

# Can Artificial Rights Be Natural?<sup>1</sup>

Christopher W. Morris  
University of Maryland

## 1. Introduction

Can artificial rights be natural? Of course not! Natural rights are “by definition” natural and thus not artificial or conventional. The distinction between the natural and the artificial is ancient. Classical Greek philosophers made much of the distinction between *nomos* (law) and *physis* (nature),<sup>2</sup> and some early modern philosophers deployed a version of the distinction to challenge the ancients by denying that the *civitas* (political community) was natural (Thomas Hobbes) or that justice was natural (David Hume). The contrast between the political philosophies of Hobbes and John Locke, as conventionally interpreted, rests in no small part on their different views about natural rights.

I shall suggest that some artificial or conventional rights can be natural. My claim is, I believe, correct, but it will be less preposterous or controversial than it may seem at first. My hope is to expand our understanding of the natural and to see new ways in which our moral attitudes and relations may be natural.

## 2. Natural Rights

What are natural rights? In several earlier publications I have offered characterizations of natural rights. The last one construes them as multi-faceted rights: (1) moral (2) claim rights that are (3) natural, that is, (a) possessed in a state of nature, (b) prior to and independent of convention, (4) held by virtue of possession of some natural attribute(s), and (5) basic.<sup>3</sup> The first two conditions isolate the genus,

---

<sup>1</sup> I am indebted to Carrie-Ann Biondi for helpful comments on an earlier draft.

<sup>2</sup> For Aristotle’s understanding of this distinction, see Fred D. Miller, Jr., *Nature, Justice, and Rights in Aristotle’s Politics* (Oxford: Clarendon Press, 1995), esp. pp. 74–86.

<sup>3</sup> Christopher W. Morris, *An Essay on the Modern State* (Cambridge:

the third and fourth the species. The last condition need not occupy us here; it is just meant to indicate that the rights in question are “fundamental” in some important respects.<sup>4</sup> Our main attention will be to the third condition, the explication of the notion of natural. The first part of condition 3 (“possessed in a state of nature”) is meant to connect natural rights to the modern tradition of political philosophy, where the notion of a state of nature figures prominently. It is mostly the second part of condition 3 (“prior to and independent of convention”) that is central to my concerns in this essay. But I might say something here about 3a, which bears on the interpretation of these notions in classical Greek thought, especially that of Aristotle. I appeal here to a distinction that Fred Miller makes in his study of Aristotle between natural rights that are based on natural justice and those that are possessed in “a pre-political state of nature.” He argues that Aristotle has a conception of natural rights of the first but *not* the second sort, so that Aristotle’s account “belongs to the family of political theories (along with Locke’s theory) which denies that individuals possess rights merely by convention.”<sup>5</sup> My argument won’t turn on the notion of a state of nature but rather that of convention, so in some important respect I am challenging the kind of account offered by Locke and Aristotle.<sup>6</sup> Interestingly, while not Aristotelian, my view

---

Cambridge University Press, 1998), p. 144; see also pp. 139–45.

<sup>4</sup> The notion of a basic right or duty can be used to distinguish between natural right theories (e.g., Robert Nozick) and natural duty theories (e.g., John Finnis). See discussion in L. W. Sumner, *The Moral Foundation of Rights* (Oxford: Clarendon Press, 1987), pp. 104–6.

<sup>5</sup> Miller, *Nature, Justice, and Rights in Aristotle’s Politics*, pp. 90–91. To be clear, Miller speaks of “rights based on nature.” I note here that I won’t make use of the notion of a “pre-political” condition. As I’ll say below, humans have always lived in groups, that is, in a *social* setting. If we think of the political as involving the distribution of power, then social settings will be political. Of course, the small communities of *homines sapientes* lacked the institutions and social classes that developed in many places in the last ten thousand years; we may consider them anarchist, hence our focus on them in the pages to come.

