

Whose Liberalism? Which Individualism?

Colin Bird, *The Myth of Liberal Individualism*.
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Introduction

At first glance, the term “liberal individualism” seems to have both a clear denotation and a clear connotation. As a matter of *denotation*, “individualism” is the view that individuals enjoy a kind of ontological or axiological priority to the collectives they constitute. “Liberalism” is the view that liberty is an inalienable right that ought to receive special protection in the constitution and laws of a just government, even to the point of permitting the right to do what is morally wrong. “Liberal individualism,” then, denotes a distinctive combination of liberalism and individualism according to which liberalism as a *political* ideal is justified and given content by individualism as a *philosophical* doctrine. *Because* individuals are prior to society, the liberal individualist says, they are entitled by right to live and act by their own judgment. Were it not for this priority, the thesis implies, there would be no justification for political liberty at all.

So conceived, “liberal individualism” involves a rich set of *connotations* as well. Among the positive ones are those that associate it with the struggles against absolute monarchy, slavery, patriarchy, imperialism, totalitarianism, racism, and homophobia, among other things. The essence of these evils is collectivism, the denial of the just claims of the individual; were it not for liberal individualism, its champions assert, these evils would not only still exist in the world (as they do), but in fact prevail in it. It is liberal individualism’s unique contribution to have made such evils in large part obsolete, in theory and in practice.

Among liberal individualism’s negative connotations are those that associate it with some form of anarchy or exploitation: e.g., the Reign of Terror in revolutionary France, the robber barons of nineteenth century England, and the rugged individualists of American capitalism. Liberal individualism, its critics assert, is the ideological opiate of the rich, powerful, and self-deluded. Its version of liberty benefits the strong at the expense of the weak, while giving the spurious impression of universal

liberation.

Debates about liberal individualism have raged in Anglo-American political philosophy for two or three decades now, where claims like the preceding are tossed back and forth like polemical grenades by partisans in each camp. But should the idea so cavalierly be taken for granted? Or is our very reliance on it a symptom of confusion?

Colin Bird's *The Myth of Liberal Individualism* (hereafter, *TMLI*) makes the case for the latter claim. "Liberal individualism," Bird argues, is a term with a familiar sound but no defensible purpose. It is what we might call an "anti-concept" (not Bird's term)—an "artificial, unnecessary, and (rationally) unusable term, designed to replace and obliterate" more nuanced and defensible ones.¹ According to Bird, the liberal individualist ideal is not just wrong but incoherent: there is no clear sense in which the individual enjoys any "priority" to the collective, and thus no sense in which this alleged priority can give content to or justify liberalism. Precisely because the term is meaningless, Bird writes, debates about liberal individualism tend to produce a great deal of sound and fury, but ultimately signify nothing.

The complexity of Bird's book makes it impossible to write a comprehensive review of it in the space at my disposal. My aim here is to offer a more limited appraisal concerning the *scope* of its thesis. According to Bird, the notion of "liberal individualism" finds a home in two prominent political theories—libertarianism and Rawlsian-type liberalism. Libertarianism, being the more avowedly individualistic of the two theories, is more obviously committed to the idea of "liberal individualism," and thus more centrally the target of Bird's critique.

Among libertarian theories, Bird includes what I'll call *neo-Aristotelian libertarianism*, or *neo-AL* for short. Neo-AL is the view, inspired by (but not identical to) Ayn Rand's Objectivism, which holds that individual rights of a Lockean sort can be justified by an Aristotelian conception of human flourishing. The question I pose here is whether Bird's critique of liberal individualism applies to neo-AL. I answer that it does not. Whatever the merits of Bird's critique of non-Aristotelian theories, the critique has little application or relevance to neo-AL. Or so I'll argue.

Clarifying "Individualism"

After some initial remarks, Bird begins *TMLI* by specifying what he takes to be the exact target of his critique.

The term 'individualism' has acquired a dizzying range of meanings and applications. Steven Lukes discerns no fewer than eleven different forms of individualism, and he adds, dishearteningly, that the items on his list are not intended to be mutually exclusive or jointly exhaustive. Because of the confusion that shrouds the term, it is important to set out precisely the kind of individualism

that is relevant to the arguments of this study. (*TMLI*, 4).

This is helpful advice. The term “individualism” *does* mean a great many things in a great many contexts, and the sheer proliferation of meanings ascribed to it makes it difficult to grasp the unity at its core. A critique of individualism, then, has to narrow down its subject matter to something manageably precise—to find, so to speak, the one individualism in the many.

Bird begins his clarification of individualism by “excluding from the analysis two aspects of the idea of individualism” (*TMLI*, 4). They are, in his words:

“individualism understood as an empirical property, either of individuals or societies”; and
 “Individualism as a form of egoism or selfishness, whether as an empirical or as a normative commitment” (*TMLI*, 4-5).

“Excluding these two aspects of individualism,” Bird continues, “still leaves us with an enormous range of potentially relevant ‘individualisms’...” (*TMLI*, 5). The form of individualism that is relevant to *TMLI*, then, is what might tediously be called *normative non-egoistic individualism* or *normative a priori non-egoistic individualism*—individualism B for short. As we’ll see, Bird’s stipulations on this point lead to significant difficulties in his handling of neo-AL. For—to put the point tediously—neo-AL is a form of *normative a posteriori egoistic individualism*, and a very specific one at that. The way in which Bird defines individualism B, then, seems to exclude neo-AL right out of the book. To see this, let’s look at each exclusion in turn.

Bird justifies his exclusion of the “empirical” conception of individualism as follows:

The notion of individualism that is relevant [in this study] expresses a normative ideal, not an empirical generalization about liberal civilization, and it is the directly normative connotations² of individualism that this book seeks to address. I therefore set these empirical issues aside and make no effort to evaluate them. (*TMLI*, 5).

This explanation is puzzling. Granted, *TMLI* is not a historical or sociological study of “liberal civilization”; it’s a political theorist’s critique of a conception of political justification. But conceptions of political justification derive their content from, and operate in, the empirical world. If so, we need a more precise account of the relationship between “normative” and “empirical” individualism than Bird offers. Consider two possibilities.

If Bird intends the normative/empirical distinction to mark a rough division of labor, the distinction is harmless: it merely reminds us that *TMLI* will focus more on conceptual analysis than on history or

sociology. But in this case, the distinction can't be very sharp, and can't do very much work. In particular, it can't serve to exclude very much.

On the other hand, if (as I suspect) Bird intends the normative/empirical distinction to be mutually exclusive, the claim implies that normative ideals *cannot* in principle consist of empirical generalizations, and empirical generalizations *cannot* in principle embody normative ideals. In this case, Bird's exclusion runs into two glaring problems. The first is that he needs a philosophical justification for making this move in the first place; there is, as he must know, a large literature in meta-ethics and moral epistemology that argues rigorously against making it.³

The second is that neo-AL is *part* of this literature. Like all Aristotelians, neo-ALs vehemently reject the legitimacy of a distinction between the normative and the empirical, claiming instead to espouse an empiricist conception of normativity. On the Aristotelian view, human action is goal-directed, and the ultimate goal of human action is happiness, or flourishing. A flourishing life consists of the cultivation of self-beneficial traits, or virtues, aimed at securing a set of values across a lifetime. On this view, every moral norm identifies a need generated by the requirements of our flourishing. Since flourishing is a thoroughly empirical phenomenon, moral norms merely state empirical generalizations about its requirements. As Douglas Rasmussen and Douglas Den Uyl argue in their neo-AL book *Liberty and Nature*, the Aristotelian analysis of the good is

not the result of an *inspectio mentis* procedure but is discovered through a scientific, empirical process. An Aristotelian ethics, then, appeals to all that the various sciences can tell us regarding the nature of a human being in developing its account of the good human life and does not confine itself to some *a priori* definition.⁴

It would beg the question, then, to foist the normative/empirical distinction on the neo-AL view when defining "individualism." The distinction has no place in the theory.

Let's move now to Bird's exclusion of egoism. As he puts it, *TMLI* excludes egoism from consideration as a form of individualism because "liberals [in the broad sense that includes neo-Aristotelian libertarians] *invariably* protest against any attempt to confuse their kind of individualism with egoism..."(*TMLI*, 5; emphasis added). If liberals in this broad sense resist being called egoists, Bird reasons, it makes no sense to saddle them with a commitment that they consistently reject.

