Constructing and practicing do not exist on their own…However, it might be replied that human beings have no nature other than to interact, and as a result, human nature is nothing more than the outcome of patterns of interactions and practices (p. 99).

Although Rasmussen and Den Uyl correctly point out the emptiness of constructivism, they sidestep the more interesting challenge posed by the implementation objection, which they themselves state forcefully at the beginning of this section. Because I believe that rights are social realities, I want to suggest an understanding that stands as something of a middle ground between two extremes: on the one hand, a theory that holds that rights are fully natural (i.e., with no ethically important contribution by human convention, as the authors sometimes suggest) and on the other hand, a theory that believes that

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rights are pure constructs, based on nothing ontologically ultimate or prior to convention. In my view, these extremes present a false choice. A more plausible and authoritative understanding of rights would spring from a dynamic interplay between the natural sources of law and the enactments of human legislation.

4. A Thomistic Analogy

My understanding is supported by an analogous discussion in the famous "Treatise on Law" section of *The Summa Theologica* by St. Thomas Aquinas.[6] The Thomistic natural law theory is probably the most famous and influential of its kind, but a careful reading of it indicates that Aquinas does not attempt to present a list of natural laws that would stand in parallel to human laws. In fact, one could make the argument that, strictly speaking, there are no natural "laws" presented in the "Treatise" at all, although there are, of course, natural law "precepts" that justify human laws derived from them. This movement from natural law to human law requires codification; it roughly parallels, I suggest, the movement from objective human nature to natural rights as presented by Rasmussen and Den Uyl.

Natural law, which Aquinas defines as "nothing else than the rational creature's participation of the eternal law,"[7] is presented as a series of precepts (*praecepta*) that derive from the fundamental principle of practical reason.

> Now as *being* is the first thing that falls under the apprehension simply, so *good* is the first that falls under the apprehension of the practical reason, which is directed to action: since every agent acts for an end under the aspect of good. Consequently, the first principle of the practical reason is one founded on the notion of good, viz., *good is that which all things seek after.* Hence this is the first precept of law, that *good is to be done and pursued and evil is to be avoided.* All other precepts of the natural law are based upon this: so that whatever the practical

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[6] Thomas Aquinas, *Summa Theologica*, I-II, qq. 90-97. (New York: Benzinger Brothers, 1948) Translation: Dominican Fathers.
[7] Aquinas, ST I-II, q. 94, art. 2c.

reason naturally apprehends as man's good (or evil) belongs to the precepts of natural law as something to be done or avoided.[8]

From this basic precept of natural law Aquinas derives secondary precepts which express the hierarchical goods or inclinations of human nature. This description from the second article of Question 94 ("Of the Natural Law") is tellingly quite brief and general:

- Substance level: "Because in man there is first of all an inclination to good in accordance with the nature he has in common with all substances…whatever is a means of preserving human life belongs to the natural law."[9]

- Animal level: "Second, there is in man an inclination to things that pertain to him more specifically, according to the nature he has in common with other animals, [therefore] those things are said to belong to natural law, which nature has taught to all animals, such as sexual intercourse, education of offspring, and so forth."[10]

- Rational level: "Third, there is in man an inclination to good according to the nature of his reason, which nature is proper to him: thus man has a natural inclination to know the truth about God, and to live in society: and in this respect, whatever pertains to this inclination belongs to natural law; for instance, to shun ignorance, to avoid offending those among whom one has to live, and other such things regarding the above inclination."[11]

Aquinas uses two important terms in this presentation. First, he indicates rather broadly that various inclinations belong (*pertinere*) to the natural law, which is different from enumerating individual natural laws. No natural law forbids one to offend one's neighbors, strictly speaking, although the human laws that specify this directive belong to natural law. I interpret the word 'belong' in this context to indicate that

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[8] Aquinas, ST I-II, q. 94, art. 2c.
[9] Aquinas, ST I-II, q. 94, art. 2c.
[10] Aquinas, ST I-II, q. 94, art. 2c.
[11] Aquinas, ST I-II, q. 94, art. 2c.

there are human laws that are rooted in objective natural values, and in that sense can be said to belong to the natural law.

The second term is even more important. Aquinas expresses natural law in terms of precepts, so we must be careful to understand precisely what this indicates. Germain Grisez distinguishes two possible senses: a precept could be understood as either a prescription ("good is to be done and pursued") or as an imperative ("Do good").[12] Grisez believes that the more intelligible reading requires the former understanding, for at least two reasons. First, because precepts designate goods to be sought and pursued, all actions must be lawful in some sense of the term insofar as they all seek a good (or at least an apparent good) and have a purpose. Second, the prescriptive understanding of precept accords better with the teleological character of Aristotelian-Thomistic action theory.

The natural law precepts, therefore, outline the human goods that structure and ground authoritative human legislation. On this point Grisez asserts:

> Obligation is a strictly derivative concept, with its origin in ends and the requirements set by ends. If natural law imposes obligations that good acts are to be done, it is only because it primarily imposes with rational necessity that an end must be pursued.[13]

This reading suggests a more dynamic relationship between natural law and human law, which Aquinas describes in terms of derivation:

> But it must be noted that something may be derived from the natural law in two ways: first as a conclusion from premises, secondly by way of determination of certain generalities… Accordingly, both modes of derivation are found in the human

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[12] Germain Grisez, "The First Principle of Practical Reason: A Commentary on the *Summa Theologica*, I-II, Question 94, Article 2," Natural Law Forum (10) 1965, pp. 168-201.

[13] Grisez, p. 182.

law. But those things which are derived in the first way, are contained in human law not as emanating therefrom exclusively, but have some force from the natural law also. But those things which are derived in the second way, have no other force than the human law.[14]

As an example of a conclusion derived from the natural law Aquinas gives the imperative "thou shall not kill." This would seem to be significant: if *any* imperative would qualify as a natural law, this would seem to be a good candidate but because he is following the logical structure of his argument (i.e., premises to conclusion), he identifies this as a human law. [15] To be sure, Aquinas equivocates somewhat because he occasionally describes such basic imperatives as belonging "absolutely" to the natural law,[16] but his precise articulation seems to suggest that although these imperatives "belong" to the natural law they are, strictly speaking, human laws.

This Thomistic outline suggests an analogous understanding of the program presented by Rasmussen and Den Uyl. Their realist methodology establishes an objective basis for rights, but this dynamic could accommodate different understandings of the role of human convention and agreement. If natural rights are "moral claims that exist prior to any agreement or convention" (p. 21), they are theoretically independent of any social engagement or responsibility. But if agreement and convention are essential to their being, rights are fundamentally social norms. Their authority does not *originate* in social agreement—the error of extreme constructivism—but it does not stand without it. These different understandings ultimately express different ontologies of personhood and community.[17]

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[14] Aquinas, ST I-II, q. 95, art. 2c.

[15] Aquinas, ST I-II, q. 95, art. 2c.

[16] Aquinas, ST I-II, q. 100, art. 1c. "For there are certain things which the natural reason of every man, of it own accord and at once, judges to be done or not to be done: e.g., *Honor thy father and mother, Thou shalt not kill, Thou shalt not steal*: and these belong to the natural absolutely (*Et hujusmodi sunt absolute de lege naturae*)."

[17] Although it is not their focus, I think the foundation outlined by Rasmussen and Den Uyl provides a promising theoretical structure for understanding a program of rights in a Constitutional setting, which is an important arena for

5. Why So Negative?

If human agreement and convention are essential to the establishment of legitimate rights, it would seem to make plausible a program that includes both positive and negative natural rights. Both are claims rooted in objective human nature and both are indispensable principles of a healthy and principled community. To follow a nice analogy that the authors employ a few times, while compliance with rules (meta-norms) is necessary to play the game of baseball, and they are distinguishable against the norms of excellent play, the actual game of baseball involves more than meta-norms and norms. Mere compliance with the meta-norms is not sufficient to participate fully—a point easily overlooked, depending on one's perspective and prior experience. One must have the wherewithal to participate as (something like) an equal in the competitive engagement; that is, one must have equal access to the material conditions of competition, such as comparable equipment, training facilities, and medical support.

It should be noted that the word 'must' in the foregoing does not by itself represent a moral obligation. The fact that a baseball player must have equipment to play the game does not imply that the other players or the league must supply that equipment. But it does suggest that their participation in the social practice is impossible without a procurement of the conditions of that activity. Baseball is a social engagement; there are minimal conditions that must be in place for a genuine game to take place. By analogy, there are minimal conditions that must be in place for a genuine human community to exist. Although much more argumentation is necessary to articulate a program of positive rights in this context, the point is that a realist understanding of human nature provides for this conceptual possibility.

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rights talk today. An advantage of distinguishing sources of rights and rights-claims themselves is that through this distinction we can explain the growth or development of a legal system without compromising its realist basis. That is, we can without contradiction assert that human nature is objective and stable, but as our understanding of it develops, we progressively articulate its legal implications. On my suggested reading of Rasmussen and Den Uyl there is a natural law basis for a living Constitution jurisprudence.

There is no doubt that Rasmussen and Den Uyl recognize the importance of human sociality in their ethical and political program. They often refer to the "profound" social character of human flourishing, although the term seems to function more as an emphatic than as a clarifying predicate.[18] The argument I outlined above suggests that human sociality is essential and constitutional. None of this threatens the assertion that human flourishing/self-perfection is individualized but it does suggest that our positive responsibilities to the community and to one another are part of our very being. It is not *eudaimonia* that implies sociality; it is ontology.

The authors state they are "pluralists when it comes to theories" (p. 252), which suggests that we can re-conceptualize the program without undermining its basic realist commitment. Rasmussen and Den Uyl present their libertarian program of negative, natural rights as the ultimate principle, which arises from a discovery of objective human nature. But are rights ultimate? Is there some way to understand this political argument as an expression of something more fundamental? In an instructive discussion they consider the relationship of their principle to the "non-aggression principle," which understand every rights violation to be more fundamentally a violation of the self. This would seem to be a plausible equivalency, but Rasmussen and Den Uyl resist this ordering: "The problem with this from our point of view is that it gets the matter backwards. The NAP [non-aggression principle] is not the *source* of rights, but instead rights are the source of such principles as the NAP" (p. 16).[19]

As usual, the authors have good arguments to defend their preferred ordering, although from one point of view these arguments are rather like precisions within fundamentally aligned approaches. We could, however, imagine a very different fundamental moral principle that emerges from the study of human nature, one that implies a much more expansive program of human rights, both negative and positive. For example, let us consider the possibility that the ultimate principle

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[18] *The Realist Turn: Repositioning Liberalism.* See for example pp. 41 -43. The authors also use the term "highly social character" in this discussion.
[19] The non-aggression principle is first mentioned on p. 12.

underlying these political expressions is the dignity of the human person. On the one hand, there is no doubt that a libertarian program of negative, natural rights stands as one powerful expression of this moral principle, but on the other the argument could be made that human dignity implies a more expansive political commitment than negative protections against aggressions, harm, or violations.

Of course, I have not attempted in this essay to offer sufficient argument for a program of positive rights implied by the principle of human dignity, although I believe such an argument could be made, and in a manner that employs the methodology of this study. Human dignity is a claim about personhood; the moral imperatives that follow from this claim are rooted in objective truth.

6. Conclusion

The Realist Turn is a tremendous achievement—it is a comprehensive, challenging, and rewarding study that will speak to anyone genuinely interested in political theory. Although it is not a topical book that seeks directly to address present-day controversies, it is in another sense a timely study. It reminds the reader that our principles and our practices must be grounded in objective truth, however difficult and exulted that standard is. Any other basis for political and ethical commitment produces nothing more than persuasion and the conventions of interpretive communities. Rasmussen and Den Uyl remind us that political philosophy aims higher.[20]

A Not-Quite-Realistic Turn: A Burkean Reply and A Rights-Based Alternative

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Den Uyl and Rasmussen do readers a valuable service in *The Realist Turn: Repositioning Liberalism* by reinvigorating the conversation surrounding natural rights. In this third volume of their trilogy, Den Uyl and Rasmussen provide a defense of metaphysical realism as a foundation for rights, emphasizing that human nature exists, natural rights are grounded in that nature, and that we can know and access these rights (p. 20).[1] Insofar as I grasp the major elements of their complex and comprehensive theory, I think I agree with most of it.

My critique, or perhaps more a friendly supplement, is that I don't think their theory of human nature is robust enough or realistic enough to do the work they hope it does. Some of this stems from what I see as a lack of engagement with the fulness of Aristotelian thought and how it relates to a fully realistic understanding of human nature. It is puzzling coming from neo-Aristotelians that there is a lack of engagement with the habitual elements of Aristotelian thought and, crucially, the ways in which habitual and emergent order interact with rights theories, often through the medium of affection and sentiment. Precisely because of the way in which individual flourishing emerges from the complex interplay of development, social structure, and individual choice, it is odd that Rasmussen and Den Uyl do not take into consideration the habitual elements of social organization. They do,

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[1] Douglas B. Rasmussen and Douglas J. Den Uyl ,*The Realist Turn: Repositioning Liberalism*, (Switzerland: Palgrave MacMillan, 2020). Henceforth, TRT. All parenthetical citations in the text are to TRT unless otherwise specified.

however, rely -- I believe, too heavily -- on a rationalistic conception of human nature. As one small piece of evidence of what I will claim is a rationalistic bias, the terms "habit", "emotion", "sentiment", and "affection" do not show up in the index at all, while the terms "reason" or "rationality" turns up more than sixty times. This might be excusable in a work on ideal theory, but it seems odd in a work based on Aristotelian thought claiming to make a "realist" turn by providing an empirical or at least realistic account of human nature and natural rights.

In what follows I will discuss what I understand Rasmussen and Den Uyl to be doing and the areas I think their approach needs supplementation. In contrast to Rasmussen and Den Uyl's approach, I will then float an "affectionate developmental natural rights" theory, one that takes seriously human nature, human development, and human communities, while still taking seriously individual capacities for rational thought and choice. It should be noted, again, that what follows is more a criticism of Rasmussen and Den Uyl's means, not their ends. I agree with both authors that the undervaluing of the natural rights tradition in modern liberalism poses crucial problems for classical liberal thinkers and that the conflation of natural rights with justice claims does not give us an adequate grounding to defend various kinds of crucial definitions of justice, such as those protected by natural rights to liberty and property. While this avoidance in modern libertarian theory stems from perhaps a healthy skepticism of too-rigid universalistic approaches, the solution does not seem to be jettisoning natural rights altogether, but instead understanding the way in which those rights develop and grow, both within the context of an individual life and within the broader life of communities over generation.

1. Taking the Realist Turn

It's worth beginning with what the authors argue is the central problem – "liberalism's problem" – that they are trying to solve. They argue that "we do not know yet in what freedom and unfreedom consist until a principle is put forward defining our appropriate interrelationship" (p. 27). This problem is one, they argue, of "integrated political diversity," namely how it is possible to have universalistic ethical principles that nevertheless allow enough flexibility so that they do not favor one mode of human flourishing over another. In their words, "[h]ow, in other words, can the possibility that various forms of human

flourishing will not be in structural conflict be achieved" (p. 27)? The problem of defending universal rights in a pluralistic society is central to much of the current work in classical liberal theory.

Their solution to this problem is the "realist turn", an appeal to an existing account of human nature – namely that humans are rational animals – and that we begin with this rationality as the foundation for rights and then move outward. On their view rights are the meta norms on which all other political and ethical concerns are based. These meta norms provide the grounding for human flourishing without too narrowly privileging one version of the good life over another. Like traffic lights in Hayek's well-known description of rule of law[2], these meta-norms provide the signposts that facilitate both human social cooperation and individual human flourishing, two things that do not always mesh together seamlessly.

While in places their discussion in this work tends toward the hyper-individualistic (I'll discuss this later), elsewhere in their writings Rasmussen and Den Uyl emphasize the social nature of human beings and how this social nature plays into their broader rights theory. In *Norms of Liberty*, for example, they emphasize the social nature of human flourishing broadly, which is in part why a rights theory is necessary in the first place. Humans require other humans to flourish and we therefore need reasonably restrictive but also flexible metanorms to help guide those interactions in order to prevent the community from interfering too much in the flourishing of individuals (and presumably vice versa, though they don't have much to say in this volume about corrupt or dangerous visions of human flourishing).

At any rate, the emphasis on sociality seems central at this point, with the authors following Aristotle when they argue, "[d]espite the individualized character of the good, human flourishing is not atomistic, but highly social. […] In terms of origin, we are almost always born into a society or community, and it is in some social context or other that we grow and develop. Much of what is crucial to our self-conception and

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[2] F. A. Hayek, *The Road to Serfdom: Fiftieth Anniversary Edition*, Anniversary edition (Chicago: University Of Chicago Press, 1994), 82–83.

fundamental values is dependent on our upbringing and environment."[3] This natural sociality is, of course, what requires rights to begin with. As Rasmussen and Den Uyl point out, "the need for community life does not necessarily mean that individuals must accept the status quo of the community in which they live. Because the responsibility for realizing the generic goods of human flourishing in terms of one's nexus is one's own, it may be necessary for a person to leave or change her or his community. Yet this cannot be done if sociality is only possible with those with whom one currently has common values."[4] Liberalism's problem is, therefore, how we create a structure for human flourishing that is consistent with the human need for sociality while preserving the individual freedom that is needed for rational agency in pursuit of the good.

This tradeoff becomes, in *The Realist Turn,* the foundation for their defense of rights, where the authors emphasize the importance of rights for mediating the conflicts that arise between individual flourishing and the demands of communities to conform to various kinds of political and legal demands (p. 42). In essence, we are social animals, we cannot always live among those who share our specific values and beliefs, and we need metarules that structure these interactions in peaceful ways that encourage cooperation but that do not unnecessarily infringe on human flourishing. So far, we are in agreement.

