

ARISTOTLE AND THE NATURAL RIGHTS TRADITION

FRED D. MILLER, JR

Bowling Green State University

John Hospers remarks that "we speak of 'natural rights' or 'human rights'—rights that human beings have 'because of their very nature as human beings': for example, the right to life, the right to liberty and the pursuit of happiness."¹ The theoretical origins of natural rights, which have an important place in Hospers' own political theory, may be traced through John Locke (1622-1704), Thomas Hobbes (1588-1679), Richard Hooker (1554-1600), Thomas Aquinas (1225-1274), Cicero (106-43 BC), and many others back to Aristotle (384-322 BC).² This paper is concerned specifically with Aristotle's place in this tradition. I contend, against many interpreters,³ that not only is Aristotle a proponent of natural rights, but that they play an important role in his political theory.⁴ The argument of this paper complements the arguments in some other recent works that Aristotle's teleological view of human nature and his ethical theory of *eudaimonia* (happiness or flourishing) can serve as a foundation for a theory of individual rights akin to Locke's.⁵

It is necessary, however, to enter a caveat regarding the distinction between theories of natural rights and the cluster of modern political theories which are variously characterized as "individualist," "libertarian," "classical liberal," "Enlightenment era," etc. John Hospers (like Ayn Rand, Robert Nozick, Tibor Machan, and others) uses a theory of natural rights as part of the foundation for a liberal theory. However, other modern liberal philosophers eschew natural rights in favor of utilitarianism or contractarianism as theoretical underpinnings. On the other hand, some natural rights philosophers argue for a more expansive and intrusive state than libertarians would accept. Thus, to ascribe a theory of natural rights to Aristotle is not equivalent to assimilating to him some variant of modern liberalism.⁶

TWO MODERN NATURAL RIGHTS THEORIES

In order to understand Aristotle's theory of natural rights and its implications for his own political theory, it will be helpful to use as foils two of the most influential modern theories of natural rights: the Hobbesian and the Lockean.

The Hobbesian Theory

For Hobbes, "The Right of Nature...is the Liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature; that is to say, of his own Life; and consequently, of doing any thing which in his own Judgement, and Reason, he shall conceive to be the aptest means thereunto" (I.14, p. 64)⁷. This right is contrasted with "a Law of Nature," which is "a Precept, or generall Rule, found out by Reason, by which a man is forbidden to do, that, which is destructive of his life, or taketh away the means of preserving the same; and to omit, that, by which he thinketh it may be best inconsistent." Hobbes maintains that "naturally every man has Right to every thing" by the following argument:

1. The condition of Man is a condition of Warre of every one against every one; in which case everyone is governed by his own Reason;
2. There is nothing he can make use of, that may not be a help unto him, in preserving his life against his enemyes;
3. It followeth, that in such a condition, every man has a Right to everything; even to one another's body.

It is clear from Hobbes' distinction between the notions of *right* and *law*, and from conclusion (3) above, that he takes "a right" to be "a privilege" (also called "a liberty-right") in the Hohfeldian sense, rather than "a claim-right."⁸ Because there are no duties between individuals in the Hobbesian state of nature, individuals cannot possess claim-rights which impose correlative duties upon other individuals; rather they possess only those rights which entail no duties to other individuals. For example, two persons in the state of nature have the right (are at liberty) to enslave (i.e. try to enslave) each other, but neither has the right (claim-right) against the other not to be enslaved.

Hobbes further reasons that "as long as this naturall Right of every man to everything endureth, there can be no security to any man, (how strong or wise soever he be,) of living out the time, which Nature ordinarily alloweth men to live." Hence, Hobbes derives his first two "Laws of Nature," which are understood as "precepts, or generall rules of reason" (I.14, pp. 64-65).

- (I) That every man, ought to endeavor Peace, as farre as he has hope

of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps, and advantages of Warre;

- (II) That a man be willing, when others are so too, as farre-forth, as for Peace, and defense of himselfe he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himselfe.

According to Hobbes when one lays down one's rights by transferring them to another, "then is he said to be OBLIGED or BOUND, not to hinder those, to whom such a Right is granted, or abandoned, from the benefit of it..." Consequently, from (II), argues Hobbes, "there followeth a Third; which is this,

- (III) That men performe their Covenants made: without which, Covenants are in vain, and but Empty words; and the Right of all men to all things remaining, we are still in the condition of Warre.