If that's true, however, it also makes little sense to include neo-AL within what Bird calls "liberalism." For even a cursory familiarity with neo-AL writings makes clear that neo-AL theorists explicitly *defend* ethical egoism! And that's exactly what we would expect of an Aristotelian theory. Neo-AL theory, as we've seen, rests on the Aristotelian thesis that flourishing is an individual's ultimate end, and the ultimate source of his or her obligations: what promotes the individual's flourishing is good;

what subverts it is bad, wrong, or evil. As Douglas Den Uyl aptly puts it, such an ethic is “supply-sided”:

it places the bulk of its attention on the agent’s own character, defines moral goodness in terms of the agent’s nature, and expects that goodness to be the direct product of the agent’s own actions. Moreover, the ‘beneficiary’ of this conduct is the agent himself.

This remains true, Den Uyl continues, both for self-regarding virtues (e.g., self-control, pride) as well as for such inherently other-regarding virtues as justice, charity, and friendship. The focus of the agent practicing the virtues may be the good of another, but the virtues’ *justification* lies in their contribution to the good of the benefactor.⁵ So egoism is not merely incidental to the neo-AL view, but is essential to it.

The textual evidence on this point is overwhelming—so overwhelming, in fact, that Bird’s apparent indifference towards it constitutes something of a puzzle. Neo-AL theorist Tibor Machan has for three decades, and in dozens of books and articles, consistently argued in defense of what he calls “classical egoism” as the basis of individualism and libertarian politics.⁶ In fact, Machan defends egoism in the very book that Bird cites in *TMLI*, *Individuals and Their Rights*. Oddly, Bird mentions Machan’s book but never mentions the discrepancy between the book’s conception of individualism and his own (*TMLI*, pp. 94, 139). Though they shy away from using the term “egoism” (preferring the more classical-sounding term “self-perfectionism”) Rasmussen and Den Uyl also defend an obviously egoistic theory of human flourishing in a series of books and articles. Mysteriously, Bird discusses Rasmussen-Den Uyl’s *Liberty and Nature* at some length in *TMLI* (pp. 139, 167-9, 173), but mentions neither the authors’ account of the basis of individualism in that book, nor that in any of their other (abundant) work on the subject.⁷ One can’t simply wish away evidence that undermines one’s thesis, however: one either has to accommodate the evidence somehow, or modify the thesis accordingly. Bird does neither.

In one sense, the preceding should be enough to convince us that Bird’s book is irrelevant to the assessment of neo-Aristotelian libertarianism. After all, if individualism B omits one or perhaps two of the essential features of neo-AL individualism, there’s little reason to think that criticisms of individualism B can represent criticisms of neo-AL.

Though I regard that as problematic for Bird’s thesis, it would be premature to stop there. It is, I think, still worth seeing *how* Bird’s inconsistency determines his treatment of neo-AL in the rest of the book. An inconsistency, after all, can be superficial or systematic: a superficial inconsistency might constitute an isolated mistake, safely cordoned off from the rest of the book; a systematic inconsistency would undermine the book’s thesis in a significant way. In what follows, I’ll argue that Bird’s initial mistake *systematically* skews his account of neo-AL throughout the book. By the time we get to the most direct critique of neo-AL toward the end of the book, we find Bird arguing against a strawman—ascribing

beliefs to the neo-Aristotelians that are flatly incompatible with what they've actually written.

First-Order Values: Individualism as a Political Ideal

Liberal individualism, as I defined it at the outset, consists of two sorts of claims—political claims about liberty, and what I called “philosophical” claims about individualism. The philosophical claims, as I put it there, justify and give content to the political ones. Bird makes a similar observation, describing what I call “the political” claims as liberal individualism’s “first-order” account, and describing “the philosophical” claims as its “second-order” account. Chapter 1 of *TMLI* lays out the first-order conception of the specifically individualist interpretation of liberty, i.e., liberal individualism as “a political ideal.” Chapter 2 discusses the second-order justification of the first-order account, i.e., philosophical individualism “as a theory.” In this section, I discuss the first-order issue; in the next section, I take up the second-order issue.

According to Bird, individualism’s first-order claims comprise two distinctively individualist values. The first is what he calls “liberty and inviolability,” discussed in a preliminary way on pages 30-32 of chapter 1, and more fully in chapter 4. The second is liberty’s relation to “the private sphere,” which gets a preliminary discussion on pp. 32-42 of chapter 1, and is discussed more fully in chapter 5. Let me take these in turn.

Liberty and inviolability. Etymology itself suggests that the root of any doctrine of “liberalism” will be some conception of liberty. Liberty is an important good because it protects individuals from being violated by force. But how important is it? At one (deontological) extreme, a theorist might argue that the requirements of liberty are unequivocally and absolutely inviolable: to paraphrase Kant, “liberty must be upheld though the heavens may fall.” On a deontic view, then, liberty’s value is *intrinsic*; no other value can ever override it for any reason in any context. At the other (pragmatist) extreme, a theorist (or politician) might assert that liberty can unhesitatingly be traded for virtually any other good at any time: to paraphrase Mussolini, “liberty may be violated that the trains may run on time.” On a pragmatist view, by contrast, liberty’s value is *subjective*; any value can override it for virtually any reason in any context.

Obviously, neither Kantian deontology nor fascist pragmatism are defensible conceptions of liberty. The defensible conception, one would think, is to be found in the mean between them. But what is that mean? What principles govern the conditions under which liberty is to operate? When, if ever, can we violate liberty for values higher than it, and when, if ever, must we insist on its inviolability by forgoing what we might otherwise obtain?

Bird summarizes the distinctively liberal-individualist conception of liberty in three propositions, as follows:

Liberty is not merely “a” good on par with others, but a special kind of good. Its uniqueness is such that it should never be sacrificed for the sake of *other* kinds of goods.

Like all goods, no matter how special, liberty can and must occasionally

be restricted for *some* reasons. The only justifiable reason for restricting liberty compatible with (1) is to permit liberty to be restricted “only for the sake of liberty itself.”

Principle (2) implies that liberty cannot be restricted for the sake of equality or justice. But equality and justice are fundamental political values. To reconcile liberty with equality and justice without violating liberty, we should combine liberty *with* them, as follows: “Each person has an equal right to a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all.”

Note that while justice is not mentioned in the third principle, the principle is itself an *instance* of it.

Bird summarizes the preceding three propositions in one economical formulation, the “distribution of liberty principle,” or DLP:

DLP: The only permissible restrictions of equal liberty are those necessary to secure the equal liberty of individual citizens. (*TMLI*, 30-31).

Having introduced DLP in chapter 1, Bird offers detailed discussion of various treatments of it in chapter 4 of *TMLI*. The discussion includes classical writers (Kant, Rousseau, Mill), redistributive liberals (Rawls, Dworkin, Isaiah Berlin, et. al.), and libertarians (Nozick, Lomasky, Narveson, Charles Murray, David Boaz, et. al.). I found aspects of these discussions illuminating and accurate, and other parts perversely wrongheaded. Suffice it to say, however, that *none* of it is relevant to the neo-AL conception of liberty.

Neo-Aristotelians agree with the spirit of principle (1) above: liberty is a special value, requiring special protection. They also agree at some level with principle (3): each individual is entitled to an equal right to liberty. What they emphatically reject, however, is principle (2): the idea that liberty “can only be restricted for the sake of liberty.” On the neo-Aristotelian view, since there are values higher than liberty, liberty can be restricted for the sake of such values, when the two conflict.

First, a primer account of the neo-AL conception of liberty. Neo-AL theorists define “liberty” in terms of rights, and define rights in terms of the requirements of flourishing. Since the requirements of flourishing are the same for each of us, each of us has the same rights, among them rights to life, liberty, and property. By implication, then, the conditions under which one’s liberties are “restricted” are the same as those under which one’s rights are violated: to restrict X’s liberties is to initiate force against X’s full exercise of his rights. Note that it’s somewhat unclear what it would *mean* on such a view to say that “liberty is restricted for the sake of liberty” so as to produce more liberty. To restrict someone’s liberty is to violate their rights. But if I violate your right, I deprive you of liberty, and I come into possession of the ability to do something without possessing the right to do it. If you have the right to read Colin Bird’s book, and I try to stop you, I violate your rights; but in doing so, I have augmented neither my liberty nor yours. I’ve merely violated yours.⁸ An

initial difficulty with DLP, then, is to make sense of what content principle (2) might have in a neo-AL ethic.