2. The Critique

Where I depart from Rasmussen and Den Uyl is again more an issue of emphasis perhaps than of principle, but it seems to me that while all this is helpful in the abstract, their realist turn lacks, in essence, enough realism. They claim to be appealing to human nature, thus their emphasis on realism, but their human nature is a broad definition of humans as "rational animals," which leaves out an enormous amount of human life and human development, in particular the way humans develop norms like rights and how those norms become part of the structure of human behavior (p. 129). The problem with this definition

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[3] Douglas B. Rasmussen and Douglas J. Den Uyl, *Norms of Liberty: A Perfectionist Basis for Non-Perfectionist Politics*, (University Park, Pa: Pennsylvania State University Press, 2005), 82.
[4] Ibid., 82.

of human nature is that it actually departs from Aristotle and moves toward a much more rationalistic model, perhaps, as some scholars have noted, more similar to that of Ayn Rand.[5]

Their view emphasizes the rational individual at the expense of the social milieu in which rational individuals operate. But even more foundationally, it undervalues the emotional and sentimental attachments that both support rationality and provide a link to the broader social world. It is, as a result, an incomplete theory of human nature and one that will struggle to adequately ground the theory of rights Rasmussen and Den Uyl hope to support. In essence, the authors need a better theory of human nature, one that starts with what I've called elsewhere a theory of "social individualism."[6] This theory of social individualism shares with Rasmussen and Den Uyl a concern with realism, human nature, and rights, but it places a much stronger emphasis on the social nature of these concepts and their sentimental grounding while emphasizing how rights themselves emerge from that human nature in complex and sometimes culturally idiosyncratic ways. What is particularly odd for a reader sympathetic with neo-Aristotelian thought is the way in which Rasmussen and Den Uyl emphasize rationality while the non-rational way in which rational principles become part of human nature itself is not mentioned at all, that I can see. The term "habit" does not appear at all in *Liberty and Nature*, *Norms of Liberty* nor in *The Realist Turn* and I will argue that habituation is the crucial linchpin to a serious understanding of the way in which rights emerge from human nature.

What is also somewhat odd, though perhaps not as odd for philosophers, who here intentionally eschew sociology and moral development for theoretical clarity, is that a discussion centering around

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[5] Larry Arnhart has made this argument, surprised, for example, that Rasmussen and Den Uyl are critical of Adam Smith, who saw himself as firmly within the Aristotelian tradition. See, for example, Larry Arnhart, "Aristotelian Liberalism (5): Adam Smith's 'Moral Sociology,'" *Darwinian Conservatism* (blog), April 6, 2010, http://darwinianconservatism.blogspot.com/2010/04/aristotelian-liberalism-5-adam-smiths.html.

[6] See Lauren K. Hall, *Family and the Politics of Moderation: Private Life, Public Goods, and the Rebirth of Social Individualism* (Baylor University Press, 2014).

a realist version of human nature has almost no discussion of what that human nature actually entails. This concern is not directly related to the issue of habit, but it's worth mentioning anyway. Rasmussen and Den Uyl argue "it still seems to us that the old 'rational animal' holds up pretty well as the real definition of human nature," but then do not provide any real evidence or support for that definition (p. 129). They reject various criticisms of essentialism and spend time discussing human cognition, but do not move beyond the abstraction of humans as rational animals. They mention the social nature of these rational animals, but how far and whether that sociality influences that rationality is an area on which they are largely silent. This is puzzling because we know from Aristotle himself, and supported by extensive social science research, that human rationality is powerfully influenced by human social life.

At the most foundational level, research in human development demonstrates that human rationality and in particular the way that rationality learns to understand social cues and the social context broadly, is heavily influenced by a critical period of human development, starting in infancy and extending through age seven or so (actually encompassing a few different critical periods for different cognitive abilities). This period of human development is most famous for language development, itself a fascinating emergent order that suggests a complex and understudied interplay between brain development and social order, but is also crucial for the ability to build trust and cooperation with other human beings.[7] Children who are seriously harmed or neglected during the early part of this critical period struggle to maintain relationships with other human beings and may also have trouble cooperating with other people and engaging in relationships

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[7] See, for example, Charles A. Nelson, Charles H. Zeanah, and Nathan A. Fox, "How Early Experience Shapes Human Development: The Case of Psychosocial Deprivation," *Neural Plasticity* 2019 (January 15, 2019), https://doi.org/10.1155/2019/1676285.

characterized by trust and reciprocity.[8] In effect, their brains have not internalized the norms that make rights and respect for rights possible.[9]

This period does not end at age seven of course, but instead radiates outward throughout childhood. Numerous scholars have, for example, emphasized the importance of play in teaching children norms of interaction. The developmental psychologist Peter Gray focuses on the importance of play for developing habits and norms of cooperation[10] and work on other social mammals provides a fascinating look into the way in which intelligent social animals use play as a way to test out different rules of behavior, try on different norms and patterns of interactions, and generally to learn the rules of the community in which they find themselves in a rather low-stakes context.[11] The economist Steve Horwitz has looked specifically at the question of how play helps children learn social and moral norms and he argues that such play is necessary for a functioning liberal society where people take responsibility for their flourishing in the way Rasmussen and Den Uyl support.[12]

One might reasonably ask what all this has to do with a philosophical monograph on metaphysical realism, but the connection should be clear to a neo-Aristotelian. How do we learn to be good people? We practice being good people. And how do we do this? Within a community of good people, who through explicit lessons and implicit role modeling and various others kinds of habituation, provide the template for how we interact with each other, cooperate with each, and

[8] Melissa Fay Greene, "30 Years Ago, Romania Deprived Thousands of Babies of Human Contact," *The Atlantic*, accessed December 28, 2020, https://www.theatlantic.com/magazine/archive/2020/07/can-an-unloved-child-learn-to-love/612253/.

[9] This is all part of a broader call I've made before to focus more attention on the family and the role it plays in forming political and social norms. See, for example, Hall, *Family and the Politics of Moderation*.

[10] Peter Gray, *Free to Learn: Why Unleashing the Instinct to Play Will Make Our Children Happier, More Self-Reliant, and Better Students for Life*, 1st edition (New York: Basic Books, 2013).

[11] Marc Bekoff and Jessica Pierce, *Wild Justice: The Moral Lives of Animals*, Illustrated edition (Chicago, Ill.: University of Chicago Press, 2010).

[12] Steven Horwitz, "Cooperation Over Coercion: The Importance of Unsupervised Childhood Play for Democracy and Liberalism," *Cosmos+Taxis* 3, no. 1 (2015), https://doi.org/10.2139/ssrn.2621848.

flourish. It is this habituation that seems entirely missing from Den Uyl and Rasmussen's approach, which is odd both on Aristotelian grounds but also on realist grounds. It almost seems as though, despite their assertions to the contrary, the human beings in their world simply emerge, fully rational, into a given community and then choose to accept or not accept the community norms they are given.

In effect, what Rasmussen and Den Uyl's realist theory needs is a more realistic view of the development of rights. I will below argue that we need a theory of "affectionate developmental rights," but the reason we need a more realistic view of the development of rights is not only on foundational grounds, but also because insofar as families and communities develop individuals through socialization in all its myriad forms, this socialization muddies the waters around rights and creates problematic tradeoffs that even the most robust liberal theory will struggle to deal with. As merely one example, in their defense of rights early in the work, the authors argue that "[f]or any act to qualify as moral, it is necessary to protect the possibility of self-direction, while at the same time not ruling out any possible forms of flourishing which, we might recall, can be highly diverse and individuated" (p. 43). While this seems clear in a simple world in which agents spring fully formed, like the Hobbesian mushrooms Rasmussen and Den Uyl reject elsewhere, the reality is much more complex when one takes into account the long period of human dependence that occurs in childhood as well as the deep complications the intimate sphere itself creates for individuals trying to carve out their own path. The role of the family and intimate relationships generally in shaping our norms and our worldview is merely one part of this complexity.

Similarly, Rasmussen and Den Uyl speak confidently when they argue that "[s]ince the single most basic and threatening encroachment on self-direction, and thus moral action, is the use of physical force, and since the natural rights to life, liberty, and property prohibit the nonconsensual direction and use of persons and their possessions that involve the initiatory use or threat of physical force in any or all of its various forms, these rights are ethical metanorms. They are the solution to liberalism's problem" (p. 43). Far from solving liberalism's problem, however, it merely seems a deeper understanding of human nature has opened up a new category of limits on self-direction that cannot be easily

prevented or avoided and that require liberalism to at least engage with them in some kind of meaningful way, such as the way the long period of development in the family both enables self-direction and constrains it along discrete paths of culture, religion, and values that no child is able to freely choose.

It could even be questioned whether physical force is, in fact, the "single most basic and threatening encroachment on self-direction," particularly given the power of early childhood experiences and the power of family and culture to shape a worldview before one becomes fully rational in the first place (p. 43). Complicated and perhaps unresolvable conflicts arise between the activities of families and the development of "self-direction" in individuals. It may absolutely be true that the most threatening encroachment on self-direction is the use of physical force, but surely it is not the most "basic." In fact Rasmussen and Den Uyl themselves indicate the power of social conditioning and habit when they emphasize the importance of not being "passively shaped by so-called community values", yet even here they argue that individuals "accept" or "allow" themselves to be passively shaped, as though we are all not in fact shaped from birth by the unique legacy of the prenatal, cultural, linguistic, familial, and economic forces that make us who we are (p. 41). It seems odd again that neo-Aristotelians would pay so little attention to the power of development and habit, two crucial themes in Aristotle's work.

These are not merely academic questions, but are central to the way classical liberal principles are understood, instantiated, and protected in the real world. Are Amish families permanently disabling their children by refusing to educate them beyond eighth grade? Should children be removed from the care of unstable or unreliable parents and what is the criteria of instability or unreliability that we can use to determine when such a massive and potentially rights-violating move should take place? Should partners who remain in abusive relationships where their rights are being violated by their partners be "saved" from such relationships? What about emotional or psychological or financial abuse? Who would do the saving and again on what grounds? Should there be limits on parental ability to isolate and educate children? Should the state forcibly intervene in abusive and neglectful homes and what criteria should be used to initiate such force? Rasmussen and Den Uyl

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seem to offer rights as a sort of panacea for a quick way to prevent limits on self-direction in a liberal society, but by shutting one door they have left multiple other doors and windows open. Aristotle also, interestingly, was a biologist and sociologist as well as a philosopher, so his realism began with the kind of animal humans are, something that is confusingly absent in Rasmussen and Den Uyl's work.

3. An Affectionate Developmental Theory of Rights

The problem to me seems to be that while rights are things individuals possess by virtue of their rationality, rights are nevertheless protected (or not) by communities and in the course of that protection they are interpreted, molded, delineated, and defined in various complex ways. While most of us agree that rights emerge from the interaction between individuals as we learn what enhances predictability and cooperation, there is little attention paid to how these rights work within the communities humans find themselves.

There is, in fact, a tradition within the classical liberal lineage where this kind of sociality and habituation is taken seriously, which includes the Scottish Enlightenment thinkers and, perhaps more controversially, Edmund Burke. It is of course interesting that the Scottish Enlightenment thinkers, and Burke in particular, are not considered much in the way of natural rights thinkers, despite clearly referencing natural rights as foundational grounding principles. Perhaps the reason they are not considered natural rights thinkers is that they tend to be more concerned with the way in which natural rights actually interact with humans in their communities as they live their lives. They are also thinkers who, with the exception of Smith who is mentioned only to be dismissed, do not enter into Rasmussen and Den Uyl's discussion.

In what follows I will use Burke as a kind of stand-in for this theory of affectionate or sentimental rights of the kind I see as compatible with Aristotelian thought. Burke is in many ways the clearest example, since his works emphasize the way in which rights emerge after a long process of individual and community interaction, mediated by affections, not rationality, and for that reason I will focus on his thought as one alternative to the rationalistic rights Den Uyl and Rasmussen describe. Importantly for Burke's thought, while the

rationality of natural rights is never in question, Burke does not believe we access these rights primarily through a rational process, but instead through our sympathetic and affectionate interactions with those with whom we live. This is, for Burke, not only an issue of accuracy -- describing how the social world actually works -- but also one with practical consequences for human safety and comfort. Natural rights, in the abstract, are both false and dangerous.

In the most obvious way, Burke believes the hyperrational rights of the French revolutionaries reflect a fundamental misunderstanding about human nature itself. Rights emerge from the interaction between known individuals living together in community. This is not only a question of historical accuracy, but also one of appropriate development. Abstract rights applied imprudently to random communities will preclude precisely the predictability and cooperation they are meant to foster. In essence, these rights reflect a fundamental misunderstanding about how rights work within existing communities and within the context of prudential political life. As Burke notes (much like Aristotle before him),

> [p]ure metaphysical abstraction does not belong to these matters. The lines of morality are not like the ideal lines of mathematics. They are broad and deep as well as long. They admit of exceptions; they demand modifications. These exceptions and modifications are not made by the process of logic, but by the rules of prudence. Prudence is not only the first in rank of the virtues political and moral, but she is the director, the regulator, the standard of them all. Metaphysics cannot live without definition; but prudence is cautious how she defines.[13]

The application of rights to specific political and social contexts is one of both prudence but also, as a society, one of habit. Burke is himself quite neo-Aristotelian in this sense.

But even more foundationally, abstract rights applied to rational adults in isolation from their families, communities, and prejudices ignores how an understanding of rights develop within human beings as

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[13] Edmund Burke, *Reflections on the Revolution in France.* (Indianapolis: Liberty Fund Inc., 2014), p 279.

well, a position Aristotle, had he been a natural rights thinker, might have agreed with. We start with what is ours and only then move outward to others.[14] The reason for this of course relies on the importance of the affections for mediating conflicts between individuals and for softening rights claims of various sorts to make them compatible with human social life.[15] As Burke points out,

> This sort of people are so taken up with their theories about the rights of man, that they have totally forgot his nature. Without opening one new avenue to the understanding, they have succeeded in stopping up those that lead to the *heart*. They have perverted in themselves, and in those that attend to them, all the well-placed sympathies of the human breast.[16]

This is not only a question of accuracy, but also one of safety. Burke's fear, well realized with the French Revolution, was that "that sort of reason which banishes the affections is incapable of filling their place. These public affections, combined with manners, are required sometimes as supplements, sometimes as correctives, always as aids to law."[17] The importance of the "moral imagination" is central to Burke's understanding of rights (as it is for Smith's conception of sympathy as a mediating force in society), grounded as they must be in the affections and prejudices we have for what is our own.[18] Rational natural rights, applied abstractly, might provide the justification for any manner of rights-violating cruelty.

Finally, and perhaps most crucially for my purposes, this process of the development of rationally defensible rights that are rooted in an affectionate attachment to one's own time and place becomes the "second nature" of man, an emergent order that makes possible the compatibility of natural rights, individual flourishing, and robust

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[14] Ibid.
[15] See, for example, my argument in Lauren Hall, "Rights and the Heart: Emotions and Rights Claims in the Political Theory of Edmund Burke," *The Review of Politics* 73, no. 4 (ed 2011): 609–31, https://doi.org/10.1017/S0034670511003664.
[16] Burke, *Reflections*, 157.
[17] Ibid.
[18] Ibid., 171.

community.[19] The trick here is that these kinds of communities are grown, not made, and they are very difficult to recreate once they are lost, thus Burke's fears about revolution and his generally conservative mindset toward radical social change. Burke argues that man becomes "a creature of prejudice, a creature of opinions, a creature of habits, and of sentiments growing out of them. These form our second nature, as inhabitants of the country and members of the society in which Providence has placed us."[20] In effect, Burke believes that rights are accessible via rationality, meaning we are able to defend them rationally after the fact, but that in fact they emerge through the media of habit and sympathy working in concert. Sympathy is of course linked to our habits and way of life, which help create the "second nature" of norms and habitual civility and protection of rights that becomes the hallmark of any true liberal society.

None of this is to say that Den Uyl and Rasmussen might not agree with much of this, but their account leaves this developmental piece out, which again seems a bit odd coming from neo-Aristotelians. The very way we become habituated into our rights and the way in which those rights are protected is the result of a series of complex and overlapping spontaneous orders that begins, in the individual, in human infancy, but which actually goes much further back into the emergent order of the society that individual was born into and the norms and rights that emerged over centuries of human cooperation and conflict. What makes this account such an important one for liberal thinkers is that the sentiments are the starting point, *not* reason. And by focusing on our affectionate attachment for what is ours, we are easily able to habituate ourselves into the protection of the rights of others and then gradually extend those rights to those we do not know at all.

This tendency to emphasize human rationality to the exclusion of the affections at the same time that it maintains a "realist" focus indicates the need for significantly more work within political theory on the role of affections and developmental theories of rights more broadly. Despite their best efforts, there are very few classical liberal or libertarian philosophers who engage seriously enough with the *radical*

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[19] Ibid., 292.
[20] Edmund Burke, "Speech in Reply," in *Works of the Right Honourable Edmund Burke*, 12:164.

sociality of human life or who grapple seriously enough with the way in which intimate, affectionate, and familial relations challenge and support liberal principles. One sees this in Rasmussen and Den Uyl's attempt to bring in sociality, arguing "[the open-ended character of human sociality] requires an ethics of human flourishing to consider the question of finding a political framework that is at once compatible with the moral propriety of individualism and yet based on something that can be mutually worthwhile for everyone involved."[21] This quote, like others, places society and the individual in a kind of partnership or contract, rather than seeing them both as part of an emergent order of flourishing whereby individuals change their community and are changed by it at the same time. Both develop within and with each other. Such a view does not require placing society above the individual or of eradicating individual rights in the name of the common good, but it does recognize the way in which rights emerge from the interactive and developmental relationship individuals have with the communities they inhabit and create.[22]

4. Conclusion

Ultimately, there may be no way to solve "liberalism's problem" precisely because the threats to liberty are many and come from many different directions. While Rasmussen and Den Uly solve one part of liberalism's problem in the abstract, they don't solve these problems on the practical level, which is of course more than anyone can claim to do in a single book. The benefit of thinkers like Burke is that they teach us how to take the universal principles of natural rights and apply them in diverse environments, emphasizing the importance of robust communities bound together by affection for clarifying and protecting the rights of individuals. But ultimately, as Rasmussen and Den Uyl are fully aware, the balance between individual rights and individual flourishing on the one hand and community demands and needs on the other will always be an unstable, complex, and emergent equilibrium, with individuals profoundly affecting their communities while being shaped by them. If we are to "reposition liberalism" around rights as Rasmussen and Den Uyl hope, we should make sure we are

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[21] Rasmussen and Den Uyl, *Norms of Liberty*, 83.
[22] See, for example, my work on the family and the development of rights in Hall, *Family and the Politics of Moderation*.

repositioning it around the reality of human life and human nature as it exists, not as we want it to be.

Get Real

Douglas J. Den Uyl

Liberty Fund, Inc.

Douglas B. Rasmussen

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> What is necessary is that epistemology, instead of being the pre-condition for ontology, should grow in it and with it, being at the same time a means and an object of explanation, helping to uphold, and itself upheld by, ontology, as the parts of any true philosophy mutually will sustain each other.