Hobbes' theory thus has the following features: In the state of nature, individuals are governed by laws of nature, which are rules of conduct imposing obligations, and individuals also possess rights. These natural rights, however, are unrestricted liberty-rights, and the obligations are purely self-regarding. The obligations are rules discoverable by reason which assert a causal connection between the ends of an agent and the forms of behavior necessary to attain that end. These must be obligations which will motivate a human being, and Hobbes' theory of motivation is materialistic, deterministic, and egoistic. Human beings are motivated purely by the passions, and, as in Hume, reason is "the slave of the passions." His ethical theory is fundamentally subjectivistic and relativistic: "good" and "evil" are defined in terms of one's desires (or, as philosophers now put it, subjective preferences) (I.6, p. 24). However, Hobbes also claims that "all men agree on this, that Peace is Good" (I.15, p. 80). He further holds that certain forms of cooperative behavior are causally necessary for the attainment of peace. Thus, reason may derive hypothetical obligations or "oughts" of the following form:

If x wants G , then x ought to do M .

In the present instance, G is peace, which Hobbes takes to be an instrumental good, common to all individuals and desirable in so far as it is necessary for self-preservation; and M is cooperative behavior, in the case of the second and third laws of nature, transferring rights and keeping covenants, which, when performed in conjunction with others' performance of the same, will help to effect the achievement of peace.⁹ Hobbes thus offers a contractarian theory of claim-rights, since the interpersonal obligations entailed by such rights result from contracts, and the obligations to keep these

contracts are derived by means of hypothetical imperatives (cp. II.21, p. 111). Strictly speaking, there are no natural claim-rights for Hobbes, only natural liberty-rights.

The Lockean Theory

Locke derives a more robust set of natural rights than Hobbes, including claim-rights which entail interpersonal duties:

The *State of Nature* has a Law of Nature to govern it, which obliges every one: And Reason, which is that Law, teaches all Mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his Life, Health, Liberty, or Possessions [II.6].¹⁰

The natural rights of individuals are in turn derived from the law of nature. For example, Locke infers from "the Fundamental Law of Nature, Man being to be preserved, as much as possible," that it is "reasonable and just I should have a Right to destroy that which threatens with Destruction" (III.16). Locke rejects Hobbes' identification of "the State of Nature" and "the State of War," and asserts that "Men living together according to reason, without a common Superior on Earth, with Authority to judge between them, is *properly the State of Nature*. But force, or a declared design of force upon the Person of another, where there is no common Superior on Earth to appeal to for relief, is *the State of War*" (III.19). Individuals form governments to safeguard their natural rights to "their lives, liberties, and estates" (IX.123). In political society, the law of nature continues to serve as what Robert Nozick would call a moral "side constraint" upon positive, written laws, "which are only so far right as they are founded on the Law of Nature, by which they are to be regulated and interpreted" (II.12).

Here Locke identifies "the Law of Nature" with "the Law of Reason" (cp. *First Treatise*, I.101), contending that "it is certain that there is such a Law, and that too, as intelligible and plain to a rational Creature, and Studier of that Law, as the positive Laws of Common-wealths, nay possibly plainer..." (*Second Treatise*, II.12. This confident statement is qualified in IX.124.) However, Locke's actual appeal to Reason relies upon an unargued theistic premise:

For Men being all the Workmanship of one Omnipotent, and infinitely wise Maker; All the Servants of one Sovereign Master, sent into the World by his order and about his business, they are his Property, whose Workmanship they are, made to last during his, not another's Pleasure.

From this premise he derives several conclusions: (1) Since God furnished humans with like faculties and made them to share "all in one Community of Nature," he did not establish any such subordination among humans which would authorize some to destroy

or consume others (in contrast, God did make the lower animals for the use of human beings). (2) Every human being "is bound to preserve himself, and not to quit his Station wilfully." (3) By the same reasoning, "when his own Preservation comes not to competition, ought he, as much as he can, to *preserve the rest of Mankind*, and may not unless it be to do Justice on an Offender, take away, or impair the life, or what tends to the Preservation of the Life, Liberty, Health, Limb or Goods of another" (II.6). In conclusion, Locke derives a more robust set of natural rights than Hobbes, which entail interpersonal obligations to respect the exercise of these rights, but this derivation relies upon an undefended theistic assumption: that human beings are the creatures and property of a divine craftsman, who has assigned to them duties, which are the source of their claim-rights and interpersonal obligations.

THE ARISTOTELIAN CONCEPTION OF NATURAL RIGHTS

Just as Locke bases individual natural rights on natural law, Aristotle, on my interpretation, makes similar use of the principle of natural justice (identified with natural law in the *Rhetoric*¹¹) as the foundation for natural rights. There is, however, a very important difference between Aristotle's treatment of natural justice in the *Ethics* and Locke's theory: Aristotle treats natural justice as part of, rather than prior to, political justice, which he defines as the justice which "is found among associates in a life aiming at self-sufficiency, who are free and either proportionately or numerically equal" (*NE* V.6.1134a26-28).¹²

