

REPLY TO CRITICS

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We would like to thank Fred Miller for organizing the session on our book for the American Association for the Philosophic Study of Society (AAPSS) in conjunction with the Eastern Division meeting of the American Philosophical Association (December 1992). Special thanks are due the three commentators—Martin Golding, Russell Hittinger, and Eric Mack—who read their criticisms at the session and who have been gracious in allowing their remarks to be included here; two other individuals—Henry Veatch and Jeffrey Paul—were kind enough to offer criticisms which have been added to this volume but which were not part of the original AAPSS session. We hope that our responses to their insightful comments will do them some measure of justice.

Martin Golding notes in his comments that he will focus on what is at the heart of our book, namely our derivation of natural rights. While this is certainly what Professor Golding does in his comments, it seems to us that he really offers *two* main topics of criticism. Although the two topics are not unconnected, the one that occupies roughly the first half of the commentary deals mostly with ethics, while the second half of the commentary is more directly on rights.

The first issue centers around the distinction between desire and right desire, which is itself introduced by Gewirth's worry that an Aristotelian ethics cannot provide sufficient guidance in determining what is or is not

consistent with "human nature." But Golding seems to be making a point that is the opposite of Gewirth's. For Golding, Aristotle *can* distinguish between desire and right desire because he has a substantive theory of human nature. We, on the other hand, given our commitment to pluralism and individualism, end up with a "minimalist Aristotle" that is in danger of being unable to distinguish desire from right desire. In this connection it is not always clear to us whether Golding fully appreciates the inclusive-versus dominant-end controversy over these questions. He seems to take the contemplative life as the standard by which all lives should be measured in Aristotle. But this dominant-end interpretation runs counter to the inclusive-end treatment we give Aristotle in the book. But of course, in saying that Aristotle has an inclusive-end theory, we might be doing no more, from Golding's perspective, than simply pushing Gewirth's problem back onto Aristotle instead of ourselves; so let us deal with the matter as it applies to our work.

The first thing to be aware of is that the distinction between desire and right desire is not directly relevant to the question of rights. As we conceive of rights, they are not designed either to discriminate between desire and right desire or to promote the latter over the former. Instead, rights outline for us the social conditions which are necessary to protect such conduct *when and if* any given individual chooses to act on right desire or chooses to be "autonomous" in some fuller and more self-actualizing sense of the term. There is then no *direct* connection between actions based on right desire and actions to which one has a right.

Golding wants to treat autonomy or self-directedness as one good among a possible set of goods, which one might want more or less of depending on one's life plans and circumstances. One might, for example, trade a little autonomy for more health by letting the AMA determine the extent to which one is allowed to smoke. While there are undoubtedly ways of understanding self-directedness or autonomy in this one-good-among-many fashion, this does not represent our own conception. When we say that autonomy is a necessary condition for flourishing, we do not mean that it is the first good one must acquire before one can acquire other goods; rather, for any good to become a constituent part of our eudaimonia it must be chosen by us. In this sense, "autonomy" or self-directed action is the condition through which any good becomes a *good for me* and thus a constituent part of *my* eudaimonia. It is not something that can be traded off for other goods, because for me to see those goods *as* goods I must incorporate them into my nexus of goods by some act of choice. This is what it means for value to be agent-relative. Yet, almost paradoxically, this setting for the agent relativity of value means we do not have to "know how autonomy stacks up . . . in a variety of possible concrete pictures of eudaimonia." In the concrete, self-directedness would transform an "abstract" good to a good *for some concrete person*. "Autonomy" under-

stood in this way can be identified independently of anyone's particular form of eudaimonia, because it is through self-directedness that particularization itself occurs.

At this juncture it might be tempting to point to lives where "autonomy" has been restricted and yet eudaimonia apparently achieved. It could be argued that some people may need more "paternalism" in their lives than others to achieve their well-being. There are a number of points to be made about this sort of concern. The first, and one Golding himself makes, is that noticing this about people does not go very far in determining what rights people might have. Secondly, from our perspective ethical theory is not in a good position to predict a priori which acts of paternalism will lead to the desired end (and to what extent). Not only does our commitment to individualism and pluralism tell against such predictions, but so does the central role prudential judgment must play in ethical conduct. It is not that paternalistic generalizations have no utility, but rather that they should be treated as just that—generalizations about a possible means to an end and not a constituent part of an individual's flourishing. Finally, paternalism is a factor in an individual's flourishing only if that individual incorporates its effects, methods, or object into his or her nexus of values by some self-directed act. We reject what might be called "church ethics" whereby if one just does the right things bliss will come whether one wants it to or not.

Golding is quite right to recognize that for us the transition to rights is integrally bound up with self-directedness. He is also correct to notice that some of his own work on rights appears in a pivotal place in our discussion of this issue and has greatly helped us clarify our own conception of rights. This may have led him, and perhaps other readers as well, into thinking that our approach is fundamentally like his own. There are, however, important differences. In the first place, the problem of rights for us would not be framed in terms of whether one person should concede to another a rights claim. Such an approach is fundamentally contractarian and therefore not particularly suited to an Aristotelian orientation. We are bound to conceive of rights not within a system of competing claims, but with respect to the obligation of self-perfection. The contractarian approach seems to push one either in the direction of expressing rights in terms of universal agreement or in the direction of seeing rights as a function of some objective or genuine good. The former makes no direct appeal to self-perfection and can therefore be rejected. The latter, however, appears compatible with an Aristotelian approach.