> —Étienne Gilson, *Methodical Realism*[1]

We are pleased and honored to participate in this symposium on *The Realist Turn* [*TRT*],[2] and we thank the editors of *Reason Papers* for their continued interest in our work over the years.[3] As we make clear at the very beginning of *TRT*, this latest work completes what has turned out to be a trilogy. This trilogy began with *Norms of Liberty* [*NOL*], which was itself written to draw out important and undeveloped aspects of our much earlier work, *Liberty and Nature* [*LN*]. *NOL* was followed by *The Perfectionist Turn* [*TPT*]. This effort was concerned with further explaining and defending both the normative features and metaethical foundations of individualistic perfectionism. Though these works[4]

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[1]Étienne Gilson, *Methodical Realism: A Handbook for Beginning Realists*, trans. Philip Tower (San Francisco: Ignatius Press, 1990), p. 25. Original French edition, *Le réalism méthodique*, 1935.

[2]Douglas B. Rasmussen and Douglas J. Den Uyl, *The Realist Turn: Repositioning Liberalism* [hereinafter *TRT*] (Cham, CH: Palgrave Macmillan, 2020).

[3]See *Reason Papers* 18 (Fall 1993); *Reason Papers* 39.1 (Summer 2017); and *Reason Papers* 39.2 (Winter 2017).

[4]*Liberty and Nature: An Aristotelian Defense of Liberal Order* [hereinafter *LN*] (LaSalle, Illinois: Open Court, 1991); *Norms of Liberty: A Perfectionist Basis for Non-Perfectionist Politics* [hereinafter *NOL*] (University Park:

obviously had different subjects and emphases that we cannot adequately recount here, they all were concerned in one way or another with providing a basis for an explanation and justification of the claim that individual human beings have basic, negative, natural rights to life, liberty, and property. We argued that these rights are the basic principles by which the legitimacy of a political/legal order is to be determined and the basis for the laws, whether developed by visible or invisible hands, that provide the backdrop for various forms of social intercourse. With *TRT*, the starting point is the idea that these rights are *natural*—that is, these rights are grounded in what human beings *are*. Obviously, a necessary condition for defending the claim that human beings have natural rights is that human beings have a nature, and that this nature can be known. None of this is to say that our knowledge of human nature is simply given or that there is not a lot of work involved in understanding what human beings are; but, as Aeon J. Skoble explains in his sketch of *TRT*, "Without realism, it's hard to see how we could do any of that work."[5]

Of course, the truth of metaphysical realism is only a necessary condition for an argument for natural rights to succeed. We must also have an account of how such a realism allows for ethical knowledge and how that ethical knowledge can provide a basis for rights. This is what we endeavored to show in *LN*, *NOL*, and *TPT*. *TRT* provides a synopsis of our argument for basic, negative, natural rights. It also seeks to meet certain objections to our argument; but primarily it seeks to offer a defense of metaphysical realism, or at least the beginning of such a defense. It further seeks to show the importance of metaphysical realism for ethics and political philosophy. We define metaphysical realism as follows:

Pennsylvania State University Press, 2005); *The Perfectionist Turn: From Metanorms to Metaethics* [hereinafter *TPT*] (Edinburgh, UK: Edinburgh University Press, 2016); and *TRT*. Also, our essay, "*Norms of Liberty*: Challenges and Prospects," *Reading Rasmussen and Den Uyl: Critical Essays on* Norms of Liberty, ed. Aeon Skoble (Lanham, MD: Lexington Books, 2008), pp. 177-244, is an important part of our corpus.
[5] Aeon J. Skoble, "Why Liberalism Needs Metaphysical Realism," *Reason Papers* vol. 42, no. 1(Summer 2021)*,* p. 28.

> Metaphysical realism involves both an ontological thesis and an epistemological thesis. The ontological thesis is that there are beings that exist and are what they are independent of and apart from anyone's cognition. The epistemological thesis is that the existence and nature of these beings can be known, more or less adequately, sometimes with great difficulty, but still known as they really are.[6]

Our defense of metaphysical realism takes much from the neo-Aristotelian-Thomistic tradition, but it also uses insights from Thomas Reid, John Deely, and Anthony Kenny's interpretation of the later Wittgenstein.[7] As our dedication page makes clear, we also owe a great deal to the work of our mentor, Henry B. Veatch. However, the overall character and structure of our defense is uniquely ours and we alone are responsible for it. While there is certainly more to do on behalf of metaphysical realism, we think we have made a good start.

Finally, we wish to thank Paul Gaffney, Lauren K. Hall, David Kelley, Eric Mack, Timothy Sandefur, and Aeon J. Skoble for reading *TRT* and choosing to participate in this symposium. We appreciate their hard work. Their essays raise important issues to be considered, and we have enjoyed taking them up.[8]

1. Universals, Abstraction, and Natures

> In the first years of the twenty-first century it is not too much to speak of a renaissance of Thomism—not a confessional Thomism, but a study of Thomas that transcends the limits not only of the Catholic Church but of Christianity itself.
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> —Anthony Kenny[9]

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[6]*TRT*, p. 188.

[7]We also have been influenced by certain insights of Ayn Rand.

[8]We should also thank Roger E. Bissell and David Gordon for their helpful comments on what we have written here, as well as the editors of *Reason Papers*.

[9]Anthony Kenny, *A New History of Western Philosophy* (Oxford: Clarendon Press, 2007), p. 316.

We will consider in this section David Kelley's thoughtful review of *TRT*.[10] The major concern of his review is our account of moderate realism as a solution to the problem of universals. There are other issues raised in his review about our defense of metaphysical realism that we will consider in the next section where we respond to various comments made by other reviewers regarding metaphysical realism. For this section, however, we will concentrate on his comments on our account of moderate realism.

The problem of universals has to do with to what, if anything, do our concepts refer.[11] For example, to what are we referring when we say that Barack Obama is a human being, that Donald Trump is a human being, and that Joe Biden is a human being? These are very different individuals, and so it is most natural to ask what is it that they share that makes each of these propositions true. In virtue of what is each of these individuals a human being? The issues here are deep and profound and almost as old as philosophy itself, but what follows next is a gloss on the basic positions, each of which can have its own variations. We will use the concept of human being as the common reference point in differentiating these positions.

1. The concept human being refers to an abstract and universal nature that exists in a cognitive-independent reality that is beyond space and time. This view is often called "extreme realism" and is usually associated with Plato.

2. The concept human being has no basis in cognitive-independent reality but only in the words we employ. This view is called "nominalism," and has been associated with many thinkers throughout the history of philosophy, George Berkeley and David Hume being two examples.

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[10]David Kelley, "Concepts and Natures: A Commentary on *The Realist Turn*," *Reason Papers* vol 42, no. 1 (Summer 2021).
[11]The problem of universals can be understood also in strictly ontological terms as concerning the nature of both particulars and properties. We cannot consider this understanding of the problem here, but see Robert C. Koons and Timothy Pickavance, *The Atlas of Reality: A Comprehensive Guide to Metaphysics* (Malden, MA: Wiley-Blackwell, 2017), pp. 125-170.

3. The concept human being refers only to our ideas, not to anything existing in cognitive-independent reality. This view is called "conceptualism" or "constructivism" and has been generally associated with such modern philosophers as Locke and Kant.

4. The concept of human being refers to concrete individuals, each with its own unique nature, existing in cognitive-independent reality, and there is a basis in their natures for determining what individuals are included in the extension of the concept. This view is called "moderate realism" and is commonly associated with Aristotle and Aquinas.

We will, of course, not examine all these positions; rather, the questions that will be considered are how we are to understand "moderate realism" and whether that account can suffice as a solution to the problem of universals. We note in *TRT* that there has been more than one version of moderate realism. Kelley agrees, and since he speaks of and advocates for the "Objectivist" approach to the problem of universals, let us begin by considering some comments made by Ayn Rand regarding moderate realism.

> Somewhere in the 1940's, . . . I was discussing the issue of concepts with a Jesuit, who philosophically was a Thomist. He was holding to the Aristotelian position that concepts refer to an essence in concretes. And he specifically referred to "manness" in man and "roseness" in roses. I was arguing with him that there is no such thing, and that these names refer to merely an organization of concretes, that this is our way of organizing concretes.[12]

Further, Rand describes the moderate realist tradition as holding "that abstractions exist in reality, but they exist only *in* concretes, in the form of metaphysical *essences*, and that our concepts refer to these essences."[13] Kelley also notes: "What exist outside the mind are

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[12]Ayn Rand, *Introduction to Objectivist Epistemology: Expanded Second Edition*, ed. Harry Binswanger and Leonard Peikoff (New York: Meridian, 1990), p. 307), hereinafter referred to as *IOE*.
[13]Ibid., p. 2. Rand also states that the moderate realist tradition holds that the referents of concepts are metaphysical essences and that these are "universals" inherent in things—that is, "special existents unrelated to man's consciousness." Ibid., p. 53.

particular things, with their concrete, numerically discrete attributes and natures. But some moderate realists hold that these attributes and natures do contain a kind of abstractness."[14]

The chief problem with these descriptions of moderate realism is that it is by no means obvious who holds this view as so described. First, as the Aristotelian scholar Gregory Salmieri, who is quite familiar with and on the whole sympathetic to Rand's views, reports:

> In general, an Aristotelian universal is not an identical item discoverable among the items that differentiate the particulars from one another. Indeed it is not a thing in the world at all, but exists only in or in relation to thought as a way in which we can regard particulars that reveals their causal roles and thus achieve ἐπιστήμη [knowledge]. What enables us to regard the particulars in this way is both the very causal relations the universal reveals and relations of likeness among its particulars. When all of these relations obtain, there is a "common nature" present to be "taken" and named, and it can then serve as a term in deductions. This nature is the universal and it is common to the particulars, but not in the way that has been so often supposed—*as an element in the particulars independent from those in which they differ*. Nor is the universal an object of knowledge in the way that has often been supposed. One is said to know a universal only in the sense that one can be said to see the universal color. In both cases, the universal specifies the domain of particulars that can be the objects of a cognitive power in a way that reveals that about the particulars in virtue of which they are objects of that power. *What is actually known is always particular, but can only be known in the relevant way insofar as it falls under the universals it does—i.e., insofar as it stands in the relevant relations to other particulars*.[15]

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[14]David Kelley, "Concepts and Natures: A Commentary on *The Realist Turn*," p. 15.
[15]Gregory Salmieri, "Aristotle's Conception of Universality," September 2012, pp. 52-53 (emphasis added),
<https://www.academia.edu/1069932/Aristotles_Conception_of_Universality >.

Clearly, this account of Aristotle's view of universals does not jibe with Rand's account of Aristotle's view.[16]

Second, Aquinas's approach to the problem of universals is not anything like the position Rand describes. For Aquinas, there are no abstract or universal essences existing in beings *in rerum natura*. There are, so to speak, no metaphysical banners[17] sticking up saying for example "manness." He explicitly states that "there is nothing common in Socrates; everything in him is individuated"; and a little later in the same paragraph, he states that "human nature is not found in individual men existing as a unity, as though it were one essence belonging to all, which is required for the notion of a universal."[18] The nature of a thing only becomes universal in virtue of its being compared and contrasted to the natures of other things and thus viewed in certain real relationships with those other natures. As will be explained shortly, this involves abstracting, but not prescinding, from the specific natures of things. Moreover, most important for understanding Aquinas's approach to concept formation and cognition in general is his insistence that the ability of human cognition to identify the natures of things does not require that human cognition be without an identity or character. He states:

> For although it be necessary for the truth of a cognition that the cognition answer to the thing known, still it is not necessary that the mode of being of the thing known be the same as the mode of being of its cognition.[19]

For Aquinas, we need not conflate our concept of human being and its properties with those of cognitive-independent human beings or vice-versa in order to champion cognitive realism.

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[16]We are not in this essay primarily concerned with Rand's own view of universals and abstraction. To the extent we do consider her, it is in regard to both how similar her views are to the account of moderate realism we describe in *TRT* and how her views could benefit from being understood in those terms.

[17]See *IOE*, p. 139.

[18]Aquinas, *On Being and Essence*, 2nd ed. rev., trans. Armand Maurer (Toronto, Canada: The Pontifical Institute of Mediaeval Studies, 1968), pp. 47–48.

[19]Aquinas, *Summa Contra Gentiles*, II, Question 76, our translation.

To say the least, then, it is not clear that the position Rand is describing is anything that either Aristotle or Aquinas holds. Kelley is more circumspect, for he only says that some moderate realists hold that the natures of individuals contain a kind of abstractness. However, Kelley does not state who these are. This is important because one needs to know the proper target of Rand's complaint. On the question of what moderate realism actually involves, there has been scholarly studies that work against Rand's attribution of the position she ascribes to Aquinas. For example, Joseph Owens in his influential work, "Common Nature: A Point of Comparison Between Thomistic and Scotistic Metaphysics,"[20] and E. A. Moody in *The Logic of William of Ockham*[21] discuss accounts of moderate realism that are similar to what Rand describes, and both note that they are more like views advanced by Avicenna and Scotus than anything Aquinas holds. Further, as one of us has noted elsewhere,[22] Porphyry's jumbling of Aristotle's doctrine of the predicables, which ends up treating the species term, "man," as pertaining to the necessary as opposed to the accidental part of the individual human rather than to the individual as a whole, is not Aristotle's view of the predicables.[23] This too causes confusion when trying to understand what is meant by the nature of a thing. So, we must be careful what intellectual program regarding the problem of universals we purchase before we start accepting assignments of different philosophers to various positions or indeed accounts of these positions.[24]

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[20]Joseph Owens, "Common Nature: A Point of Comparison Between Thomistic and Scotistic Metaphysics," *Mediaeval Studies* 19 (1957): 1-14.

[21]E. A. Moody, *The Logic of William of Ockham* (New York: Russell & Russell, 1965), first published in 1935.

[22]Douglas B. Rasmussen, "Quine and Aristotelian Essentialism," *The New Scholasticism* 58.3 (Summer 1984): 316-335.

[23]See H. W. B. Joseph, *An Introduction to Logic* 2nd ed. (Oxford: Clarendon Press, 1916), pp. 107-110; and Edward Black, "Aristotle's 'Essentialism' and Quine's Cycling Mathematician," *The Monist* 52 (1968): 288-297.

[24]For example, see Robert Pasnau's *Thomas Aquinas on Human Nature* (Cambridge University Press, 2002) where Aquinas is accused of conflating facts about the content of thought with facts about the form of thought (p. 315). Pasnau's accusation is based in part on his stance regarding Aquinas's view of common nature, which conflicts with Joseph Owens's view that Aquinas holds that a common nature has existence within a particular only insofar as it is identical to that particular (p. 449 n2). Indeed, Pasnau's

To be fair, Kelley later in his comments cites Peter Coffey, a well-known Thomist in the early 20th century, who he thinks illustrates the view of moderate realism Rand describes. Here is the citation:

> The absolute nature or object signified by "man" is really in this, that, and the other individual man, in John and James and Thomas, etc. It is really in them, but, of course, with this difference in each, that it has in each individualizing characteristics which are not included in it as it is when considered in itself, in its abstract condition as an object of thought, apart from the singulars of which it is predicated. In any individual man there are *individualizing notes* that are not

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position also conflicts with the views of the following: Jorge J. E. Gracia, "Cutting the Gordian Knot of Ontology: Thomas's Solution to the Problem of Universals" in David M. Gallagher, ed., *Thomas Aquinas and His Legacy* (Washington, DC: Catholic University of America Press, 1994), pp. 16-36; Ralph McInerny, *St. Thomas Aquinas* (Notre Dame: University of Notre Dame Press, 1982), pp. 110-115; Francis H. Parker and Henry B. Veatch, *Logic as a Human Instrument* (New York: Harper, 1959), pp. 52-54; and Henry B. Veatch, *Intentional Logic* (New Haven, CT: Yale University Press, 1952) (Hamden, CT: Archon Books, 1970), pp. 105-115. Of course, such conflict does not in and of itself mean that Pasnau is wrong. However, Pasnau's overall method and approach to Aquinas has been found wanting by various reviewers. For example, John O'Callaghan notes that "unfortunately, the result here is a text that for all its length is difficult to take seriously, with some exceptions, as a study of Aquinas' account of human nature." *Journal of the History of Philosophy* (2004) 42.1: 100. Bonnie Kent also remarks that "my reservations about the book as a whole . . . is just that the author sometimes strives so hard to produce 'novel,' 'surprising,' and 'controversial' interpretations of Aquinas . . . that he not only grossly misrepresents secondary literature: he unwittingly does more to create philosophical confusions about Aquinas's thinking than to than to alleviate them." *The Philosophical Review* (2003) 112.1: 105-106. Be this as it may, our own approach here is simply to follow what we shall call the "Owens interpretation" of Aquinas regarding common nature because we think it has the best chance of being true. After all, as Aquinas states, "the purpose of the study of philosophy is not to learn what others have thought, but to learn how the truth of things stands" (*Commentary on Aristotle, De Caelo*, I, 22).

in the abstract thought object "man"; but there is nothing in the latter that is not in the former.[25]

Understanding what is being asserted by Coffey and whether it is the best or even an adequate representation of Aquinas's view depends on understanding the different ways abstraction can function for Aquinas and what that makes possible—particularly, the difference between abstraction with and without precision and how that makes possible an absolute consideration of the nature of something. So, it is to an account of these ways of abstracting and their role in Aquinas's view of concept formation that we shall now turn.[26]

When one abstracts the character or nature of something *with* precision, one positively excludes the differentiating traits from the abstracted character or nature. This is also called prescinding. When one abstracts the character or nature of something *without* precision, one neither explicitly expresses or specifies, nor explicitly excludes, the differentiating traits of the abstracted character or nature, and the individual differences are treated as implicit, which allows them to be clearly different in each instance when they are made explicit.[27] Thus, the individual differences between Barack Obama, Donald Trump, and Joe Biden, for example, are *not* cut off in forming the concept of human being (or man), which refers to each of their respective natures as a whole. Their natures are considered indeterminately (that is, without regard to their specific determination), as a conceptual unit or universal, *but nonetheless their natures are regarded as requiring some determination.* However, these differences *are* cut off when one engages in abstraction *with* precision, for example, when one forms the concept of humanity. With this concept, one is focusing on just those features in virtue of which these individuals are grouped together—that

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[25]Peter Coffey, *Epistemology* (Gloucester, MA: Peter Smith, 1958), Vol. I, pp. 274-75 (Kelley's emphasis). This work was first published in 1917 by Longmans, Green and Co., London.

[26]In what follows, we adapt material from *TRT*, sometimes with only slight modifications.