The reason for this close connection between natural justice and political justice will become clearer in the sequel. But the import of this claim will be more evident if we take note of some important associations of the term "political," *politikon* for Aristotle, which are lost in English translations. (1) "Political" or *politikon* means "of or pertaining to the *polis*," i.e., the Greek city-state. Although *polis* is commonly rendered as "state" or as "city," these English words have misleading implications (particularly "state," with its suggestions of a modern nation-state with a bureaucratic structure and great resources for coercion). Again, neither English word captures the Greek term's normative implications of a comprehensive community (*koinonia*) which aims at the good life and self-sufficiency. Hence, I shall use the transliterated term "polis." (2) *Politeia* is variously rendered as "constitution" (by Jowett and most translators and commentators), "regime" (by Strauss, seeking to avoid the legalistic connotation of "constitution"), and "political system" (by Irwin). Each of these translations, in fact, captures an aspect of Aristotle's idea of *politeia*, which comprehends the governing structure or organization and the way of life of the polis, as well as, more concretely, the regime or government (*politeuma*). (3) The "political" is also associated with the *polites* or "citizen" (fortunately, there is consensus on how to translate

this term), who is defined as someone who has the right or liberty (*exousia*) to participate in the offices of the *polis* as determined by the *politeia* (cf. *Politics* III.1.1275b17-21; IV.1.1289a5-18).

If natural justice is one part of political justice, the other part is conventional or legal (*nomikon*). The latter is defined as "what originally makes no difference [whether it is done] one way or another, but makes a difference whenever people have laid down the rule— e.g. that a mina is the price of a ransom, or that a goat rather than two sheep should be sacrificed..." (1134b20-22). Aristotle recognizes that there are many areas in which the particular character of justice must be determined by means of agreement among those who establish the laws. To this extent, he would agree with contractarian theorists who argue that where parties have no objective basis for arriving at a rational decision, they must reach a decision by means of mutual agreement.¹³ Nevertheless, Aristotle criticizes the claim that political justice is merely conventional, and he concludes his discussion with the important claim that only one constitution is according to nature the best everywhere (1135a5). This clearly implies that he regards natural justice as a standard by which different constitutions can be evaluated and compared on a normative scale as better or worse.

Aristotle distinguishes different specific forms of justice, each of which has political applications. Distributive justice or proportionate equality is explicitly connected with the evaluation of different constitutions as ways of distributing political authority (V.4.1131a25-29). Corrective justice is a way of restoring deviations from just distributions which have resulted from involuntary transfers and is applied in the judicial part of the constitution (cf. V.5.1132a6-7). And commutative justice or proportionate reciprocity, which governs voluntary exchanges among members of a community, is said to preserve the *polis* (V.5.1132b33-34; cp. *Pol.* II.1261a30).

Distributive justice has an especially important place in Aristotle's analysis and evaluation of constitutions. The constitution of a *polis* embodies a specific conception of distributive justice and of the ends of human life: "a regime (*politeia*) is an arrangement in cities (*polises*) connected with the offices, [establishing] the manner in which they have been distributed, what the authoritative element of the regime is, and what the end of the partnership is in each case" (IV.1.1289a15-18).¹⁴ According to Aristotle's principle of distributive justice, more meritorious persons should receive greater rewards, in proportion to their greater merit. For example, if x contributes twice as much to a business venture as y , then x should receive twice as much of the profits. The result of applying this principle is *tadikaia*, the set of "just claims" or claim-rights of the individuals subject to the principle. Aristotle applies this same principle to the assignment of political rights or *tapolitika dikaia* (cf. III.12.1282b29). There is a dispute over the correct standard of merit or desert in this context: "everyone

agrees that what is just in distributions must fit some sort of worth, but what they call worth is not the same; supporters of democracy say it is free citizenship, some supporters of oligarchy say it is wealth, others good birth, while supporters of aristocracy say it is virtue" (*NE* V.3.1131a25). Aristotle's own position is that moral virtue and what this implies and requires are the relevant criteria for assigning political rights.

According to Aristotle's analysis, the principle of distributive justice may justify a system of equal natural rights:

...persons similar by nature must necessarily have the same right and merit according to nature; and so if it is harmful for their bodies if unequal persons have equal sustenance and clothing, so also in what pertains to honors, and similarly therefore if equal persons have what is unequal. [*Pol.* III.16.1287a10-16]¹⁵

This passage describes an argument which Aristotle attributes to "some," but he restates the crucial premise without reservation at III.17.1287b41-1288a5): "From what has been said, at any rate, it is evident that among similar and equal persons it is neither advantageous nor just for one person to have authority over all..."

Aristotle recognizes—indeed, he emphasizes—that his principle of natural justice could be used to justify an absolute kingship as the best constitution, given the assumption that there is someone who is so superior in virtue to the other members of the polis as to be "like a god among human beings" (III.13.1284a10-11; IV.2.1289a39-b1). However, in book VII he rejects the assumption that there could be people who are "as different from the others as we believe gods and heroes differ from human beings." Even for the polis of our prayers, he reasons, "since this is not easy to assume, it is evident that for many reasons it is necessary for all in similar fashion to participate in ruling and being ruled in turn. For equality is the same thing for persons who are similar, and it is difficult for a regime to last if its constitution is contrary to justice" (*Pol.* VII.14.1332b23-29).¹⁶ In the best polis, all of the members who can share in the best life will be citizens and all the citizens will have equal political rights.