Second, even if we could give it content (which I doubt), neo-Aristotelians would reject it. The neo-AL ethics, as we've seen, is a teleological and egoistic ethic in which human life and flourishing is the ultimate end. Every other value is a value because (and to the extent that) it contributes to this end. That goes for liberty as well. Political liberty certainly is a value by the standard of flourishing, and it occupies a special place in the hierarchy of values. But the fact remains that it stands lower in that hierarchy than life itself. Consequently, the standard neo-Aristotelian view holds that *life* is the foundation for the rights to liberty and property. As David Kelley puts, neither liberty nor property

can be derived from the other, but rather both derive from an underlying principle that would normally be formulated as the right to life. That is, some fundamental end—life, happiness, self-realization—is an ultimate end, the source and standard of all values; society should be so organized as to allow people to pursue that end; and the rights to liberty and property, each in their way, are necessary elements in that organization.⁹

If the requirements of life justify the right to liberty, then the right to liberty exists *for the sake of* its contribution to life. It follows that when the two conflict, the requirements of life take precedence to those of liberty. Generally, the two rights *don't* conflict: that's the point of saying that the right to liberty "exists *for the sake of* its contribution to the right to life." Liberty's value is such as generally to *contribute* to life. But neo-Aristotelians have recognized that emergency cases can arise in which rigid adherence to the principles of liberty or property rights might result in death or serious injury.¹⁰ In such emergency cases, as we might call them, the requirements of someone's life (or by extension, physical integrity) override someone else's right to liberty. So contrary to point (2), it's *not* true that liberty is "only" violable in the name of liberty. In emergency cases, liberties are legitimately violated in the name of life or physical integrity (where the two conflict).¹¹

An example might help us understand this better. Imagine that I'm out for a walk, when I'm attacked by a large, vicious dog. My only hope for evading the attack is to climb over someone's fence, and to escape the dog through his or her backyard. Assume that I don't have the time to ask the owner's permission to do this. Ordinarily, my invasion of someone's backyard would be criminal trespass—a violation of his or her property rights, and by implication a violation of his or her liberty (i.e., their liberty to exclude me from their property).

I therefore seem to face a dilemma. I could either

Sacrifice my bodily integrity in order to respect the homeowner's liberty and property rights, or

Protect my bodily integrity at the homeowner's expense.

The neo-Aristotelian response to this apparent dilemma is simple. If the requirements of life provide the justification for liberty, then the requirements of liberty can never oblige me to act in defiance of the requirements of my life. A dog attack (by e.g., a Rottweiler or German shepherd) constitutes a significant threat to one's body, if not to one's literal survival. The magnitude of the threat is such that it is *not* in one's interest to acquiesce in the expected injuries merely to respect the conditions of someone else's liberty. Therefore, in such a case, it's both rational and morally justifiable to violate liberty to save oneself from serious injury.

Note that the emergency-case exception to rights is self-limiting. To make the exception, we have to begin by distinguishing emergencies from the larger background of non-emergency contexts. An emergency is a *radical* departure from normal conditions, not merely a continuation of suboptimal conditions. An emergency, to paraphrase Ayn Rand's definition, is a relatively temporary, unchosen, and unexpected event, which poses a danger to life or physical integrity, and creates a high probability of death.¹² One of the defining features of such events is that all or most of the actions of those involved in the emergency aim at transforming the emergency into a non-emergency with the greatest possible haste. It's important, then, to differentiate "emergencies" so conceived from other merely dysfunctional states of affairs. The two relevant differentiae are: (a) the unique etiology of an emergency (its randomness relative to a background of normality) and (b) the severity of its consequences on the lives of those involved.¹³

These two differentiae explain why emergencies pose an exception to rights: rights are not principles designed to handle cases of random danger; they're principles designed to handle situations where long-term planning and action are possible. But precisely because emergencies constitute an exceptional case, if and when an emergency requires a rights-violation, the violator is obliged to act in such a way as to return, as quickly as possible, to non-emergency conditions and thus to minimize to extent of the violation. In the dog-attack example cited above, while I could legitimately violate the owner's property rights to get away from the dog, I would not be justified in stopping in his backyard to ogle his sunbathing daughter. Having escaped the dog, of course, the *status quo ante* would obtain again in full force.¹⁴ Thus while emergencies can sometimes justify exceptions to rights, they don't provide *carte blanche* for subverting them altogether.

Finally, it's worth remembering that the emergency-case exception operates against a background context that presupposes a fundamental *harmony* between rights to life, liberty, and property. Rights to liberty and property exist for the sake of the contribution they make to life. Emergencies are an exception to that general harmony. But precisely because they *are* an exception, we can only grasp how to deal with them

by first grasping the normal cases in which the rights go together, and by defining the exceptional cases in terms of them.

Were Bird to offer a fair critique of the neo-AL conception of liberty, he'd have to recognize at a minimum that it is a normative conception based in the deeper value of human flourishing, and pay attention to specifically neo-AL accounts of it. Since he doesn't do this anywhere in his discussion of DLP, I conclude that what he says is (notwithstanding contrary appearances) irrelevant to neo-AL liberty.

Liberty and the private sphere. What about the second individualist value, liberty's relation to the private sphere? Here the issue concerns not whether liberty can be violated but the area within which individuals enjoy the liberty they have. I quote Bird at length:

The second category of individualist values specifies the archetypical liberal concern to define a private sphere of conduct insulated from public interference, an area within which citizens of a liberal order are free to think and act as they wish. Without wanting to make too much of a topological metaphor, it is nevertheless worth emphasizing one aspect of the spatial imagery implicit in the idea of a 'sphere' of personal action. To describe the area within which an individual may rightfully act as a 'sphere' tends to imply that the only relevant boundaries on legitimate personal action are external. In this view, there are no internal boundaries, no core elements within the sphere of private action towards which individuals are bound to act in particular ways, at least within the terms of a legitimate and politically enforceable public ethic. The internal structure of the private sphere is left to individuals to specify as they please (*TMLI*, 32).¹⁵

The liberal individualist view, Bird continues, distinguishes between the Right and the Good. The Right is the sphere of publicly-enforceable claims, based on the thesis of self-ownership. The thesis of self-ownership says that each of us owns ourselves and can use and dispose of ourselves as we please; each individual ought to respect the self-ownership claims of every other. Contrasted with the domain of the Right is that of the Good, which (evidently) is relative to what we ourselves take to be valuable. As Bird describes it (drawing, e.g., on Lomasky), liberal individualists do not have anything substantive to say about the Good, beyond asserting that each of us has a good constituted by our self-chosen projects. The individualist's real concern is the Right, which prevents infringements on the sphere of the self.

Bird makes much of the familiar problems that arise for this view (*TMLI*, chs. 1, 5). A liberal individualist, he argues, takes self-ownership as a kind of freestanding normative thesis, and interprets the thesis so that it bears no relation to any higher obligations we have to ourselves or others. But precisely for that reason, Bird argues, the self-ownership

thesis is incoherent: if there are no obligations higher than self-ownership, there turns out to be no reason to respect self-ownership itself.

I won't dwell on the details of this argument, which is ingenious in many ways, because from a neo-Aristotelian perspective, Bird's account of the whole topic of "the private sphere" is so far off base that it makes no contact with neo-AL theory at all. To show this, I have to sketch some of the more radical but counter-intuitive features of the neo-AL conception of justice.

On a neo-Aristotelian view, each human individual's flourishing is that individual's ultimate value—quite literally, his or her *raison d'être*. Since my flourishing is my reason for existing and acting, neither it exists nor I exist for any higher or more valuable end. Every human individual is, literally, an end-in-himself or -herself, not a means to the ends of others. Each of us lives for ourselves, and each of our obligations is justified by its contribution to our own interests. The requirements of egoistic flourishing consist of virtues and values which, in Ayn Rand's terms, are the "means to and realization of" my good; they promote, and constitute the core, of my interests.¹⁶ These requirements, it's worth remembering, are objective requirements of flourishing, not subjective matters of desire-satisfaction.