While appeals to genuine or objective goods may be quite consistent with some versions of Aristotelianism, it does not exactly represent our own way of dealing with the issue of rights. The point is not to find a genuine good which both (all) claimants would have some reason to recognize as a right, but rather to ask what the purpose of rights might be in

the first place. Since the Aristotelian framework already presupposes a commitment to and recognition of the social character of individuals, it is not the purpose of rights to create sociality by arbitrating potential disputes among claimants. That is, again, the contractarian way. Instead, one must discern the role rights should play in conditions of social life where flourishing is understood to be individualized and pluralistic. What one is looking for then is not one possible genuine good among others upon which to hang a theory of rights, but rather a good or principle that both looks to the obligation of self-perfection and meets certain other conditions, such as having some real theoretical work to do and being of a form that respects the pluralistic and individualized nature of self-perfection. The central problem here, and thus the central condition to be met, is to find a principle that not only looks to self-perfection but also can be characterized as truly universal—universal not just with respect to persons in general but with respect to *each and every act* that may become a part of their flourishing. And to assure that some modes of flourishing are not given antecedent preference over others, the principle chosen must also not give an institutional bias to certain forms of flourishing. It is our contention that only self-directedness or autonomy as described earlier meets these stringent conditions.

If the problem were really as Golding suggests—namely, one of choosing one or more appropriate genuine goods from among a possible list of such goods—then he would be correct in claiming that whatever one chooses is just as likely to support positive rights as negative ones. In other words, if, in Rawlsian fashion, we had to select from among a list of primary goods which ones would ground basic rights, then some of those goods are as likely to call for positive action as they are forbearance. Hence, autonomy, respect, food, and wealth might all be among the candidates for our allegiance in living the good life and in providing standards for proper moral conduct. But what if, as we are arguing, rights function instead to provide the necessary constraints upon social interaction that create the conditions so that the pursuit of these primary goods might be undertaken? Viewed in this way, it is irrelevant to note that primary good X is needed for P's (or anyone else's) flourishing, because rights are not norms which help define the terms of appropriate conduct, but rather *meta-norms* which define the conditions under which pursuit of any of those goods will take place. Again, it is not *any* "genuine good" that will keep this distinction sharp, but rather one whose own content is supplied in the concrete by the pursuit of particular ends while being in the abstract neutral with respect to various forms of flourishing. Such is the nature of self-directedness.

Russell Hittinger sees *Liberty and Nature (LN)* as an attempt to articulate a perfectionistic liberalism. He is sympathetic toward such an

attempt but dubious of whether a natural right to liberty can indeed be of any ethical use to political theory. Before responding to Professor Hittinger's doubts, however, it should be made clear just what we take the function of the natural right to liberty to be. This right is not primarily of use in directly adjudicating a particular legal case, which must indeed involve considerations of culture and circumstance; rather, its purpose is the establishment of a certain political context in a society. As we say throughout *LN* (85, 112-13, 205-6), rights provide guidance in the creation, interpretation, and justification of a polity's constitution. This is part of what we mean by calling rights meta-normative principles.

For brevity's sake, we will confine our reply to what seem to be Hittinger's three main reasons for doubting the usefulness of the natural right to liberty:

1. Hittinger is worried that our argument for the natural right to liberty is nothing other than a faculty argument decorated in Aristotelian clothing, meaning, we take it, an argument based on a natural power of human beings but not on what is naturally appropriate, good, or right for human beings. And if this is so, our argument cannot establish the natural right to liberty as a "claim-right"—a right which provides the normative basis for a legally imposed obligation not to use persons for purposes they have not chosen. The natural right to liberty would instead be essentially amoral, and, as Hittinger notes, "from the fact that a person has the capacity for agency, nothing can be drawn for showing the moral ground of an individual's duty." Such an amoral right (that is, mere power) would provide no normative basis for differentiating between legitimate and illegitimate governmental power.

We can only say here that we agree with Hittinger. Such an argument would indeed be inadequate, but this is not our argument. We specifically state that our argument for the natural right to liberty is based on an understanding of the human telos and not merely the natural powers possessed by human beings in some state of nature (*LN*, 80). We thus do not wish to deny a connection between politics and ethics, but we do not wish to identify the two either.

2. It is our understanding of the human telos that is also a basis for Hittinger's doubts about the usefulness of the natural right to liberty. Regarding our conception of the telos, there seem to be two questions raised by Hittinger: (a) What is it that makes autonomy or self-directedness valuable? and (b) Is the self-perfection of the individual human being truly the ultimate moral purpose according to a natural-end ethics?