[27]Aquinas, *Being and Essence*, pp. 37-44; and Joseph Owens, *Cognition: An Epistemological Inquiry* (Houston, TX: Center for Thomistic Studies, 1992), pp. 145-148. It should be noted that for Aquinas "designated matter" is numerically distinct in different individuals but is the same in character for cognition.

is, on what makes them human, and leaving out their respective individuative features. This is why we cannot truly say "Socrates is his humanity," which is to predicate a part of a whole, but we can truly say "Socrates is a man," which is to predicate a whole of a whole.[28] As Aquinas notes:

> It is clear, then, that the essence of man is signified by the two terms "man" and "humanity," but in different ways, as we have said. *The term "man" expresses it as a whole, because it does not prescind from the designation of matter but contains it implicitly and indistinctly*, as we said genus contains the difference. This is why the term "man" can be predicated of individuals. But the term "humanity" signifies the essence as a part, because it includes only what belongs to man as man, prescinding from all designation of matter. As a result, it cannot be predicated of individual men. Because of this the term "essence" is sometimes attributed to a thing and sometimes denied of it: we can say "Socrates is an essence" and also "the essence of Socrates is not Socrates."[29]

As long as we clearly differentiate abstraction *without* precision from abstraction *with* precision—that is to say, as long as we differentiate the nature of something *not considered as related* to its specific determination from the nature of something *considered as not related* to its specific determination—then we need not fear that Aquinas's account of abstraction might require identifying individual men with "humanity" or treat the concept of human being (or man) to be referring to some abstract and universal part of the natures of individual human beings. Finally, and more importantly, it should be emphasized that Aquinas's account not only does not cut off individualizing features of human beings from the concept of human being, but requires their existence. There can be no such thing as an abstract understanding of their natures if there are no concrete forms of it—the determinable requires the determinate.[30] The concept of

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[28]See Rasmussen, "Quine and Aristotelian Essentialism," p. 321.
[29]Aquinas*, Being and Essence*, p. 44.
[30]Aquinas illustrates how abstraction without precision allows the genus term to be both identical with and different from the species (or the species term identical with and different from the individual) when he states the following:

human being (or man) signifies the natures of human beings in their entirety.[31]

Aquinas holds that "man" can be truly predicated of individual men without assuming that the mode of existence of these men is the same as the mode of existence of these men when they are cognized. In other words, simply because one must use the universal "man" to say what individual men are does not mean that what one knows must be a universal either *ante rem* or *in rebus*. Confusing these modes of existence is illustrated by the following invalid syllogism:

Socrates is a man.

Man is a universal.

Therefore, Socrates is a universal.

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(1) "The unity of the genus proceeds from its very indetermination and indifference; not, however, because that which is signified by genus is one nature by number in different species to which supervenes something else which is the difference determining it, as for instance form determines matter which is numerically one; *but because genus signifies some form, though not determinately this or that (form) which difference expresses determinately, which is none other than that (form) which is signified indeterminately through genus . . .*" Aquinas, *Concerning Being and Essence*, trans. George C. Leckie (New York: Appleton-Century Crofts, 1937), p. 13 (emphasis added); and (2) "The nature of the species is indeterminate with regard to the individual, as is the nature of the genus with regard to the species. It follows that, just as the genus, when attributed to the species, implies indistinctly in its signification everything that is in the species in a determinate way, so the species, when attributed to the individual, must signify everything essentially in the individual, though in an indistinct way." Aquinas, *On Being and Essence*, p. 42. Finally, see Panayot Butchvarov's discussion of the determinable-determinate relationship in *Resemblance and Identity; An Examination of the Problem of Universals* (Bloomington: Indiana University Press, 1966), pp. 147-153.

[31]What a concept signifies involves both an *intension*, which is not limited to what is only explicitly considered or what is stated in a definition, and an *extension* that applies to all individuals that are instances of a certain kind—be they past, present, or future. Further, Joseph Owens states that when an essence is abstracted without precision, it "includes implicitly everything that is in the thing itself, even the individual designation." "The Accidental and Essential Character of Being in the Doctrine of St. Thomas Aquinas," *Mediaeval Studies* 20 (1958): 31.

This syllogism commits the fallacy of four terms, because the term "man" is used in two senses. (1) "Man" refers to individual men *in rerum natura*; and (2) "man" refers to man as conceived by a human mind. By keeping these uses clear, it can be seen that one does not have to assume that the properties that apply to "man" in (1) apply to "man" in (2), or vice-versa. For example "mortality" applies in (1), but not in (2); and "universality" applies in (2) but not in (1). To put the central point in Scholastic terms, we should not confuse first and second intentions;[32] or as Henry B. Veatch argued, we should not confuse the primary objects of ontology with the tools of logic.[33] So, it is not necessary to assume that a universal is being predicated of Barack Obama, Donald Trump, and Joe Biden when each is respectively said to be man.

Yet, if a universal character or nature is not predicated of these individuals, then what is? Here again, abstraction *without* precision plays a crucial role. This time, however, a feature of this type of abstraction that was not noted before is given special emphasis. It involves what Aquinas calls an "absolute consideration" of the character or nature. One absolutely considers, for example, the character or nature of man when one abstracts, *but does not prescind*, from every mode of existence that it might have—that is, from how it exists individualized and determinately *in rerum natura* or from how it exists universally and indeterminately in human cognition. In so abstracting, one is not expressing or specifying the mode of existence. One knows there must be some mode or manner of existence, but there can be any.[34]

When one absolutely considers the nature of a human being, therefore, one is not considering how that nature exists. So considered, just as such, the nature of a human being is neither universal nor

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[32]On this and many related issues, see Douglas B. Rasmussen, "The Significance for Cognitive Realism of the Thought of John Poinsot," *American Catholic Philosophical Quarterly* 68.3 (1994): 409-424. Poinsot's religious name was "John of St. Thomas."

[33]See *Intentional Logic*. See also Henry B. Veatch, *Realism and Nominalism Revisited* (Milwaukee, WI: Marquette University Press, 1954).

[34]What Kelley calls Rand's "some but any" principle seems to be an instance of determinable-determinate relationship illustrated and discussed in note 30 above. See Butchvarov, *Resemblance and Identity*, pp. 150-153 for examples of expressions of this relationship in history of philosophy.

particular. Nor does it have any of the properties that flow from being either a universal or particular. This is so because universality and particularity belong to the manner in which a nature exists, and the manner of existence is not regarded in an absolute consideration. The nature of a human being so considered, then, is what is predicated of Obama, Trump, and Biden. As Aquinas states: "So it is clear that the nature of man, considered absolutely, abstracts from every being, but in such a way that it prescinds from no one of them, and it is the nature considered in this way that we attribute to all individuals."[35] Thus, the nature of a human being either exists thoroughly individualized in cognitive-independent reality or universalized in cognition. We basically never encounter human nature in any other way; but because we can consider it absolutely, and thus not express or specify how it exists, we can grasp what is the same or common among these individuals—and thus predicate "human being" (or "man") of Obama, Trump, and Biden—without either having to deny that the common nature of them as cognition-independent realities only exists in an individualized and determinate manner or having to claim that this common nature exists either as a universal *ante rem* or *in rebus*.

It is important to emphasize that an absolute consideration of the nature of something does not involve any distortion or falsification. To think things to be other than they *are* is to think falsely. Yet to think of a character or nature without thinking of its mode or manner of existence is not to judge falsely. Now, this distinction may seem obvious, but its application can be most subtle. Aquinas's does claim that (1) when a nature is considered as existing, it may exist in a two-fold way: individualized in cognitive-independent reality or universalized in cognition. However, he does *not* claim that (2) a nature absolutely considered just as such is some metaphysically neutral existent. When one considers a nature absolutely, one is concerned solely with what can be conceptually grasped, with what is intelligible, and not with what exists, can exist, or must exist, full stop.[36] To consider a nature

[35]Aquinas, *Being and Essence*, p. 47. See also Joseph Owens, "The Accidental and Essential Character of Being in the Doctrine of St. Thomas Aquinas," pp. 33-34.

[36]Alan Donagan ignores this point in "Universals and Metaphysical Realism," in Charles Landesman, ed., *The Problem of Universals* (New York: Basic Books, 1971), p. 108.

absolutely, then, is not to endow it with any mode or manner of existence whatsoever. Neither is it to create some realm of absolute natures or essences—whether they be Platonic ideas or ideas in a divine mind or metaphysical essences in concrete individuals. [37]

In light of these reflections on abstraction, one can clearly see that the quotation from Peter Coffey that Kelley cites fails to adequately represent the view of moderate realism that Aquinas offers. The key passage from the quotation Kelley cites, with emphasis, states that "in any individual man there are *individualizing notes* that are not in the abstract thought object 'man'."[38] However, we do not know of what manner of abstraction Coffey is speaking. Is it abstraction with or without precision? If it is abstraction with precision (that is, prescinding), then his claim is true, but the use of the concept man as an example is inappropriate, because this concept is formed by a process of abstraction without precision. If it is abstraction without precision, then his claim is false, for this process of abstraction does not positively exclude or cut off the individualizing notes of individual men. Certainly just as stated the citation is unclear. However, the faulty presentation of Aquinas's approach to concept formation is made even more evident in Coffey's work when he later notes:

> We can and do say "John is a *man*" or "John is *human*"; for these terms "man" and "human" express human nature in itself, in the absolute, and this latter *is really in John*: **not**, however, as constituting his *whole* reality, inasmuch as he had also that which individuates him . . . .[39]

This flatly contradicts what Aquinas asserts. For Aquinas, as already noted, the term "man" expresses human nature as a whole and does *not*

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[37]Obviously, Aquinas has ontological reasons for positing essences in the mind of God, but that claim does not result from this point about the nature of abstraction.

[38]The words "in abstract thought" here are unfortunate, because they give the false impressions that a concept for Aquinas is something one knows first before one knows things and also that determining a concept's signification is process of *inspectio mentis*, or as some analytic philosophers say, "conceptual analysis." We explain why both of these impressions are incorrect in *TRT*.

[39]Coffey, *Epistemology*, p. 276 [boldface added]. Coffey appears here to again be unaware of the difference between abstraction with and without precision.

prescind from the designation of matter—that is, the individualizing conditions. Moreover, the distinction between a nature so abstracted and the subject matter in which it inheres does not even show that a material thing is composed of two metaphysical principles—namely, form and matter. That claim requires more to support it than merely our ability to abstract.[40]

Most likely, there are many reasons for Coffey's inadequate account of Aquinas's view of abstraction. First, there have been many Scholastic fingers in the moderate realist pie over the centuries. Second, the distinction of abstraction with and without precision is subtle and may not have been fully grasped, and finally, of course, Owens's explanation of this distinction comes about fifty years after Coffey's work.[41] Nevertheless, we do not think that the view of moderate realism as described by Rand and suggested by Kelley's citation of Coffey is an accurate account of what is held by Aquinas and many Thomists[42] who are very much part of the contemporary philosophical scene.

Indeed, we think that the view of moderate realism, *as we have described it*, helps to illustrate that Rand's account of concept formation, which Kelley briefly describes in his review and ably develops in his own works[43] (and which we generally endorse), is best understood as

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[40]See *TPT*, p. 73 n14. Interestingly enough, we mentioned long ago that there are many in the Aristotelian tradition who reject an ontological bifurcation of the individual. See our essay, "Ayn Rand's Realism," in the book we edited, *The Philosophic Thought of Ayn Rand* (Urbana: University of Illinois Press, 1984), pp. 7-8. This is an issue we cannot examine in detail here, but we would note that it is a mistake to assume that distinguishing between form and matter requires treating form as the universal part and matter as the individual part of an entity.

[41]Joseph Owens notes that the doctrine of abstraction with and without precision was strangely neglected by later Scholasticism, including Neo-Scholasticism. He argues that abstraction without precision is vital to not only understanding Aquinas's view of essence and being but also to the possibility of metaphysical and scientific thought. See "The Accidental and Essential Character of Being in the Doctrine of St. Thomas Aquinas," p. 29.

[42]Besides those mentioned in note 24 above who follow Joseph Owens's account of Aquinas's view of common nature, John O'Callaghan, Robert C. Koons, and David Oderberg are also worthy of note.

[43]David Kelley, "A Theory of Abstraction," *Cognition and Brain Theory* 7, nos. 3 & 4 (1984): 329–357.

being part of this view of moderate realism and further that her epistemology could benefit from being understood in those terms.[44] Kelley accepts that there is a similarity between Rand's view of abstraction where she uses the "some but any" principle and the idea of abstraction without precision, but he balks at holding that her view of abstraction can be part of the moderate realist tradition as we have described it. Kelley does so because he thinks that the notion of an absolute consideration of the nature of a being involves the claim that the mind takes on the form of a thing, and he further thinks that the claim that the mind takes on the form of a thing requires a diaphanous model of cognition, which he argues against in his work, *The Evidence of the Senses: A Realist Theory of Perception*.

Kelley admits that the issue is too fundamental and complex to discuss in his review, and though we agree that it is both fundamental and complex and cannot be sufficiently dealt with here, we would like nonetheless to briefly note the following:

1) As we have indicated in this essay, as well as *TRT*,[45] there is nothing in the account of moderate realism as we have described it that assumes that human cognition does not have an identity. We can through reflection be aware of the form in which we perceive and conceive of the forms of things. In fact, we invoke more than once in *TRT* Aquinas's point that there is a difference between the mode of being of the thing known and the mode of being of its cognition, and that they should not be conflated. Cognition is not without an identity or a manner of existence.

2) The character of human cognition is inherently relational or intentional. This claim is a central part of the Aristotelian-Thomistic epistemological tradition. Now, it may be that this claim implies a

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[44]Since Kelley mentions the unpublished talk by Rasmussen on "Rand and Aquinas on the Problem of Universals" at the Ayn Rand Society at the American Philosophical Association convention in 2004, it should be noted that one of the themes of that talk was that Rand's epistemology needs an account of natures absolutely considered in order to develop an account of propositions that allows for the identification of what things are—at least, that is, if she is to maintain her cognitive realism. We will have something more to say on this point later.

[45]*TRT*, pp, 190-191, 232-233.

diaphanous model of human cognition; but whether or not that is so, then it is a claim that Rand embraces. She states, "If nothing exists, then 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 identity itself as consciousness, it had to be conscious of something."[46] Consciousness is a faculty of individual human beings. It can exist and function only if it is already aware of something other than itself. It is fundamentally impossible for all the objects of human consciousness to be, in the last analysis, merely manifestations of that faculty. For consciousness to be what it is, it must ultimately be *of* or *about* something other than itself.[47] This seems to be an undeniable feature of cognitive realism, and it is crucial to the metaphysical realism that both we and Kelley champion.

3) For Rand, the ability to regard an existent as a unit is the key to concept formation. "A unit is an existent regarded as a separate member of a group of two or more similar members."[48] Units *qua* units do not exist; units are only individual existents *viewed* in certain existing relationships. Units exist, then, only in the sense that existents *are regarded* in certain ways in virtue of certain existing, identifiable relationships.[49] Clearly, a unit is not a cognitive-independent being. However, Rand also insists that regarding an existent as a unit is not an arbitrary creation but is a method of classification and identification. Thus, seeing that the lengths of a match, a pencil, and a stick are units of a group with similar members is a process of classification, of identifying each existent, and of establishing a relationship between these existents and their commensurable common character—that is, a character possessing a common unit of measurement.[50] The same principle applies for grasping that Obama, Trump, and Biden are men. Moreover, this is a relationship that goes both ways. The members of the class that possess the common character, be it length or humanity, do so in different quantities, degrees, or ways; and the common character in virtue of which the classification is formed is totally expressed and

[46]Ayn Rand, *Atlas Shrugged* (New York: Random House, 1957), p. 1015; see also *IOE*, p. 29.
[47]See note 32 above.
[48]*IOE*, p. 6.
[49]Ibid., pp. 6-7.
[50]Ibid., pp. 11-13.

embodied in the constituent members of the class. In no case is this common character some *tertium quid* existing either *ante rem* or *in rebus*.

A concept for Rand is "a mental integration of two or more units possessing the same distinguishing characteristic(s), with their particular measurements omitted."[51] In thus speaking of a concept in terms of units, it does not matter whether we consider the relationship of many existents to one character or the relationship of the one character to the many existents in order to grasp that we are now speaking of a universal. The etymology of the Latin term "*universale*" is "turned towards something one," and the notion of "a single whole bearing down upon all the individuals" was uppermost in the original Greek designation, *katholou*.[52] Whether the relationship is viewed from the perspective of the particular existents to the common character or from the perspective of the common character to the particular existents, it is to this sort of relationship that Rand seems to be referring when she speaks of concepts in terms of units.

If this is so, then despite her description of moderate realism, we find her account of concepts in terms of units congenial to—or at least compatible with—what we have said regarding moderate realism. Yet, how is the concept or universal "man" that is truly predicated of such different individuals as Obama, Trump, and Biden to be understood by Rand? This is difficult to say, since she never develops a theory of propositions or discusses how the subject-predicate relation should be understood. Even so, a concept or universal does not exist in cognitive-independent reality, but it pertains nonetheless to the very identities or natures of these individuals.[53] *There is a common measurable standard*. That is to say, although what the concept or universal "man" identifies is applicable to all men and is not reducible to one single man, what is identified is not *as such*, and indeed cannot be, understood as some universal. In fact, it is neither universal nor particular, for we must not

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[51]Ibid., p. 13.
[52]We owe this bit of scholarship to Joseph Owens, *Cognition*, pp. 153-154.
[53]The existence of a concept may be dependent on psychological/brain states, and these states can exist apart from their being known. However, the existence of a concept *as a relation of identification* does not exist apart from the cognitive process that *forms* the concept.

conflate a mode of cognition with the mode of what is known, or vice-versa, as we saw earlier with our syllogism that committed the fallacy of four terms. What the concept or universal identifies is what these individual men are—that is, their nature—without prescinding from how that nature might exist. What is conceptually grasped regarding these men is not different in character from what exists *in rerum natura*. And if we are not very much mistaken, this is what Rand's view requires; but if this is so, then, we have an example of an absolute consideration of the nature of a being.[54]

Pace Rand and Kelley, Aquinas and Rand are much more allies than opponents when it comes to the problem of universals. Indeed, as we note in *TRT*, we see moderate realism as holding that in cognitive-independent reality *all individuals are natured, and all natures are individualized.*

2. Defending Metaphysical Realism

> The philosopher as such has . . . no reason whatever to assume a priori that his thought is the condition of being, and, consequently, he has no a priori obligation to make what he has to say about being depend on what he knows about his own thought.