Given this emphasis on the objectivity of moral value, it may be a puzzle why should we be permitted as much "moral space" as neo-AL theorists demand. The answer arises from the nature of moral value itself. As Rasmussen-Den Uyl stress, virtue on the neo-AL view is a fundamentally *self-directed* phenomenon, initiated by the agent's own efforts on the basis of her own knowledge. In this respect, the neo-Aristotelian position on the value of self-directedness is similar to the classical Aristotelian position of the value of virtue itself.¹⁷ Virtue, the classical Aristotelians held, is the fundamental constituent of flourishing—not the only component, but the one most under the agent's control. By much the same logic, neo-ALs hold that self-directed-aiming-at-one's-own flourishing is the very essence of virtue itself. The aspect of one's own good that is most directly under one's control is whether or not one will direct oneself *to* the good on the basis of one's own apprehension of it. A virtuous person is not merely someone who performs actions that get the right results; she is someone who initiates a *whole causal sequence* that leads to the right results. And that is precisely what self-directedness is. A self-directed person is a one who focuses on the world before her and initiates action for her own good in the light of her best knowledge of the circumstances and foreseeable consequences of the action.

For this reason, moral agents function *best* when their actions are (in Aristotle's terms) neither involuntary nor non-voluntary, but fully voluntary, i.e., when the agent is the unhindered cause of the action, and is unhindered in taking responsibility for its effects. Since coercion subverts the conditions of voluntary action, the use of coercion must be strictly limited if agents are fully to realize their good.¹⁸ Note that the claim here is not that an agent cannot function *at all* when coerced, nor even

that all of an agent's self-directedness will be totally destroyed by the least coercion. The claim is, rather, that the *highest* degree of self-directedness is incompatible with the *least* degree of coercion. If and to the extent that the highest degree of self-directedness is obligatory for the agent, the least degree of coercion compromises it. Precisely because the neo-AL view is perfectionist, however, it obliges the agent to be as self-directed as possible.

Though a neo-AL ethic thereby specifies rights as one kind of interpersonal boundary, we might wonder whether this by itself takes the reality of other people sufficiently into account. Does a neo-AL agent have any conception of interpersonal ethics *beyond* respect for the rights of others? The answer comes in part from the neo-AL conception of *justice*. Justice is the virtue of evaluating others on the basis of their nature, character, and actions, and interacting with them by giving them what they deserve. Putting aside justified self-defense, justice so conceived involves a commitment to seeking and dealing with the *best* in those with whom one interacts. A genuine egoist seeks out the strengths and virtues of others in order to trade with them from positions of mutual strength and mutual benefit; she abjures as pathological (and irrational) the idea of attempting to benefit from others by exploiting their vices or weaknesses. To borrow a phrase of Tara Smith's, "justice" denotes the select route by which a rational agent attempts to benefit from other persons.¹⁹

With this account in hand, let's revisit Bird's treatment of the relation between liberty and the private sphere. If we do, we see a number of crucial incompatibilities between his treatment of that subject and the neo-AL treatment of it.

First, contrary to Bird's account, the neo-AL view leaves no room for the distinction between the Right and the Good. On the neo-AL view, justice is a personal virtue, and rights are a condition of flourishing. Both are derived from the good, not distinguished from it.

Second, contrary to Bird, neither Machan nor Rasmussen-Den Uyl make significant reference to self-ownership. Nor is self-directedness what Bird takes "self-ownership" to be. Unlike self-ownership, self-directedness is not a freestanding normative commitment, but one embedded in a deeper theory of the good.

Third, it's misleading to speak of a "sphere" in which we can "do as we please" on the neo-AL account. On the neo-AL account, every aspect of life is governed by virtue, so there is no sphere in which we can literally "do as we please." That includes both our personal lives and our interpersonal lives, since the latter is governed by justice.

Point three by itself suggests that Bird has overdone the topographical metaphor. The metaphor says that there are no "internal boundaries" in a liberal individualist ethic. But the neo-AL view holds that virtue is precisely that: an internal boundary. In fact, Aristotle goes so far as to describe virtue *explicitly* as an "internal boundary" of the agent.²⁰ A counterexample cannot get more direct than that.

Finally, Bird's account conflates two separate issues: (a) whether

internal boundaries exist, and (b) whether the requirements of internal boundaries should be externally imposed by force. The neo-AL answers “yes” to (a), and “no” to (b), on the grounds that force is an inappropriate instrument for inculcating a commitment to virtue—a topic that Bird never discusses in terms that connect with neo-AL theory.

I conclude, then, that Bird’s account of the second liberal individualist value is as irrelevant to neo-Aristotelianism as his account of the first one. In the next section, I turn to his treatment of individualism as the second-order doctrine that justifies liberalism’s first-order values.

Individualism: the Second-Order Doctrine

As mentioned earlier, on Bird’s view, the distinction between first- and second-orders of a political theory is a distinction between the values the theory espouses, and the method or framework the theory uses to justify those values. As we saw in the preceding section, the two liberal individualist values are the inviolability of liberty and its protection of a “private sphere.” The generic name for the second-order justification is “individualism.” Individualism, in all of its versions, is an attempt to justify liberty by defending some version of “the priority of the individual to the collective.” And, Bird argues in chapter 2, in each of its versions it fails. Not only does it not justify liberty, but it makes no coherent sense of the relevant conception of the individual’s “priority” to the collective, either.

Chapter 2 is in effect the heart of *TMLI*: it’s the longest and by far the most complex chapter in the book, and it offers the most direct critique of “individualism.” It’s important, then, to note a methodological difficulty at the outset. We’ve earlier seen what individualism is *not*, but in positive terms, what *is* it? Bird’s answer to this question sounds to me like special pleading mixed with an obnoxious tendentiousness:

The strategy I pursue [in discussing ‘individualism’ as a second-order theory] is somewhat inelegant. Ideally, we would want to isolate a core premiss to which all versions of the claim about the priority of the individual over society are committed. We could then proceed to burst this particular philosophical balloon with a single well-directed shot. But this is only possible when the target is well defined. The history of claims about the alleged priority of the individual in the liberal tradition and its supposed rejection in rival traditions offers up no such target. Instead, we confront a messy array of semi-articulated, often almost anecdotal, assertions, insinuations, and slogans. (*TMLI*, 47-48).

Consequently, Bird continues, he’s forced to “list six claims in which the priority of the individual has been alleged to consist,” and to “show how... each fails to do the appropriate work in identifying the individualist

political ideal... ” (*TMLI*, 48). By the end of the chapter, Bird claims, he has said enough to convince us to discard the concept of “individualism,” and by implication, the idea that liberalism rests on it.

Bird’s claim to have canvassed the entire “history of claims about the alleged priority of the individual in the liberal tradition” is both overstated and ambiguous. Even if we restrict ourselves to “the liberal tradition” as ordinarily construed, it would have impossible to do justice to the *entire* history of claims about the priority of the individual to the collective in the forty pages Bird devotes to the task. But apart from this, Bird simply ignores the fact that neo-ALs have a unique reading of the relevant history which makes Aristotle the precursor of the liberal tradition. As Rasmussen-Den Uyl put it in *Liberty and Nature*:

One of our purposes in writing this work is to defend the liberal political heritage. The reader, however, will quickly discover that we do so form a rather nontraditional perspective, as such defenses go. We attempt to defend the liberal tradition from an Aristotelian foundation.²¹

In *Classical Individualism*, Tibor Machan notes (quoting the nineteenth century Aristotelian scholar, Eduard Zeller) that this foundation depends on broader features of Aristotle’s philosophy:

In politics as in metaphysics the central point with Plato is the Universal, with Aristotle the Individual. The former demands that the whole should realise its ends without regard to the interests of individuals; the latter that it should be reared upon the satisfaction of all individual interests that have a true title to be regarded.²²

In *Nature, Justice, and Rights in Aristotle’s Politics*, Fred D. Miller Jr. provides a detailed discussion of what he calls Aristotle’s “moderate individualism”:

The criterion by which we evaluate a constitution as ‘best’ is thus whether it enables the members of the polis, considered as individuals, to attain the highest level of activity of which they are capable....This formulation thus supports an individualistic interpretation of [Aristotle’s conception] of the best constitution.²³

Finally, in “Aristotle’s Conception of Freedom,” Roderick Long has extended Miller’s discussion in a sophisticated defense of (a more radical form of) Aristotelian individualism.²⁴ None of this seems to me like “a messy array of semi-articulated” thoughts. None of it finds its way into *TMLI*, either.