<sup>6</sup> In his important study of Locke, John Simmons deploys a conception of natural rights which has them be natural as opposed to conventional or artificial, civil, and institutional; see A. John Simmons, *The Lockean Theory of Rights* (Princeton, NJ: Princeton University Press, 1992), p. 90.

accepts a conception of humans as social and cooperative by nature (“human beings have an innate impulse to live in communities”<sup>7</sup>).

Common sense morality in many places appears to grant everyone some basic rights, or at least the status of beneficiary of some directed duties (duties owed *to*), perhaps the influence of Stoicism, Christianity, and other monotheistic religious traditions. The idea that everyone—every human or human person—*counts* morally or possesses moral standing seems widespread. A modern understanding of this status would attribute to all humans or persons certain natural rights. Sometimes these are said to be human rights, rights one possesses by virtue of being human (condition 4 above), though often human rights today are determined by international law. In American political culture, where Thomas Jefferson’s *Declaration of Independence* is regarded something like a founding document, it’s not uncommon to use the language of God-given natural (or “inherent”) rights to condemn slavery and similar wrongs. These are wrongs *to* the victim.<sup>8</sup> The first section of Virginia’s *Declaration of Right* (1776) states: “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; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.” The French revolutionary tradition, embodied in the *Déclaration des droits de l’homme et du citoyen* (1789), makes the possession of natural rights the fundamental notion of political society. The idea that people have certain fundamental rights to life and liberty prior to and independently of civil law seems widely shared and may motivate changes in international law.

Such rights, because they were natural and independent of civil law, were received skeptically by some. Jeremy Bentham famously attacked them: “simple nonsense: natural and imprescriptible rights, rhetorical nonsense—nonsense upon stilts.”<sup>9</sup> Non-believers who

---

<sup>7</sup> Miller, *Nature, Justice, and Rights in Aristotle’s Politics*, p. 35.

<sup>8</sup> The famous second paragraph of the *Declaration of Independence* construes these rights to be *inalienable*, which means they cannot be alienated by the right-holder. Some inalienable rights are not natural (e.g., the right to vote), so these two features are distinct.

<sup>9</sup> Jeremy Bentham, *Anarchical Fallacies*, in *The Works of Jeremy Bentham*,

thought of such rights as God-given or otherwise dependent on the existence of (normative) laws of nature often shared this skepticism. Establishing the existence of natural rights is, of course, challenging. Without the Deity, it is unclear where these rights could come from. We might wonder why they have to *come from* somewhere. Normally, rights and laws have a source—custom or convention, legislation, juridical decisions, and the like. Rights that lack such origins must have another source, no? We might of course claim that it is beneficial for people to have these rights, but difficulties face this line of thought. The difficulty is that sometimes rights may be harmful to others or even to the right-holder. Even if these rights might be beneficial overall, they may often be disadvantageous to those obligated.<sup>10</sup>

Moral and legal theories which base “deontic” or “juridical” relations on the good, especially consequentialist ones, cannot easily secure these. Bentham’s skepticism was more than a mere expression of disbelief. Moral consequentialists, as well as consequentialists in the theory of rational choice, have long had difficulties securing rights and duties or other deontic notions (e.g., principles, rules, norms). Consider the following general argument formulated using the notions of a rule and of the best: A rule requires you to do something; either it requires you to do what is best, in which case you should comply with it, or it requires you to do something else, in which case you should not comply with it (as it tells you not to do the best). In one case, the rule is not needed; in the other, it should not be followed.<sup>11</sup> This argument can be made for rights of any kind but also for duties and obligations, principles and rules, and indeed, all of the deontic notions.

---

Vol. 2, ed. John Bowring (Edinburgh: William Tate, 1743), p. 501.

<sup>10</sup> As noted, e.g., by Philippa Foot: “while prudence, courage and temperance are qualities which benefit the man who has them, justice seems rather to benefit others, and to work to the disadvantage of the just man himself” (Philippa Foot, “Moral Beliefs,” in Philippa Foot, *Virtues and Vices* [Oxford: Clarendon Press, 2002], p. 125). See also Morris, “The Trouble with Justice,” in *Morality and Self-Interest*, ed. Paul Bloomfield (New York: Oxford University Press, 2008), pp. 15–30.