Regarding (a), Hittinger seems to hold that autonomy or self-directedness is valuable only if it is directed at the human good—that is, Hittinger conceptualizes self-direction as an instrumental value external to the nature of human flourishing. In our theory, however, the moral value of self-direction itself is not based on its being a mere means to the human

good, but is due to the very character of the human good or telos. The value of self-direction results from the fact that self-direction as such pertains to the very essence of human flourishing.

According to our theory, human flourishing is the ultimate end and is not sought for the sake of anything else, because it is an end constituted by activities which are themselves final ends. Human flourishing is an inclusive end. Thus, it is possible for some activity (e.g., maintaining one's integrity or pursuing a friendship) to be done for its own sake and still be expressive of the overall end (human flourishing) of which it is a constituent. The central activity which unites and integrates the activities of human flourishing into a coherent whole for each individual is rationality. There is no activity, among those activities that constitute human flourishing, that does not involve the exercise of reason or intelligence. Rationality is not a single activity but is expressed in the use of the virtues which constitute and make possible the achievement, enjoyment, and coherent integration of the goods that an individual human life requires. Thus, rational or intelligent living is the unique excellence or *arete* for an individual. However, since human reason or intelligence is not something which functions automatically, but requires effort on the individual's part (to both initiate and maintain), self-direction is not merely an external means to human flourishing. Rather, it is the central, necessary feature of the telos which must be present in any activity that is a constituent of the telos.

Hearing this reply, Hittinger might respond that this still does not make a difference to his objection; because, when we get down to fundamentals, "morality does not require us to justify the fact that human beings act freely, but rather whether such and such an act has moral rectitude." Such a response would, however, miss its mark. First, self-directedness (or autonomy) and human reason (or intelligence) are not in our theory two separate faculties, but distinct aspects of the same conscious act. The act of exercising reason, of using one's intellectual capacity, is not for us something automatic.¹ It is something that the individual human being needs to initiate and maintain and is of fundamental moral importance. If a person does not exercise his reason, there will be nothing for which he is responsible. Nothing will be right or wrong for him, and he will live as an amoral being. Because of this failure, he will remain unfulfilled; his life will not be a good one. In a profound way, his life will not really be his. This is why we say that "[b]efore ever addressing questions of what someone should think, how someone should act, or what they should do, we know that human beings ought to use their minds, act on their own judgments" (*LN*, 94). Of course, we readily acknowledge that even the admission of the ultimate importance of self-directedness to the very nature of human flourishing is not sufficient for morally judging the rectitude of a person's act. In fact, we explicitly note that the fundamental value of thinking and living for yourself can only be seen in abstraction from its object or any consider-

ation of circumstance. The issue of exercising one's reason is always embedded in some issue or object and is seldom faced abstractly, but the abstract point about the fundamental value of self-direction is crucial. It shows the importance of individual effort to what some assume "naturally" takes place, and brings us to the second reason why this possible response by Hittinger misses its mark. The value of self-directedness is for us not primarily of use when dealing with issues of normative ethics—that is, in answering such questions as "What is my ultimate good?" and "What ought I to do?" Rather, the value of self-directedness is primarily of use when it comes to dealing with issues that concern the ethical character of the basic political context in which individuals try to fashion morally worthwhile lives for themselves. The role of the value of self-directedness in our argument for the natural right to liberty will be noted shortly.

Regarding question (b), Hittinger remains to be convinced that the ultimate moral purpose of a natural-end ethics is the self-perfection of the individual human being. He mentions our individualistic premise in his oral comments and remarks in a note that this emphasis on the individual is disputable and that it should be acknowledged that individuals pursue social ends that are of intrinsic value. By way of response, we can only say that *LN* is from beginning to end an argument for the political implications of a natural-end ethics in which the human telos is not a Platonic *eidōs*. There is no flourishing of "human being," but only of individual human beings. However, since the telos of an individual human being is on our account an inclusive end, and thus can be constituted by ends that are valuable in their own right, our view does not reduce to an egoism in which everything else is valuable only as a means to individual well-being. Our discussion in *LN* of the intrinsic value of character-friendships and the virtues—not to mention the many values that exist because of the social and political character of human beings—makes it clear that it is possible for many things to be valued for their own sake and still claim that the ultimate moral purpose of a natural-end ethics is the self-perfection of an individual human being.

3. The political importance of these issues can, perhaps, be more clearly seen if we consider Hittinger's third reason for being dubious about the political usefulness of the natural right to liberty. In response to our claim that there is a difference between normative and meta-normative principles, Hittinger asks, "How can anyone be obligated to respect the choices of persons if one does not know whether these choices are worthy of respect?" He notes that morality is after all a matter of discovering what the good is and choosing to do it, and this cannot be determined without greater ontological and moral specificity. So rights are necessarily too clumsy to handle questions about what determines the moral authority of a polity's constitution.