The theory of natural justice also underlies the classification of constitutions into correct and deviant forms (*Pol.* III.7). Correct constitutions rest upon natural justice and govern with a view to the common advantage (*to koinē sumpheron*). A deviant constitution contravenes the principle of justice and common advantage, and violates the rights of the citizens: "Any monarchy must necessarily be a tyranny...if it rules in unchallenged fashion over persons who are all similar or better, and with a view to its own advantage and not that of the ruled. Hence [it is rule over persons who are] unwilling; for no free person would willingly tolerate this sort of rule" (*Pol.* IV.10. 1295a19-23; cp. V.10.1313a3-10). It is noteworthy (though not

often noted), that Aristotle here recognizes that unjust rule involves coercion, because naturally free people are unwilling to have their rights violated. A constitution conforms to natural justice only if it is voluntary and has "the consent of the governed."

THE ARISTOTELIAN DERIVATION OF NATURAL RIGHTS

The Aristotelian derivation of natural rights differs from that of both Hobbes and Locke in that it is ultimately grounded in his teleological view of human nature. According to Aristotle, a teleological explanation includes the final cause, "the end or that for the sake of which a thing is done," e.g. when a person takes a walk for the sake of health. Aristotle uses such explanations throughout his natural treatises, especially, the biological works, to understand sexual reproduction, presence and structure of various organs, and specific physical and psychological processes within organisms like breathing, sleeping, hearing, and thinking. His ethical and political writings draw upon his teleological view of human nature at various crucial places. For example, his well-known analysis of flourishing or happiness, the ultimate end of human action, turns on the claim that a human being, in contrast to other species of life, has a special function (NE I.7.1097b34; cp. "special parts" at EE II.1.1219b38). The *Politics* defines happiness as "the actualization and complete practice of virtue" (*energeian kai chresin aretes teleian*, VII.13.1332a9). This closely parallels the definition of the *Eudemian Ethics*: "the actualization of a complete life expressing complete virtue" (*zoes teleias energeia kat' areten teleian*, II.1.1219a38-39). Aristotle gives a complete analysis of virtue, distinguishing moral virtue from intellectual virtue, and distinguishing theoretical and practical parts of the latter. In the *Eudemian Ethics*, the actualization of all of these sorts of virtue or excellence are constituents of happiness or the ultimate human end.¹⁷ The account of the ultimate good in the *Nicomachean Ethics* is more controversial, but the most plausible interpretation is that study or theoretical activity is the supreme part of the human natural end: "what is proper to each thing's nature is supremely best and pleasantest for it; and hence for a human being the life expressing understanding (*nous*) will be supremely best and pleasantest, if understanding above all is the human being. This life, then, will also be happiest" (X.7.1178a4-8). Yet the other life is happiness in a secondary sense, because it also realizes a natural human end: "In so far as he is a human being, however, and [hence] lives together with a number of other human beings, he chooses to do the actions expressing virtue" (8.1178b5-6). He makes similar arguments that the virtue of friendship realizes natural human ends (cf. NE IX.9 and EE VII.12). Finally, a crucial argument for the claim that the polis exists by nature is that it is necessary in order to realize human natural ends (*Pol.* I.2.1252b30-1253a1).

Natural justice, which was seen in the previous section to be the source for Aristotelian natural rights, is also based in his teleological view of human nature. This is implied by his argument in *NE* V.7 that the existence of natural justice is compatible with variation, when it employs an analogy between natural justice and the natural superiority of the right hand.¹⁸ The teleological basis of justice is also indicated by the arguments of the *Politics*, most notably I.2 and III.6. In I.2, as was mentioned above, Aristotle argues that the polis exists by nature because human beings realize their natural ends in the polis: "while coming into being for the sake of living, [the polis] exists for the sake of living well" (1252b29-30). The theory of natural human ends is also presupposed in his argument that human beings are political animals: nature makes nothing in vain, and human beings are the only animals endowed by nature with *logos* (speech or reason). Human speech serves to reveal the advantageous and the harmful, and hence also the just and the unjust; and the partnership or community in these things makes a household and city (1253a7-18). Aristotle further argues that because human beings cannot realize their natural ends apart from the polis, the legislator is the greatest of benefactors.