<sup>11</sup> For a discussion of this kind of argument and references to its sources, see Scott J. Shapiro, “Authority,” in *The Oxford Handbook of Jurisprudence and Philosophy of Law*, ed. Jules Coleman and Scott Shapiro (New York: Oxford University Press, 2002), chap. 10.

In an important study of moral rights, L. W. Sumner offers an analysis of the concept of a right and argues against natural rights, developing Bentham's case. He argues that these are unlikely to be secured by a plausible naturalistic theory of value. He concludes:

One can imagine successful arguments which run directly from nature to basic principles of the good—that is, a plausible naturalistic value theory. But deontic categories seem the least naturalistic, by virtue of their origins in conventional rule systems. Thus it is harder to imagine successful arguments which run directly from nature to basic principles of duty—that is, a plausible natural duty theory. And rights seem the least naturalistic of all deontic categories, by virtue of their complex structure and their inclusion of second-order Hohfeldian elements. Thus, it is hardest to imagine successful arguments which run directly from nature to basic principles of rights—that is, a plausible natural rights theory. But that means that even within the class of theories which share a realist methodology natural rights theories seem the least likely to succeed.<sup>12</sup>

Sumner favors a conventionalist account of rights and develops an indirect consequentialist theory. Starting with Hume on justice—or perhaps with Glaucon in Plato's *Republic*—there are conventionalist accounts of increasing sophistication.<sup>13</sup> I have briefly recounted familiar worries about deontic notions which are thought to be “natural” in some respect. Nothing is settled by these brief remarks. They are meant to set the stage for a practical conception of rights.

### 3. Natural Justice

As was mentioned above, Hobbes did not think we have any natural rights. Of course, he famously asserts that there is one: “THE RIGHT OF NATURE, which Writers commonly call *Jus Naturale*, is the Liberty each man hath, to use his own power, as he will himselfe, for

---

<sup>12</sup> Sumner, *The Moral Foundation of Rights*, p. 126.

<sup>13</sup> The most sophisticated of recent accounts of this kind is that of Peter Vanderschraaf, *Strategic Justice: Convention and Problems of Balancing Divergent Interests* (New York: Oxford University Press, 2019).

the preservation of his own Nature.”<sup>14</sup> However, this “right” is a mere (Hohfeldian<sup>15</sup>) liberty, not a claim-right. In the condition of nature, humans have no obligation to respect the “right” of nature of others. Hobbes is a skeptic about natural claim-rights. He is usually interpreted as thinking that our rights are established by law and thus presuppose the establishment of a sovereign.<sup>16</sup>

I also mentioned Hume, who has a well-developed conventionalist account of justice (and property). He deploys a distinction between natural and artificial virtues, arguing that justice is different from the other virtues and “that the sense of justice and injustice is not deriv’d from nature, but arises artificially, tho’ necessarily from education, and human conventions.”<sup>17</sup> He notes, however,

when I deny justice to be a natural virtue, I make use of the word, *natural*, only as oppos’d to *artificial*. In another sense of the word; as no principle of the human mind is more natural than a sense of virtue; so no virtue is more natural than justice. Mankind is an inventive species; and where an invention is obvious and absolutely necessary, it may as properly be said to be natural as any thing that proceeds immediately from original principles, without the intervention of thought or reflection. Tho’ the rules of justice be *artificial*, they are not *arbitrary*. Nor is the expression improper to call them *Laws of Nature*; if by natural we understand what is common to any species, or even if we confine it to mean what is inseparable from the species.<sup>18</sup>

---

<sup>14</sup> Hobbes, *Leviathan*, ed. Noel Malcomb, The Clarendon Edition of the Works of Thomas Hobbes (Oxford: Clarendon Press, 1994 [1651]), XIV.1.

<sup>15</sup> See, e.g., Wesley. N. Hohfeld, *Fundamental Legal Conceptions* (New Haven: Yale University Press, 1919).