Hittinger's dismissal of the importance of the normative/meta-norma-

tive distinction actually begs the question. Must all ethical principles of a natural-end ethics function only as guides to individuals in their pursuit of self-perfection in some concrete situation where knowledge of the specifics is crucial? Could it not be that the nature of human flourishing is such that there might need to be principles which are concerned with protecting the condition for the possibility of achieving self-perfection interpersonally? And could the nature of human flourishing tell us something about what such a condition is and give us guidance regarding the essential character of its protection? Each of these questions is addressed in *LN*, but we can only provide summary answers here:

a. Human flourishing is individualized not only in the sense that it is not some Platonic form but also in the sense that it only becomes real, achieves determinacy, when an individual's unique talents, potentialities, and circumstances are considered. In other words, there are individuating features to human flourishing that are neither included in nor implied by an abstract consideration of human flourishing, and these are crucial in determining what an individual ought to do. Yet this implies that the virtues and goods that constitute human flourishing are not concretely the same for all human beings, that their determinate form varies, and indeed that it must vary to the extent that human beings are individuals. Thus, ethical principles whose function is to provide guidance to the individual on how to achieve fulfillment can only be useful if an individual employs (not in a recipe-like manner) practical reason to determine just what the appropriate course of action in the concrete case is. Thus, we agree with Hittinger that rights are not very useful ethical principles in providing an individual guidance in how to conduct his or her life—be it alone or in the company of others.

b. However, the individualized character of human flourishing creates a need for another type of ethical principle once we realize that human flourishing is only achieved with and among others. We are social beings, not in the Hobbesian sense of merely needing others to get where we want to go because we are powerless on our own, but in the sense that our very maturation as human beings requires others. Indeed, a significant part of our potentialities is other-oriented. If this is true, however, there is a difficulty. If one person's particular form of flourishing is different from another's and may even conflict, and if persons can prevent others from being self-directed, then certain interpersonal standards need to be adopted if individuals are to flourish in their diverse ways among others. There needs to be an ethical principle whose function is not primarily that of guiding a person to self-perfection, but that of providing a standard for interpersonal conduct which favors no particular form of self-perfection while at the same time providing a context for diverse forms of self-perfection to be achieved. Such a principle provides a context by protecting that which is necessary to the possibility of each and every person flourishing,

regardless of what determinate form the virtues and human goods of flourishing take in their lives. Thus, it is very important that there be such a thing as a meta-normative principle.

c. Given what we have already said about our conception of human flourishing and the central, necessary role that self-directedness plays in this conception, self-directedness is that feature of human flourishing that everyone must first have protected in the concrete case if they are to flourish, and it is the only such feature. A principle that provides for the protection of the self-directedness of persons will not favor any particular form of flourishing, but will still allow the possibility that everyone can flourish.

d. The condition that must be present in society if people are to have any possibility of being self-directed is that they not be used for purposes they have not chosen. The meta-normative principle that protects this condition is the natural right to liberty. A polity whose constitution is based on such a principle will provide the legal context that protects the possibility of self-direction; and while this does not guarantee that people will be self-directed, much less conduct their lives in self-perfecting ways, it does provide a connection between—though not an identification of—the ethical and the political that is both necessary and sufficient to keep our argument from falling outside the pale of ethics.

In his opening remarks, Eric Mack worries about whether he has a correct understanding of our argument. It shall not be our contention that Professor Mack has exactly misunderstood our position so much as that he has filtered it through his own conceptions of ethics and political theory. In doing this, Mack ends up with the sort of dilemma that applies more to his own approach than to ours.

Mack seems committed to what Den Uyl in *The Virtue of Prudence* labels “moral dualism.” The hint of this comes in the last line of his initial comments, where we are told that not all of ethics can be explained in terms of obligations to self. This suggests that ethics has two distinct and separable theoretical modes: (1) a theoretical foundation that looks to the activities, development, projects, or flourishing of the individual, and (2) obligations directed toward interpersonal relations. While there might be norms implied by the first category which say something about our conduct toward others, not all interpersonal norms can be reduced to that first category. Some must have strictly interpersonal roots. The most important of such interpersonal principles are rights.

It was probably Henry Sidgwick at the end of the *Methods of Ethics* who first identified the dichotomous character of modern practical reason. He was nevertheless reluctant to accept it. Mack, in contrast, embraces it. There is no reason, so the story goes, that the moral landscape cannot have two quite independent, but equally necessary, sources of moral obligation. All efforts to reduce one to the other have and will fail, so the best option

is to give up moral unitarianism altogether. Yet moral dualism seems to us to have problems quite analogous to dualism in mind/body relations. Do the two sources of obligation interact or affect each other, and if so how? Is one superior to the other, and can one make such an evaluation without begging all sorts of basic questions? How do we determine which obligations are covered by which source? Are there areas of overlap? These questions, and the problems they raise, suggest to us that moral dualism is inherently unstable. We have sought, therefore, to avoid it.