> —Étienne Gilson, *Methodical Realism*[55]

As the definition at the beginning of this essay makes clear, metaphysical realism holds not only that there are beings that exist independently of our cognition but also that they are what they are—that is, they have natures—apart from our cognition. Further, this view holds that we can know both the existence and nature of these beings. Thus

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[54]As Joseph Owens notes, "Predication requires a genuine identity in reality between nature and individual. Such an identity is possible because of the entire lack of being in the essence absolutely considered just in itself and in abstraction from any existence." "Common Nature: A Point of Comparison Between Thomistic and Scotistic Metaphysics," p. 6. See also Veatch, *Intentional Logic*, pp. 154-213; and idem, "St. Thomas' Doctrine of Subject and Predicate: A Possible Starting Point for Logical Reform and Renewal," *St. Thomas Aquinas 1274-1974: Commemorative Studies* (Toronto: Pontifical Institute of Mediaeval Studies, 1974), Vol. II, pp. 401–422.
[55]Étienne Gilson, *Methodical Realism,* p. 24.

understood, metaphysical realism is opposed not simply to idealism but also to transcendental idealism—be it of the Kantian variety or of the more recent neo-pragmatist variety. It was for this reason that we devoted large parts of *TRT* to showing not only why it was unnecessary to join Kant in renouncing the possibility of knowing the natures of cognitive-independent beings but also why the neo-pragmatist criticisms of Aristotelian essentialism[56] did not succeed. Our argument also applied to such people as Martha Nussbaum whose "internal essentialism" rejects realism by accepting Hilary Putnam's claim that the natures of beings are ultimately determined by human interests and concerns—that is to say, by accepting his advocacy of conceptual relativism. We are thus puzzled when Eric Mack says, "I do not believe that the authors ever make explicit the distinction between realism with respect to the external world and realism with respect to natures."[57] On the contrary, we make it abundantly clear that metaphysical realism involves realism in both senses; and as the previous section makes evident, we explain our conceptual apprehension of the natures of things through an account of moderate realism.

It is with the epistemological thesis of metaphysical realism that there has been the most dispute in recent times, because though many are unwilling to think that there are no beings apart from human cognition, there has been greater reluctance to hold that we can know what these beings are. How does one meet this reluctance?

David Kelley correctly notes that we do not try to prove that metaphysical realism is true but rather hold that its truth is self-evident. The existence of cognitive-independent beings that are something or other that we cognize is a fact of which we are directly aware. It is a fact that one really cannot get outside or beyond.[58] That's the whole point of being a metaphysical realist. Accordingly, our account of the three theses that constitute the neo-Aristotelian-Thomistic tradition's approach to human knowing—that is, (1) that the tools of human cognition (percepts, concepts, propositions, and arguments) are not

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[56]That is to say, with the views of W. V. O. Quine and Hilary Putnam.

[57]Eric Mack, "Liberalism's Problem and the Self-Directedness Meta-Norm," *Reason Papers* vol. 42, no. 1 (Summer 2021), p. 33, n7.

[58]We find Kelley's explanation of axiomatic truths and direct perceptual realism to be supportive of our view.

"third things" intervening between the knower and the known; (2) that these tools are not what we know but rather that by which we know; and (3) that they are inherently of or about something other than themselves—is meant only to dialectically exhibit the evident truth of metaphysical realism. It is in response to those who challenge metaphysical realism. Thought and language need not be construed as being on one side of the cognitive relation existing in splendid isolation from cognitive-independent beings on the other, and thus as standing in need of something that will relate them to such beings. In other words, the point of our account of these three theses is that the so-called problem of thought or language hooking on to the world is largely a philosophical creation. It is not something to be solved but rather dissolved.[59]

However, what is truly fundamental to our approach is that we hold, along with Gilson, that there is no a priori reason to accept the claim that "thought conditions being." It is simply not necessary to grant that assumption. This was also the central point behind Thomas Reid's critique of the so-called way of ideas. One may of course engage in reflective analysis of the character or manner of human knowing or consider arguments that try to establish the claim that the nature of human knowing transforms the natures of cognitive-independent beings, but that is a far cry from trying to reason one's way to the truth of metaphysical realism.[60] Simply put, that is a philosophical journey one need not take, and here a metaphysical realist must stand firm and not get caught up in philosophical webs.

However, not only is such a journey unnecessary but also, if taken, one that does not fare well. Henry D. Aiken has noted that the solution that Kant and those who followed him provided to the problem of how thought and language hook on to the world gave rise to a new and different understanding of objectivity—one not found in Plato, Aristotle, or Aquinas. For those following Kant,

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[59]Following Anthony Kenny's account of Wittgenstein's private language argument, we take its upshot to be that "it is quite impossible for one to be immediately and directly aware of only one's ideas or mental contents apart from anything independent of them. . . . " *TRT*, p. 204. It is indeed a case of "language gone on holiday."

[60]See Gilson, *Methodical Realism*, p. 95.

objectivity is not so much a fact about the universe as it is a matter of common standards of judgment and criticism. Objectivity, in short, is now conceived as inter-subjectivity. Inter-subjective norms are not agreed to by the members of society because they are objective, but, in effect, become objective because they are jointly accepted.[61]

Once we forego the possibility of knowing what things are and thus defining objectivity in terms of such cognition, however, and instead adopt inter-subjectivity, how is this a basis for objectivity? While holding that proposition P is true because you believe it certainly does not seem a likely candidate, it is interesting to note how P's truth somehow becomes more plausible to some people when one moves from the singular to the plural. But surely, if "P is true" is not semantically equivalent to "I believe P is true," then neither is it semantically equivalent to "We believe P is true." If such equivalences are granted, then we can all just give up on having knowledge in any form.

Certainly, it seems that most of those who reject metaphysical realism do not wish to embrace subjectivism or conventionalism in determining what is true. But if this so, then they need to provide a standard for truth—an account of objectivity—that will avoid subjectivism and conventionalism. It is here that we find Aeon J. Skoble again making an important point, this time in regard to providing a justification for individual rights—namely, that those who eschew metaphysical realism must still take on the task of providing support for what they take to be the rationale for individual rights.[62] Regardless of what is asserted by P, it requires support if it is to be knowledge; but once that task is taken up, we should not suppose we have left metaphysics. It may, of course, be very different from (or a different form of) metaphysical realism, but it is nonetheless metaphysics. No, the denier of metaphysics remains a fellow metaphysician. However, if this is so, then it is by no means obvious that metaphysical realism cannot sustain itself in a dialectical exchange with opposing views. Finally, we need to clearly distinguish between "(1) those metaphysical views that

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[61]Henry D. Aiken, *The Age of Ideology* (New York: George Braziller, 1957), p. 23.
[62]As Skoble puts it, "All of these rationales depend on some underlying desideratum." "Why Liberalism Needs Metaphysical Realism," p. 29.

would overturn or replace our everyday practices and common-sense views and (2) those metaphysical views that seek to explain more deeply such practices and views."[63] Metaphysical realism belongs to (2), and while that does not prove its truth, it at least is not burdened with trying to explain away everyday practices and common-sense views.

We also, as part of our defense of metaphysical realism, provide an account of the central features of what we call "moderate essentialism," which involves an explanation of the process of how real definitions are determined. As applied to human beings, this account holds that the real definition of human beings is rational animal. Lauren K. Hall asserts, however, that we do not really provide adequate support for this definition. She complains that we do not sufficiently appreciate the social character of human beings and that we do not move beyond abstractions.[64] We find this complaint strange since we emphasize the natural sociality of human beings not only in *TRT*, but in all of our works.[65] Further, we devote a subsection of Chapter 7 to the issue of defining the nature of something, and we make it clear that a real definition (1) is not determined from a philosophical armchair but requires empirical investigation, (2) focuses on what is fundamentally essential about the nature of something, and (3) does not exhaustively state everything that is true of what is being defined. In other words, the real definition of the nature of something:

> represents a condensation of a vast amount of knowledge regarding a thing and is a formula-like statement of those basic characteristics of its nature that make a thing what it is and thus allows it to be distinguished from every other sort of thing in reality. Its essential and fundamental defining character is not determined in a vacuum.[66]

Moreover, as we make evident in *TRT* (and as discussed in the previous section), abstraction need not be understood as requiring the positive exclusion of the determinate characters of things. Abstraction need not

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[63]*TRT*, p. 237.
[64]Lauren K. Hall, "A Not-Quite-Realistic Turn: A Burkean Reply and A Rights-Based Alternative," *Reason Papers* vol. 42, no. 1 (Summer 2021), p. 82.
[65]In fact, we shall discuss this feature of human nature in the next section.
[66]*TRT*, p. 224.

falsify. Hall appears to have paid insufficient attention to that dimension of our argument.

The rock-bottom issue with Hall, however, seems to be not whether we recognize the importance of human sociality, but whether we recognize that human sociality is the defining feature of human beings. She appears to be claiming just that, but we do not. We see natural sociality as a necessary property of being human but not as the fundamentally distinctive feature of human nature. We agree with Aristotle that human beings are the most social of all the animals because, more fundamentally, they possess the power of *logos*.[67] As we noted more than once in *TRT*, the genus to which human beings belong is *animal*, and the differentia is our rational capacity.

> Such a capacity fundamentally involves the power to grasp the world in conceptual terms—that is to say, the power to form classifications, develop theories, formulate hypotheses, come to judgments, derive conclusions, reflect on various subjects (be they in the past, present, or future), make evaluations, develop purposes, and plan actions. This capacity is expressed in speculative reasoning (the pursuit of truth) and practical reasoning (the pursuit of human good). It is manifested in the use of language, as well as in the development of culture and conventions—and, indeed, in those practices that constitute what could be called "forms of life."[68]

Rationality is the fundamental operating feature of human nature, and it is through rationality that human sociality, even much sentimentality, is expressed. This seems to not only be the best account of the facts but also, contra Hall, a most Aristotelian view. We will have more to say about this issue and related ones in the last section of this essay.

3. The State of Nature

> Metanorms emerge from a recognition of the nature of social and political life. That is, they are not simply a function of considering one's own nature . . . . We cannot arrive there by

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[67]Aristotle, *Politics*, 1253a7-17.
[68]*TRT*, p. 236.

looking at the individual's telos alone, as if human beings were not naturally social.

Self-direction is . . . key, because it must be present for moral responsibility (and thus human flourishing) to occur; and yet, it does not in itself require any particular form of flourishing.

—Rasmussen and Den Uyl, *TRT*[69]

Both Eric Mack and Timothy Sandefur give what might be called the "state of nature objection" against our theory of rights. While both end up covering very similar ground, Mack's objection largely centers around a typical state of nature while Sandefur's is more broadly considered. Our reply is also in terms of "state of nature," though in a very different sense. We will begin by focusing on Mack.

Mack offers a couple of preliminary interpretations that should be examined before getting to the main objection. Mack raises a question concerning "liberalism's problem." Liberalism's problem is the problem of integrated political diversity that arises from the numerical and qualitative diversity among individuals. That diversity may result in conflict among agents. Mack then wonders whether liberalism's problem is "the prospect of actual (and troublesome) conflict or is it the absence within the moral/political doctrine of norms or meta-norms that forbid the behavior that would engender (troublesome) conduct?"[70] Mack concludes it is the latter for us. A couple of points need to be made already about this characterization of liberalism's problem. First, although conflict may be of concern both actually and potentially, it is not the only concern. As we note in *NOL*,[71] norms would be needed even in Madison's society of angels because the very pursuit of diverse forms of self-perfection raises the need for such norms, if for no other reason than to clarify the boundaries of the pursuing selves in a world fraught with ambiguities. Actual conflict need not be present to give rise to the need for such norms, though avoiding such conflict is certainly a primary purpose of the norms. Thus if we do not know where your property ends and ours begins, however much we might be willing to

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[69]*TRT*, pp. 53, 43.
[70]Eric Mack, "Liberalism's Problem and the Self-Directedness Meta-Norm,"
p. 37. Further page references to Mack are placed in the text.
[71]*NOL*, pp. 333-338.

defer to each other to avoid conflict, we would be in need of establishing norms/rules for making such decisions.

But Mack chooses to claim that liberalism's problem represents a "deficiency in the normative doctrine." Presumably, this deficiency at least means that our normative doctrine does not yet have the norms to cover cases of potential conflict, so those norms need to be determined, and then rights will be present. But on this view, the presence of actual conflict would not necessarily imply that there are not rights present to be respected. Our doctrine is presumably just not certain yet where the lines are to be drawn; and if we knew that, the doctrine would not be "deficient." We would know whether a right is being violated or not. As Mack notes, not all cases of "conflict" are rights violating.

But then Mack takes an odd turn. He wonders "why the authors focus solely on conflict that might arise between individuals who are on course for self-perfection. Why not think that part of liberalism's problem is the absence within moral/political theory of norms or meta-norms that forbid behavior *by anyone*—including individuals not on a self-perfecting course" (p. 37). At this stage, it is important to understand something fundamental about our view. At what Aristotle calls the first grade of actuality, we all are indeed "self-perfecters." That is to say, on a teleological understanding of human nature—to which we adhere—our telos is to perfect. This is true of *anyone*. To perfect requires self-direction. Now, whether or not one uses one's power of self-direction to self-perfect is not the concern of the metanorms applicable to a natural rights grounding of the social/political situation. What metanorms protect is the possibility of self-direction, full stop. It thus does apply to everyone as human, since it secures that possibility for self-direction for all, even if some do not use it to self-perfect. Hence, it is mistaken to say our metanorms only apply to self-perfecters in the sense of those actively pursuing a positive course of self-perfecting actions. Hence, also, we do not need "to go beyond" our ethic to find norms that would apply to non-flourishers. What we are doing instead is grappling with a specific modality within our ethic that needs to be treated a certain way because of the nature of the human person in a situation of social/political life.

Mack goes on to suggest that a standard "genuine" natural rights doctrine would require a philosophical grounding through identifying

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the "seminal and universal properties of persons" that make persons bearers of these rights. "The guiding intention is the grounding of natural rights in deep, morally significant features of individuals" (p. 39), and these would be used to solve liberalism's problem. Unfortunately, Mack sees us as failing to conform to this way of identifying natural rights and instead as identifying "basic norms [that] are needed to overcome the problem of the prospect of normatively ungoverned conflict among individuals." Thus, he says, we try to "solve liberalism's problem by determining which meta-norms must be added to [our] perfectionist ethics in order to counteract the threat of normatively ungoverned conflict" (p. 39).

Mack, however, has simply gotten this wrong. We *do* ground our theory of rights in "deep and morally significant features" of human beings—namely, the deepest and most significant morally relevant feature: self-direction.[72] Morality does not get off the ground without it. In addition, we consider the nature of the situation of individual persons among other persons and what is needed to protect this deepest and most morally significant of our features. The individual considered in isolation without others is not enough, but each individual's need for self-direction is indeed our starting point. In the end, then, we have a doctrine grounded in a deep moral feature applicable to all and not just to those actively engaged in appropriate, perfecting actions. The question of the character of such appropriate, perfecting actions comes after a context of the possibility for self-direction has been secured.[73]

This grounding of our account of, and justification for, rights in the need for self-direction also addresses Mack's other concern that we need to know what rights people have before we can begin defining what forms of conflict would violate them. Our point is that we *do* know something about our rights prior to any specific rules or norms—namely

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[72]Self-direction is "the act of using one's reason and judgment upon the world in an effort to understand one's surroundings, to make plans to act, and to act within or upon those surroundings." *NOL*, pp. 88-89. And this should not be confused with either Millean or Kantian notions of autonomy.

[73]As we emphasize in *TPT* and note in Chapter 2 of *TRT*, individualistic perfectionism is crucial for showing that the ethical norms that are needed for determining proper conduct in personal and social life are not of the same type as those that are needed for determining the proper overall social context that is to be provided by the political/legal order.

that they would have to secure compossible spheres of self-direction. *The uniqueness of our approach is that as natural rights theorists we believe one has to consider the nature of the individual **and** the nature of social life simultaneously.* We are just a little less confident than some philosophers in supposing that all the details of what that right might look like can be worked out solely from the philosopher's armchair.

Mack seems to see this simultaneity towards the end of his comments when he discusses what he describes as the "tension" in our theory. That "tension" is between the standard natural rights approach which looks to moral features of human beings on the one hand and the need to develop metanorms for resolving conflicts on the other. What we are calling a simultaneous consideration Mack is calling a "tension," because the individual consideration is different from the needed social norms posing two different problems. But in a way, that is precisely our point. The inherent nature of individuals when in society just is the possibility of a "tension" between them, which has to factor into a consideration of the nature of a natural right. The individual cannot be considered in isolation as do traditional state-of-nature theories because that does not speak to which morally significant feature is most relevant, necessary, and in need of protection, *given the nature of social life*.[74]

Here we come finally to the state of nature. Because Mack sees us as primarily stuck with having natural rights as a *consequence* of the need to develop a norm that does not allow Tom to slit John's throat, then in the state of nature, we would have nothing to say against Tom doing this to John because metanorms "come into play only within a political/legal context" (p. 45). Yet, while the state of nature may not yet have articulated social/legal rules, the wrongness of Tom's action would be the principal guide in formulating them, and that wrongness is clearly understood within the eudaimonistic, teleological framework of our ethics. Not condoning slitting of throats may be an obvious metanorm, and one inherent in this situation, but that does not make it any less of a social rule or ultimately the basis of a legal one.[75] Rights are not things

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[74]See *NOL*, pp. 284-285.

[75]Incidentally, while it might be obvious that Tom slitting John's throat is wrong, it may not be so obvious that Tom slitting the throat of one of the chickens John is keeping (and whose throats he sometimes slits) is wrong. Yet, this situation too is rooted in the same moral structure as the former and

attached to us, but rather describe a necessity in social relations for moral conduct to even occur. There are no rights apart from others, any more than there is sound when the tree falls in the forest without any hearers present. However, there are waves in the air a hearer may pick up, just as there are moral characteristics of the person relevant to a certain type of norm when a social relation is present. "A metanorm offers guidance in the creation, maintenance, interpretation, evaluation, and justification of the overall or general social context that secures the possibility of individuals pursuing their own forms of human flourishing."[76]

Timothy Sandefur offers much the same sort of objections as Mack, albeit with less of a linear style. The main objection offered is based on the premise, similar to Mack's, that rights for us only begin and have standing once a desire for sociality occurs. Thus he asks, "But what about the rights of those with whom one has no interest in associating? Our authors do show that one has reason to respect the principle of rights within a shared society, but can this function also as a reason for respecting rights of those who stand outside that society?"[77] Sandefur then goes on to give an example that is characteristic of his overall general objection:

> According to Locke, even though "a Swiss and an Indian in the woods of America" are "perfectly in a state of nature in reference to one another," they are bound by any contract they might make because "truth and keeping of faith belongs to men as men, *and not as members of society*." Den Uyl and Rasmussen view rights as "inherently interpersonal" and "an inherently social concept." In their view, the Swiss trader can be sensibly said to be subject to the requirements of morality while alone in the woods of America (morality understood, of course, in terms of Aristotelian principles of flourishing), but he cannot coherently be said to have rights until he encounters the Indian" (p. 52).