It is *perhaps* true that there is no single volume that provides a unified account of “The Concept of the Individual in Aristotelian

Philosophy.” But it doesn’t follow from that fact—nor is it true—that there is no such concept or theory. On the contrary, Aristotelianism is probably the oldest and most comprehensive philosophical research program in human history. To “confront” the Aristotelian conception of the individual, one would have to engage in a study with at least two parts: first, a study of the Aristotelian conception of the individual, as presented in the Aristotelian Corpus and commentaries from ontology through politics; second, a discussion of the neo-Aristotelian appropriation of this conception by twentieth century liberals. At a minimum, such a study would have to include discussions of the following topics:

The ontology of individuals as primary *ousiai* (entities)

The “ontological individualism” of Aristotle’s natural teleology and meta-ethics

The individualistic implications of Aristotle’s philosophy of action (e.g., his account of agent-causation, voluntariness, and rational choice)

The individualistic nature of Aristotle’s theory of human flourishing and its relation to politics

The neo-Aristotelian conception of all of the above.

The literature on these subjects is rigorous and comprehensive.²⁵ Since Bird mentions none of it, I think it’s safe to say that he’s not in a position to dismiss it—or by implication, to dismiss individualism.

I don’t have the space to discuss all six of Bird’s theses. Putting aside (1), I didn’t find the critiques he offered of them particularly plausible, in light of what a neo-Aristotelian might say about them. For present purposes, however, I want to look at Bird’s treatment of thesis (6), since it turns out to be the one that Bird himself takes the most seriously (*TMLI*, 48-9).

Thesis (6) says: “The priority of the individual consists in the fact that individualists only recognize those social goods that are ‘decomposable’ or ‘reducible’ to individual goods” (*TMLI*, p. 65). Let me quote Bird’s initial characterization of this view, which I find unobjectionable:

This theory which (following Joseph Raz) I will call *value-individualism*, asserts something like the following: there are no irreducible social goods, interests, or values. Collective arrangements, structures, states-of-affairs only count as ‘goods’ to the extent that they have a positive effect on individuals or their lives. There are no values or interests assignable to society as such; there are only the interests and values of individuals who stand to gain or lose under different collective arrangements. Without an appraisal of these individual gains and losses, there is no politically relevant sense in which collective arrangements, or states of society as such, may be good or bad. They have no independent value taken by themselves.

If we grant these conditions, then *R* is an individualistic good for everyone in *S*: it facilitates the flourishing of each individual involved with it, and its absence would subvert their good in each case. My account of justice in the previous section should make clear why this is so. The rule of law makes justice possible, both for rulers and for those ruled; without law, anarchy reigns, and justice becomes impossible. Justice is a personal virtue, and an essential component of human flourishing; injustice is a vice, which subverts it. If the rule of law makes justice possible, and justice makes flourishing possible, and “making-possible” is a transitive relation (as it is in a teleological ethic), then the rule of law makes flourishing possible. Since flourishing is an individualistic phenomenon, the value of the rule of law can be explained individualistically as well. Hence the rule of law is no counterexample to value-individualism.²⁶

Suppose, however, that the rule of law was such that it required us to negate the preceding propositions. Then we could fairly infer that the rule of law was *not* an individualistic good, but a collective one: the collective good of law would somehow override the good of the individuals subject to it. But that is precisely what neo-AL denies. I conclude, then, that Bird’s counterexample fails.

To account for the apparent difficulty for value-individualism posed by this sort of case, Bird distinguishes between two forms of value-individualism, those committed to the value of internal states and those committed to the value of external states. He describes the distinction as follows:

Internal states are states of individuals that subsist without any relation to anything outside the individual. ‘Being exhausted’ ‘being miserable’, ‘being upset’, ‘being satisfied’ or ‘being content’ are internal states in this sense. They may be caused by something outside of the individual, but the state itself occurs within the individual, and is a self-contained disposition of that individual. External states are possible individual states relative to something outside: ‘being a victim’, ‘being in danger’, ‘being a friend’, ‘being famous’, ‘being a citizen’, ‘being treated equally’ are examples of individual states of this external kind. In order for individuals to enter such states, they must stand in a particular relation to something outside of themselves (aggressors, threats, friends, ‘the public eye’, the state, the acts of others). (*TMLI*, p. 70).

From this distinction, Bird infers that

Value-individualism becomes unintelligible if external states of individuals are included within the category of ultimately valuable states. The reason for this is that the inclusion of external states obliterates any meaningful

distinction between the value of states of individuals and the value of states of the collectivity *sui generis*. (TMLI, 70).

In other words, since value individualism entails the inclusion of what Bird calls external states, and external states blur into collectivism, value individualism is incoherent; but since a conception of value that restricted itself to internal states would be absurd, value-individualists have no choice but to include external states. Hence value individualism is either incoherent or absurd.

This entire analysis strikes me as a mess from start to finish. For one thing, its status as a counterexample depends on Bird's treatment of the rule of law case, which (I've argued) fails. Second, it presupposes that *states* are the primary bearers of value, which is incompatible with an Aristotelian meta-ethics (and in my view, false).²⁷

A third set of problems bears on the criteria by which Bird distinguishes between internal and external states. In the case of internal states, it's unclear how they can subsist apart from any relation to anything external; in the case of external states, it's unclear why their "externality" must imply collectivity as Bird suggests.

Consider what Bird says about internal states. Internal states, we're told, exist apart from any relation to what's external to the individual. I find it hard to grasp what that means, and none of Bird's examples really help to make it clear, since it's true of *none* of them that the states in question literally "subsist without any relation to anything outside the individual." Taken absolutely literally, the idea of mental states' "subsisting without any relation to anything outside of the individual" makes no sense at all. Mental states are states of consciousness. Consciousness derives its content from the external world: a consciousness conscious of nothing but itself would be a contradiction of terms. But if conscious states are ontologically dependent on what is external to them, it's futile to define a conception of conscious states that subsist *apart* from what's external to them, as Bird tries to do. Since Aristotelians ubiquitously think of consciousness as inherently relational or intentional, it makes even less sense than it otherwise would to try to saddle *them* with a commitment to the value of "internal states."

Bird seems to recognize this, and responds to it by saying that internal states can be "caused" by external things, but "occur" internally. This, however, doesn't make things any clearer: if the "internal occurrence" of a mental state depends for its existence on being *sustained* by an external cause, there is no coherent sense in which Bird's "internal states" in fact "subsist without any relation to anything outside the individual."

Consider one of Bird's own examples: "being upset," for instance. Suppose that I'm upset *because* I fear that my best friend has died in a car crash. *My fear that he's dead* is the cause of my so-called internal state. Note that that cause sustains the very *existence* of the state: remove the cause, and the internal feeling goes away. If I were to find out that my

fear was unjustified, for example, I would no longer be upset.

To be upset in the relevant sense, I have to perceive something external to me (a phone call, a letter) that informs me of my friend's predicament—which is also external to me. I then have to evaluate these external states of affairs. My evaluation of them, in turn, causes my emotional state. Since my "being upset" in this context depends for its existence on "fearing that he's dead," which itself depends for its existence on "believing that he's dead," which depends on my apprehending external facts concerning his death, which depends on the external facts themselves, it's hard to make sense of the idea that "being upset" in this context could subsist apart from external states of affairs. A similar analysis, I think, applies to Bird's other examples of "internal states." I conclude, then, that the concept of an "internal state" fails to refer to anything real. There is no obvious sense in which internal states are as internal as Bird makes them.

Now consider "external states." Bird asserts that the value-individualist will ultimately be pushed to admit the value of external states, which are "collectively valuable." Since I can't make sense of the idea of an internal state, I suppose I agree that a value-individualist would endorse the value of external states. I don't see, however, why Bird thinks that external states are collectively valuable. I've already argued against the 'rule of law' case, and by implication, the case of 'being treated equally'. But a similar—and even simpler—analysis applies to all of the other cases Bird mentions. 'Being a victim' is bad *for* the victim; 'being in danger' is bad *for* the person in danger; friendship is of mutual benefit *to* each friend; 'being famous' can potentially be beneficial or harmful *to* the famous person, as can 'being a citizen'. It's unclear to me why Bird sees these external states as posing any threat at all to an objective version of value-individualism like neo-AL. Then again, he seems to collapse all value individualisms into subjectivism—thereby begging the question against neo-AL, and ignoring its theory of value.

When Bird finally reaches the conclusion that "value individualism is the view that for purposes of political justification, ultimate value only resides in internal states of individuals," (*TMLI*, 71) he is right to criticize it, but wrong to think that anything he's said about it is in any way applicable to neo-AL. The "individualism" he's described is literally "worlds away" from anything of concern to that theory.