It would be a mistake, however, to suppose that some of the reasons Mack may have for adopting moral dualism are not also reasons we have for offering the kind of theory we do. In both cases, for example, there is a desire to develop a theory of rights which does not commit the theorist to agent neutralism or impersonalism, at least in all areas of ethics. In addition, our politics are quite similar. We both seek to find some way in which Lockean rights can be given some support by our respective approaches to ethics. Yet for Mack, rights have a central—if not *the* central—role to play in ethics. For us, in contrast, rights are not central to ethics at all. Indeed, their relationship to normative ethics is quite derivative. As we have repeatedly said: to make a rights claim is *not* to make an ethical judgment in any ordinary sense of “ethical judgment.” Rather, what one is doing is making a “meta-normative” judgment—a judgment which, although ethical, is not descriptive of anyone’s particular good or any obligations one may directly have toward oneself or others as a function of the requirements of flourishing. The intuitive idea here, and perhaps the very one that leads Mack to moral dualism, is that rights-respecting conduct does little to further one’s self-perfection. But now the distinction between “normative and meta-normative” may make it look like we share Mack’s moral dualism and thus that we too will have as much trouble explaining the relationship between norms and meta-norms as Mack does with respect to his two sources of obligation. Unlike moral dualism, however, we believe that there *is* a linking principle shared by rights theory and ethics both. That principle is, of course, self-directedness.

Having made our point in the abstract, let us further elaborate by looking at some of the specifics of Mack’s criticism. The essence of that criticism is to suggest that our theory of rights is two-pronged, but the success of each prong comes at the expense of the other. One obvious way out would be to adopt moral dualism, which would give each prong its own inner logic, and thus neither would succeed at the expense of the other. Another possibility is to make the two prongs one. Mack asserts that this is the strategy we will try to take. We will, in other words, try to reduce the “social expression” argument to the “obligation to self” argument. This attempt, Mack claims, will fail. Indeed it will, for that would be Henry Veatch’s argument—one that Mack notices we reject but somehow misses the point of that rejection. We cannot, however, adopt the “social expres-

sion" argument (as Mack seems to want us to) because that would make the Aristotelian ethic irrelevant with respect to the establishment of rights.

To solve the problem, we must recognize that although moral dualism may provide distinct sources of obligation, it does nothing to counteract the notion that all ethical principles are of the same type, with variations coming only through degrees of obligatoriness. With the understanding that ethical principles are not all of a piece, the "social expression" argument does not have to succeed at the expense of the "obligation to self" argument, because the norms in question are of different logical types. In other words, we will not have to end up trying to reduce the "social expression" argument to the "obligation to self" argument, because the principles that specify a person's rights are not directly aimed at specifying a person's flourishing.

Although there is a *single* source of obligation for both rights (meta-normative principles) and normative ethics—namely, the obligation of self-perfection—it does not follow that all ethical principles need to relate to that source in univocal fashion.² It is not a requirement of saying that principle X is grounded in the obligation of self-perfection, that therefore X must make some direct contribution to promoting self-perfection. It may just be, as we claim is the case with rights, that the obligation associated with X is a function of self-perfection seen in a particular context—a context which in some way helps define the sort of norms appropriate to it and which varies the character of those norms vis-à-vis other sorts of norms.

Consider, in this connection, Mack's claim that on the one hand we want to make rights "prior to their correlative duties," while on the other hand we want all duties to be a function of their contribution to an individual's flourishing. This won't square, we are told, because it is contradictory to claim that some duties are prior to all duties while being themselves dependent on prior duties. But of course the point is that rights are "prior to their correlative duties" as political principles, not absolutely. And the obligation to self-perfection which is absolutely prior to rights is not by itself sufficient to determine the nature of those rights. Because the two sorts of principles do different kinds of work, they are not comparable at the same level and thus not in conflict.

Part of the confusion here may come from the unusual and non-Aristotelian use of theoretical and practical reason toward the end of Mack's comments.³ This part is unusual because Mack wants to claim that the "social expression" argument is a function of theoretical reason. In Aristotelian terms, theoretical reason refers to the eternal and unchanging and thus to that which is not a factor in one's motivation except insofar as truth itself is. We, consequently, would see our argument as more of a product of practical reason. If practical reason in ethics is understood as the application of principles to contexts requiring action, then our approach

is closer to saying that rights are the product of practical reason. We are not, for example, Hobbesian atomists dealing with individuals “who stand at the threshold of interpersonal engagement.” For one thing, the sociality of persons is presupposed when we consider rights. For another, we are not transcendental contractarians who believe that, instead of interests defining the rules of engagement, we get our rules (rights) by recognizing the inherent worth of the other and then translating that joint recognition into an impartial rule. Rights are not, either directly or transcendently, generative of the social or social/moral order itself and thus are not generative of a motivation for social life. The issue then is not what gives A or B reason to recognize the rights of the other. They already have that reason given their natural sociality. Instead, the issue is what principles, given a social commitment, they should adopt in light of certain other commitments and realities they have or face.

In short, all of ethics *can* be understood in terms of obligations to self, if by “ethics” we mean those rules of conduct with direct applications to self-perfection. Rights, however, do not do this kind of work. The two sorts of normative perspectives nevertheless work in tandem, not at cross purposes. And they work in tandem because they share some central elements of the eudaimonistic context that encompasses them both. We do not need two sources of obligation. We would, however, need two sources if all ethical principles served the same function or if the judgments of practical reason were all of the same type, which they are not.