<sup>16</sup> Note: a careful reading of Hobbes’s laws of nature suggests they may obligate even if they don’t give rise to directed duties. I ignore this aspect of his thought here.

<sup>17</sup> David Hume, *A Treatise of Human Nature*, ed. L. A. Selby-Bigge (Oxford: Clarendon Press, 1888 [1739–1740]), Bk. III, sec. I, p. 483.

<sup>18</sup> *Ibid.*, Bk. III, sec. I, p. 484. This passage is quoted by Miller in *Nature, Justice, and Rights in Aristotle’s Politics*, pp. 61–62, where he argues that

The key thought here is that an “invention” that is “obvious and absolutely necessary” and common to a species is *natural* in a perfectly intelligible sense, even if opposed to *artificial*. The state, Hobbes asserts, “is but an Artificiall Man.”<sup>19</sup> Humans did not always live in states. By contrast, even if justice is an artificial virtue, according to Hume, it is natural in the sense above. *Humans never lived entirely without it.*

The last claim may seem incredible or even outrageous, so I need to explain and defend it. This will be essential to determining the way in which artificial rights may be natural. The natural condition of humankind, that is, the conditions in which *homines sapientes* developed a few hundred thousand years ago, bore only some resemblance to the state of nature that Hobbes describes. Life may have been nasty, brutish, and short, and certainly fifty thousand years ago there were no arts or letters. But it was *not* solitary. Hobbes’s infamous state of nature is commonly understood as populated by instrumentally rational, amoral, self-interested people. This interpretation of the texts may be mistaken in several ways, but it is a good foil for the position that I wish to defend. Members of our species (and genus) have always been social animals who raise children and take care of kin and friends, who are capable of cooperating with others in small settings, as well as being careful with whom to cooperate.<sup>20</sup> They are not solitary but live in groups, small and large, and don’t confront other members of the group as enemies.<sup>21</sup> Early

---

Hume is closer to Aristotle in some respects than he is to Hobbes (*ibid.*, p. 63), though he needs to qualify his statement that “Hume thus rejects the Hobbesian view that justice and other moral virtues are conventional or artificial.” Hume thinks that justice is both conventional and artificial, but he is close to Aristotle in other respects.

<sup>19</sup> Hobbes, *Leviathan*, “Introduction.”

<sup>20</sup> A point which Aristotle makes: “Anyone who cannot form a community with others, or who does not need to because he is self-sufficient, is . . . either a beast or a god”; see Aristotle, *Politics*, trans. C. D. C. Reeve (Indianapolis, IN: Hackett, 1998), I.2.1253a27–30.

<sup>21</sup> As Hobbes recognized, in states of nature people have confederates (*Leviathan*, XV.5), and in some places we find “the government of small Families” (*Leviathan*, XIII.10).

humans are also not amoral; they are capable of generating and abiding by norms, many recognizably moral in most senses of the term. (Their moralities are clearly not universal, as I'll note below.)

Real humans—people like us, people in Hobbes's and Glaucon's times, people in prehistory—are first of all social beings. We are like wolves and chimpanzees but unlike bears and tigers. We live in groups; we can't survive outside of groups, and we crave company. These generalizations survive counter-examples (e.g., hermits, grouches). Even solitary animals don't spring "out of the earth, and suddainly (like Mushromes) come to full maturity without all kind of engagement to each other."<sup>22</sup> Even infant bears spend a year or so with their mothers. *Homo sapiens* have since their first appearance lived in groups, and other members of our genus seem to have as well, as do our ape relatives. For some hundreds of thousand years these groups were small. In difficult environments survival and reproduction required collective provision of shelter, defense, raising children, provision for the injured, and at some stage hunting big game.<sup>23</sup> Even after childhood and adolescence, humans characteristically don't live alone.