Self-ownership and individual inviolability

I've so far argued that every one of Bird's arguments against liberal individualism fails if construed as an argument against neo-Aristotelian libertarianism. His clarification of individualism has nothing to do with individualism as neo-Aristotelians conceive of it, his account of liberty is not what neo-Aristotelians make of it, and his account of individualism bypasses the distinctively neo-Aristotelian conception of it. We might wonder, then, whether the problem here is merely verbal. Could it be that Bird has defined a legitimate conception of individualism that simply has nothing to do with the neo-Aristotelian version and has included neo-

Those who reject value-individualism, by contrast, are willing to take seriously the possibility that certain collective entities, arrangements, and states-of-affairs are valuable by themselves, independently of their impact or effects on individuals. (*TMLI*, pp. 65-66).

On this interpretation, neo-Aristotelianism is certainly committed to a form of value-individualism. On the neo-Aristotelian view, "valuable" is analogous to "healthy": just as everything healthy is healthy *to* specific agents, *for the sake of* promoting their lives, so what's morally valuable is valuable *to* specific agents, *for the sake of* promoting their flourishing in a broader sense. "Valuable" denotes the attribute of a relation between an agent, a goal, and the action required of the agent to realize the goal: an action *f* is valuable to an agent *A* for the sake of realizing some goal *g*—where *g* is itself a means to *A*'s ultimate value, flourishing. On this schema, everything valuable can ultimately be explained as conducive to the flourishing of individuals.

Bird concedes that many values can be accounted for in this individualistic way. But not all can:

Consider, for example, the claim that 'the liberal rule of law is good because under it individuals are treated fairly.' Superficially, it looks here as if the value of a collective institution (the rule of law) is being accounted for in terms of its 'impact' on individuals (the fact that it causes individuals to be treated fairly). But... it is not so easy to claim that 'being treated fairly' is an individual as opposed to a collective state-of-affairs. After all, it would seem that 'being treated fairly' refers to a relation between an individual and the agents and institutions with which she is transacting. In other words, it refers to a collective state of affairs. (*TMLI*, 69).

The last sentence of this passage, I contend, is a non sequitur.

To see this, let's consider a certain society, *S*, in which the rule of law, *R*, operates. Let's divide the population of *S* into two groups, the *rulers* and the *ruled*. The rulers maintain *R* and comply with it; the ruled merely comply with it without doing anything to maintain it. Assume that the classification is not mutually exclusive; rulers can leave the government, and ruled can join it. Suppose now that the following is the case:

All of the rulers in *S* benefit more from *R* than from $\sim R$.

All of the ruled in *S* benefit more from *R* than from $\sim R$.

Rulers have the freedom to leave positions of rulership and become members of the ruled.

The ruled have fair opportunities to become rulers.

Aristotelianism by mistake? Prior to chapter 5 of *TMLI*, after all, there is only one reference to neo-Aristotelianism, and a quick one at that (*TMLI*, 94).

Were it not for chapter 5—"Self-Ownership and Individual Inviolability"—that would be a legitimate supposition. Chapter 5, however, makes absolutely clear that Bird's target includes *all* forms of libertarianism, neo-Aristotelianism included. "Few of the theoretical traditions that have flourished in the past three decades," Bird writes, "can match...libertarianism for the philosophical acuity of its main protagonists, its cohesiveness, its contagion within intellectual circles, its (malign) influence on political discourse and public policy and its evangelical vigor" (*TMLI*, 139). That (rather absurd) sentence ends with a footnote that includes both Rasmussen-Den Uyl and Machan among other libertarians. Bird writes throughout the chapter as though both sets of authors endorse the idea of self-ownership discussed in the chapter, and he devotes several pages to a critique of Rasmussen-Den Uyl's conception of rights as "meta-normative principles" (*TMLI*, pp. 166-179). The clear implication is that his critique of self-ownership in chapter 5—as well as the previous discussions of individualism as a political idea and as a second-order theory—apply to neo-AL.

Strictly speaking, chapter 5 of *TMLI* is less a critique of self-ownership than an attempt to show that the libertarian commitment to it leads to a dilemma. Bird defines what he takes to be the basic libertarian commitment to self-ownership as follows:

On the one hand, [libertarians] have insisted...that individuals and their rights are inviolable in a way that prohibits their sacrifice in order to optimize aggregate welfare. On the other hand, they have insisted...that inviolable individuals inhabit a private sphere within which they are free to act just as they please in what concerns only themselves. Libertarians usually render this second claim as a commitment to individual self-ownership. The thesis of self-ownership allows libertarians to reject paternalism, for if we are our own proprietors, it must in the end be up to us how we decide to invest our selves, talents, and personal resources: attempts to force us to act in ways that outsiders judge to be in our best interests violate self-ownership (*TMLI*, p. 140).

The commitment to self-ownership, Bird argues, entails that

If their position is to be fully consistent, libertarians must assume that individuals are comprehensive self-owners. That is, they must maintain that there is no part or aspect of the self and its capacities that is unowned or unownable by that same self. The self is, on this view, fully owned by itself. According to this view, there is no part or aspect of

the self's own activity over which others are entitled to make authoritative decisions (*TMLI*, p. 143).

Following Bird, let's call this latter commitment *comprehensive self-ownership*. Comprehensive self-ownership, Bird argues, leads libertarianism to the following dilemma, which corresponds to the "Kantian" and "Millian" strains within libertarianism.

Kantian horn of the dilemma. Suppose that we're comprehensive self-owners because we have some special attribute that gives us that status. Call this attribute *X*. In other words, since *X* (and only *X*) justifies comprehensive self-ownership, all and only *X*-possessors are comprehensive self-owners. It's clear that whatever *X* is, it justifies a form of obligation that binds others in a very stringent way. If I'm a comprehensive self-owner because I have *X*, then you are strictly obliged to respect my comprehensive self-ownership, merely because I have *X*.

The problem, however, is this: if *you* must respect my comprehensive self-ownership merely because I have *X*, doesn't *my having X* give *me* obligations in virtue of possessing it? After all, what "*X*" stands for is some equivalent of "human dignity." But if *you* are bound to respect my moral status because I have human dignity, why shouldn't *I* have special obligations to myself in virtue of that very fact? If *X* justifies obligations for *others*, in other words, there is no reason why it shouldn't justify obligations for its *possessor*. If so, comprehensive self-ownership entails stringent duties, not only to others, but to oneself. But stringent duties to oneself are at odds with libertarianism, which tells us that we can do with ourselves as we please. Hence the Kantian version of libertarianism is incoherent.

Millian horn of the dilemma. Suppose that instead of being self-owners in virtue of possessing *X*, we say instead that each of us ought to be granted a right of self-ownership because doing so will give us all a sphere of private action in which we can act as we please, and pursue our projects as we please—which, in turn, will maximize preference-satisfaction.

Assume, however, that the conditions for securing these private spheres of action *conflict* with one another. If so, we face the possibility of what Nozick called a "utilitarianism of rights": we may (sometimes) have to violate some persons' self-ownership rights to secure the self-ownership rights of others. At that point, however, it would become clear that the self-ownership of those whose rights were violated was not comprehensive; it would be less-than-comprehensive. But *ex hypothesi*, libertarianism requires comprehensive self-ownership. Thus Millian libertarianism is incoherent.

Unsurprisingly, I think Bird's supposed dilemma fails as applied to neo-Aristotelianism. The basic reason for its failure is Bird's failure to acknowledge that the neo-Aristotelian argument is neither reducible to a Kantian nor a Millian one. It's a fundamentally different argument—and a different kind of argument—and it can't without distortion be forced into categories defined by Kant or Mill.

Consider the Kantian horn of the dilemma. Putting aside the generally misleading nature of the Kantian language to describe a neo-Aristotelian argument, the simple fact is that stringent obligations to oneself hardly constitute a problem for a neo-Aristotelian view. Obligations to oneself are literally the whole *point* of the Aristotelian ethic: each of us, it tells us, has the moral obligation to strive to make the best possible life for ourselves. “Rights”—the neo-Aristotelian adds—identify the permissible boundaries of our strivings. It’s precisely the self-regarding aim of moral perfection on this view that underwrites our inviolability as persons.