For just as man is the best of the animals when completed (*teleothis*), when separated from law and adjudication (*dike*) he is the worst of all. For injustice is harshest when it is furnished with arms; and man is born naturally possessing arms for [the use] prudence and virtue which are nevertheless very susceptible to being used for their opposites. This is why, without virtue, he is the most unholy and the most savage [of animals], and the worst with regard to sex and food. [The virtue of] justice (*dikaiosune*) is a thing belonging to the city (*politikon*). For adjudication is an arrangement of the political partnership, and adjudication is judgment as to what is just [1253a31-39].

This argument makes it clear that justice, understood as a part of the political, is something which human beings must have in order to fulfill their natures. Aristotle restates this argument using the notion of the common advantage (*to koine sumpheron*) in III.6:

It was said in our initial discourses...that man is by nature a political animal. Hence [men] strive to live together even when they have no need of assistance from one another, though it is also the case that the common advantage brings them together, to the extent that it falls to each to live finely. It is this above all, then, which is the end for all both in common and separately... [1278b17-24].

Aristotle is arguing here that the polis is needed in order for individual human beings to attain their natural ends of life and happiness. And in order to realize their natural ends, the polis must be arranged or organized in accordance with justice or the common advantage. Accordingly, nature, which "does nothing in vain," endows us with

a capacity to speak of advantage and justice and with the impulse to live in communities. Justice or the common advantage is the principle which recognizes the claim of *each* of the members of the polis to realize their natural ends as far as they are able (cp. III.6.1279a17-21). Hence, "the common advantage" for Aristotle refers to the *mutual* advantage of each individual, rather than the overall or general advantage, *a la* utilitarianism.

In order to see how the natural rights which follow from Aristotelian natural justice entail interpersonal obligations, we need to see how obligations generally are derived in Aristotle. Aristotelian obligations resemble Hobbesian obligations in so far as they are hypothetical in character. That is, they have the general form: "If *G* is *x*'s goal, then *x* ought to do *M* [as a means to *G*]." However, Aristotelian obligations or "oughts" differ from Hobbesian in that they are conditional upon the individuals' *objective* natural ends rather than their *subjective* preferences. Aristotle provides examples of these "objective hypothetical oughts" and their enactments in *De Motu* 7: e.g. "I need a covering, a coat is a covering: I need a coat. What I need I ought to make, I need a coat: I make a coat." The examples of making a coat or building a house illustrate also the manner in which human deliberation, choice, and action contribute to the fulfillment of natural ends. Aristotle's teleology includes a notion of hypothetical necessity. *X* "must" have *M* in the hypothetical sense when the following conditional statement is true: "if *x* is to realize its natural end *E*, then *x* must have *M* [as a means to *E*]." When Aristotle says that "nature does nothing in vain," he means that when nature provides living things with something (e.g. hair on the human head), it is providing them with something which is hypothetically necessary (hair is needed to protect the head from excess of heat or cold). But nature does not always provide human beings with what they need in order to realize their natural ends. When nature fails, human beings must employ their capacities of deliberation and choice in order to find out what they need to attain their natural ends, as is illustrated by the examples of making a coat or building a house (cp. *Pol.* VII.17.1337a1-3). This provides the ground for obligation in practical reasoning. When doing *M* is necessary for individuals to achieve their ends and it is open to their decision, they have an objective hypothetical obligation to do *M*.

The Aristotelian derivation of natural rights differs from the natural rights theories of Hobbes and Locke not only in presupposing a teleological theory of natural ends, but also in proceeding from the premise that human beings are political animals, in the sense that they require a specific social context in order to realize their natural ends. Hobbes objects to this premise, appealing to his observations of human behavior: human beings are continually in competition for honor and dignity; they distinguish between their own good and the common good and naturally seek the former; they use their reason to question the existing order; they use their voice to misrepresent

good and evil; and when they are at their ease, they use their wisdom to try to overthrow legal authorities (*Lev.* II.17, pp. 86-87; cp. *De Cive*, Pref., 10; I.2). Aristotle is not ignorant of such facts; indeed, he calls attention to them frequently in *Politics* IV-VI. But he does not see them as undermining his claim that human beings are social animals. Hobbes, in contrast, regards these facts as refuting Aristotle's claim, because he conjoins them with other philosophical theses: the thesis of value subjectivism, that good and evil are the objects of our subjective desires and aversions; the thesis of narrow psychological egoism (cf. *Lev.* I.14, p. 69); and the thesis, shared with Hume, that reason is not a primary motivating force, but merely an instrument or "slave of the passions." Aristotle rejects all of these theses. He maintains the thesis of value objectivism, that good and evil are defined with reference to our natural ends, specifically, the activity of higher human capacities. These capacities are discoverable by means of rational inquiry and may not be the object of a person's strongest desires. And although Aristotle holds that people have a natural desire of self-love, he also argues that human beings can fully realize their natural ends only in a social context based upon justice, virtue, and friendship. And he believes that reason by identifying the means to human natural ends can motivate human beings to act accordingly.