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may suggest the inherent recognition of type of right that may be called a property right.

[76]*NOL*, p. 273.

[77]Timothy Sandefur, "Playing the Rights Game," *Reason Papers* vol. 42, no. 1 (Summer 2021), p. 51. Further page references to Sandefur are in the text.

Our response to this is virtually the same as our response to Mack above—namely that indeed rights specify a relation of some sort such that if there is no relation there is no exercise of a right. But it is also true that the requirement of self-direction "belongs to men as men, *and not as members of society*" (p. 52). Thus if the Swiss and the Indian see each other at a distance and then walk in opposite directions, there is no need to solve liberalism's problem. But once they confront one another, the need to respect self-direction ensues by that very engagement. Sandefur trades on the ambiguity of the meaning of "outside society." Notice that in our citation above, he actually says, "outside *that* society." But there is a difference between being alone in the woods and being a part of a particular social relationship that is not some other social relationship, though both might be expressed as being "outside society." For our purposes, as soon as the Swiss trader and the Indian confront each other, they are not "outside society," though the two of them might be outside some other society. Again, ours is a natural rights doctrine, which means it is grounded in the nature of things—in this case, the nature of individuals who find themselves among others. So it is both the natures of the individuals and the nature of being among others that are jointly at play and precede any specific rules. The Swiss trader and the Indian, not speaking each other's language and perhaps not having any reason to trust one another, may arrive at patterns for respecting each other's need for self-direction—perhaps through a series of hand signals. However the details are worked out, they have to respect each other's essential need for self-direction as inherent in their nature as moral beings, if they have any accurate understanding at all of the nature of a moral being. If the Swiss trader wants to regard the Indian as less than human in this regard, he is simply mistaken. As moral beings ourselves, we are committed to the enterprise of morality in a teleological framework and therefore cannot take it away from others, or ourselves.

Sandefur's worry in a number of cases about whether to interfere with another "that-society" who may have different moral sensibilities than ours in the name of rights is indeed a legitimate worry. As we have said in our response to Mack and elsewhere, solving such problems from the philosopher's armchair is not our business. Reliance upon tradition, custom, legal precedent, common sense, coherency of the legal framework, prudence, and the like would all come into play as

we work out the appropriate "hand signals." All such considerations must keep in mind the necessity for, and primacy of, self-direction, which in our view limits coercive power to just that protection. One of the worries about sociality that is tacitly a feature of both Mack's and Sandefur's comments, but should be made more visible, is the recognition that sociality itself has its own dangers in developing the needed norms and rules. Those dangers—principally the danger of coercively removing the possibility of self-direction—are inherent in a social relationship. The traditional way of talking about natural rights is like having something attached to us in the state of nature and that we bring it with us when we enter society. Our view is not a traditional state-of-nature theory, though it does the same type of work. It starts with recognizing that we are, by nature, social animals.

Throughout his discussion of us, Sandefur trades on an ambiguity similar to Mack's in formulating his criticism. Here are some sample sentences:

> If rights are guidelines for enabling the pursuit of moral excellence in concert with…other people, what interest or obligation can rights have for those who are simply not interested in such an undertaking? (p. 53)

> If rights are principles of sociality whose existence is predicated on a desire or need to pursue moral excellence in each other's company, are they not a function of an implicit agreement to do so, and therefore a product of convention after all? (p. 54)

> In this view, the mere fact that it is possible to engage in morally excellent behavior constrains a person's actions when interacting with another regardless of their actual and specific needs and concerns, and, presumably, regardless of whether one has an interest in, or stands to benefit from, pursuing excellence in concert with others. But if this is the case, does one (or one's society) have a right to *refuse* to engage in the pursuit of moral excellence with others? (pp. 54-55)

The flaw in all of these statements is the supposition that we are, at the metanormative level, concerned with "engaging in morally excellent behavior." We are not. We are concerned to make possible the existence of moral conduct, excellent or not. So in the first passage, whether or not

one wishes to excel morally does not change the obligation to respect self-direction. In the second paragraph, "convention" suggests constructivism, but we would suggest it should rather mean recognition. Finally, certainly one could refuse to engage in morally excellent behavior. What one cannot do is disrespect the self-directedness of others.

Sandefur concludes with some thought experiments—relating to *Star Trek* and *Deep Space Nine* episodes—as well as worries about the intersection of groups with different moralities that might lead to different conceptions of rights. These are both worthy lines of inquiry but not special to us. They would concern any theory of rights. Yet, what is special to us, according to Sandefur, is that in the end, we "appear to smuggle in a kind of social compact theory" (p. 60) by making rights depend on agreement. We, however, explicitly reject such a view.

> Our argument for these rights makes no appeal to a so-called state of nature that is supposed to be an asocial context in which human beings live or that serves as the basis for an account of ethics as ultimately a matter of agreement or convention. Nonetheless, we do seek to make a case for natural rights. This is so because they are moral claims that exist prior to any agreement or convention, regardless of whether someone is a member of a particular society or community, and because they are due to someone's possessing certain natural attributes of human beings. They are linked to our natural capacity and need to choose, reason, and be social.[78]

So, this charge is not true, and hopefully, we have shown above why we are not subject to this charge, even though we might say that rule making is an inherent part of conducting social life. It is just that those rules must respect the primacy of self-directedness.

4. The State of Natures

> Law is a rule and measure of acts that induces persons to act or refrain from acting…. And the rule and measure of human acts is reason, which is the primary source of human acts…. For it

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[78]*TRT*, p. 21.

belongs to reason to order us to our end, which is the primary source regarding our prospective action …. And the source in any kind of thing is the measure and rule of that kind of thing ….

—Aquinas, *Treatise on Law*[79]

Paul Gaffney offers a subtle and more accurate reading of our view that notices much of the point we endeavored to make in response to Mack and Sandefur. Both would have benefited, we believe, if they had given more weight to a citation from *TRT*, which we just used in the previous section, part of which Gaffney makes central in his response.

[Natural rights] are moral claims that exist prior to any agreement or convention, regardless of whether someone is a member of a particular society or community, and because they are due to someone's possessing certain natural attributes of human being. They are linked to our natural capacity to choose, reason, and be social. [80]

Gaffney realizes that the relevant moral properties for natural rights are natural properties in human beings. He thus seems to recognize that natural rights do not arise through agreement (though see below). Instead, Gaffney raises the legitimate concern that maybe it's possible to agree with our political conclusions without having to buy into our foundations, or vice versa.

Gaffney takes up the first of these concerns by considering David Schmidtz's anti-foundationalist, functionalist account that grounds political conclusions similar to our own. Our position, by contrast, holds that a foundationalist account is more desirable, and even necessary, for grounding such conclusions. It is in this context that Gaffney then imagines the following response:

Can we not imagine Schmidtz responding that the argument of *The Realist Turn,* despite its ambitious claims, is also a

[79] Aquinas, *Treatise on Law*, trans. Richard J. Regan (Indianapolis: Hackett, 2000), p. 1.
[80] *TRT*, p. 21. Paul Gaffney, "Human Nature, Convention, and Political Authority," *Reason Papers* vol. 42, no. 1 (Summer 2021), p. 66. Further page references to Gaffney are placed in the text.

functionalist theory? Is it not designed primarily to support the ethical and political positions staked out in earlier works? It seems that Rasmussen and Den Uyl have two possible responses to this (imaginary) charge. The first is to admit that the motivation of the realist argument is ultimately practical; that is, so far as the foundation of natural rights and natural goodness is recognized as generally secure, it gives the political and ethical implications more weight than similar, but metaphysically less robust, practical theories. The second response is to claim a motivation more holistically philosophical. (p. 64)

Gaffney then rightly concludes that the second is our real motivation. Further, he insightfully notes that we may be understood under the Scholastic distinction between "what comes first in the order of knowing (*ordo cognoscendi*) and what comes first in the order of being (*ordo essendi*)" (pp. 64-65). It would be silly for us to pretend that our political philosophy (which is earlier in the order of knowing) has not moved us over the years. But it does not follow that our motivation in discussing matters of metaphysics and epistemology (the order of being) is designed with an eye to what will support some sort of political conclusion. We put political theory with realism in *TRT* to see whether and to what degree they might be compatible or depend on each other. But it is not the case that the defenses of realism are given to get people (including ourselves) to certain political conclusions.

Gaffney, however, is more interested in the alternative—namely, generally agreeing with our foundations but differing with our political conclusions, and thus suggesting that the foundations do not require our politics. In the empirical sense, Gaffney has to be right. Most neo-Thomists and neo-Aristotelians are probably not libertarians or classical liberals. Part of our project then is to explore what it would look like if the two worlds were connected. Yet for Gaffney, any such connection is accidental in the Aristotelian sense of "accidental." Here is what Gaffney wants to argue:

I want to argue that "natural" rights are not the kinds of things that exist prior to human agreement and convention—in fact, I would go so far as to say that role played by human agreement and convention in the codification of rights is so crucial that the term 'natural rights' is a misnomer, strictly speaking . . . . What

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Rasmussen and Den Uyl persuasively describe is the objective basis of human rights, but I want to suggest that there is a difference between the ontological source of rights and the rights themselves. Codification, the step from the former to the latter, assigns an essential role to human agreement and convention (p. 67). [81]

From the foregoing, what seems to give rise to the "misnomer" is the idea of "natural." So although Gaffney says he has sympathy with our foundations, what seems troublesome is the priority of nature over convention. The division between the ontological foundations and the rights themselves only raises the question of what work the ontological foundations are thereby doing. If rights do not exist until the conventions, then it seems nature has simply disappeared. Our way of looking at it is the reverse—*nature informs conventions*. Analogous to abstraction without precision is the idea that what the nature of the social situation calls for is explicitness of normative obligation which can *afterwards* be linked to codification. Given the nature of socialization, lines need to be drawn. But like differences among individuals, there might be variations among the conventions because of variations of social conditions. This we treat more extensively in *NOL* and *TRT*.[82] Still the need for explicitness is what is natural (along with the need to protect self-directedness), and that naturalness is what any conventional code needs to look towards to be legitimate. What is buried in the nature of the situation are the principles that guide the convention. That principle is the right(s) involved, and it reflects a natural moral truth that is based on human nature and ultimately on metaphysical realism. So acknowledging the need for explicitness and the conventions by which that is achieved does not make natural rights conventional or a misnomer. If anything, the opposite is the case from what we see around us—namely, the natural presence of rules of conduct found in every

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[81]In a note, Gaffney suggests that the language of natural rights is suitable for political sloganeering, but not precise philosophically.
[82]See our discussion of property rights in this regard, *NOL*, Chapter 5, and rights more generally considered in *TRT*, Chapter 3, pp. 89-94.

society because of the very nature of social life and the need for showing their legitimacy.[83]

Gaffney then goes on to claim the following: "I think enforceability is an essential element of a rights-claim in the first sense" (p. 68). Enforceability obviously depends on convention, but even conventionalists do not believe Gaffney's claim. For they would not likely argue that if the enforcer were too weak or otherwise is unable to enforce the right, that therefore the right does not exist. Enforceability is a separate issue altogether and may be largely conventional. That difference would suggest that even in a world of Madison's angels, people might recognize a right without any need to enforce it. In a certain sense, then, the "implementation objection" is a nonstarter since we do not deny the relevance of convention in constructing a social order. *We simply deny it is the source of legitimacy.*

There is much in Gaffney's discussion of Aquinas that helps in understanding us, but in the end, he comes back to the same point: "If natural rights are 'moral claims that exist prior to any agreement or convention', they are theoretically independent of any social engagement or responsibility" (p. 73). This is precisely what we deny, as we have argued above and in *TRT*. First of all, to be distinct is not to be separable ("independent"); and secondly, natural rights are not simply claims about individuals as individuals but are also about individuals as social animals. Finally, without going into detail here, we would read Aquinas much more along our lines rather than Gaffney's.[84]

We come, then, to Gaffney's final worry—the negativity of our theory of rights. He is no doubt correct that if conventionalism leads, we

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[83]See our discussion of how some natural facts are also moral ones in *TPT,* especially Chapter 6.

[84]Gaffney seems to sense that maybe we can read Aquinas as supporting our view when he bumps into Aquinas "equivocating" on natural law. As our epigraph for this section indicates, we follow Aquinas in seeing the nature of a being as providing the foundational sense of "law"—that is, "law" as understood in terms of a rule or measure. See also Henry B. Veatch's discussion of this basic sense of "law" in Aquinas in his masterful work, *For an Ontology of Morals: A Critique of Contemporary Ethical Theory* (Evanston, Illinois: Northwestern University Press, 1971), pp. 3-11 and 123–24. Finally, see our evaluation of the so-called new natural law theory advocated by Germain Grisez and John Finnis in *NOL*, pp. 185-196.

could get both positive and negative rights. Unfortunately for his argument, conventionalism does not lead. Gaffney nonetheless uses the baseball analogy he takes from us in making his response to us. He says the following:

> The fact that a baseball player must have equipment to play the game does not imply that the other players or the league must supply that equipment. But it does suggest that their participation in the social practice is impossible without a procurement of the conditions of that activity. Baseball is a social engagement; there are minimal conditions that must be in place for a genuine game to take place. By analogy, there are minimal conditions that must be in place for a genuine human community to exist. Although much more argumentation is necessary to articulate a program of positive rights in this context, the point is that a realist understanding of human nature provides for this conceptual possibility (p. 74).

We certainly do not intend to preclude *a priori* the possibility of other arguments. No doubt different conceptions of human nature or social life might produce various kinds of arguments. What we are claiming, however, is that any rights posited within the foundations we provide must respect self-directedness first and foremost, and we explain this in terms of both our account of the nature of human flourishing and what is needed to provide a solution to "liberalism's problem."[85] That prime directive analogously might be considered as akin to saying that baseball cannot be played without having persons who can of their own accord follow rules. If there are no rules, or if the players are subject to arbitrary directives by some over others, one is not playing baseball. *We agree that society requires more than natural rights may define, but whatever those things are they cannot contradict the self-directed core requirement.*[86] We would argue that positive rights do just that—that is, do violate that core—and that therefore there are no positive natural rights. Playing the "game" of society in our theory thus requires certain minimums that must be in place and maintained, whatever else is added. The point of the baseball analogy as we use it is to help in illustrating

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[85]See *NOL*, Chapters 4, 6, 7, and 11; and *TPT*, Chapters 2, 3, and 7.
[86]See *NOL*, pp. 242-243.

the problem with equinormativity,[87] but baseball is thoroughly conventional and thus the analogy eventually breaks down when it comes to basic negative versus basic positive natural rights. It is enough, as a consequence, then, that Gaffney is willing to allow that saying there needs to be certain conditions for society does not itself necessarily imply that others or the state have to provide those conditions for us.

5. Second Nature

> Another dimension in which practical wisdom functions is the creation, maintenance, and exercise of dispositions for proper desires and emotional responses. It is in one's development and exercise of the moral virtues—those rational dispositions that reflect one's character—that one lives a flourishing human life.
>
> —Den Uyl and Rasmussen, *TPT*[88]

A number of our critics over the years have objected to our being too Aristotelian, but Lauren K. Hall objects that we are not Aristotelian enough, mainly because we do not focus upon habits—a central part of Aristotle's own descriptions of moral development and moral action. More than once, Hall takes us to task in the following way: "It is puzzling coming from neo-Aristotelians that there is a lack of engagement with the habitual elements of Aristotelian thought."[89] The problem with this absence on our part is that we are thereby overly "rationalistic" (p. 78). Hall is basically correct that we do not deal with this topic in *TRT*. But while she is willing to refer to our other works on other points, she fails to notice that we do deal with this very issue in

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[87]Equinormativity is "the assumption that all ethical norms must be of the same type or have the same function," which, as we argue in *TPT* and in Chapter 2 of *TRT*, works against distinguishing between norms concerned with the possibility of playing the moral game among others and norms for playing that game well. The former are, of course, what we have called in our works, "metanorms," and are how we understand the function of natural rights.

[88]*TPT*, p. 59.

[89]Lauren K. Hall, "A Not-Quite-Realistic Turn: A Burkean Reply and A Rights-Based Alternative," p. 77. Further page references to this work are placed in the text.

those works.[90] Even if such instances do not treat the matter adequately, in her mind, they should indicate an awareness on our part of the importance of the dispositional.

In many respects, however, the complaint is beside the point. For our main response can be summed up with another sports analogy: "a properly grooved golf swing only exhibits the correct principles involved. It does not define them." Our work is mainly about defining the principles involved in justifying rights and other moral concepts, not their implementation. But let's step back a moment to clarify a bit more where our project largely lies.

When Aristotle talks about doing the right thing morally, he notes three necessary dimensions for an act to be virtuous: 1) one must know what one is doing and choosing, 2) one must choose the good for its own sake, and 3) one must make the choice from a fixed disposition to do so.[91] The last dimension clearly gives prominence to "habit" as Hall would want to claim. The importance of having a "fixed disposition," however, is to avoid attributing a virtuous character to someone who is not likely to commonly choose the good when she sees it. That fixed disposition is not a good in itself as much of Hall's commentary might suggest. Notice also that the first two criteria refer essentially to knowing—the first explicitly and the second with regard to knowing the nature of the good in order to direct the will. This is why prudence or practical wisdom is the central virtue for Aristotle and thus why devoting a large amount of attention to reason is not out of place. Finally, "reason" in Aristotle is not itself "rationalistic" as it becomes in the modern Enlightenment. The realist story we are telling in *TRT* and in these comments should confirm the distance between Aristotelian realism and rationalism.

For much of the time, Hall seems to confuse theorizing about the nature of morality or the good and theorizing about how to live a good life. Much of what we are doing is theorizing about the nature of morality and the good, which would involve discussions about what

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[90]For example, see: *TPT*, pp. 54-61; 86; *LN*, pp. 64-68; 174-191; *NOL*, pp. 163-167; 171-173 for discussions of moral virtues, desires, habits, and the importance of *philia* in its various senses.
[91]Aristotle, *Nicomachean Ethics*, II.4.1105a3—1105b1.

makes something good or virtuous in the first place—that is, the foundations for the good and virtuous. This is especially true when politics is involved because our position is that politics is not the vehicle to use for promoting the good life. Thus we need to first identify those ethical conditions that are both regulative of politics while still being of central relevance to ethics. We would then hope that the principles for living a good life could be inculcated at both the individual and cultural levels; but that is a separate question altogether. Hall seems to want to make habits somehow instructive about the nature of the good; but since there is such a thing as bad habits, *habits per se* have very little value in this regard. We need to first understand the difference between good and bad before we can discuss what to habituate.