In the postscript to his original comments, Mack further clarifies his claim that the “two sides” of our argument come at the expense of one another. The basic idea here is that the “moral status” of agents plays a “fundamental role” in generating the deontological character needed by any rights theory. Failure to recognize the foundational role of the moral status of others instrumentalizes that status, in our case by reducing the justification for rights-respecting conduct to “obligations to self.” Mack does, however, allow us the “moral status” notion within the “natural function” and “social expression” arguments, or so he claims in note 12. Yet by allowing it within the “natural function” argument, we believe the force of Mack’s argument is considerably diminished.

We can come at the issue in one of two ways, either by recognizing that for us the moral status of others is not primitive, or by recognizing that the “problem” with the “obligation to self” concept is Mack’s truncated conception of the self. Although it is not exactly clear what Mack understands by the “natural function” argument, if we take it to mean simply what must be considered when discussing the grounds of our obligations and what is thereby needed to fulfill our function, then by conceding that the moral status of others is contained within the “natural function” argument, Mack concedes that the conflict between the “social expression” argument and the “obligation to self” argument is only apparent.

A deep dichotomy between obligations to self and recognizing the moral status of others is most characteristic of theories that see the self as a bundle of passions and self-realization as the continual satisfaction of those desires. This truncated conception of self is prone to instrumentalize others by being unable to accord them any status other than what is in some way conducive to one's interest. Two solutions to this problem seem to predominate historically: (1) build into human nature some kind of concern for others (e.g., Smithian sympathy), or (2) make the moral status of others primitive with respect to practical reason (e.g., Kant). Another possibility (the one we adopt) is to reject the preceding framework altogether, substituting instead a conception of self that is teleological in character. If the "functions" of this self could not be realized without others—and not just others as separate beings, but as separate *moral* beings—then saying that the moral status of others is a feature of the "natural function" argument is equivalent to saying that there cannot be moral dualism at the deepest levels of the theory. This is so because a recognition of the moral status of others is constitutive of self-perfection.

In saying this, however, we are also implying that the moral status of others is not primitive—i.e., a given from which moral reasoning takes place. We can, indeed must, ask what it means to accord others "moral status" and the role that plays in the theory. If we do not ask this sort of question and simply take the moral status of others as a primitive given, we fail to realize the derivative nature of rights. For Mack, rights are not derivative but serve as a foundational sort of moral reasoning. For us, in contrast, rights appear on a second tier of moral theorizing. Due to space limitations, it is impossible for us fully to defend the superiority of our position, although *LN* ch. 2 was supposed to do this in part. What can be said is that Mack's foundational dualism is consistent with his conception that others and self represent radically divergent moral strategies; yet this may prevent him from appreciating our theory, which rejects this approach in favor of a more classical conception of self and ethics.

The failure just mentioned leads Mack to assume that if rights do not function in our theory the way they do in his (i.e., as a first-level form of moral reasoning), then our conception of rights must lack the deontological punch of his theory. But this is a non sequitur. If the moral status of others is embedded deep within our theory (as he grants us by allowing it as part of the "natural function" argument), and if rights cannot be sacrificed for the sake of anyone's self-perfection (which is the character of "meta-normative" principles), then our rights would seem to function with the same "deontic" punch as his own. Mack fails to see this because he believes that rights have the same moral ontology as ordinary duties. Hence, he gets off on the wrong track when he describes the meta-normative principles that characterize rights as "side constraints." But a side constraint is technically a principle one follows while in pursuit of one's inter-

ests (or perfection), whereas a meta-normative principle marks off the conditions for protecting the possibility of the pursuit of one's "interests." It is quite possible that there may be something like side constraints that must be considered in addition to the meta-norms that one must follow in the pursuit of one's interests (e.g., certain rules of justice). Meta-norms, then, can carry normative weight without being norms tied to the pursuit of our self-perfection (we could easily follow them and move toward self-degradation). Because of the weight they carry, these norms are not just suited to guiding the *formation* of a legal order but also to *giving* us some guidance when such orders have gone bad, for they provide us with a standard for evaluating whether any situation where persons interact meets certain minimal legitimating conditions. Instead of the equivocation we are accused of in our use of "meta-normative," it is rather the case that the sort of work done by meta-norms is applicable to any situation where social interaction is possible. Anna can therefore violate Bella's rights in unjust regimes and certain descriptions of the "state of nature,"⁴ because the relevant meta-norms are applicable. What cannot be done, on our theory, is to claim that the mere recognition that another has moral status is sufficient to generate rights or rights-respecting conduct. We do not believe Mack can generate rights on such a basis either.

Toward the end of his comments, Henry Veatch raises a very important question: Is there an inescapable tension between the nature-pole and the liberty-pole of our argument? That is, can we really use a natural-end ethics to justify a natural right to liberty that provides the basis for a constitution or legal system that requires people not to use others for purposes they have not chosen, but nonetheless allows, and even protects, their liberty to do many things that are not self-perfecting? If an activity is contrary to a human being's nature, how can the liberty to engage in that activity be a natural right?