Bird seems to suggest that a moral perfectionist ethic of this type must necessarily lead to coercive paternalism. But that’s precisely wrong: neo-ALs have always stressed that it’s the *perfectionism* of the Aristotelian ethic that vitiates arguments for coercive paternalism. Recall my earlier claim to the effect that the *least* coercion of an agent is incompatible with the *best* life for that agent. What this says is that the best life is best promoted by allowing the agent to live it in a fully voluntary manner. Stated in this way, the claim admits that paternalistic coercion can do an agent *some* good in *some* circumstances. What it insists on, however, is that non-coercion is lexically prior to coercion: when voluntary action is a possibility, an agent’s life is always better *without* coercion; paternalistic action without the agent’s consent can only be justified if the agent is incapable of voluntary action. Consider two cases.

Case 1: Suppose I’ve just been hit by a car, and am lying unconscious in the street. Someone calls the paramedics without my consent. The paramedics give me first aid without consent, and take me to the local hospital without my consent. The emergency room doctors then stabilize me without my consent. In this case, my survival has been promoted by actions that bypass my consent and qualify as involuntary paternalism. Nonetheless, such paternalism is entirely justified, since the only *possible* route to survival in this case is one that requires someone’s acting on my behalf: there is no physically possible way of my voluntarily choosing to call an ambulance if I’m unconscious. Once the conditions of voluntary action have been restored, however, the choice to receive or reject treatment is mine, even to the point of rejecting it, leaving the hospital, and immediately dropping dead on the street.

Case 2: Suppose I’m a thorough morally reprobate, but shrewd enough to know not to initiate force against anyone. I am, let’s say, a non-coercive sexist, racist, anti-gay bigot, liar, spendthrift, pimp, alcoholic, drug abuser (and dealer), avid consumer of hard-core pornography, and torturer of (unowned) animals. Coercing me into virtue could indeed do me *some* good: I might, under a rigorous regime of moral reform undertaken by highly devoted social workers, eventually learn to respect women and minorities, stop lying, balance my checkbook, quit drinking and doing drugs, stop pimping, cancel my subscription to *Hustler*, and stop torturing animals. (Then again, I might not.) But in forcing me to do the good, the social workers deprive me of the possibility of initiating the process of self-discovery and reform for myself, and thereby impose on me

what is at best a merely second-best life. That second-best life might be better than the life the I ultimately end up leading if left to my own devices, but it cannot in principle be better than the life I *could have* led if left alone. A commitment to moral perfection entails leaving the best life open, rather than foreclosing it by coercive means in the name of the merely satisfactory. Unless we are talking about a literal psychopath (and *ex hypothesi*, we're not), even the lowest moral reprobate has the volitional freedom to change his own ways, if only by asking others for help.²⁸ If an agent *can* reform himself, perfectionist justice requires leaving him politically free to do so.

Let's move now to the Millian horn of the dilemma. The assumption from which this horn proceeds is the idea that we should have a sphere within which "to do as we please." But as we've seen from the preceding, there is no such sphere in a neo-Aristotelian moral conception; everything we do is determined by the requirements of our flourishing. So the Millian horn of the dilemma fails.

Nor is there any genuine problem concerning "the utilitarianism of rights" on an Aristotelian view. The idea of a utilitarianism of rights comes from Nozick's discussion of rights in *Anarchy, State, and Utopia*. Nozick begins by considering conceptions of moral obligation that assume that moral concerns "can function only as moral goals" by contrast with views that assume that moral concerns function as "side-constraints" on goals.²⁹ Goal-oriented views, he continues, take moral obligations to be "productive of the greatest good, with all goals built into the good." The obvious example of such a view is Utilitarianism, and this is the theory Nozick explicitly discusses. In the context of this discussion, Nozick asks us to imagine a Utilitarian theory that endorses rights. Such a theory, Nozick suggests, will aim to maximize the good in an aggregative sense. If it endorses rights, it will regard rights-violations to undermine utility. But rights-violations in a Utilitarian theory would only undermine utility quantitatively: rights would enjoy no *a priori* priority to any other value or principle. If so, the best that Utilitarianism could do in the way of rights-protection would be to defend a conception "some condition about minimizing the total (weighted) amount of violations of rights," which would be "built into the desirable end state" posited by the theory.

If this is correct, Nozick argues, such a theory will entail a "utilitarianism of rights" in which some rights will have to be violated in order to maximize utility. Utilitarian end states only justify *minimizing* rights violations, not absolutely proscribing them. But such a view of rights is incompatible with the demands of comprehensive self-ownership, which requires an absolute proscription on violations of self-ownership, not their mere minimization.

Nozick's argument, though widely accepted, is based on a false alternative. It's true that there is a class of normative theories that sees moral concerns as equivalent to moral goals. It doesn't follow from that fact—nor is it true—that all such theories are Utilitarian, that they are aggregative, or that they require conditions minimizing the total weighted amount of violations of moral principles.

The obvious alternative to Utilitarianism in this respect is ethical egoism. Because egoism is an agent-relative theory, it's incompatible with Utilitarianism, it's not aggregative, and it does not involve maximizing cardinal welfare orderings. Instead, an Aristotelian egoist sees his own flourishing as his fundamental moral concern, and his fundamental goal. Because justice is a component of that goal, and rights protect the conditions of just action, the goal itself requires a stringent conception of rights for its realization. As an egoist qua egoist, I need stringent rights in order to be protected from those who might violate me; but because my interest as a rational agent lies in dealing with the virtues and strengths of others (i.e., their reason), I need *them* to be protected from those who might violate *them* as well. In other words, I have no stake in violating the rights of others, and I have a strong stake in ensuring that the rights of *others* are not violated, either.

What a society of egoists needs, then, is a system of *stringent* rights—not a utilitarianism of rights. Egoists seek mutual advantage, but a system that merely minimized rights-violations would be less effective at protecting the mutual advantage than one that put rights-violations altogether off-limits. The alleged problem of a “utilitarianism of rights” would therefore not arise on an egoistic view

I conclude, then, that Bird's argument against self-ownership, like his other arguments, fails.

Conclusion

In criticizing Bird so heavily for his treatment of neo-Aristotelianism, I don't want to leave a generally negative impression of the book. In fact, *TMLI* is a remarkable, ingenious, and provocative book. Bird generally writes well, has an encyclopedic knowledge of (most of) the literature he discusses, and knows how to argue. His discussions of classical authors (especially Kant and Rousseau) is excellent, and many of his criticisms of contemporary writers hit their mark. What he doesn't do, however, is to offer a single significant criticism of neo-Aristotelian libertarianism.

To his credit, Bird concedes that it is conceivable for libertarians to devise a theory, which combines something like self-ownership with strong rights to liberty. But as he himself puts it, “I do claim that such a theory would have to be of a radically new sort: it could not be based on an effort to combine the historical traditions of thought which have put these ideas into circulation” (*TMLI*, 165, cf. 182, 191). That is admirably and precisely expressed. I would only reply that I think that Ayn Rand's Objectivism is that theory, and that neo-Aristotelian libertarianism is a worthy runner-up. *TMLI* touches neither.

Though I don't think Bird's criticisms of neo-AL hit the mark, I do think they should leave neo-Aristotelians with something to think about—namely, the propriety of using the label “libertarianism” to describe a neo-Aristotelian theory. Both Rasmussen-Den Uyl and Machan accept the label to describe their theories; only Machan explains why he accepts it, and the explanation he gives is a rather unconvincing appeal to common usage.³⁰ Bird's book, however, gives us a good illustration of what is wrong

with the term “libertarian” as applied to neo-Aristotelianism. If neo-Aristotelianism is really as different from other libertarian theories as I’ve suggested it is—and it had better be!—it makes no sense to subsume “neo-Aristotelianism” under the heading of “libertarianism.” The use of the latter term misleads us into thinking that neo-Aristotelianism shares common premises with other forms of libertarianism, when it clearly does not. It also suggests, in highly unAristotelian fashion, that radically different theories, based on incommensurable premises, can somehow be subsumed as species under a common genus. But that makes no sense. If Bird is right, the Aristotelian argument for a free society is a radically novel argument of a historically unprecedented sort—not a reversion to an older, established tradition or a set of recognizable premises. If so, it needs a name of its own; we do it a disservice by giving it less than the name it deserves.³¹

Notes:

1. Ayn Rand, " 'Extremism,' or the Art of Smearing," p. 176 in *Capitalism: The Unknown Ideal*, (New York: Signet Books, 1967).
2. It's odd that Bird decides to discuss the term's connotation instead of its denotation. Semantically and conceptually, denotation is more fundamental to a term than connotation.
3. See, e.g., Greg Pence, "Virtue Theory," (essay 21) and Charles Pigden, "Naturalism," (essay 37) in *A Companion to Ethics*, (Malden, MA: Blackwell Publishers, 1993), edited by Peter Singer.
4. Douglas Rasmussen and Douglas Den Uyl, *Liberty and Nature: An Aristotelian Defense of Liberal Order*, (La Salle, IL: Open Court Press, 1991), p. 32.
5. Douglas Den Uyl, "The Right to Welfare and the Virtue of Charity," pp. 205-6 in *Altruism*, (Cambridge, UK: Cambridge University Press, 1993), edited by Ellen Frankel Paul, Fred D. Miller, and Jeffrey Paul. Den Uyl mentions *Nicomachean Ethics* V.11 with respect to justice; on charity and friendship, see *Nicomachean Ethics* IX.4-9.
6. Tibor Machan, *Human Rights and Human Liberties: A Radical Reconsideration of the American Political Tradition*, (Chicago, IL: Nelson Hall, 1975); *Individuals and Their Rights*, (La Salle, IL: Open Court Press, 1989); *Classical Individualism: The Supreme Importance of Each Individual* (New York: Routledge, 1998). See also "Recent Work in Ethical Egoism," *American Philosophical Quarterly*, vol. 16 (January 1979).
7. For egoism in *Liberty and Nature* see the discussion of flourishing in chapters 1 and 2, and the discussion of self-love and friendship in chapter 5. See also Douglas Rasmussen, "Perfectionism," in *The Encyclopedia of Applied Ethics* (San Diego: Academic Press, 1997), edited by Ruth Chadwick; and Rasmussen, "Human Flourishing and the Appeal to Human Nature," in *Human Flourishing*, (Cambridge, UK: Cambridge University Press, 1999). See also note 4 and references cited in Den Uyl's article.
8. Cf. David Kelley, "Life, Liberty, and Property," *Social Philosophy and Policy*, vol. 1 (1984), p. 115; Tibor Machan, *Classical Individualism*, p. 164.
9. Kelley, "Life, Liberty, and Property," p. 109.
10. The *locus classicus* is John Locke's discussion in his *First Treatise of Government*, I.41-2. See also Ayn Rand, "The Ethics of Emergencies," ch. 4 in *The Virtue of Selfishness: A New Concept of Egoism*, (New York: Signet Books, 1964); Tara Smith, *Moral Rights and Political Freedom*, (Lanham, MD: Rowman and Littlefield, 1995), pp. 112-116; Rasmussen-Den Uyl, *Liberty and Nature*, pp. 144-15. Tibor Machan, *Human Rights and Human Liberties*, pp. 213-222, *Individuals and Their Rights*, pp. 105-9; *Generosity: Virtue in Civil Society*, (Washington, DC: Cato Institute, 1998), pp. 62-66.
I should emphasize that these are different arguments to similar conclusions, not identical arguments to the same one. Further, on my classification, Rasmussen-Den Uyl and Machan are neo-AL theorists; Rand, Smith, and Locke are not.
11. Note that in such cases, the result is not an augmentation of liberty. If, in an emergency, I violate your liberties, *your* liberty is decreased—but my liberty is *not increased*. In this case, I simply have no choice but to decrease your liberty to save (not my liberty but) *my* life.
12. The definition draws on Rand's; see "The Ethics of Emergencies," p. 54.
13. Note that *both* differentiae are necessary conditions of something's being an emergency. Wars threaten life but aren't random; misfortune can be random, but rarely brings the danger of death. Neither wars nor misfortune as such are emergencies. There are of course complicated borderline cases. All of these would require separate analysis.
Crises provide an interesting contrast to emergencies. As an example of a private crisis, Tibor Machan gives the example of one's car breaking down in the middle of an unfamiliar neighborhood (*Individuals and Their Rights*, p. 108). I agree with Machan's analysis of the case: this can't be an emergency because there's no significantly increased probability of death in the situation; the probability of death is probably *lower* if one isn't driving than if one is. Even someone on her way to an important job interview could not claim to be in an "emergency" in the sense discussed in the text, however frustrating her circumstances. The stakes in such a case are simply not high enough to qualify as an emergency.
As examples of public crises, consider the nation's "health care crisis" or the "crisis of America's inner cities." These are ongoing, dysfunctional states of public affairs, not emergencies. Public crises, in this sense, are typically if not invariably due to long-term and intentional departures from neo-AL principles. Emergencies, by contrast, are temporary and unplanned events due to relatively random factors.
14. The view I defend entails that if I somehow damage the homeowner's property while escaping from the dog (e.g., break the fence, trample the bushes), it's morally justifiable for me to ignore the issue of damage *during* the attack, but obligatory for me to send the homeowner a check for the damage afterwards. The mere fact that I did the damage "during an emergency" doesn't absolve me from liability for the damage. After all, the emergent nature of the attack doesn't imply that I *didn't* violate the homeowner's rights; it only implies that I *had* to, because something more important was at stake (my body). But that "something" is no longer at stake when I get safely home. (It goes without saying that the situation is fundamentally different if the homeowners *own* the dog!)
I thank Beau Bratton and Gregory Salmieri for useful discussions of this issue, and also thank "Rocky," the German shepherd who made it all so vivid for me.

15. Cf. Machan, *Classical Individualism*, p. 122.
16. Ayn Rand, "The Objectivist Ethics," in *The Virtue of Selfishness*, p. 15.
17. Richard Kraut, "Aristotelianism and Libertarianism," *Critical Review*, vol. 11:3 (Summer 1997), pp. 369-70.
18. See Aristotle, *Nicomachean Ethics*, 1111a20-23. What is fully voluntary has its origin most fully "in the agent in himself," i.e., in his own deliberations about what to do.
19. Tara Smith, *Moral Rights and Political Freedom*, p. 107.
20. Perhaps the single clearest occurrence is *Nicomachean Ethics*, 1170a20. The Greek runs: *to de zen ton kath' auto agathon kai hedeon—horismenon gar, to d' horismenon tes t'agathou phuseos*, which I would translate, "for life is a good and pleasant thing as such—and bounded, for boundedness is the nature of the good." Aristotle's theory of the mean may also be seen as a theory of "internal boundaries."
21. Rasmussen-Den Uyl, *Liberty and Nature*, p. xiv.
22. Machan, *Classical Individualism*, p. 175 (and p. 224n.18), citing Eduard Zeller's *Aristotle and the Earlier Peripatetics*, trans. B.F.C. Costelloe and J.H. Muirhead, (London: Oxford University Press, 1897).
23. Fred D. Miller, *Nature, Justice, and Rights in Aristotle's Politics*, (Oxford: Oxford University Press, 1995), p. 214, and generally, ch. 6.
24. Roderick T. Long, "Aristotle's Conception of Freedom," *Review of Metaphysics*, vol. 49:4 (June 1996).
25. For a start, see Terence Irwin, *Aristotle's First Principles*, (Oxford: Clarendon Press, 1988), and Fred D. Miller Jr., *Nature, Justice, and Rights in Aristotle's Politics*, cited above.
26. This is the whole point of ch. 4 of *Liberty and Nature*. See especially p. 137.
27. For further discussion, see Tara Smith, *Viable Values: A Study of Life as the Root and Reward of Morality*, (Lanham, MD: Rowman and Littlefield, 2000).
28. For a dramatic illustration of this point, see the PBS POV documentary, "Blink," by Elizabeth Thompson, on the moral (quasi) rehabilitation of the white supremacist Greg Withrow (July 18, 2000): <http://www.pbs.org/pov/pov2000/blink.html>. As the documentary makes clear, a person can voluntarily bind himself to moral strictures more severe than those that prevail in a prison. As the documentary also makes clear, there are no guarantees in moral rehabilitation, whether of a voluntary or involuntary nature.
29. Robert Nozick, *Anarchy, State, and Utopia*, (New York: Basic Books, 1974), p. 28-9. All further references to Nozick in the text are to these pages.
30. Machan, *Individuals and Their Rights*, p. xiii. To be fair, Rasmussen-Den Uyl generally avoid the term "libertarianism," but not consistently.
31. I think my argument here successfully responds to the challenge issued in Roderick T. Long's "Toward a Libertarian Theory of Class," p. 321n.28 in *Problems of Market Liberalism*, (Cambridge, UK: Cambridge University Press, 1998), edited by Ellen Frankel Paul, Fred D. Miller Jr. and Jeffrey Paul.