In conclusion, the basis for the Aristotelian derivation involves the following premises:

1. Human beings ought to carry out those actions which are necessary for their natural ends, viz. life and happiness.
2. Human beings are political animals; i.e. they can realize these natural ends only by participating fully in a specific community, namely, the polis.
3. Participating fully in the polis requires acting according to the principles of justice or the common advantage.
4. The principles of justice or common advantage assign rights protecting the advantage of each of the participants.

It follows that individual human beings, in order to realize their natural ends, ought to participate in a polis, a cooperative social arrangement in which they respect one another's rights. Citizens ought to treat their fellow citizens justly, and those in authority ought to govern the polis with a view to the advantage of the ruled and of themselves only incidentally (i.e. in so far as they are citizens). This also provides the basis for distinguishing between correct and deviant constitutions. Constitutions are correct (deviant) to the extent that they do (do not) respect the natural rights of the members of the polis.

CONTRASTS WITH MODERN NATURAL RIGHTS THEORIES

Although Aristotle criticizes the more extreme features of Plato's political ideal, such as communism and the dissolution of the family,

his own political theory contains a number of authoritarian features in comparison with modern liberalism.¹⁹ Nevertheless, Aristotle's undeniable illiberal tendencies are due not to a denial of natural rights, but to other parts of his political theory. Three of the most important differences, as I shall now argue, concern his view of equality, or freedom and liberty, and of the relation of the individual to the polis.

Equality

Modern liberals maintain that natural rights belong to all human beings equally. (Earlier liberals confined these natural rights to self-ownership, rights to own and transfer property, and rights against coercion by others, whereas later liberals have emphasized instead rights to welfare provided by others and certain civil liberties.) A conspicuous point of difference from modern liberalism is his explicit rejection of the claim all human beings have equal rights by nature. Thus, Aristotle defends the institution of slavery on the grounds that some persons are natural slaves (*Pol.* I.4-7). He argues that the master-slave relation exemplifies a natural relation of ruler and ruled. Hence, natural slaves may be justly treated as property of naturally free persons. Similarly, he contends that "the relation of male to female is by nature a relation of superior to inferior and ruler to ruled" (I.5.1254b13-16). Hence, although women are nominally citizens (cf. I.13; III.2), they should not have the rights to political participation which Aristotle takes to be definitive of citizens (cf. III.1).

Although such inegalitarian claims surely reveal an illiberal side to Aristotle's thought, they are not inconsistent with a natural rights interpretation. For Aristotle agrees that slavery would be unjust if it rested on force rather than on a difference in nature (*Pol.* I.3.1253b20-24). Such a criticism is sometimes justified, for example, when Greeks are enslaved by other Greeks. But he argues that slavery is not unjust or contrary to nature when it involves a natural slave, who "participates in reason only to the extent of perceiving it, but does not have it" (I.5.1254b22-23). Lacking the rational faculty, specifically, calculation and deliberation, the slave is naturally dependent upon others for guidance. Because of this natural dependence, Aristotle claims that slavery is a mutually advantageous relationship: it benefits the slave as well as the master (I.6). Similar claims are advanced regarding the dependence of women and children: "The slave is wholly lacking the deliberative element; the female has it but it lacks authority; the child has it but it is incomplete" (I.13.1260a12-14).

However, as remarked in section 3, Aristotle also argues from his theory of natural justice that those who are equal and similar by nature should have equal rights and share in "political rule," and should not be subject to despotic rule. Modern natural rights theorists may be understood as extending this argument of Aristotle's to all

human beings. To wit, Locke argues for natural equality of all human beings in the state of nature along these very lines: "...there being nothing more evident, than that Creatures of the same species and rank promiscuously born to all the same advantages of Nature, and the use of the same faculties, should also be equal one amongst another without Subordination and Subjection..." (II.4). Locke thus accepts the principle of natural justice but rejects Aristotle's claim that human beings differ significantly in the natural capacities. In this he follows Hobbes, who also argues for the natural equality of human beings in the state of nature. The crux of Hobbes' argument against Aristotle is that all human beings possess the capacity of deliberation: "For Prudence, is but Experience; which equall time, equally bestowes on all men, in those things they equally apply themselves unto" (*Lev.* I.13, pp. 60-61). Hobbes' argument shows that the anti-egalitarian features of Aristotle's theory are the result of an unfortunate misapplication of his theory of natural rights, not of the lack of such a theory.