As is usual, Professor Veatch puts his finger on the central issue. But what he and others have failed to note about our argument in *LN* is our claim that the human telos has a dual moral function. By this we mean that it provides us with both normative principles (virtues) by which we can lead our lives in pursuit of self-perfection, and meta-normative principles by which to establish a political context in which everyone can have the chance to be self-directed. Though the telos, human flourishing, is the source of both types of principles, they do not have the same function.⁵

The purpose of virtues is to enable each person to achieve his unique form of flourishing—both alone and with others—but the purpose of meta-normative principles (such as the natural right to liberty) is to protect that in which every person in the concrete situation—despite the diversity in their circumstances and forms of flourishing—has a necessary stake—that is, self-directedness. So the aim of meta-normative principles and thus of poli-

tics is the protection of the condition for the possibility of flourishing that every and any person in society needs, but not the achievement of flourishing itself.

In *LN* we argue at length for the importance of distinguishing between normative and meta-normative principles, and our summary of this argument in our reply to Hittinger, as well as our replies to Golding and Mack, should suffice to show that human flourishing demands both normative and meta-normative principles. So we will confine the rest of our response to noting something Veatch did not quite get right regarding our view of the principle of universalizability. This will also provide a transition to our reply to Jeffrey Paul.

We did not at times suggest rejecting the principle of universalizability. Rather, we endeavored to show that such a principle did not necessarily carry with it a commitment to an "impersonalist" or agent-neutral conception of the human good. In other words, acceptance of this principle did not preclude the human good from being something which is both individualized and agent-relative. The importance of this interpretation of the principle of universalizability for our argument for natural rights was primarily negative. That is, we did not attempt to argue that since achieving my human good requires that my self-direction be protected, "therefore" that should give you a reason to act in ways that respect my self-direction, or that I somehow have a right that you respect my self-direction.

Professor Paul seems to think our argument for rights depends on such a claim—see premise 6 of his reconstruction of our argument. It does not, and we explicitly reject such a claim (*LN*, 88, 109-10). Paul's comments are divided into two parts: part (1) rejects our claim that human beings have a telos, and part (2) rejects our argument for rights. We will reply to part (2) first. However, since much of what needs to be said in reply to Paul's objections has already been said in reply to others, and since Paul has so thoroughly misconstrued the nature of our argument for rights, our comments will be confined to showing that we do not in fact hold the positions that he attributes to us.

1. Even though we argue that self-directedness or autonomy is the very form of human flourishing, we do not contend that being self-directed is both a necessary and sufficient condition for self-perfection. We explicitly deny this contention. (See *LN*, 73-74, 245n. 56.) Nor is it necessary to our argument.

2. When we claim that self-direction as such is always good for each and every human being, we are talking of self-perfection abstractly considered, that is, "described without specific virtues or concrete goods a particular human being's reason or intelligence determines as needed for the specific circumstances in which he finds himself" (*LN*, 94). We are not claiming that self-direction invariably produces good results or that it can-

not result in evil (*ibid.*). Nor are we claiming that it is impossible for someone who has suffered coercion to nonetheless turn the situation into an opportunity for moral growth by using whatever occasions for self-direction remain. (See our example of Solzhenitsyn in *LN*, 112.) Rather, we are describing the central intrinsic feature of human flourishing and arguing that human flourishing cannot be what it is if it is not a self-directed activity. We are making a claim about the *nature* of human flourishing but not a claim about what may or may not be causal factors in its existence.⁶ Nor are we primarily offering normative guidance to an individual in pursuit of his self-perfection.

3. Our claim, then, that a world where people freely choose to do the morally wrong thing is better than a world in which people are coerced to do the right thing is made when we are speaking about the nature of flourishing. That is to say, the point of this claim is simply that while a world in which there is self-directed activity is only a world in which human flourishing may be present, a world in which there is no self-directed activity is a world in which flourishing must be absent. Hence, the former world is better when one considers the nature of human flourishing, and this is important to know when looking for a basis for meta-normative principles. The counterexamples that Paul offers suppose that there is some possibility of self-direction, so they are beside the point. Also, they suppose that self-direction is being offered as a normative principle.

4. Our analysis of human flourishing reveals that for every and any person it is always good and right that what they do is the result of their own judgments, but this is not to say (nor does our analysis of human flourishing show) that what they do as a result of their own judgments is always good and right. So to say that self-directedness ought to be protected is not to say that whatever one decides to do ought to be protected. All that is politically required to protect self-directedness is that people be prohibited from using other people (that is, their time, life, and resources) for purposes to which they have not consented. This is what the negative right to liberty requires. So, contrary to Paul's implications, we are in no way committed to protecting autonomous acts which use people for purposes they have not chosen.

5. Finally, there is one more correction. Our claim is not that the right to liberty guarantees the possibility of human flourishing. Rather, our claim is that the right to liberty guarantees politically the possibility of self-direction and this in turn guarantees the possibility of human flourishing. We note this in many places in *LN*—for example: "The goal is to protect the condition under which self-perfection can exist—to protect the possibility of self-directedness" (*LN*, 95).