Recent thinking in biology makes us to be vehicles for our genes. This kind of Darwinian thinking can account for some of the ways in which we are not exclusively self-interested; we are driven to reproduce, and we care tremendously for our offspring, as well as for our kin (though less so). Note for now that caring for ourselves—our interests in the long-term—and for our children and kin requires some self-control in situations of choice where we sacrifice our interests to theirs. We also care for our friends and allies. This can take the form of reciprocal care or gifts that aren't necessarily reciprocated. Kin selection won't explain these last relations, but cooperation in small settings with repeated interaction can be sustained easily enough. In the social settings of tens of thousands of years ago, though, social order depended on more than tit-for-tat strategies (i.e., reciprocal altruism).

---

<sup>22</sup> Hobbes, *De Cive*, ed. Howard Warrender, The Clarendon Edition of the Works of Thomas Hobbes (Oxford: Clarendon Press, 1984 [1642]), VIII.1.

<sup>23</sup> See, e.g., Christopher Boehm, *Hierarchy in the Forest: The Evolution of Egalitarian Behavior* (Cambridge, MA: Harvard University Press, 1999); Robin Dunbar, *Evolution* (Oxford: Oxford University Press, 2020); and James C. Scott, *Against the Grain: A Deep History of the Earliest States* (New Haven, CT: Yale University Press, 2017).



Discussion, ridicule, reproaching, and gossip were crucial. For these to be effective, those involved usually were responsive; shame develops very early in infants. Group activities, especially big game hunting and raiding, required cooperation and coordination responsive to the intentions of others and to the roles different members played.

Humans lived for thousands of years in small groups and limited their cooperative arrangements to members of the groups (to pick back up on the relativism mentioned above), but overtures to and trade with members of other groups could occur, the setting permitting. In addition to caring for offspring, kin, and non-kin members of one's group, potential and limited cooperation with outsiders also emerged.

Christopher Boehm has argued that

human nature includes a wide array of dispositions of which we can be reasonably certain. One must include even the need for sleep and creature comfort, along with thirst, hunger, and sexual appetite. Nepotistic and altruistic capacities for giving nurturance and protection are salient, as well as the capacity for attachment, and sociality more generally. We are disposed to communicate, and we may well be disposed to detect cheaters or form political coalitions.<sup>24</sup>

Humans are complicated, in ways that matter. We are beings who straightforwardly seek our ends or those of family and friends, but we also respond to and are guided by general expectations, specifically norms and rules. These may emerge from regularities to become practices, where the latter include normative expectations. Allan Gibbard says, "human beings live socially; we are, in effect, designed for social life. Our normative capacities are part of the design," that is, "that remarkable surrogate for design, genetic variation and natural selection." He thinks: "The capacity to accept norms I portray as a human biological adaptation; accepting norms figures in a peculiarly human system of motivation and control that depends on language. Norms make for human ways of living." I follow Gibbard (and many others) in proposing that humans are beings who possess normative capacities, including "broad propensities to accept norms, engage in normative discussion, and to act, believe, and feel in ways that are somewhat guided by the norms one has accepted."<sup>25</sup> He further says,

---

<sup>24</sup> Boehm, *Hierarchy in the Forest*, p. 235.

<sup>25</sup> Allan Gibbard, *Wise Choices, Apt Feelings* (Cambridge, MA: Harvard

“Working out in community what to do, what to think, and how to feel in absent situations . . . must presumably influence what we do, think, and feel when faced with like situations. I shall call this influence *normative governance*.”<sup>26</sup> Humans are social, imperfectly rational, and beings who can be governed by norms.

Norms and rules are important features of human life, and these create requirements and obligations. We may think of a community of early humans as “a highly structured network of individuals linked to each other through ties of kinship, friendship and obligation.”<sup>27</sup> The notion of obligation here is that of something required, not merely a means to an end. It is also often something that is owed *to* another (directed duty), such that the latter can be expected to be angry against one if one fails to do as obligated and can expect that one will understand the anger and perhaps be ashamed. Obligations and compliance with norms are important elements of the social orders of all humans. Creatures lacking the requisite normative capacities would not make reliable partners in the many activities that require coordination and trust: not only caring for kin and friends, but also hunting and fighting.