Freedom and Liberty

A second point of difference between Aristotle and modern liberals concerns their emphasis upon freedom or liberty. Aristotle does not altogether disvalue freedom (*eleutheria*) or liberty (*exousia*), for he reckons them as external goods needed for the exercise of moral virtue and, hence, for attaining the good life (*NE* X.8.1178a33). Further, political justice presupposes that the parties are free and equal persons (V.6.1134a25-28). Also, as noted in section 3, Aristotle thinks it a mark of the correct constitution that the citizens give their consent to the rulers. Nevertheless, Aristotle is a trimmer on the subject of liberty. He tends to regard it as only an external good and not as essential to the good life. Here he seems to have been influenced by Socrates' arguments that freedom and liberty, like other external goods, can be possessed in excess, which can both impede the good life and jeopardize the constitution (cf. *Pol.* V.12.1316b21-27). "Freedom" was a catchword for Greek democrats, who, Aristotle says, defined it as "living as one wants" (VI.2.1317b11-13; V.9.1310a31-32). (It should be noted that these democrats did not add the limitation "so long as one does not trespass upon the equal rights of others.") Aristotle objects against this conception of freedom on the grounds that it is inimical to a life of moral virtue and leads to the violation of the rights of others, e.g. to the confiscation of the property of the wealthy by the democratic majority. This is a point on which Locke consciously separates himself from Aristotle and Robert Filmer. Locke rejects Filmer's definition as "a Liberty for everyone to do what he lists, to live as he pleases, and not to be tyed by any Laws," and contends instead that freedom must be understood as subject to law, either civil law or natural law. Hence, freedom, for Locke, is "Liberty to follow my own Will in all things, where the Rule prescribes not; and not to be subject to the inconstant, uncertain, unknown, Arbitrary

Will of another Man. As Freedom of Nature is to be under no other restraint but the Law of Nature" (IV.22). Locke thus takes the crucial step beyond Aristotle of seeing natural rights as providing a sphere of liberty for the individual right-holder.

The Individual and the Polis

Aristotle also differs from Hobbes and Locke in his claims that human beings are political animals and that natural justice is part of political justice. These claims are based on his view that human beings flourish and realize their natural ends only if they participate in the polis. It is not obvious that these claims are incompatible with a liberal theory of politics. However, when Aristotle makes the stronger claims that the polis exists by nature and that the polis is prior to the individual, he is advancing positions which are fundamentally at odds with liberalism.²⁰ For these doctrines imply that the polis is a natural entity rather than a human artifact, and that the individual is morally subordinate to the polis. Aristotle seems to accept such implications when he argues in support of a public system of education that "one ought not even consider that a citizen belongs to himself, but rather that all belong to the city [polis]; for each individual is a part of the city [polis]" (VIII.1.1337a27-29). Aristotle thinks that the priority principle justifies the ruler in using coercion against the members of the polis, for example, to habituate them to become morally virtuous. This is to be sure an illiberal inference. However, Aristotle does not agree with Socrates in Plato's *Republic* (and he would not agree with Hegel) that the polis is a "social organism," whose natural end is distinct from and irreducible to the happiness of its individual members; indeed, he repudiates such a view, asserting instead that the polis can be judged to be happy and virtuous only if all of its individual citizens are happy and virtuous (cf. II.5.1264b15-22; VII.9.1329a23-24). Hence, the point of the claim that the polis is prior to the individual is to assert that individuals can realize their ends only as parts of the polis and that they should be subordinate to the moral authority of the polis and its rulers. The point is not to deny that they have a natural right to realize their ends and to flourish within the polis.²¹

Aristotle's doctrine that the polis is prior to the individual as well as his views on equality and liberty account for many of the authoritarian features of his political theory. They help us to understand why his theory of natural rights did not lead him in a more liberal direction. But they do not show that he does not have a theory of natural rights. On the contrary, he has every right to be regarded as a founder of this tradition.²²