In part (1), Paul claims that it is a mistake to ascribe teleological organization to living things generally and thus also a mistake to apply such organization to human beings particularly. He argues that there is

nothing in principle that prevents the reduction of the laws in terms of which living things are explained to laws which make no mention of the mature state of living things, but only to how their material constituents interact. Further, he argues that the most we can say about living things is that they behave *as if* they have an inherent end.

But, first, we are not arguing that there could not be a reduction or even that such reductions have not been attempted. Regarding the "reducibility thesis," we say that this cannot be settled a priori. We cannot legislate from our philosophical armchair the particular form a successful account of the natures and potentials of living things must take. There is, however, neither any ontological nor epistemological necessity that such reductions or eliminations be made. In other words, we see nothing intellectually objectionable if it should turn out to be that such reductions or eliminations cannot be made.

Second, we do note that in contemporary biology there are developments which, despite rejecting Aristotle's account of the physical mechanisms involved, support the claim that an adequate account of what living things are and how they operate must make reference to what we call a "potential that is irreducibly for development to maturity." Though we do cite some of the important literature, we do not discuss the various arguments for this claim or what differences there are, if any, between "reduction without remainder," or "eliminative reductionism," or what "vitalism" entails, or what it means to speak of "supervenience," or "emergent properties," or even the proper account of the relation between final, formal, material, and efficient causation. All these important metaphysical issues are well beyond the scope of a book in political philosophy.⁷ Our aim is minimal. We want to show that a commitment to teleology is not necessarily opposed to scientific developments and that there is no need to think of teleology as requiring a commitment to either theism or the claim that the "universe as a whole has a purpose."

Third, Paul argues that "it would be misleading to suggest that there is some goal which causes the maturation of an organic entity, in the way that a child's goal of learning his multiplication tables motivates him and, therefore, causes him to do so." We agree, but Paul assumes that there is no middle ground for a defender of teleology to occupy between "reductionism" and ascribing purposes to things that lack consciousness. This is the point at issue. We hold to the possibility of a middle ground that is afforded both by a refusal to accept an a priori commitment to "reductionism" and by a consideration of the developments in contemporary biology. Paul has only reasserted that there is no middle ground. He has not presented any reason to suppose that this is not a real possibility.

1. Even if there is some elementary or basic level of conceptual awareness that is automatic or, at least, nearly so, what we have in *LN* called “conceptually attending to the world”—the uniquely human *method* of cognition and action—is not. As Tibor R. Machan has noted: “Concepts (ideas, theories, plans, reflections) do not exist independent of a mind that thinks. Ideas are produced by people; they are not *found* ‘out there.’ While sensory and perceptual awareness may be produced in animals by those features of the world that possess sensible qualities, there is nothing in nature that forces generalizations, classification, theories upon us. (This is a plain fact. One can detect it simply enough by considering how many people in identical situations do not have the ideas on certain issues that others have thought through thoroughly.)” See Machan, *Human Rights and Human Liberties* (Chicago: Nelson-Hall, 1975), p. 74. These considerations are, however, true not only for speculative reason but for practical reason as well. Further, the effort that is necessary to conceptually attend to the world is not only exercised at the time of action but *in* action. Thus, we are not speaking of the actions of some “homunculus,” but of actions of flesh and blood human beings that occupy space and time. See Douglas J. Den Uyl, *The Virtue of Prudence* (New York: Peter Lang, 1991), pp. 181-86.
2. On this very point, we note (*LN*, 111) a lack of clarity in Rand’s account of rights. Strangely, Mack says (note 9) that we “entirely endorse” her view. We do not.
3. Mack adds a new note (10) to help clarify the distinction he is making between theoretical and practical reason. The distinction rests essentially on a dichotomous account of reasons on the one hand and motivation on the other. There are large issues here, but in general the Aristotelian tradition rejects this sort of distinction. In non-teleological frameworks in which persons are not moved by reasons (such as that depicted by Hobbes and Hume), the distinction is vital. For us, in contrast, the distinction does not carry much weight. Our comments on Mack’s postscript should help to further clarify our stand.
4. It should be noted that “state of nature” language is troublesome to an Aristotelian and would be rejected in its Enlightenment usages except as a heuristic tool in the way we use it in ch. 5 of *LN*. We recognize, however, that there may be “practical” uses (Beirut, Bosnia, etc.) where “state of nature” is a perfectly adequate description.
5. It should be clear by now both the *similarity* and *difference* that exists between our theory and Mack’s, viz., that while there is some “duality” present, there is a fundamental unity and hence not a true moral dualism.
6. Our comments on paternalism in our reply to Golding are particularly relevant here.
7. This point is not realized by Irfan Khawaja in his review of *LN*, “Natural Right and Liberalism,” *Reason Papers*, no. 17 (Fall 1992), pp. 135-51. Also, much of what we have said in reply to our critics here can be applied to Khawaja’s concerns.