Hall's main objection says that our theory "undervalues the emotional and sentimental attachments that both support rationality and provide a link to the broader social world. It is, as a result, an incomplete theory of human nature and one that will struggle to adequately ground the theory of rights" (p. 81). As one reads on, one discovers that Hall wants to discuss how rationality evolves from and is dependent upon one's social environment. The same is true for rights—that is, how they evolve from habits and sentiments found within various social orders. In this respect, Hall is certainly correct that we are not doing sociology, social psychology, or cultural evolution. As valuable as such projects are, they are not our project, and they are all subject to the question of whether what they are asserting as taking place is to be valued or not. It is one thing to show how something in a given political order comes to be called a "right," and quite another to show whether that "right" deserves its status as a right, or whether the "right" in question is natural or conventional, and what is the difference between the two.

Hall herself senses all this when, after giving a social-psychological account of the development of rationality, she correctly asks: "One might reasonably ask what all this has to do with a philosophical monograph on metaphysical realism, but the connection should be clear to a neo-Aristotelian. How do we learn to be good people? We practice being good people" (p. 83). No one doubts that we learn to be good by practicing to be good. The question we are mainly concerned with is: what are the conditions or parameters that must obtain for such practicing to take place, and what are the justifications for

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whatever limitations are advised or imposed? One of the conclusions we come to is that politics is not the place to go to "learn to be good people." That sort of learning we accomplish amidst the socialization to which Hall rightly refers.

But these responses would look to Hall as being beside the point. She speaks over and over again about the *development* of rights in the "real world." Clearly, then, Hall finds little value in what might be called our normative ideal theorizing. We believe that in the end her fundamental objection is to "ideal theorizing" because such theorizing is said to ignore real processes of social and political development. Though she does not mention it, we comment on ideal theorizing in *TRT*, and have done so again recently elsewhere.[92] Rather than rehashing that debate here, let us instead focus for a moment on what seems tacitly assumed by Hall and marks a difference with us—namely, her understanding of the nature of "nature." What Hall seems to mean by what is natural is what evolves without overall design. By contrast, the "essentialism" that is at the core of our realism is directly dismissed by her (p. 82).[93] Consequently, traditions, customs, sentiments, diverse social processes and the like are what give rise for Hall to the "natural" rights we find in the "real world," and are what form the basis of those rights. If this is correct, Hall seems to collapse justifying rights with explaining rights, but this may be the very price of identifying the natural with the developmental. While we would agree that in matters of implementation and of social design and reform, the various traditions and social processes would be both relevant and in need of consideration, that for us is some distance from what is needed for a justification and determination of natural rights. We focus on certain aspects of human nature and social/political life because these are the critical considerations in evaluating practices, evolved or otherwise. Many things have evolved and have settled into traditions that can be regarded as contrary to human nature as we see it. The natural as

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[92]See *TRT*, Chapter 8. Also see our essay, "Avoiding the Political Realist-Idealist Dichotomy" in Douglas B. Rasmussen, ed., *Defending Liberty: Essays in Honor of David Gordon* (Mises Institute, forthcoming). We, by the way, do not claim that ideal theorizing is the only legitimate form of theorizing.
[93]See our comments about this issue in section 2.

evolutionary always confronts the question of its value.[94] What is the result of evolutionary processes is not necessarily what is valuable, or certainly what ought to be.

Hall wants to begin her theory of rights with "sentiments [as] the starting point, *not* reason" (p. 89). We have no quarrel with such a beginning because we do not claim all persons are rational all the time, or that we are trying to make them such, or that reason is the only factor in our nature. Hence, if one wants to begin with the idea that humans are much moved by sentiment, so be it. But in the end, the role of sentiment will itself have to answer to the court of reason. Thus, no matter if one begins with sentiment, one must still evaluate its role in justifying a theory of rights, even if it were to be the most salient factor in explaining what are regarded as rights in the real world. The "real world" is as much aspirational as it is settled. Practical wisdom is, in the end, the measure for both individuals and communities. Such wisdom can only be exercised in a context of freedom, which must remain as the prime normative value politically, whatever state the world might be in.

6. Conclusion

We wish to express again our deepest appreciation to all who took the time to look at our work and to make such insightful and helpful comments and criticisms. We certainly profited from reflecting further on our positions on a number of issues.

Since we have both in this essay and our works made it clear (1) that there is no necessary link between advocating an ethical ideal of self-perfection and holding that the function of the state (or, more generally, the political/legal order) is making people moral and (2) that the central insight for legitimating a political order is the recognition of the fundamentality of both the self-directed character and social character of the moral life, and finally (3) that none of this diminishes the value of taking morality seriously, then perhaps one way to sum up what we are all about is to conclude by noting what we stated long ago in *LN*:

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[94]The habitual, as Aristotle conceived it for virtue, was highly self-conscious and not easily matched with developing traditions.

Instead of denying the meaningfulness of a concept like moral perfection, and instead of seeing liberty and natural rights as merely a mechanism for solving the problem of conflict, we have sought to give liberty moral significance by showing that the natural right to liberty is a social and political condition necessary for the possibility of our moral perfection. In this latter way, we are agreeing with antiquity that social theory must always have an eye towards moral perfection. Moreover, we also agree with antiquity that unless the prime social values are regarded as moral commitments, conflict resolution will remain simply a function of academic theorizing.[95]

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[95]*LN*, p. 224.

Book Reviews

Mack, Eric. *Libertarianism*. Medford, MA: Polity Press, 2018.

There are many ways individuals can come to be acquainted with libertarianism. But the future of the position would be on much firmer footing if prospective introductions came by way of Eric Mack's masterful *Libertarianism*. For those interested in understanding libertarianism, I can think of no better place to start.

Mack's book is not an articulation and defense of his preferred conception of libertarianism. For that, one can look to the numerous articles he has produced over his career.[1] Rather, this book offers a systematic treatment of libertarianism that covers its historical antecedents and contemporary incarnations. This book is not for Mack, but for *us*—the readers. Even those intimately familiar with the thinkers discussed therein will benefit greatly by reading Mack's presentation. The argument reconstructions and critical commentary serve as a model for how to do philosophy well.

Libertarianism is divided into five chapters and one online bonus chapter. The first is an introduction. The second looks to significant non-contemporary philosophers—namely, John Locke, David Hume, John Stuart Mill, and Herbert Spencer—to raise and consider themes central to libertarian thought. Chapter three hops forward in time to the views of two of the most prominent recent libertarians: Robert Nozick and Friedrich A. Hayek. The fourth chapter covers the relationship between economic justice and property rights.

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[1] Some of my personal favorites include: Eric Mack, "In Defense of the Jurisdiction Theory of Rights," *The Journal of Ethics* 4, nos. 1–2 (2000), pp. 71–98; Eric Mack, "Hayek on Justice and the Order of Actions," in *Cambridge Companion to Hayek*, ed. Edward Feser (Cambridge, MA: Cambridge University Press, 2006), pp. 259–86; Eric Mack, "Elbow Room for Rights," in *Oxford Studies in Political Philosophy*, ed. Peter Vallentyne, David Sobel, and Steven Wall, vol. 1 (New York: Oxford University Press, 2015), pp. 194–221.

The fifth chapter takes up objections to libertarianism coming from both inside and outside the libertarian tent. For those not faint of heart, the online bonus chapter (which is best read between chapters 4 and 5) sees Mack assess significant developments in post-1970s libertarian thinking.

Chapter 1 begins with conceptual analysis. While a less careful thinker might use 'libertarian' and 'classical liberal' interchangeably, Mack distinguishes the two. Libertarianism is the "advocacy of individual liberty as the *fundamental* political norm" and it "maintains that respect for one's liberty is the basic moral demand that each individual can make against all other individuals and groups" (p. 1; emphasis added). Classical liberalism is slightly less ambitious in maintaining "that respect for individual liberty is at least the primary political norm" (p. 3). Both theories fall on the same end of the ideological spectrum, but the former places greater value on liberty than does the latter.

Mack's focus is on libertarianism, but libertarianism is not a homogenous monolith; it can be defended from different methodological presuppositions. Mack identifies three ways of defending libertarianism. The first route to libertarianism commences from a commitment to *natural rights*, which are "basic moral rights that must be respected by all other persons, groups, and institutions" and are grounded in "certain deep truths about human beings and their prospective interactions" (p. 4). The second justificatory strategy, which Mack calls *cooperation to mutual advantage*, follows from a belief that "general compliance with certain principles of justice engenders a cooperative social and economic order that is advantageous to all" (pp. 4-5). The third possible defense is *utilitarian*, specifically, an indirect version which holds that the greatest happiness is best pursued "through steadfast compliance with certain constraining moral norms" that are "pretty much the same constraining norms that are celebrated by the natural rights and mutual advantage approaches" (p. 5). Mack treats the indirect utilitarian route as ancillary because concerns about "greatest happiness" must fade into the background and the constraining norms must be extensive and robust in order for the position to be "libertarian-friendly" (p. 6).

Chapter 2 transitions to historical analysis. Mack uses the familiar forefathers of libertarianism—Locke, Hume, and Mill—as well as a frequently underappreciated figure—Spencer—as figureheads of the three different approaches to justifying libertarianism.

Locke represents the *natural rights* approach. "The keynote claim," Mack says, "of the *Second Treatise* is that each person possesses a natural moral right to freedom—a natural right to live one's own life in accord with one's own choices" (p. 10). Locke does not merely assert these natural rights or appeal to God to ground them, as a superficial reading might have it. He argues that they follow from a pair of facts about humans. The first is that everyone seeks personal happiness, and it is rational to do so. The second is that all humans have the same moral standing.

These two facts make it possible for Locke to offer three arguments for the natural right to freedom. The first is the *generalization argument*. If A, which has moral status h, makes a claim, c, against B, then A must recognize the authority of c when made by all others with h. To generate a conclusion supporting a natural right to freedom, one such c must be freedom from interference. On the assumption that every person will be rationally motivated to make this claim, the result will be a universal recognition and affirmation of freedom from interference, which is to say a *right* to freedom from interference. The second is the *non-subordination argument*. The only justification, besides agreement or provocation, for A harming B is if B is naturally subordinate to A. However, since all human beings are "equal and independent," neither B nor C . . . Z is subordinate to A. Hence, agreement and provocation are the only possible justifications for A harming B. Finally, Locke offers the *preservation of mankind argument*. It is a fact that A is bound to preserve A's self and each other human being is "by like reason" bound to preserve their self. The proper response to this fact by A is to self-preserve and for A not to impede others' attempts to self-preserve. The human aim of self-preservation gives each reason to constrain behavior in certain ways, namely, by not hindering the ability of others to self-preserve in the way they see fit.

Mack goes on to discuss Locke's account of private property, the state of nature and its relevance to political authority, and his defense

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of toleration. As will surprise no one, Mack's coverage of Locke is absolutely first-rate.

Hume represents the *cooperation to mutual advantage* defense. His theoretical starting point is that individuals lack a *natural* desire to comply with the principles of justice. The principles of justice must generate their own support. The lone natural motivations are selfishness and limited generosity, which look more like obstacles than aides to cooperation. For Hume, the principles of justice are regulatory principles. They allow us to live and play well together. The first principle prohibits one from confiscating someone else's possessions. The second permits transferring possessions, but only when it is mutually agreed upon. The third principle demands that individuals not shirk on voluntarily made agreements. General compliance with these principles makes possible a mutually advantageous existence for individuals who deeply disagree with one another.

Mill and Spencer are the exemplars of the *indirect utilitarian* approach. The general strategy is to show how a commitment to utilitarianism can allow for and ultimately support a robust form of individual liberty. This is no easy task, though, given the priority of ends within utilitarianism. The utilitarian needs either all of the disparate ends to coincide with what maximizes aggregate utility such that individuals genuinely want to do what produces the greatest happiness (even when it comes at a personal cost) or for it to be the case that the utility of indefinitely protecting certain liberties outweighs the utility present in a world in which those liberties are not steadfastly protected. Given that the former requires extensive paternalism, Mill favors the latter. The way to maximize utility is never to fail to protect the relevant liberties, thereby providing security.

Mack's inclusion of Spencer is noteworthy. Spencer is skeptical that one can know what action will yield the greatest happiness. Instead, the focus should be on general principles. If the right principles are identified and complied with, happiness will be maximized because the right principles allow individuals to best realize their own conception of happiness. For Spencer, the right principle is *the law of equal freedom* that establishes that one is free to do as one wishes up to the point that it infringes on the equal freedom of another. From the law of equal

freedom, Spencer derives more specific rights, such as life and personal liberty, use of the Earth, and to ignore the state.

Chapter 3 concerns Nozick's and Hayek's respective cases for libertarianism. Nozick believes that the path to libertarianism is paved by a defense of a robust set of rights. Mack offers a rational reconstruction of Nozick's case for select individual rights, maintaining that Nozick's argument is stronger than John Rawls's contractarian project. In *A Theory of Justice*, Rawls criticizes utilitarianism and then offers his contractarian alternative.[2] The problem with utilitarianism, says Rawls, is that the principle of social choice is viewed as an extension of the principle of individual choice. This is a problem because it "fails to recognize the fundamental difference between individuals and society" (p. 42). It is important that the entity deciding incur the cost or receive the benefit that follows from deciding. Utilitarianism requires treating society as a fusion of individuals. But society is not a fusion of individuals, as there is no entity that incurs the costs or receives the benefits. For Rawls, the "separateness of persons" (SOP) is not just the basis of a criticism of utilitarianism. It is an adequacy condition on moral principles. What indicates that a set of principles, p, satisfies it is that p would be agreed to by all relevant parties in an ideal choice situation.

Mack argues that Nozick's natural rights account is better than Rawls's contractarian account at respecting the SOP. Nozick holds that embracing the SOP entails rejecting moral balancing, which is wrong because it fails to take seriously individuals as rational project pursuers. Moral side constraints—which one possesses on the basis of moral status, not on value-based reasons—prevent individuals from being part of a moral balancing act. As Mack nicely summarizes the point, the "deep feature of libertarian thinking is that the value of each person's happiness or well-being does not mean that everyone has enforceable obligations to promote everyone's happiness or well-being" (p. 51).

Mack identifies two reasons why Nozick's natural rights position has greater plausibility than Rawls's contractarian project. The first is that Rawls's project makes the rights individuals have dependent

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[2] John Rawls, *A Theory of Justice: Revised Edition* (Cambridge, Mass: Belknap Press, 1999).

on (all) others finding reason to agree to ascribe that set of rights. The second is that it depersonalizes, in the form of veiling particular details, individuals in the "original position." That depersonalization results in principles being identified without respect to the diversity of ends had by actual individuals, which undermines the SOP.

Mack's treatment of both Nozick and Rawls is excellent, but I must admit that I am not clear about what Mack's contention is. In a general sense, it is that Nozick's argument is better with respect to the SOP than is Rawls's. However, in what respect is it better? In one place, Mack says that the issue is about "justification," but in another, it is about "plausibility" (pp. 42 and 54). These do not necessarily come to the same thing. Ultimately, I think that comparing Nozick and Rawls with respect to the SOP is not a relevant comparison. We should not be surprised that Nozick does better—whatever that means—with respect to the SOP. Rawls is not aiming to have the "most" SOP possible; on my reading, the grounding value of his theory of justice is non-arbitrariness. The SOP is a sort of methodological bulldozer. It clears the theoretical space by ruling out utilitarianism, so that he can then construct a theory which is founded on a commitment to non-arbitrariness. This can be done in a way that is consistent with the SOP. For Rawls, the SOP is just one desideratum. The relevant question is whether Rawls's account can satisfy it. I read Mack's two closing points as suggesting that it does not decisively do so. Rawls's positive position does not *follow* from the SOP argument in the way that Nozick's positive position does, so the fact that Nozick's account does better—seemingly in the sense that it allows for more or greater separateness—with respect to the SOP should not really be a strike against Rawls.

Next, Mack turns to Hayek's contributions to liberal theory. Among the most significant is his distinction between top-down order and law and ground- (or bottom-) up order and law. The former is a product of some organizer's dictates, while the latter are *emergent*. The distinction between top-down, designed orders and bottom-up, spontaneous orders is of fundamental importance because "the core social scientific error that has undermined the cause of liberty is the belief that desirable social and economic order must ultimately be designed and imposed by legal commands" (p. 65). Abstract rules emerging from the bottom-up play an important role in Hayek's account

because the evolution of these rules is a core driver of social progress. Compliance with the rules allows for individuals with diverse ends to live peaceably together. Mack thus reads Hayek as giving "a *mutual advantage* justification for compliance with the rules" (p. 72).

Chapter 4 addresses issues of economic justice and property rights through Nozickian and Hayekian lenses. Both put forward a version of the libertarian objection to economic justice that holds there is no "best" income or wealth distribution that the state is justified in coercively intervening to bring about. Nozick identifies a fundamental tension between such "patterned distributions" and liberty. Mack argues that it would be a mistake to read Nozick as concluding straightforwardly from this tension that liberty is to be preferred, because the patterned distributionist could assert a similar preference for patterns. Rather, Mack constructs a case that forces the distributionist into an internal inconsistency if and when individuals put their distributed resources to work. Ultimately, the distributionist is forced to endorse "continuous interference with *people peacefully doing as they choose with what has been declared to be their just holdings*," which is a big bullet to bite (p. 87).

Hayek offers an assortment of anti-distributionist arguments, which Mack expertly distills. The *Meaningless Argument* suggests that it is a category mistake to describe an order as just or unjust. The *Desert Is Unknown Argument* makes the case that coercive institutions lack the epistemic ability to distribute according to desert. The *Desert as Contribution Proposal* holds that the free market allocates in a just way because it recognizes that one deserves the fruits borne by one's contributions. The *Signal Argument* holds that a patterned distribution would fail to signal to individuals which economic activities are worth further attending to or not. The *No Authority Argument* contends that distributionism requires that there be a social authority to articulate the relevant distribution standard, but there is no entity with that type of authority. Finally, the *Political Dynamic Argument* maintains that advocates of social justice will disagree about the proper distribution, but political realities necessitate that advocates join forces. The resulting tribalism creates a problematic political dynamic. Ultimately, though far from a distributionist himself, Mack expresses skepticism about the viability of many of Hayek's anti-distributionist arguments.