In general, small human communities secure social order through normative practices, fellow-feeling, shaming, surveillance and gossip, and some sanctions. While hierarchical in some respects, small communities (e.g., fewer than a couple hundred members) have significant egalitarian elements. On the accounts of Boehm and others, there are two important elements to this egalitarianism. The first is a resistance to political leaders; adult males participate equally in collective decisions, and there is strong resistance to the emergence of leaders. The second element is in the egalitarian distribution of meat from the hunt. Especially with big game, where the hunt is very dangerous, meat is distributed equally, even to those who did not participate or did not contribute importantly to the hunt. All members of the community are taken care of. This egalitarianism seems to manifest itself today most clearly in small groups or teams (e.g., military squads or platoons). This ethos seems very important to maintaining order in these anarchist small communities. Larger groups

---

University Press, 1992), pp. 26, 7, and 27.

<sup>26</sup> *Ibid.*, p. 72.

<sup>27</sup> Dunbar, *Evolution*, p. 24.

see the emergence of stable hierarchies, with leaders and rulers and elites.

These norms governing early small communities constitute part of a morality, which I shall dub a *natural morality*. The word ‘morality’ is not crucial; we could also talk about collections of norms, restraints, and sentiments. Members of these societies will be governed by norms sustained by their practices, expectations, and sentiments, ready to do their part in the different cooperative arrangements of their community. Not only will they have commitments and obligations, but they will also care for and assist others in various ways even when not obligated. There thus will be something like our virtues of justice and benevolence or charity. Courage, self-restraint, and industry will presumably be admired, resembling some of our self-regarding virtues. We can think of these dispositions, attitudes, and expectations as a kind of natural morality, which is important for our story about homo sapiens. The amoral, asocial creatures that populate many social theories are not fully human.<sup>28</sup>

It is important to emphasize here, as I will below, that the natural moralities of early humans are “relativist” and not universal. We associate doctrines of natural law with Stoic and Christian conceptions of the moral, where all humans have moral standing and are owed moral consideration. However, early human moralities govern only insiders, members of the community, not outsiders. Any morality that assigns obligations to roles (e.g., in the hunt), has rules that are impartial in the sense that they govern anyone who assumes that role. They needn’t be universal and protect or bind all; that is, their *scope* need not be the set of all humans. We mistakenly conflate the impartial and the universal. Early communities have a natural morality, but it doesn’t obligate members to outsiders. This is compatible with treating potential cooperators in other communities in ways one would not treat an adversary, as well as with bringing outsiders into one’s community (e.g., raiding). If one thinks of morality (or justice) as necessarily universal, as many moderns do, then this natural morality won’t qualify, but denying that early human communities were governed by something like a morality is a mistake. Additionally, and of importance for the thesis of this article, this early morality is natural.

---

<sup>28</sup> Any human who is without a *polis*, Aristotle says, “not by luck but by nature, is either a poor specimen or else superhuman” (*Politics*, I.2.1253a2–3).

#### 4. Artificial Natural Rights

We can of course “define” natural rights in different ways, but winning an argument by changing a definition is uninteresting. I characterized natural rights above as rights that are (1) moral (2) claim rights that are (3) natural, that is, (a) possessed in a state of nature, (b) prior to and independent of convention, (4) held by virtue of possession of some natural attribute, and (5) basic. I neglected the fifth condition in this article, as it is not central to our concerns here. My main claim is that artificial rights can be natural in a recognizable, sensible sense. Thus, my focus is on condition 3, parts a and b.