1. John Hospers, *Libertarianism: A Political Philosophy for Tomorrow* (Los Angeles: Nash, 1971), p. 50.
2. For evidence of this ancestry see Tibor R. Machan, *Human Rights and Human Liberties* (Chicago: Nelson-Hall, 1975); John Finnis, *Natural Rights and Natural Law* (Oxford: Clarendon Press, 1980); and Henry Veatch, *Natural Rights: Fact or Fiction?* (Baton Rouge, LA: Louisiana State University Press, 1985).
3. See, most notably, Alasdair MacIntyre, *After Virtue* (Notre Dame University Press, 1981), who denies that there is even a term in ancient Greek closely translated by "a right"; and Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953), who finds a fundamental dichotomy between classic natural rights (or natural law doctrine) and modern natural rights (the natural rights theory from Hobbes and Locke).
4. I have developed this line of interpretation in a series of conference papers: "Are There Any Rights in Aristotle?" (Society for Ancient Greek Philosophy [SAGP], October, 1984), "Aristotle and Natural Rights" (American Association for the Philosophic Study of Society [AAPSS]/American Philosophical Association [APA], December, 1984), "Aristotle on Property Rights" (SAGP/APA, March, 1985), "Political Rights in Aristotle's Best Polis" (SAGP, October, 1986), "Political Rights in Aristotle's Polity" (AAPSS/APA, March 1987), and "Aristotle on Nature, Law and Justice" (University of Dayton Conference on Aristotle, November, 1987). These papers have been more concerned with close *exegesis* of Aristotle's texts than the present essay, which is interested in comparisons and contrasts with Hobbes and Locke as modern natural rights theorists.
5. Two essays which argue that Lockean conclusions can be supported by Aristotelian premises are Tibor Machan, "An Aristotelian Foundation for Natural Rights?" *This World* 11 (Spring/Summer, 1985): 83-87; and Douglas Rasmussen, "Conceptions of the Common Good and the Natural Right to Liberty," in Rocco Porreco (ed.), *The Georgetown Symposium on Ethics: Essays in Honor of Henry Babcock Veatch* (University Press of America, 1984), Henry Veatch, *op. cit.* and David L. Norton, *Personal Destinies* (Princeton University Press, 1976), also draw upon Aristotle's ethics in making a case for basically individualistic, albeit non-Lockean, theories. See also Jack Wheeler, "Rand and Aristotle: A Comparison of Objectivist and Aristotelian Ethics," in Douglas J. Den Uyl and Douglas B. Rasmussen (eds.), *The Philosophic Thought of Ayn Rand* (University of Illinois Press, 1984), which compares the ethical theory underlying Rand's theory of rights with Aristotle's.
6. I have benefitted from John Gray's *Liberalism* (University of Minnesota Press, 1985), which discusses the relationship between the natural rights tradition and modern liberal theories.
7. Thomas Hobbes, *Leviathan*, ed. C.B. Macpherson (Penguin, 1980). References to Hobbes are to book, chapter, and page (1651 edition) of this work, unless otherwise indicated.
8. In Hohfeld's sense, x has a "claim-right" against y to a state of affairs s if and only if y has a duty to x to bring about s . In contrast, x has a "liberty-right" or a "privilege" against y to s if and only if x has no duty to y to bring about not- s .
9. I have benefitted from the interpretation of Jean Hampton, *Hobbes and the Social Contract Tradition* (Cambridge University Press, 1986), pp. 42-57.
10. John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge University Press, 1963). References to Locke are to chapter and paragraph of the *Second Treatise*, unless otherwise indicated.
11. Aristotle's treatment of natural law in the *Rhetoric*, *Magna Moralia*, and *Nicomachean Ethics* raise difficulties of interpretation which space does not permit me to discuss here. The main problem is that the *Rhetoric* seems to endorse a popular, theistic notion of natural law, similar to Locke's, which is inconsistent with the concept of natural justice developed in *Magna Moralia* and *Nicomachean Ethics*. I argue that Aristotle seeks

to accommodate the popular notion of natural law as far as possible in his own concept of natural justice, which is grounded in his teleological theory rather than in theistic dogma, in "Aristotle on Nature, Law and Justice" (cf. n. 6 *supra*).

12. Aristotle, *Nicomachean Ethics*, trans. T. H. Irwin (Hackett, 1985). Translations from *NE* are from Irwin.

13. This may be why he appears partially to agree that "the law itself as a whole is a sort of agreement" (*Rhet.* I.15.1376b10). But note the counter-argument at 1376b23-26 as well as the arguments of *Pol.* I.6 and III.9, where he rejects thorough-going contractarian theories of justice.

14. Aristotle, *Politics*, trans. Carnes Lord (University of Chicago, 1984). I follow Lord's translation except for the passages mentioned in the following notes.

15. *Pace* Lord I take *auto* and *auten* to be attributive rather than predicative in the phrase *to auto dikhaion...kai ten auten axian*. The phrase refers to a substantive claim-right possessed by equal and similar persons.

16. I follow the MSS. and Dreizehnter, Ross, and Newman, rather than Lord, who inserts *toi dikhaioti after tauton*.

17. Cf. John Cooper, *Reason and Human Good in Aristotle* (Cambridge MA: Harvard University Press, 1975), pp. 116-119.

18. I examine the teleological explanation of right-handedness in Aristotle's biological treatises in "Aristotle on Nature, Law, and Justice" (cf. n. 6 *supra*).

19. Cp. John Gray, *op. cit.*, p.3.

20. This point is rightly stressed by Strauss, *op. cit.*, p. 183.

21. Cf. David Keyt, "Three Fundamental Theorems in Aristotle's *Politics*," *Phronesis* 32 (1986), 54-79. Keyt argues that "The polis exists by nature" and "The polis is by nature prior to the individual" do not follow from Aristotle's premises and, in fact, are inconsistent with other Aristotelian tenets. He characterizes these claims as a "blunder" at the beginning of the *Politics*. These doctrines also help to account for the anti-liberal features of Aristotle's thought which I discuss in "The State and the Community in Aristotle's *Politics*," *Reason Papers* 1 (1974): 62-69.

22. I am grateful to A. G. N. Flew for pointing out several deficiencies in the previous draft.