The online bonus chapter considers some of the most important recent developments in libertarian thought. I will not be able to give these important thinkers the attention they deserve, but I strongly encourage readers not to overlook this chapter. Mack covers Hillel Steiner's work on left-libertarianism; Loren Lomasky's Humean theory emphasizing the importance of people being project pursuers; Douglas Rasmussen and Douglas Den Uyl's Aristotelian account that brings meta-norms to the forefront; and David Schmidtz's pluralist, indirect consequentialism that combines desert, reciprocity, equality, and need into a moral framework. Mack's own voice comes out especially clear in his discussion of the potential problems with Steiner's left-libertarianism and Schmidtz's pluralist, indirect consequentialism. Mack powerfully expresses worries about the "left" in "left-libertarianism" as well as with the way by which broadly consequentialist approaches garner general compliance.

In Chapter 5, Mack assesses both internal and external challenges to libertarianism. The main challenge coming from within the libertarian tent concerns how much "state" is justifiable. Three major options for libertarians (as opposed to, say, classical liberals) are Market Anarchism, the No Taxation Minimal State, and the Taxation Minimal State.[3] Mack rightly notes that those like Hayek and Lomasky endorse a Taxation *Semi-Minimal* State, and I would add Gerald Gaus and many in his philosophical lineage to this category.

The external objections Mack considers come from Rawls, Liam Murphy and Thomas Nagel, and Gerald Cohen. Rawls worries that libertarianism fails to acknowledge properly the basic structure of society. Mack responds that Rawls's own account of the basic structure supports not indefinitely intervening to achieve some desired distribution. Next, Murphy and Nagel object to libertarianism on the ground that its view that individuals deserve all of their pre-tax income fails to acknowledge the role a stable state plays in allowing individuals to earn said income. Mack demonstrates how a natural rights theorist, attentive to concerns of convention, can circumvent this objection. Finally, Cohen objects that libertarianism creates a society of individuals that fails to embody a robust community such as that found on a camping

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[3] For a complete discussion of the options along this continuum, see Mack *Libertarianism*, pp. 110–24.

trip. Mack decisively demonstrates that Cohen's conception of community is flawed as it unjustifiably requires rough equality and its scope has to be all-inclusive, which is an unduly expansive requirement.

In his own review of Lomasky's *Persons, Rights, and the Moral Community*, Mack describes the book as "[r]eadable, entertaining, and far too full of moral truths to be confined to the artificial world of the academic." I can think of no better description of Mack's own book. *Libertarianism* is a book that should not be confined to "the artificial world of the academic." As it breaks free from these confines and becomes the way future generations are introduced, the outlook of libertarianism improves.

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Champagne, Marc. *Myth, Meaning, and Antifragile Individualism: On the Ideas of Jordan Peterson.* Exeter, UK: Imprint Academic, 2020.

To some, Jordan Peterson is like the mythical heroes he discusses, while to others, he is a type of anti-hero, and to others yet, he is a downright villain. Regardless of one's position on Peterson, most people can agree that he has many potent ideas. Thus, it is not surprising that some people want to understand the works of a controversial, notable, and expansive thinker like Peterson, but do not have the time or energy to do so. This is where Marc Champagne's book *Myth, Meaning, and Antifragile Individualism* acts as a helpful aid. When Peterson burst into public consciousness propelled by the success of his second book, *12 Rules for Life*,[1] few had read his first book, *Maps of Meaning*.[2] Champagne takes these books, along with Peterson's lectures and interviews, and uses his expertise to make these ideas digestible.

As a scholar with joint Ph.D.s in philosophy and semiotics, Champagne is well qualified to distill the essential wisdom from Peterson's work. His book is an excellent starting place for anyone who wants to understand Peterson better, partly because Champagne makes a valiant effort to understand Peterson and partly because of its breadth and clarity. It unites Peterson's ideas with ideas in philosophy, psychology, and religion under the theme of "how humans use stories to generate meaning" (p. 1).

The book is divided into two parts: exposition and evaluation. The first ten chapters seek to understand Peterson's worldview; the second part, comprising four chapters, evaluates Peterson's ideas. The structure is revealing, for it demonstrates an honest and thorough attempt to understand Peterson before criticizing him and Champagne does a commendable job of not conflating the two throughout. Champagne takes the high road by explicating Peterson's ideas before subjecting them to critique.

The first four chapters do the lion's share of unpacking the ideas of myth, meaning, and antifragility. Champagne begins by laying out Peterson's tripartite conception of meaning. First, there is *what is*. Second, there is *what should be*. Third, there is *how we should act* (pp. 17-18). Meaning is thus broken down into description, prescription, and corresponding action; once we see what is and what should be, actions

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[1] Jordan Peterson, *12 Rules for Life: An Antidote to Chaos* (Toronto: Random House Canada, 2018).
[2] Jordan Peterson, *Maps of Meaning: The Architecture of Belief*, 1st ed. (London: Routledge, 1999).

should be directed at achieving the goal. Maps are meant as guides. When they lead us to the desired destination, they work; when they don't, they need to be revised. Maps are rarely complete. In most cases, they are in various stages of progress and must continually be improved. Furthermore, narratives hold together this tripartite account of meaning. Since our lives are essentially ongoing dramas with each of us playing the main character, individual stories are numerous. This is where Peterson turns to Carl Jung, for Jungian archetypes aid in the understanding of narrative patterns found in enduring stories and myths.

Peterson maintains that all human experiences fall into one of two categories: chaos or order. In Peterson's words, "Order is where the people around you act according to well-understood social norms, and remain predictable and cooperative. . . . Chaos, by contrast, is where— or when—something unexpected happens."[3] Faithfully portraying Peterson, Champagne likens order to explored territory and chaos to territory of the unknown. Yet, dealing with the unknown is what can make or break a person. This is where the concept of antifragility comes into play. Nassim Nicholas Taleb develops the concept of antifragility in his eponymous book, maintaining that "antifragility is beyond resilience or robustness. The resilient resists shocks and stays the same; the antifragile gets better."[4] The concept of antifragility is captured in that familiar Nietzschean maxim that "what doesn't kill me makes me stronger." Antifragility also requires exposure to adversity like steel requires exposure to fire. As we become antifragile, we get better. For Champagne, getting better is synonymous with learning (p. 27), which he relates to the pursuit of knowledge and the climate of open inquiry where one may encounter facts and beliefs that are not only different from one's own, but at times, are downright shocking.

Champagne connects themes of order, chaos, and antifragility to Peterson's use of stories. We use stories, especially myths, to recount the ventures of individuals such as Odysseus and Hercules in hopes that others will emulate their virtues. As Champagne writes, "standard hero mythology, for instance, recounts the story of a person who leaves their comfort zone, faces the unknown, restores order, and returns to share this accomplishment" (p. 31). This shows how societies and others learn from the actions of such antifragile individuals. Moreover, certain themes emerge from narratives, myths, and stories. Following Jungian parlance, themes—when applied to certain personas—are called archetypes, such as the hero or jester archetype. Archetypes are predictable and hallmarks of order. It is order, coupled with meaning, that allows us to understand the world and to formulate an accurate map of reality to guide our actions.

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[3] Peterson, *12 Rules for Life*, p. xxviii.
[4] Nassim Nicholas Taleb, *Antifragile: Things That Gain from Disorder* (New York: Random House Trade Paperbacks, 2014), p. 3.

After unpacking the ideas surrounding myth, meaning, and antifragility, Chapters 5-8 illustrate an overall commitment to individualism and cover seemingly disparate themes, such as Jean Piaget, free speech, and pragmatism. In Chapter 5, Champagne appeals to Piaget's notion of games. Some games are better than others, because they elucidate maps of the world that allow for human flourishing. This is where individualism is paramount. Champagne writes, "The crucial choice, according to Peterson, is whether we will treat other people primarily as individuals or as members of a group. This choice is crucial because treating others as individuals yields a viable game, whereas treating others as a member of a group yields a game that is bound to collapse" (p. 68). This quotation not only succinctly summarizes Peterson's commitment to an individualist ethic, but also shows why Peterson believes that collectivist games like identity politics will ultimately fail: groups outlive individuals and, as a result, so do group grievances. Thus, the game of individualism leads to success, whereas the game of collectivism, relying on the cult of irresponsibility and the absence of atonement, is bound to collapse.

Chapter 6 is devoted to the power of language and captures Peterson's Rules 8 and 10: "Tell the truth—or at least, don't' lie" and "Be precise in your speech." Champagne shows that Peterson is concerned with accurate speech for a variety of reasons: most fundamentally, precise and true speech creates order because it helps the individual to achieve one's aims and become more antifragile. Since true speech is at the root of self-improvement, Champagne reminds us that "[t]he chief precondition of any betterment project is the freedom to seek and speak the truth" (p. 83). Additionally, much to the chagrin of postmodernists, truth is objective: "Truths are not decided by vote" (p. 83). As such, free speech protects against abuses of power since the inability to speak the truth creates an environment for the seeds of totalitarianism to be sowed. Looked at this way, dogma is not only an enemy of social progress, but also an enemy of self-improvement. Champagne ends this chapter with a pithy statement summarizing the views therein: "If you wash your hands, the whole hospital will be clean" (p. 84).

In Chapters 7 and 8, Champagne covers Peterson's identification with the pragmatist school of thought, which extends to Peterson's position on God. Pragmatism defines belief as a type of disposition to act, which aligns with Peterson's theory of meaning. First, we construct beliefs; then, we act a certain way. With repetition, these actions turn into habits, and good habits thereby help to create order. When we find good habits, we then pass this wisdom on to others through our use of narratives. As Champagne reminds us, "beliefs are . . . more or less stable patterns of action that can be observed and objectively studied" (p. 90). This explains Peterson's oft-quipped position on God: "I act as if God exists."

Chapters 9 and 10 wrap up the exposition section and make some novel contributions by clarifying Peterson's position regarding hierarchies. Since hierarchies are maps that reveal preferences, they are everywhere. Hierarchies are not simply anthropomorphic structures of power, for they are found throughout the animal kingdom, even in lobsters, showing that it is counterproductive, at times, to rage against certain biological and evolutionary facts. These hierarchies apply to individuals, giving rise to a variety of differences as well as to ethical systems. For example, Champagne covers Jonathan Haidt's discussion of three dominant ethical systems: the ethic of autonomy, the ethic of community, and the ethic of divinity. He ends by covering how Peterson contributes to our understanding of such value systems along with how these systems are perpetuated by narratives, which then influence the thoughts and actions of future generations.

After finishing Part I, any reader—whether academic or layperson—should have not only a deeper understanding of Peterson's systematic worldview, but also a more accurate understanding of the philosophical roots of some of the general controversies surrounding Peterson. Take, for example, the issue of free speech. Champagne shows that Peterson is rightly concerned with the stifling of open inquiry nowadays that is salient in our institutions of higher learning. Such suppression of speech, which then in turn stifles thought, is encouraged by speech codes and censorship that have permeated academia. The culture of limiting speech has made its way into the wider society, as seen by big-tech censorship along with other manifestations of cancel culture. Moreover, it also explains why risk-analysts such as Taleb extol antifragility: failing and trying again makes one stronger. Rent-seekers are rightly bemoaned because they try to exert control over others without themselves taking risks. In short, people in Twitter mobs have nothing to lose, for it is too easy to engage in character assassinations and other techniques like boycotts without taking any risks whatsoever.

Despite the book's many laudable qualities, the use of some conceptual terms from behavioral economics would have elucidated certain points of discussion, making for a welcomed emendation. Throughout the book, concepts such as overconfidence and preference ordering are implicitly discussed, but the connection to this literature is never made. For instance, Chapter 13 is titled "Beliefs that have dibs on our imagination can be mistaken." A more apt title might be "The Woe of Overconfidence." Daniel Kahneman calls overconfidence, especially in its optimistic form, "the most significant of the cognitive biases."[5] According to Kahneman, overconfidence "is a feeling, one determined mostly by the coherence of the story and by the ease with which it comes

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[5] Daniel Kahneman, *Thinking, Fast and Slow* (New York: Farrar, Straus and Giroux, 2011), p. 255.

to mind, *even when the evidence for the story is sparse and unreliable*"[6] (italics mine). This cognitive bias manifests not only in most people thinking they are better than average—better drivers, better looking, more intelligent—but it also shows up in financial crises and medical errors. Due to its ubiquity, a cultural epidemic of overconfidence is occurring in terms of identity politics. People no longer just think they are better looking than average, but as with the "secular woke," who Champagne discusses, they also think they are more virtuous—more morally superior—than average.

Another missed opportunity can be found in the discussion of hierarchies that forms the heart of Chapters 9 and 10. While Champagne notes that the term hierarchy is enough to turn off some types of people, he could have discussed preference ordering as an alternative. Preference ordering is a term from economics, which is also used in discussions of ethics, especially in utilitarianism. For example, John Harsanyi appeals to the von Neumann-Morgenstern utility function to order preferences and to determine differences between the intensity of preferences.[7] Weighing preferences isn't an esoteric activity only performed by economists and ethicists. We do it every day when we make choices such as A over B over C, revealing an ordering and a transitivity of preferences; every preference-ordering scheme reveals a type of hierarchy. Preference ordering perfectly captures the concept of hierarchy, especially if one wants to avoid use of that word, since "[a] hierarchy . . . is a map that tells one what to prefer" (p. 106).

In Part II, Champagne critically examines Peterson's position on topics such as religion, social justice warriors, and fallibility, which nicely builds on the earlier themes of myth, meaning, and antifragility. While reading Part I, at times, one wonders whether Champagne can distill Peterson's ideas better than Peterson—who tends toward verbosity—can himself. Yet, moving on to Part II, certain issues are left unclear.

The first issue of unclarity involves the religion-or-induction dilemma that Champagne formulates against Peterson. Champagne believes that religious insights such as the Ten Commandments were arrived at by revelation, and he seems to imply that Peterson's inductive account is misguided because they are not called the "ten observations." He writes, "Peterson can keep his inductive account and drop his religious commitments, or keep his religious commitments and drop his inductive account" (p. 135). In making this argument, the reader, at first,

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[6] Daniel Kahneman, "Don't Blink! The Hazards of Confidence," October 19, 2011: accessed online at:
https://www.nytimes.com/2011/10/23/magazine/dont-blink-the-hazards-of-confidence.html.
[7] John Harsanyi, "Morality and the Theory of Rational Behavior," *Social Research* 44, no. 4 (1977), pp. 623-56.

is somewhat confused. For instance, is Champagne relying on David Hume's position regarding induction? According to Hume, it is irrational to make inferences about things that we haven't observed or, for that matter, even things that we have, for induction, despite our reliance on it, is simply an unjustified way to form beliefs. Or is he interpreting Peterson's claims under a pragmatic rubric? This not only allows one to make inductive claims more easily, but also more accurately aligns with Peterson's general philosophical approach, for a pragmatist does not rely on strict logic as a Humean does. However, if it is indeed a pragmatist approach, then why can't we derive certain rules or injunctions from our observations? Doing so seems to align with pragmatism, for a pragmatist would judge an inductive inference as tenable, if it leads to successful actions and if it helps us to meet our goals and aims. Thus, under this interpretation, it seems plausible to assert that rules like the Ten Commandments can indeed be arrived at through induction, when we understand these rules as generalizations from past stories and when the use of these rules helped individuals successfully achieve their aims. As he later writes, "One could just as easily drop all pretensions of historical accuracy and say that one's interpretation of past human stories is *useful*. For a pragmatist, that should be plenty" (p. 176).

Not only is this entire dilemma somewhat unclear to the reader, perhaps it is a false one, for a third possibility exists. Peterson's popular lecture series on the Bible is titled "The Psychological Significance of the Biblical Stories."[8] Peterson also writes, "great myths and religious stories . . . were moral in their intent, rather than descriptive."[9] These points are revealing, for perhaps Peterson is not trying to provide a religious or inductive justification at all for Biblical insights such as the Ten Commandments. Instead, he is simply trying to show that Biblical stories have a psychological or prescriptive significance that should not be ignored.

Another issue left unclear relates to the discussion of how to order the three value systems that occurs in Chapter 10. Classical liberals, such as John Stuart Mill and John Locke, would put the ethic of autonomy on top. Champagne's position is also clear: he puts autonomy over divinity and over community. Yet, Peterson's position is left unclear, and the reader is left wondering whether Peterson would put the ethic of autonomy over the ethic of divinity, or vice versa, although it is clear that the ethic of community would be last. However, out of fairness, Champagne does point out that Peterson's position has a tendency to "waffle" (p. 172). Thus, perhaps it is asking for too much for Champagne to clarify a position that Peterson leaves unclear or it

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[8] Jordan Peterson, "The Psychological Significance of the Biblical Stories," accessed online at: https://www.jordanbpeterson.com/bible-series/.
[9] Peterson, *12 Rules for Life*, p. xxvii.

might open up a different type of criticism: that of Champagne injecting his own views into Peterson's. At any rate, attempting to resolve this tension in Peterson's thought would be a welcome addition for the evaluation section.

Champagne clearly wants to reject God, yet he wants to retain meaning. In a sense, he advocates a fourth ethic: the ethic of divinity of the individual. Yet, do we really have to throw out the baby—in this case, God—with the bathwater? If we do, can we construct a narrative more compelling than the one constructed by the secular woke who he also laments? I am not completely sure that we can do this, that is, hold on to individual divinity without sliding into a type of collectivism where individuality, God, and reason are forsaken. While Champagne shows that "the most enduring narrative patterns . . . are those that offer a recipe (and inspiration) for how to overcome adversity and challenges" (p. 118), he fails to provide a convincing argument that meaning and individual divinity can be preserved without God. Perhaps he will have more to say about this topic in his future writings, for he does title the last chapter "The Story is Not Over."

We must not forget that Peterson is a psychologist by training and his clinical practice deals with diagnosing and treating psychological problems. Likewise, Peterson has taken it upon himself to broaden his clinical practice, so to speak, by diagnosing and hopefully treating what he sees as social ills such as collectivism and lack of individual responsibility. Champagne's talented writing helps the reader to comprehend fully Peterson's project to save Western societies by helping individuals to construct maps of meaning where liberty, truth, and responsibility prevail, thereby allowing for human flourishing. He also cogently shows that Peterson's appeal isn't solely due to his ability to court controversy and heroically to tackle the fashionable totalitarian and postmodernist tendencies that divide many Western societies. It is deeper than that. Peterson has a systematic worldview; he tells a compelling story; and he provides an ideal—or, as Champagne sees, "Peterson is trying to unite various theories in a way that sheds light on the human condition as a whole" (p. 117). Thus, no matter whether one classifies Peterson as a hero, antihero, or villain, if one truly wants to understand Peterson, Champagne's book is an excellent place to start.

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