Now our artificial natural rights exist in states of nature (condition 3a). These are usually thought to be the conditions of humans living outside of states. If one thinks of states as peculiarly modern forms of organization, as I have, then this characterization is too broad. States of nature need to be understood as lacking the centralization of political power and largely anarchist. Artificial natural rights are rights held against fellow members of the community and in some circumstances against some outsiders (e.g., traders). However, they are conventional and don’t satisfy condition 3b. Artificial rights and obligations depend on practices and norms. We cannot say that someone has an artificial right or obligation unless there exist norms which attribute these to him or her. These norms are created by practices that give rise to expectations: people obligated by the right need to believe that enough other people comply with the norm, and that enough other people have a similar expectation of others. The norms in question are created by behavior and attitudes. Hume’s account of justice and property is conventionalist in this sense, and it is often cited in contemporary discussions of norms.<sup>29</sup> These norms and practices may depend on a variety of cognitive and affective capacities that humans have and that other creatures lack. (Some of these capacities may be possessed by apes and wolves. The process of developing these capacities takes some time with human infants, as any parent knows.) These practices, attitudes, and cognitive-affective capacities are ancient, and may be found in early, small, anarchist communities.

My novel understanding of natural rights illuminates the way in which morality—and notably its deontic elements—can be natural, that is, part of our natures and our natural condition. Recognizably

---

<sup>29</sup> See, e.g., David Lewis, *Convention* (Cambridge, MA: Harvard University Press, 1969), p. 5.

cognitive and affective moral capacities appear early in our history as a species, and this time can be understood to be our natural condition or a state of nature in one of the original senses of that notion.

This conception of conventional natural rights is congenial to accounts that tie social morality and its origins to cooperation. I have not addressed Miller's notion of "natural rights based on nature." My account of natural rights (which are conventional) is meant to be agnostic regarding debates about moral realism and associated epistemic controversies. However, my conventionalism rests on a social conception of humans, bringing it closer to Aristotle and Hume than to Hobbes. I cited Miller's comment above that "human beings have an innate impulse to live in communities," which seems correct. After this comment, he refers to a discussion in Aristotle's *Politics*, identifying three motivations for political life:

- (1) humans desire to live together even when they do not need mutual assistance;
- (2) the common advantage brings them together, in so far as a part of the noble life falls to each of them;
- and (3) they come together and maintain the political community for the sake of life itself, because there is perhaps a noble element and natural sweetness in living as such.<sup>30</sup>

Much of what humans achieve—their mere survival, as well as their prosperity and their fulfillment—depends on cooperation with others. This cooperation is sustained by practices and norms, as well as by the affective and cognitive capacities that we possess. In our earliest times, as now, we lived in small communities where an individual adult could not survive on its own. Cooperating with others in one's community was required, as it is now.

This account of our nature and natural conditions reveals many continuities with us today. We cooperate effectively, though not perfectly, on a small scale, just as our early ancestors did—kin relations, fellow-feeling, shaming, surveillance and gossip, sanctions. These are insufficient in larger settings, indeed, in settings larger than a couple of hundred people. Our condition is *not* continuous with that of our early ancestors! The world today is crowded, and much of it has been for several thousand years. The capacities and practices that

---

<sup>30</sup> Miller, *Nature, Justice, and Rights in Aristotle's Politics*, p. 35, discussing *Pol.*, III.6.1278b17–30.

maintained social order in small settings still operate in small groups (e.g., teams, platoons), but they are not effective in larger settings—thus our reliance on religion, law, government, and markets. Philosophers and economists often carry on discussions about cooperation using examples or models involving a handful of people—sometimes just two—but our problems involve cooperation between millions. Addressing these involve “expanding the circle,” to borrow Peter Singer’s expression.<sup>31</sup>

This thought leads me to a last one, namely, that legislated human rights, like some of those in the famous *United Nations Declaration* or in more recent doctrines of international law, could be a path to this expansion of basic or fundamental rights to all. These rights would be conventional and not natural in my or any other sense, showing that “human rights,” the preferred phrase today, may be a different notion from older notions of natural rights. The possibilities offered by our complex practices and institutions are considerably greater than those to be found in the natural moralities of our ancient anarchist ancestors, but an understanding of the latter is essential for expanding cooperation in our world.

---

<sup>31</sup> Peter Singer, *The Expanding Circle: Ethics, Evolution, and Moral Progress*, expanded ed. (Princeton, NJ: Princeton University Press, 2011).