Get Real

Douglas J. Den Uyl

Liberty Fund, Inc.

Douglas B. Rasmussen

St. John's University

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Universals, Abstraction, and Natures

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

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[6]*TRT*, p. 188.

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

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

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

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

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

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

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

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

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

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

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

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

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

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[12]Ayn Rand, *Introduction to Objectivist Epistemology: Expanded Second Edition*, ed. Harry Binswanger and Leonard Peikoff (New York: Meridian, 1990), p. 307), hereinafter referred to as *IOE*.

[13]Ibid., p. 2. Rand also states that the moderate realist tradition holds that the referents of concepts are metaphysical essences and that these are "universals" inherent in things—that is, "special existents unrelated to man's consciousness." Ibid., p. 53.

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

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

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

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[14]David Kelley, "Concepts and Natures: A Commentary on *The Realist Turn*," p. 15.

[15]Gregory Salmieri, "Aristotle's Conception of Universality," September 2012, pp. 52-53 (emphasis added), <https://www.academia.edu/1069932/Aristotles_Conception_of_Universality>.

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

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

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

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

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[16]We are not in this essay primarily concerned with Rand's own view of universals and abstraction. To the extent we do consider her, it is in regard to both how similar her views are to the account of moderate realism we describe in *TRT* and how her views could benefit from being understood in those terms.
[17]See *IOE*, p. 139.
[18]Aquinas, *On Being and Essence*, 2nd ed. rev., trans. Armand Maurer (Toronto, Canada: The Pontifical Institute of Mediaeval Studies, 1968), pp. 47–48.
[19]Aquinas, *Summa Contra Gentiles*, II, Question 76, our translation.

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

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[20]Joseph Owens, "Common Nature: A Point of Comparison Between Thomistic and Scotistic Metaphysics," *Mediaeval Studies* 19 (1957): 1-14.
[21]E. A. Moody, *The Logic of William of Ockham* (New York: Russell & Russell, 1965), first published in 1935.
[22]Douglas B. Rasmussen, "Quine and Aristotelian Essentialism," *The New Scholasticism* 58.3 (Summer 1984): 316-335.
[23]See H. W. B. Joseph, *An Introduction to Logic* 2nd ed. (Oxford: Clarendon Press, 1916), pp. 107-110; and Edward Black, "Aristotle's 'Essentialism' and Quine's Cycling Mathematician," *The Monist* 52 (1968): 288-297.
[24]For example, see Robert Pasnau's *Thomas Aquinas on Human Nature* (Cambridge University Press, 2002) where Aquinas is accused of conflating facts about the content of thought with facts about the form of thought (p. 315). Pasnau's accusation is based in part on his stance regarding Aquinas's view of common nature, which conflicts with Joseph Owens's view that Aquinas holds that a common nature has existence within a particular only insofar as it is identical to that particular (p. 449 n2). Indeed, Pasnau's

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Socrates is a man.

Man is a universal.

Therefore, Socrates is a universal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

diaphanous model of human cognition; but whether or not that is so, then it is a claim that Rand embraces. She states, "If nothing exists, then there can be no consciousness: a consciousness with nothing to be conscious of is a contradiction in terms. A consciousness conscious of nothing but itself is a contradiction in terms: before it could identity itself as consciousness, it had to be conscious of something."[46] Consciousness is a faculty of individual human beings. It can exist and function only if it is already aware of something other than itself. It is fundamentally impossible for all the objects of human consciousness to be, in the last analysis, merely manifestations of that faculty. For consciousness to be what it is, it must ultimately be *of* or *about* something other than itself.[47] This seems to be an undeniable feature of cognitive realism, and it is crucial to the metaphysical realism that both we and Kelley champion.

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

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

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

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

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

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

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

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

2. Defending Metaphysical Realism

> The philosopher as such has . . . no reason whatever to assume a priori that his thought is the condition of being, and, consequently, he has no a priori obligation to make what he has to say about being depend on what he knows about his own thought.
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> —Étienne Gilson, *Methodical Realism*[55]

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

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

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

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

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

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[56]That is to say, with the views of W. V. O. Quine and Hilary Putnam.
[57]Eric Mack, "Liberalism's Problem and the Self-Directedness Meta-Norm," *Reason Papers* vol. 42, no. 1 (Summer 2021), p. 33, n7.
[58]We find Kelley's explanation of axiomatic truths and direct perceptual realism to be supportive of our view.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The State of Nature

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

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

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

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

—Rasmussen and Den Uyl, *TRT*[69]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[76]*NOL*, p. 273.

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

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

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

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

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

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

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

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

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

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

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

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

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

4. The State of Natures

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

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[78]*TRT*, p. 21.

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

—Aquinas, *Treatise on Law*[79]

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

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

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

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

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

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

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

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

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

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

126

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Second Nature

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

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

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

[88]*TPT*, p. 59.

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

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

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

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

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

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

[91]Aristotle, *Nicomachean Ethics*, II.4.1105a3—1105b1.

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

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

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

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

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

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

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

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

6. Conclusion

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

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

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

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

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[95]*LN*, p. 224.